Lac Courte Oreilles Tribal Code of Law

Volume 3

Title PRP

Through Chapter PAP.4

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This is the official version of the Lac Courte Oreilles Tribal Code of Law. It is current through the date provided on the cover.

Features

This document contains two key features designed to make the code more accessible and easier to use. First, when viewing this document on a computer, the entries in the table of contents for Titles and Chapters are hyperlinks that will take you directly to their location in the document.

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In this document, a QR code immediately follows each Title and Chapter heading. This QR code contains a hyperlink to a webpage comparing the Title or Chapter as contained in this document with the most recent version of that Title or Chapter available online. When viewing this document on a computer, the QR codes can be simply clicked to follow the hyperlink. Otherwise, you can use a QR code reader to read the code and access the hyperlink on a device such as a phone or tablet. QR code readers can be downloaded for free, if one is not already preinstalled on your device.

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Volume 3

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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 reduce the fractionation of Tribal lands and to resolve longstanding issues of trespass. In the implementation of this inherent sovereign authority, Article V, (1)(l) and (1)(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 the 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". Pursuant to this inherent sovereign authority, the Tribal Governing Board hereby establishes a public body known as the Lac Courte Oreilles Tribal Condemnation Commission and enacts this ordinance which shall establish the purposes, powers, and duties of the Tribal Condemnation Commission. In any suit, action, or proceeding involving the validity or enforcement relating to any of its actions, the Tribal Condemnation 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.

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PRP.5.1.010 Title

This ordinance shall be known as the Eminent Domain Code of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(Res. No. 2024-37)

PRP.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 sovereign authority, Article V (1)(f) and (1)(g) of the Amended Constitution and Bylaws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, empowers the Tribal Governing Board to: "manage, lease, permit or otherwise deal with tribal lands, interests in lands or assets, or to purchase lands or to otherwise acquire lands, or interests in lands within or without the reservation.. Article V 1(f); and "[t]o adopt ordinances by which tribal lands may be assigned or leased for beneficial use and occupancy of members of the Band." Article V 1(g).

(Res. No. 2024-37)

PRP.5.1.030 Territorial Applicability

This ordinance shall govern the activities of the Tribal Governing Board and the Tribal

Condemnation 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 Band of Lake Superior Chippewa Indians.

(Res. No. 2024-37)

PRP.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. 2024-37)

PRP.5.1.050 General Definitions

(a) **"Condemnation"** means a legal proceeding where the Tribal Governing Board is exercising eminent domain to procure private property for some public use or benefit.

(b) **"Conflict of Interest"** means a situation that has the potential to undermine the impartiality of a person because of the possibility of a conflict between the private interests of an individual and the official responsibilities of that person in the course of his or her duties, including those pertaining to employment or appointment on a board or commission.

(c) **"Eminent Domain"** means the power of the Tribal Governing Board to take private property and convert it into public purpose use.

(d) **"Fair Market Value"** means the price at which property would change hands between a willing buyer and willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts.

(e) **"Good Faith"** means that there is an objective basis for initiating a condemnation proceeding.

(f) **"Just Compensation"** means the payment the Lac Courte Oreilles Band of Lake

Superior Chippewa Indians is required to tender for property it has taken through eminent domain for some public purpose.

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

(h) **"Private Property"** means the real or personal property owned by one or more private parties.

(i) **"Public Purpose"** means for the purpose of providing facilities or services for the benefit of the public connection with, but not limited to, public health, safety or welfare, as determined by the Tribal Governing Board.

(j) **"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.

(k) **"Respondent"** means any person with an interest in or lien on Private Property that is subject to a Condemnation proceeding pursuant to this Chapter.

(l) **"Tribal Condemnation Commission" or "Commission"** means the condemnation commission of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians established by the Tribal Governing Board in this ordinance.

(m) **"Tribal Court"** means the court of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(n) **"Tribal Governing Board"** means the Tribal Governing Board of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

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

(Res. No. 2024-37)

PRP.5.1.060 Severability

If any clause, sentence, paragraph, section, or part of this code shall, for any reason be adjudicated by any Court of competent jurisdiction, to be invalid or unconstitutional, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which the judgment shall have been rendered.

(Res. No. 2024-37)

Subchapter PRP.5.2
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PRP.5.2.010 Commission Established

(a) The Tribal Condemnation Commission is hereby created to act in an advisory capacity to the Tribal Governing Board for the purpose of carrying out the provisions of this ordinance and shall have those powers as stated in this section.

(b) In the absence of a fully appointed Commission shall not abridge or divest the Tribe of its Condemnation Authority.

(Res. No. 2024-37)

PRP.5.2.020 Official Powers and Duties

The Commission shall carry out the following official powers and duties:

(a) Promulgate and implemental standard operating procedures necessary to govern its proceedings and satisfy its functions;

(b) Review and process Tribal Governing Board condemnation resolutions in an orderly and expeditious manner;

(c) Conduct and preside over hearings with any and all persons claiming an interest in the property to be taken and condemned to ascertain the fair market value of the property subject to condemnation;

(d) Provide formal, written recommendations to the Tribal Governing Board to approve or deny the compensation ascertained for the property subject to condemnation; and

(e) Develop rules, procedures, and by laws, not inconsistent with the provisions of this Ordinance, to promote orderly execution and implementation of the Commission's duties and powers hereunder.

(f) Take other actions reasonably related to the purpose of the Committee or otherwise directed by the Tribal Governing Board.

(Res. No. 2024-37)

PRP.5.2.030 Organization

(a) The Tribal Condemnation Commission shall be composed of five (5) persons, three of whom must be 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 be appointed as a Commission member. No individual Commission member, regardless of position, acting alone and without Commission approval is empowered or authorized to take any action or make any public statement regarding the Commission's 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.

(b) The Tribal Governing Board shall recruit and post vacancies of the Commission to be filled from Tribal Membership. Applications shall be developed by the Tribal Governing Board.

(Res. No. 2024-37)

PRP.5.2.040 Minimum Qualifications

Applicants for appointment to the Commission must satisfy the following requirements:

(a) Be at least 21 years of age.

(b) Have obtained a High School Diploma or GED equivalent or a degree of Higher Education.

(c) 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:

(1) A felony

(2) Any offense involving fraud or misrepresentation

(d) Shall not be an elected Tribal official.

(Res. No. 2024-37)

PRP.5.2.050 Merit Based Appointment

Commissioners shall be appointed on the basis of merit in consideration of factors including, but not limited to:

(a) Ability to exercise sound judgment and knowledge and understanding of management, business administration, public administration, regulated industries and similar or related areas of importance to the operations of the Commission;

(b) Expertise, experience or knowledge of property appraisal;

(c) Qualities of integrity, judgment, and sensitivity unique to Indian cultural, economic and social conditions and the goals of the Tribe and the Commission;

(Res. No. 2024-37)

PRP.5.2.060 Term and Removal

Commissioners shall serve three (3) year terms and shall hold office until their successors have been appointed and have qualified: Provided however, the first LCO Utility Commission appointed shall serve a term of three (3) years. One (l) Commissioner appointed to the first LCO Utility Commission shall serve a term of two (2) years. The remaining Commissioner appointed to the first LCO Utility Commission shall serve a term of one (l) year. If any Commissioner shall die, resign, be removed or, for any reason, be unable to serve as a Commissioner, the Governing Board shall declare his/her position vacant and shall appoint another person to fill the position. Terms of office of all persons appointed to replace the initial Commissioners shall be for the balance of any unexpired term for each such position. Any Commissioner may resign by delivering a written resignation to the Governing Board. Such resignation shall be effective upon receipt, unless otherwise provided by the terms thereof. A Commissioner's resignation or removal under this Section shall also terminate that Commissioner's status, if applicable, as a presiding officer of the Commission. A Commissioner 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 (3) consecutive regular meetings, or other due cause in the Tribal Governing Board's sole discretion. The decision of the Tribal Governing Board regarding any such removal shall be final and not subject to appeal. The Tribal Governing Board shall appoint a Commissioner for all vacancies to the Commission as soon as reasonably possible.

(Res. No. 2024-37)

PRP.5.2.070 Officers

Officers of the Commission shall be Chairman, Vice-Chairman, and Secretary. The Tribal

Governing Board shall name one of the Commission members as the Chairman of the Commission. The Commission 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.

(Res. No. 2024-37)

PRP.5.2.080 Compensation of Commission Members.

Appointed members of the Commission shall receive a stipend of one hundred dollars ($100.00) per meeting and/or hearing for service as a Commission member. The amount of stipend is subject to change by the Tribal Governing Board via resolution. Training for Commission members to effectively and diligently carry out the powers and duties of this ordinance shall be provided by the Tribal Governing Board including travel, training/conference registration fees, and lodging costs. Such travel and training costs shall be determined and approved by the Tribal Governing Board.

(Res. No. 2024-37)

PRP.5.2.090 Restrictions

(a) No Commission member shall deliberate on a pending condemnation proceeding involving a Conflict of Interest as defined in this Ordinance.

(b) Nothing in this ordinance authorizes the Commission to interfere with management, operations, and employment relations or decisions of the Tribe or Tribal entities.

(Res. No. 2024-37)

PRP.5.2.100 Care, Loyalty, and Conflict

(a) Commission members shall discharge their duties in good faith and in a manner that the member reasonably believes is in the best interest of the Commission and with due diligence that an ordinarily prudent person in a like position would exercise under similar circumstances. It is expected that all Commission members will work in a competent and professional manner that reflects favorably on the Tribal Governing Board and the Tribe.

(b) Commission members shall, at all times, subordinate their personal interests to those of the Tribe and the Commission shall avoid conflicts of interest, including without limitation, that no Commission members shall exploit information related to Tribe, the Commission, or to person(s) claiming an interest in land subject to pending condemnation proceedings for their own personal gain or profit.

(c) No Commissioner shall commit any act with respect to the Tribe, the Commission, or an applicant that is illegal, fraudulent, or willfully unfair to either the Tribe, the Commission, an applicant, or a witness.

(Res. No. 2024-37)

PRP.5.2.110 Personal Liability and Immunity

(a) To the fullest extent permitted by law, the Tribe shall indemnify members of the Commission and its officers against costs, expenses, and liabilities incurred by them in carrying out their official duties as members of the Commission and its officers.

(b) The Commission, as a delegated body of the Tribal Governing Board pursuant to the Lac Courte Oreilles Constitution, Article V, I (m), is immune, as is the Tribe, from suit and legal process in any state, federal or tribal court as the Lac Courte Oreilles Band of Lake Superior Chippewa Indians has not waived any aspect of its sovereign immunity in enacting this ordinance.

(Res. No. 2024-37)

PRP.5.2.120 Commission Action

(a) A majority of the full Commission shall constitute a quorum necessary to conduct Commission business, but no action shall be taken by a vote of less than a majority of such full Commission.

(b) All Commission members 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.

(Res. No. 2024-37)

PRP.5.2.130 Minutes

All meetings of the Commission shall be memorialized via meeting minutes. The Secretary shall keep complete and accurate minutes of all meetings of the Commission. Minutes of all meetings shall be distributed to Commission members prior to the next meeting. Minutes shall be provided to the Tribal Governing Board upon adoption by the Commission.

(Res. No. 2024-37)

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PRP.5.3.010 Condemnation of Land for Public Purpose

The Tribe shall have the power to condemn trust land, restricted land, and all other lands under the civil regulatory and adjudicatory jurisdiction of the Tribe whenever such land is deemed by the Tribal Governing Board to be necessary for a public purpose. The exercise of eminent domain shall be initiated by the Tribal Governing Board passing a resolution identifying the land to be taken for a public purpose, the possessory holder and leasehold tenants and the purpose for which the land will be used.

(Res. No. 2024-37)

PRP.5.3.020 Uniform Valuation Guidelines

The Commission shall develop and publish, upon the Tribal Governing Board's final approval, Uniform Property Valuation Guidelines for determining the fair market value of property subject to a duly authorized condemnation proceeding. The Commission may

utilize any number of factors commonly associated with ascertaining and supporting the valuation of property, including but not limited to: the cost or selling price of the property; sales of comparable properties; replacement costs; and opinions of licensed expert appraisers. Once the Uniform Property Valuation Guidelines have been approved by the Tribal Governing Board, the Commission shall be bound to follow the Uniform Property Valuation Guidelines to fullest extent practicable in determining the Fair Mark Value of Private Property. The Uniform Property Valuation Guidelines may only be amended upon approval by the Governing Board.

(Res. No. 2024-37)

PRP.5.3.030 Petition for Ascertainment of Compensation by Tribal Condemnation Commission

In all cases where the Tribal Governing Board shall determine by official action of the Governing Board to take title or otherwise use or convert Private Property as an exercise of its Condemnation Authority, it shall file a Petition to the Tribal Condemnation Commission requesting that the just compensation to be made for such property be ascertained by the Commission.

(Res. No. 2024-37)

PRP.5.3.040 Contents of Petition for Ascertainment of Compensation

A petition filed pursuant to Section PRP.5.3.030 shall name the Lac Courte Oreilles Band of Lake Superior Chippewa Indians as Petitioner. The Petition shall contain the following information:

(a) The identity and, if known, mailing address of any person known to the Governing Board to have an interest in or liens upon the Private Property affected by the proposed Condemnation;

(b) A description of the Private Property, including a legal description of any Real Property and any other information necessary to completely and accurately identify the Private Property;

(c) A statement of the proposed public use for the Property;

(d) A copy of a resolution of the Tribal Governing Board authorizing the taking of the trust or restricted land described in the petition; and

(e) Any other information required by the Commission pursuant to its lawfully adopted rules and regulations.

(Res. No. 2024-37)

PRP.5.3.050 Amendment of Petition

If any person is a proper party Respondent to a proceeding under this Chapter, or any property affected thereby, shall have been omitted from said petition or notice, the Petitioner may file amendments to the same, which amendments from the filing thereof shall have the same effect as though contained in said petition and notice.

(Res. No. 2024-37)

PRP.5.3.060 Additional Pleading Not Required

No pleading other than the Petition shall be required in a proceeding under this Chapter, unless ordered by the Commission.

(Res. No. 2024-37)

PRP.5.3.070 United States Not an Indispensable Party

The United States shall not be an indispensable party in any proceeding before the Commission under this Chapter.

(Res. No. 2024-37)

PRP.5.3.080 Hearing on Right to Take - Time for Demand

Within the earlier of (i) thirty (30) days from the date the publication of the Petition or (ii) 30 days after receipt of the Petition by mail or personal delivery, a Respondent or other interested person may demand a hearing in Tribal Court on the exclusive threshold issue of the Tribe's jurisdiction to exercise its power of Eminent Domain over the private property subject to the proposed Condemnation. Failure to make such a demand or to consent in writing to the taking, within the thirty (30) day period, shall constitute a waiver of the right to question the necessity of the taking. The finding of necessity by the Petitioner, unless based upon fraud, bad faith and/or abuse of discretion, shall be binding on all persons.

(Res. No. 2024-37)

PRP.5.3.090 Negotiated Compensation — Evidence of Offer Not Admissible

The Petitioner and any Respondent may mutually agree upon fair market value of the Private Property. Any said agreement must be written and signed by both parties in order to be binding. A binding settlement agreement shall not be subject to Commission review.

The Petitioner may at the time of service of the summons on any Respondent serve an offer in writing to the effect that the Petitioner will deposit with the Tribal Treasury a sum of money specified to be paid to Respondent or other parties entitled thereto as compensation for all of the Private Property taken or damaged.

Settlement negotiations or evidence of deposits hereunder shall not be admissible as evidence in a hearing before the Commission.

(Res. No. 2024-37)

PRP.5.3.100 Jurisdictional Determination

Within ten (10) business days after receipt of a Petition, the Commission shall make a preliminary determination on whether it possesses jurisdiction to preside over the dispute in question pursuant to this Code. If the Commission determines that it does not possess jurisdiction over the dispute in question, the Commission shall issue a notice of denial to the Petitioner, in a form prescribed by the Commission, explaining the basis for this determination. The dismissal notice shall constitute a final Commission order that may be appealed to the Tribal Court as set forth in this Chapter. A Commission's preliminary determination that it possesses jurisdiction shall not preclude any Respondent from challenging the jurisdiction of the Commission during the course of the proceedings.

(Res. No. 2024-37)

PRP.5.3.110 Hearing on Petition; Service and Publication

(a) If the Commission determines that it possesses jurisdiction over the dispute in question, the Commission shall set a hearing date on the Petition. The Commission shall serve a Notice of Hearing, by personal delivery or U.S. Mail all Respondents identified by the Petitioner in its Petition or any other Respondents known to the Commission to have a legal interest in the Private Property. The Hearing Notice shall include the date and location of the hearing, a copy of the Petition, and copies of any rules and procedures applicable to the hearing.

(b) The Commission shall also publish the Notice of Hearing through one or both of the following means:

(l) Posting the Notice on the official government website of the Tribe;

(2) Publishing the Notice in a newspaper of general circulation on the Reservation.

The publication shall include the identification of the Private Property and the time, date, and location of the hearing. The publication shall also include Commission contact information to obtain a copy of the Petition and any applicable rules and procedures.

(c) Hearings shall be conducted in accordance with rules and procedures adopted by the Commission. All Respondents shall be given an opportunity to be heard and submit documentation probative of the fair market value of the Private Property subject to the proposed Condemnation. Hearing participants may be represented by legal counsel.

(Res. No. 2024-37)

PRP.5.3.120 Commission Findings

Within twenty-one (21) days after the Hearing, the Commission shall issue a written set of findings determining the fair market value of the Private Property and the basis for such determination.

(Res. No. 2024-37)

PRP.5.3.130 Administrative Review

(a) Any person aggrieved by a final determination of fair market value made by the Commission, within twenty-one (21) days after the fair market value of a property has been ascertained through a written set of findings by the Commission, file a petition for reconsideration with the Commission. The petition for reconsideration shall contain a statement of the grounds for the requested relief and any supporting documentation. The Commission may order a hearing or enter an order on the petitioner for reconsideration without a hearing and shall dispose of the matter within sixty (60) days after the petition has been filed.

(b) The Commission's review on a petition for reconsideration shall be confined to the record, except that in instances where there is the allegation of the discovery of new evidence as to the fair market value of the condemned property, testimony may be taken regarding the new evidence.

(c) Unless the Commission finds a ground for setting aside, modifying, remanding or ordering a certain action, it shall affirm the finding of fair market value.

(Res. No. 2024-37)

PRP.5.3.140 Judicial Review - Tribal Court

Appeals from Tribal Condemnation Commission administrative review decisions shall be allowed in the Tribal Court. The Tribal Court shall review the final administrative decision of the Commission using an abuse of discretion standard.

(Res. No. 2024-37)

PRP.5.3.150 Effect of Judgement

A final judgement in favor of the Band is conclusive as to the title of the Band, in and to the interest in the trust or restricted land described in said judgement, against any and all parties in said action, including unknown Respondents, and against any and all persons claiming from, through or under such a party by title accruing after the filing of the judgement by the clerk of the Court.

(Res. No. 2024-37)

Chapter PRP.7
Housing Authority Code of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians

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PRP.7.14 Grievance Policy ..... PRP.7.14-**Error! Bookmark not defined.**

Preamble

This ordinance is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians to provide for the decent, safe and sanitary dwellings for the members 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 (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). Pursuant to this inherent sovereign authority, the Tribal Governing Board hereby establishes a public body known as the Lac Courte Oreilles Housing Authority (hereinafter referred to as the Housing Authority), and enacts this ordinance which shall establish the purposes, powers and duties of the Housing Authority. In any suit, action or proceeding involving the validity or enforcement of or relating to any of its contracts, the Housing Authority 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 PRP.7.1
General Provisions

PRP.7.1.010 Title..... PRP.7.1-**Error! Bookmark not defined.**
PRP.7.1.020 Authority..... PRP.7.1-**Error! Bookmark not defined.**
PRP.7.1.030 Declaration of Need ..... PRP.7.1-**Error! Bookmark not defined.**
PRP.7.1.040 Purpose..... PRP.7.1-**Error! Bookmark not defined.**
PRP.7.1.050 Territorial Applicability..... PRP.7.1-**Error! Bookmark not defined.**
PRP.7.1.060 Effective Date..... PRP.7.1-**Error! Bookmark not defined.**
PRP.7.1.070 Interpretation ..... PRP.7.1-**Error! Bookmark not defined.**
PRP.7.1.080 Severability and Non-Liability ..... PRP.7.1-**Error! Bookmark not defined.**
PRP.7.1.090 Relation to Other Laws..... PRP.7.1-**Error! Bookmark not defined.**
PRP.7.1.100 Repeal of Inconsistent Tribal Ordinances. PRP.7.1-**Error! Bookmark not defined.**

PRP.7.1.010 Title

This ordinance shall be known as the Housing Authority Code of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.1.010 was formerly codified as XI LCOTCL §7.101

PRP.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(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. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.1.020 was formerly codified as XI LCOTCL §7.102

PRP.7.1.030 Declaration of Need

It is hereby declared;

(a) That there exists on the Reservation unsanitary, unsafe, and overcrowded dwelling accommodations;

(b) That there is a shortage of decent, safe and sanitary dwelling accommodations which persons of low income can afford, and that such shortage forces such persons to occupy unsanitary, unsafe and overcrowded dwelling accommodations;

(c) That these conditions cause an increase in and spread of disease and crime and constitute a menace to health, safety, morals and welfare; and that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety protection, fire and accident prevention, and other public services and facilities;

(d) That the shortage of decent, safe and sanitary dwellings for persons of low income cannot be relieved through the operation of private enterprise;

(e) That the providing of decent, safe and sanitary dwelling accommodations for persons of low income are public uses and purposes for which money may be spent and private property acquired and are governmental functions of Tribal concern;

(f) There is a lack of available financial assistance through conventional lending institutions for those individuals and families with poor or no credit, and or a lack of financial resources, for those individuals and families that desire to become homeowners;

(g) That residential construction activity and a supply of acceptable affordable housing are important factors to general economic activity, and that the undertakings authorized by this ordinance to aid the production of better housing and more desirable neighborhood and community development at lower costs will make possible a more stable and larger volume of residential construction and a housing supply which will assist materially in achieving full employment; and

(h) That the necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.1.030 was formerly codified as XI LCOTCL §7.103

PRP.7.1.040 Purpose

The Tribe shall provide adequate and affordable housing and housing services to low- and moderate- income Indian families and individuals within the Reservation and any other area served by the Tribe. The Housing Authority shall remain sensitive to the cultural goals of the Tribe. Housing shall be provided in safe and healthy environments in compliance with the requirements, rules, and regulations of the Native American Housing Assistance and Self-determination Act of 1996. The Housing Authority shall provide these services in an impartial and efficient manner. The Housing Authority shall be operated for the purpose of:

(a) Remedying unsafe and unsanitary housing conditions that are injurious to the public health, safety and morals;

(b) Alleviating the acute shortage of decent, safe and sanitary dwellings for persons of low income;

(c) Providing employment opportunities through the construction, reconstruction, improvement, extension, alteration or repair and operation of low income dwellings.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.1.040 was formerly codified as XI LCOTCL §7.104

PRP.7.1.050 Territorial Applicability

This ordinance shall govern the housing activities of the Housing Authority 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. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.1.050 was formerly codified as XI LCOTCL §7.105

PRP.7.1.060 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. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.1.060 was formerly codified as XI LCOTCL §7.106

PRP.7.1.070 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.

(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 Court may use tribal law, federal law or the State law for guidance.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.1.070 was formerly codified as XI LCOTCL §7.107

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

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.1.080 was formerly codified as XI LCOTCL §7.108

PRP.7.1.090 Relation to Other Laws

(a) Applicable Law. Unless affected or displaced by this ordinance, principles of law and equity in the common law of the Tribe and tribal customs and traditions are applicable, and the general principles of law of any other Tribe or any other state may be used as a guide to supplement and interpret this ordinance.

(b) Other Applicable Laws. Additional tribal and federal laws may apply with regard to tribal housing and governmental housing laws and regulations.

(c) Conflicts with Other Laws.

(1) Tribal Law. To the extent that this ordinance may conflict with tribal laws or ordinances which have been enacted to comply with statutes or regulations of any agency of the United States, such tribal laws or ordinances shall govern over the

provisions of this Code if it has specific applicability and it is clearly in conflict with the provisions of this Code.

(2) Federal Law. Where a conflict may appear between this ordinance and any statute, regulation, or agreement of the United States, the federal law shall govern if it has specific applicability and if it is clearly in conflict with the provisions of this Code.

(3) State Law. To the extent that the laws of any state may be applicable to the subject matter of this ordinance, such laws shall be read to be advisory and not directly binding and shall not govern the relations of the parties.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.1.090 was formerly codified as XI LCOTCL §7.109

PRP.7.1.100 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. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.1.100 was formerly codified as XI LCOTCL §7.110

Subchapter PRP.7.2
Definitions

PRP.7.2.010 General Definitions ..... PRP.7.2-**Error! Bookmark not defined.**

PRP.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) **"Abandonment"** means the absence from the premises for three consecutive weeks without notification in writing to the Housing Authority.

(b) **"Action, Suit or Lawsuit, Claim, Complaint or Defense"** shall include any dispute between persons or entities which relates to the sale, rental, use, lease or occupancy of any housing, dwelling, premises or accommodation for human occupancy, including claims for the payment of monies for such housing, dwellings, premises or accommodations, damages to such units, condition of such units or the relationships between owners and occupants of such units, including the right to occupy them.

(c) **"Adjusted Income"** means the annual income that remains after the following deductions. In no case shall the deductions exceed household income:

(1) Youth and Students. $480 for each member of the family residing in the household (other than the head of household or the spouse of the head of the household):

(A) Who is under 18 years of age; or

(B) Who is 18 years of age or older and a full-time high school (or GED) student.

(2) Elderly or Disabled Families. $400 for an elderly or disabled head or co-head of household.

(3) Medical and Attendant Expenses. The amount by which 3 percent of the annual income of the family is exceeded by the aggregate of:

(A) Medical expenses, in the case of an elderly or disabled family; and

(B) Reasonable attendant care and auxiliary apparatus expenses for each family member who is a person with disabilities, to the extent necessary to enable any member of the family (including a member who is a person with disabilities) to be employed.

(4) Child Care Expenses. Verified out-of-pocket childcare expenses, to the extent necessary, to enable another member of the family to be employed or to further his or her education.

(5) Earned Income of Minors. The amount of any earned income of any member of the family who is less than 18 years of age.

(6) Excess Travel Expenses. Excessive travel expenses (travel more than 25 miles) for the Head or Co-Head of Household, shall receive a maximum deduction of $25 per family per week, for employment and/or education related travel.

(7) Child Support. Financial obligations paid to another household for the support of minor children.

(d) **"Adult Person"** means any person 18 years of age or older.

(e) **"Affected Persons"** means the Tenant who is subject to the provisions of this ordinance, and the Tribe by the Housing Authority.

(f) **"Annual Income" or "Income"** as defined in in 24 CFR § 5.609 means the following:

(1) Annual income means all amounts, monetary or not, which:

(A) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member;

(B) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and which are not specifically excluded in Section PRP.7.2.010(f)(3) below; or

(C) Annual income derived (during the 12-month period) from assets to which any member of the family has access.

(2) Annual income includes, but is not limited to:

(A) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

(B) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

(C) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in Section PRP.7.2.010(f)(2)(B) above. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of $5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

(D) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in Section PRP.7.2.010(f)(3)(N), below);

(E) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in Section PRP.7.2.010(f)(3)(C), below);

(F) Welfare assistance payments.

(i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

(I) Qualify as assistance under the TANF program definition at 45 CFR § 260.31; and

(II) Are not otherwise excluded under Section PRP.7.2.010(f)(3), below.

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare

assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(I) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(II) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

(G) Periodic and determinable allowances, such as alimony, child support payments, permanent kinship care payments, and regular contributions of gifts received from organizations or from persons not residing in the dwelling;

(H) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in Section PRP.7.2.010(f)(3)(G), below).

(3) Annual income does not include the following:

(A) Income from the employment of children (including foster children) under the age of 18 years;

(B) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);

(C) Lump sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in Section PRP.7.2.010(f)(2)(E), above);

(D) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(E) Income of a live-in aide, as defined in Section PRP.7.2.010(xx), below;

(F) The full amount of student financial assistance paid directly to the student or to the educational institution;

(G) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

(H)

(i) Amounts received under training programs funded by HUD;

(ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed $200 per month) received by a resident for performing a service for the Housing Authority, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the Board of Commissioners. No resident may receive more than one such stipend during the same period of time;

(v) Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;

(I) Temporary, nonrecurring or sporadic income (including gifts);

(J) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(K) Earnings in excess of $480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(L) Adoption assistance payments in excess of $480 per adopted child;

(M) Temporary kinship care payments;

(N) Deferred periodic amounts from supplemental security income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts;

(O) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

(P) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(Q) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR § 5.609 (c) apply. A notice will be published in the Federal Register and distributed to the Housing Authority identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary.

(4) Annualization of income. If it is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income), or the Housing Authority believes that past income is the best available indicator of expected future income, the Housing Authority may annualize the income anticipated for a shorter period, subject to a redetermination at the end of the shorter period.

(A) "Area of Operation" means all areas within the jurisdiction of the Lac Courte Oreilles Band of Lake Superior Chippewa.

(g) **"Board"** means the Lac Courte Oreilles Housing Authority Board of Commissioners.

(h) **"Building"** is a structure, and any appurtenances or additions thereto, designed for habitation, shelter, storage and the like.

(i) "**Common Property"** means the non-dwelling structures and equipment, common areas, community facilities, and in some cases, certain component parts of dwelling structures.

(j) **"Complaint"** means a grievance of any resident or applicant which is presented according to this ordinance.

(k) **"Demise"** means death, mental incapacity, physical incapacity, or incarceration.

(l) **"Dependent"** means a member of the family/household (excluding foster children) other than the family head or spouse, who is under 18 years of age or is a disabled person or handicapped person, or is a full-time student.

(m) "**Disabled/Handicapped Person"** pursuant to 24 CFR § 5.403:

(1) Means a person who:

(A) has a disability as defined in 42 USC § 423;

(B) is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:

(i) Is expected to be of long-continued and indefinite duration;

(ii) Substantially impedes his or her ability to live independently or in a close and unsupervised proximity to others; and

(iii) Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or

(C) Has a developmental disability as defined in 42 USC § 6001.

(2) Does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome.

(3) For the purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence; and

(4) Means "individual with handicaps," for purposes of reasonable accommodation and program accessibility for persons with disabilities.

(n) **"Disabled Family"** pursuant to 24 CFR § 5.403 means a family whose head (including co-head), spouse, or sole member is a person with a disability. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides.

(o) **"Displaced Family"** pursuant to 24 CFR § 5.403 means a family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

(p) **"Displaced Person"** means any lower income family or individual that moves from the real property or moves his or her personal property from the real property permanently and involuntarily, as a direct result of Acquisition, Rehabilitation, or Demolition.

(q) **"Drug Free Public Housing Zone"** means any public housing development administered by the Housing Authority plus the area within 300 feet of the property's boundary, or one city block whichever distance is greater which shall be free of selling, possessing, or possessing with intent to sell any illegal controlled substance. Maximum sentencing penalties will be imposed by the courts for unlawful controlled substance crimes committed within this defined zone. Housing Authority has a "zero tolerance" for drug activity; the lease of any Tenant who possesses any amount of a controlled substance in Housing Authority property will be terminated. All Tenants are responsible for the conduct of the members of their household and/or guests. The lease of a Tenant will also be terminated if a guest or household member is found to possess any amount of a controlled substance on Housing Authority property.

(r) **"Drug-Related Criminal Activity"** means the intent to manufacture, sell, distribute, consume, use, possess a controlled substance (as such term is defined in Section 102 of the Controlled Substance Act) including the possession of drug paraphernalia, as evidenced by documentation from police reports, criminal background information, conviction, or indictment.

(s) **"Dwelling Unit"** means a house or building or portion thereof which is rented or leased as a home or residence by any person. With respect to tenancies involving the rental of space for a residential structure, but not the rental of the residential structure itself, "dwelling unit" does not include the residential structure.

(t) **"Earned Income"** means income derived from employment of household members.

(u) "**Elderly and Near Elderly Family"** means a family whose head (including co-head), spouse or sole member is an elderly or a near-elderly person, as defined in this section. It may include two or more elderly or near-elderly persons living together, or one or more elderly or near-elderly persons living with one or more live-in aides, or one or more such persons determined under the Indian housing plan for the agency to be essential to their care or well-being.

(v) **"Elderly Person"** pursuant to 24 CFR § 5.403 means a person who is at least 62 years of age.

(w) **"Essential Family"** means any individual or family, with regard to eligibility for tribal housing, where the individual or family's need for housing cannot be met without such assistance and the Housing Authority determines that the family's presence is essential to the well-being of Indian families living on the reservation.

(x) "**Essential to the Well-being of an Indian Family"** means any individual, with regard to eligibility for tribal housing, who is essential to the health and wellbeing of the Tribe.

(y) "**Excluded Income"** means income not included as annual income as defined in Section PRP.7.2.010(f)(3), above.

(z) **"Executive Director or Director"** means the individual employed by the Tribal Governing Board to manage the affairs of the Housing Authority as provided for in this ordinance and other relevant documents.

(aa) "**Family"** pursuant to 24 CFR § 5.403 means, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

(1) A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; or

(2) A group of persons residing together, and such group includes, but is not limited to:

(A) A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);

(B) An elderly family;

(C) A near-elderly family;

(D) A disabled family;

(E) A displaced family; and

(F) The remaining member of a tenant family.

(bb) "**Full-time Student"** means a person who is carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended. An educational institution includes a vocational school with a diploma or certificate program, as well as an institution offering a college degree.

(cc) **"Federal government"** shall be the United States of America; the Department of Housing and Urban Development or any other agency or instrumentality, corporate or otherwise of the United States of America.

(dd) "**Gang"** means any ongoing organization, association, or group of three or more persons, whether formal or informal, which meets all of the following criteria:

(1) Has as one of its primary activities, the commission of criminal conduct as defined by applicable law; and

(2) Has a common name or common identifying sign(s) or symbol(s); and

(3) Includes members who individually or collectively engage in or have engaged in a pattern of criminal activity.

(ee) **"Gang Recruitment"** means to recruit, solicit, entice or intimidate any person to join a gang.

(ff) "**Gang Reprisal"** means to expressly or impliedly threaten to do bodily harm to any person or that person's family or use any other criminally unlawful means to deter or punish any person from leaving a gang, or disassociating himself or herself from gang-related activity, or to deter or punish any reporting to the Housing Authority or any law enforcement agency of any gang-related activity.

(gg) "**Gang-related Activity"** means the commission of any of the following activities for the benefit of, at the direction of, or motivated by involvement with a gang, with the intent to promote, further, or assist in criminal conduct by gang members:

(1) Distribution of controlled substances;

(2) Using any means, including but not limited to cyber-technology and social media, sometimes known as "cyber-bullying", to threaten anyone with bodily harm, property destruction, libel, invasion of privacy or exposure of personal information or photographs,

(3) Any crime of violence that has an element involving the use or attempted use of physical force against the person on another; or

(4) Any felony offense that by its nature involves a substantial risk that physical force against the person of another may be used in the course of committing the offense, including:

(A) Assault;

(B) Battery;

(C) Intimidation;

(D) Compelling organizational membership;

(E) Homicide or manslaughter;

(F) Shooting at an occupied dwelling or motor vehicle;

(G) Kidnapping;

(H) Carjacking;

(I) Robbery;

(J) Burglary;

(K) Drive-by shooting;

(L) Unlawful use or possession of weapons;

(M) Bribery;

(N) Tampering with or retaliating against a witness, victim, informant, or juror;

(O) Rape;

(P) Torture;

(Q) Arson;

(R) Money laundering;

(S) Felony vandalism;

(T) Unlawful sale of a firearm; or

(U) Obstruction of justice.

(hh) "**Graffiti"** means the intentional marking, drawing, writing with paint, ink or any other substance on, or intentionally etching into Housing Authority property.

(ii) **"Grievance"** means any dispute to which a resident or applicant may have with respect to Housing Authority action or failure to act which adversely affects their rights, duties, welfare or status.

(jj) **"Guest"** means any person, other than the tenant, in or around a dwelling unit or on the premises with the permission and consent of the tenant.

(kk) "**Head of Household"** means the adult member of the family who is the head of the household for purposes of determining income eligibility and rent. In order to be considered as the Head of Household, the person must have the mental capacity to

understand the provisions of this ordinance, the lease, and other related documents / forms of the Housing Authority.

(ll) **"Homebuyer"** means a person(s) who has executed a lease-purchase or purchase agreement with the Authority, and who has not yet achieved homeownership.

(mm) "**Household"** means all the people who occupy a housing unit. A household includes the related family members and all the unrelated people, if any, such as lodgers, foster children, wards, or employees who share the housing unit. A person living alone in a housing unit, or a group of unrelated people sharing a housing unit such as partners or roomers, is also counted as a household.

(nn) **"Housing Authority" or "Authority"** means the Lac Courte Oreilles Housing Authority which is the entity that has been delegated the responsibility for carrying out the intent of this ordinance, under the direction of the Executive Director.

(oo) **"Housing Plan" or "Plan"** means the Indian Housing Plan, or IHP, including housing goals, objectives, and strategies, developed by the Housing Authority together with the Board.

(pp) **"Housing Project"** or **"Project"** means any work or undertaking to provide or assist in providing (by any suitable method, including but not limited to: rental, sale of individual units in single or multifamily structures under conventional condominium, or cooperative sales contracts or lease-purchase agreements, loans or subsidizing of rentals or charges) decent, safe and sanitary dwellings, apartments, or other living accommodations for project eligible persons. Such work or undertaking may include buildings, land, leaseholds, equipment facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, for streets, sewers, water service, utilities, parks, site preparation or landscaping, and for administrative, community, health, recreational, welfare or other purposes. The term "housing project" or "project" also may be applied to the planning of the buildings and improvements, the acquisition of property or any interest therein, the demolition of existing structures, the construction reconstruction, rehabilitation, alteration or repair of the improvements or other property and all other work in connection therewith, and the term shall include all other real and personal property and all tangible or intangible assets held or used in conjunction with the housing project.

(qq) **"HUD"** means the Department of Housing and Urban Development of the United States Federal Government.

(rr) "**Indian"** means any person recognized as being an Indian or Alaskan Native by an Indian Tribe, the Federal Government or any State.

(ss) **"Indian Family"** means a family or family member who is recognized as being an Indian or Alaskan Native by an Indian Tribe, the Federal Government or any State.

(tt) "**Kinship Care Payments"** means family support payments for the temporary or long-term care of a relative child.

(uu) **"Landlord"** includes the Housing Authority which is the owner or lessor of a dwelling unit, or premises, intended for the use of tenants.

(vv) **"Lease" or "Rental Agreement"** means a written agreement, including any written rules and regulations adopted by the Housing Authority containing the terms and conditions of the use and occupancy of real property, dwelling units, buildings or premises, including a lease-to-purchase agreement.

(ww) **"Lessee"** means a tenant of a dwelling unit or premises, user and/or occupier of real property.

(xx) **"Lessor"** means the legal, beneficial or equitable owner of property under a lease.

(yy) "**Live-in Aide"** pursuant to 24 CFR § 5.403 means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

(1) Is determined to be essential to the care and well-being of the person(s);

(2) Is not obligated for support of the person(s); and

(3) Would not be living in the unit except to provide necessary supportive services and has no right to reside in the unit if not providing said services.

(zz) **"Low Income Family"** means a family whose annual income does not exceed eighty percent (80%) of the median income for the area, as determined by the Secretary of HUD with adjustments for smaller and larger families.

(aaa) **"Median Income"** means, with respect to an area that is an Indian area, the greater of:

(1) The median income for the Indian area, which the Secretary of HUD shall determine; or

(2) The median income for the United States as published.

(bbb) **"Members of the Household"** means those persons listed in the lease or subsequent lease addendum.

(ccc) "**Monthly Adjusted Income"** means one-twelfth of adjusted income.

(ddd) "**Monthly Income"** means one-twelfth of annual income.

(eee) **"Monthly Rent"** means the rent amount the family pays monthly as determined by the Housing Authority. Monthly Rent may include Flat Rent, Income Based Rent, Minimum Rent and Retroactive Rent. If the Housing Authority supplies all utilities (except telephone or cable TV) and other essential housing services are supplied by the Housing Authority, Monthly Rent equals the Total Tenant Payment. If Housing Authority does not supply utilities and other essential housing service, and these costs are not included in the Monthly Rent amount, Monthly Rent equals Total Tenant Payment less the applicable Utility Allowance.

(fff) "**Near Elderly Family"** means a family whose head or spouse (or sole member) is at least 55 years of age but below the age of 62 years.

(ggg) "**Near Reservation"** means occupancy within the townships and cities adjacent to the reservation including but not limited to the townships of Hayward, Bass Lake, Couderay, Exeland, Hunter, Radisson, Round Lake, Sand Lake and Winter.

(hhh) **"Notice to Quit"** means a notice from the Authority to a tenant terminating a lease or rental agreement and demanding that the tenant and those with him/her leave the premises.

(iii) **"Nuisance"** means the maintenance or allowance on real property of a condition which unreasonably threatens the health or safety of the public, or deprives neighboring property users of the reasonable use, enjoyment and occupancy of their property.

(jjj) **"Obligations"** means any notes, bonds, interim certificates, debentures, or other forms of obligation issued by the Authority pursuant to this ordinance.

(kkk) **"Obligee"** includes any holder of an obligation, agent or trustee for any holder of an obligation or lessor demising to the Authority property used in connection with a project, or any assignee or assignees of such lessor's interest or any part thereof, and the Federal government when it is a party to any contract with the Authority in respect to a housing project.

(lll) **"Occupancy Standard"** means the standards established pursuant to Section PRP.7.5.190 of this ordinance to ensure that the rental units are maintained by the tenants in a safe and sanitary condition and that tenant actions will not impede the peaceful enjoyment of Housing Authority residents and communities.

(mmm) "**Pattern of Gang-related Activity"** means the commission, attempt to commit, conspiring to commit, or solicitation of two or more predicate gang crimes, provided the criminal acts were committed on separate dates or by two or more persons who are members of, or belong to, the same gang within a one-year period.

(nnn) **"Person"** means the Housing Authority where the meaning of a portion of this ordinance requires, a public agency, corporation, partnership or other entity.

(ooo) **"Persons not Considered a 'Dislocated Person'"** means a person who is not required to relocate permanently as a direct result of a rehabilitation project and who will return to the original project within a reasonable period of time (Temporary Relocation).

(ppp) **"Person not Eligible for Relocation Assistance"** means a person that is not eligible for relocation assistance if any of the following situations occur:

(1) The tenant has been evicted for a serious or repeated violation of the terms and conditions of the lease or occupancy agreement;

(2) Violation of Tribal, Federal, State, or local law or other good cause; or

(3) The person has no legal right to occupy the property under tribal law.

(qqq) **"Person with Disabilities"** means Disabled/Handicapped as defined in Section PRP.7.2.010(m), above.

(rrr) **"Premises"** means a dwelling unit and the structure of which it is a part and all facilities and areas connected with it, including grounds, common areas and facilities intended for the use of tenants or the use of which is promised for tenants.

(sss) "**Presumptive Gang Member"** means any person for whom there is any record by any law enforcement agency or court system identifying the individual as meeting any three of the following criteria:

(1) The person has admitted to being a gang member;

(2) The person is observed to associate with known gang members;

(3) The person has gang tattoos to show allegiance;

(4) The person wears gang symbols or colors which are associated with a gang;

(5) The person is photographed with known gang members or shows other overt signs of gang involvement;

(6) The person is recorded and written on gang documents and graffiti;

(7) The person is identified by a reliable source (e.g. a teacher, social worker, law enforcement officer) as being a gang member;

(8) The person is arrested with gang members;

(9) The person corresponds with gang members by telephone, mail, email, etc.; and/or

(10) The person writes gang symbols and other gang affiliation on notebooks, schoolwork, etc.

(ttt) "**Publication"** means the placement of an advertisement or notice in the newspaper of record for the Housing Authority area. (Newspaper in which legal advertisements are published).

(uuu) **"Rent"** means the monthly calculated payments to be made to the Authority or lessor from a tenant under a lease or rental agreement.

(vvv) "**Rental Unit"** means a leased unit for an initial term, followed by a month-to-month tenancy.

(www) "**Residency"** means the established proof of continuous occupancy of a residence on or near the reservation for a period of three months. Residency must be established prior to being awarded a unit. The burden is on the applicant to prove residency by employers, utility suppliers, school administrators or present landlord.

(xxx) "**Single Person"** means a person who lives alone and who does not qualify as an elderly family, a displaced person, or the remaining member of a Tenant family.

(yyy) **"Surcharge"** means the amount charged by the Housing Authority to a Tenant, in addition to rent, for consumption of utilities in excess of the allowance for Housing Authority furnished utilities or for estimated consumption attributable to Tenant owned major appliances or to optional functions of Housing Authority furnished equipment.

(zzz) **"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.

(aaaa) "**Temporary Absence"** means an absence from the home for a period of longer than two (2) weeks with notification to the Housing Authority.

(bbbb) **"Temporary Relocation Dwelling"** means a dwelling that is suitable, decent, safe and sanitary to be used by the resident during the rehabilitation period. The relocation dwelling may not necessarily be comparable to the original dwelling as long as the decent, safe and sanitary requirements are met.

(cccc) **"Tenant"** means the lessee(s), or person(s) entitled under a lease or rental agreement to occupy a dwelling unit or premises to the exclusion of others.

(dddd) **"Tenant Rent"** means the amount payable monthly by the family as rent to the Housing Authority. Tenant rent does not include utilities

(eeee) **"Tribal Court"** means the court of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(ffff) **"Tribal Governing Board"** means the Tribal Governing Board of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(gggg) "**Utilities'** include electricity, gas, heating fuel (including wood), water, sewage service, septic tank pumping, drain field maintenance and sanitation services.

(hhhh) **"Utility Costs"** means expenses for heat, cooking, lighting, water, and sewer incurred in the reasonable residential use and occupancy of a dwelling.

(iiii) "**Very Low Income Family"** means a lower income family whose annual income does not exceed fifty percent (50%) of the median income for the area, as determined by HUD, with adjustments for smaller and larger families.

(Res. No. 2023-157; Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.2.010 was formerly codified as XI LCOTCL §7.201

Subchapter PRP.7.3
General

PRP.7.3.010 Housing Authority ..... PRP.7.3-**Error! Bookmark not defined.**
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PRP.7.3.020 Obligations..... PRP.7.3-**Error! Bookmark not defined.**
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PRP.7.3.040 Miscellaneous ..... PRP.7.3-**Error! Bookmark not defined.**
PRP.7.3.050 Cooperation in Connection with Projects. PRP.7.3-**Error! Bookmark not defined.**
PRP.7.3.060 Relation to Federal Law ..... PRP.7.3-**Error! Bookmark not defined.**

PRP.7.3.010 Housing Authority

The Tribal Governing Board hereby establishes and empowers the Lac Courte Oreilles Housing Authority to carry out the intent of this ordinance as further defined herein:

(a) The Tribal Governing Board shall appoint a Board of Commissioners who will be responsible for effectuating the Housing Authority Code and the duties as defined in this Chapter. The Board of Commissioners shall act independently of the Tribal Governing Board.

(b) 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.

(c) There shall be an Executive Director for the Housing Authority with the duties and responsibilities as detailed in the Executive Director job description and detailed in this Chapter. The Executive Director shall report to and take direction from the Board of Commissioners, its offers and the Tribal Governing Board in that order. In the event of a conflict of instruction, the Executive Director may present the issue to the full Tribal Governing Board.

(d) The Tribal Governing Board may pursuant to Section TCT.1.3.020 grant a limited waiver of sovereign immunity of the Housing Authority thereby allowing the Housing Authority to be sued in its corporate name, upon any contract, claim or obligation arising out of its activities under this ordinance and thereby authorizes the Housing Authority the option to agree to such a duly issued Tribal Governing Board Resolution to a limited waiver of immunity from suit which it may not otherwise have; but the Tribe expressly does not waive its immunity from suit and shall not be liable for the debts or obligations of the Housing Authority.

(e) The Housing Authority shall have perpetual succession in its corporate name.

(f) The Housing Authority, acting through its Board of Commissioners, 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, tribal, or local (including the Tribal Governing Board) or with any person, partnership, corporation or Indian tribe; and to agree to any conditions attached to Federal financial assistance.

(3) To agree, notwithstanding anything to the contrary contained in this ordinance or in any other provision of law, to any conditions attached to Federal financial assistance relating to the determination of prevailing salaries or wages or payment of not less than prevailing salaries or wages or compliance with labor standards, in the development or operation of projects; and the Authority may include in any contract let in connection with a project stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum salaries or wages and maximum hours of labor and comply with any conditions which the Federal government may have attached to its financial aid to the project.

(4) To obligate itself, in any contract with the Federal government for annual contributions to the Housing Authority, to convey to the Federal government possession of or title to the project to which such contract relates, upon the occurrence of a substantial default (as defined in such contract) with respect to the covenants or conditions to which the Housing Authority is subject; and such contract may further provide that in the case of such conveyance, the Federal government may complete, operate, manage, lease, convey or otherwise deal with the project and funds in accordance with the terms of such contract; provided, that the contract requires that, as soon as practicable after the Federal government is satisfied that all defaults with respect to the project have been cured and that the project will thereafter be operated in accordance with the terms of the contract, the Federal government shall re-convey to the Housing Authority as than constituted.

(5) To lease property from the Tribe for such periods as are authorized by law, and to hold and manage or to sublease the same.

(6) To borrow or lend money, to issue temporary or long-term evidence of indebtedness and to repay the same. Obligations shall be issued and repaid in accordance with the provisions of Section PRP.7.3.030 of this ordinance.

(7) To pledge the assets and receipts of the Housing Authority as security for debts; and to acquire, sell, lease, exchange, transfer or assign corporate personal property or interests therein.

(8) To purchase land or interests in land or take the same by gift; to lease land or interests in land to the extent provided by law.

(9) To undertake and carry out studies and analyses of housing needs, to prepare housing plans, to execute the same, to operate projects and to provide for the construction, reconstruction, improvement, extension, alteration or repair of any project or any part thereof.

(10) With respect to any dwellings, accommodations, lands, buildings or facilities embraced within any project (including individual cooperation or condominium unit); to lease or rent, sell, enter into lease-purchase agreements or leases with option to purchase; to establish and revise rents or required monthly payments, to make rules and regulations concerning the selection of tenants or homebuyers, including the establishment of priorities, and concerning the occupancy, rental, care and management of housing units; and to make sure further rules and regulations as may be deemed necessary and desirable to effectuate the powers granted by this ordinance.

(11) To finance the purchase of a home by an eligible homebuyer in accordance with regulations and requirements of the Department of Housing and Urban Development (HUD).

(12) To terminate any lease or rental agreement or lease-purchase agreement when the tenant or homebuyer has violated the terms of such agreement, or failed to meet any of its obligations thereunder, or when such termination is otherwise authorized under the provisions of such agreement; and to bring action for eviction against such tenant or homebuyer.

(13) To establish income limits, as required by HUD, for admission that insures that dwelling accommodations in low income housing projects shall only be made available to eligible persons of low income.

(14) To develop projects and policies for the purpose of serving non-low income persons that are deemed ineligible for admission in low income housing projects.

(15) To purchase insurance from any stock or mutual company for any property or against any risk or hazards.

(16) To invest such funds as are not required for immediate disbursement.

(17) To establish and maintain such bank accounts as may be necessary or convenient.

(g) It is the purpose and intent of this ordinance to authorize the Housing Authority to secure the financial aid or cooperation of the Federal government in the undertaking, construction, maintenance or operation of any project by the Housing Authority.

(h) No ordinance or other enactment of the Tribe with respect to the acquisition, operation or disposition of Tribal property shall be applicable to the Housing Authority in its operations pursuant to this ordinance.

(i) The Tribal Governing Board does not by the adoption of this ordinance consent to any authorization not accountable to the Tribal Governing Board.

(Res. No. 2023-48 §§ 1, 2, 3; Res. No. 2023-19; Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.3.010 was formerly codified as XI LCOTCL §7.301

PRP.7.3.015 Board of Commissioners.

(a) Organization. The Board of Commissioners shall be organized in accordance with the following guidelines:

(1) The Board of Commissioners shall be composed of seven (7) persons, all whom must be enrolled members of the tribe. In no case shall a sitting Tribal Governing Board member, or an employee of the Housing Authority be appointed as a Board Member. No individual Commissioner, regardless of position, acting alone and without Board of Commissioner approval is empowered or authorized to take any action or make any public statement regarding the Housing Authority or Board of Commissioners' positions on any matter.

(2) The Tribal Governing Board shall appoint the Chair of the Board. The Board of Commissioners shall elect from amongst itself a Vice-Chair, and a Secretary. In the absence of the Chair, the Vice-Chair shall preside; and in the absence of both the Chair and the Vice-Chair, the Secretary shall preside if a quorum is met.

(3) Any Commissioner may be removed by formal action of the Tribal Governing Board for cause.

(4) The Tribal Governing Board will fill Commissioner vacancies as soon as reasonably possible.

(5) The Commissioner 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.

(b) The term of office for each Commissioner shall be two (2) years and staggered, except that in the case of prior vacancy, an appointment shall be only for the length of the unexpired term. Each Commissioner 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.

(c) Commissioner shall receive compensation for their services including travel and training expenses incurred in the discharge of their duties. Such compensation rates shall be determined and approved by official action of the Tribal Governing Board. Any travel and training compensation shall be reviewed by the Executive Director for budgetary concerns.

(d) A majority of the Commissioners shall constitute a quorum for any regularly scheduled Board meetings. A regularly scheduled meeting with less than a quorum may be held but no action shall be taken.

(e) The Secretary shall be responsible for the minutes of regular and special Board meetings. The Secretary shall keep complete and accurate records of all meetings of the Board.

(f) Regular meetings of the Board shall be held monthly on the third Wednesday 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 Chair or by request of two Commissioners or the Executive Director. Regular and Special meeting notices must be posted. Special meetings shall be limited to only the stated agenda and no regular business may be conducted.

(g) The Chair of the Commissioner in conjunction with the Executive director, shall be responsible for the posting of Notices and Meetings and distribution of Agendas. The Executive Director shall have the duty for scheduling and room reservations for all meetings.

(h) The Executive Director shall submit the following reports to the Tribal Governing Board;

(1) Monthly Report showing:

(A) Summary of the prior month's activities;

(B) Financial condition of the Housing Authority;

(C) Condition of the properties;

(D) Number of units and vacancies;

(E) Any significant problems and accomplishments;

(F) Plans for the future;

(G) Such other information as the Executive Director, the Board of 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 Authority.

(i) The annual Indian Housing Plan (IHP) and related budgets submitted to HUD must be approved by the Tribal Governing Board as well as any other operating budgets of the Housing Authority.

(j) The reports, once approved by the Board of Commissioners shall be submitted to the Tribal Governing Board.

(Res. No. 2023-157; Res. No. 2023-48 §§ 10, 11, 12, 13, 14, 4, 5, 6, 7, 8, 9; Res. No. 2023-19)

PRP.7.3.020 Obligations

(a) The Housing Authority may issue obligations from time to time in its discretion for any of its purposes and may also issue refunding obligations for the purpose of paying or retiring obligations previously issued by it. The Housing Authority may issue such types of obligations as it may determine, including obligations on which the principal and interests are payable:

(1) Exclusively from the income and revenues of the project financed with the proceeds of such obligations, or with such income and revenues together with a grant from the Federal government in aid of such project;

(2) Exclusively from the income and revenues of certain designated projects whether or not they were financed in whole or in part with the proceeds of such obligations; or

(3) From its revenues generally.

Any of such obligations may be additionally secured by a pledge of any revenues of any project or other property of the Housing Authority. Neither the Board, the Authority, nor any person executing the obligations shall be liable personally on the obligations by reason of issuance thereof.

(b) The notes and other obligations of the Housing Authority shall not be a debt of the Tribe and the obligations shall so state on their face.

(c) Obligations of the Housing Authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from taxes imposed by the Tribe. The tax exemption provisions of this ordinance shall be considered part of the security for the repayment of obligations and shall constitute, by virtue of this ordinance and without necessity of being restated in the obligations, a contract between:

(1) the Housing Authority and the Tribe, and

(2) the holders of obligations and each of them, including all transferees of the obligations from time to time.

(d) Obligations shall be issued and sold in the following manner:

(1) Obligations of the Housing Authority shall be authorized by a resolution adopted by the vote of a majority of the Tribal Governing Board and may be issued in one or more series.

(2) The obligations shall bear such dates, mature at such times, bear interest at such rates, be in such denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment and at such places, be subject to such terms of redemption, with or without premium, as such resolution may provide.

(3) The obligations may be sold at public or private sale at not less than par.

(e) Obligations of the Housing Authority shall be fully negotiable. In any suit, action or proceeding involving the validity or enforceability of any obligation of the Housing Authority or the security therefor, any such obligation reciting in substance that it has been issued by the Housing Authority to aid in financing a project pursuant to this ordinance shall be conclusively deemed to have been planned, located and carried out in accordance with the purpose and provisions of this ordinance.

(f) In connection with the issuance of obligations or incurring of an obligation, under leases and to secure the payment of such obligations, the Housing Authority, subject to the limitations in this ordinance, may:

(1) Pledge all or any part of its gross or net rents, fees or revenues to which its rights then exists or may thereafter come into existence.

(2) Provide for the powers and duties of obligee and limit their liabilities; and provide the terms and conditions on which such obligees may enforce any covenant or rights securing or relating to the obligations.

(3) Covenant against pledging all or any part of its rents, fees and revenues or against mortgaging any or all of its real or personal property to which its title or right then exists or may thereafter come into existence or permitting or suffering any lien on such revenues or property.

(4) Covenant with respect to limitations on its right to sell, lease or otherwise dispose of any project or any part thereof.

(5) Covenant as to what other or additional debts or obligations may be incurred by it.

(6) Covenant as to the obligations to be issued as to the issuance of such obligations in escrow or otherwise, and as to the use and disposition of the proceeds thereof.

(7) Provide for the replacement of lost, destroyed or mutilated obligations.

(8) Covenant against extending the time for the payment of its obligations or interest thereon.

(9) Redeem the obligations and covenant for their redemption and provide the terms and conditions thereof.

(10) Covenant concerning the rents and fees to be charged in the operation of a project or projects the amount to be raised each year or other period of time by rents, fees and other revenues, and as to the use and disposition to be made thereof.

(11) Create or authorize the creation of special funds for monies held for construction or operating costs, debt service, reserves or other purposes, and covenant as to the use and disposition of the monies held in such funds.

(12) Prescribe the procedure, if any, by which the terms of any contract with holders of obligations may be amended or abrogated, the proportion of outstanding obligations the holders of which must consent thereto, and the manner in which such consent may be given.

(13) Covenant as to the use, maintenance and replacement of its real or personal property, the insurance to be carried thereon and the use and disposition of insurance monies.

(14) Covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition or obligation.

(15) Covenant and prescribe as to events of default and terms and conditions upon which any or all of its obligations become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.

(16) Vest in any obligees or any proportion of them the right to enforce the payment of the obligations or any covenants securing or relating to the obligations.

(17) Exercise all or any part or combination of the powers granted in this section.

(18) Make covenants other than and in addition to the covenants expressly authorized in this section, of like or different character.

(19) Make any covenant and do any acts and things necessary or convenient or desirable in order to secure its obligations, or, in the absolute discretion of the Housing Authority, tending to make the obligations more marketable although the covenants acts, or things are not enumerated in this section.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.3.020 was formerly codified as XI LCOTCL §7.302

PRP.7.3.030 The Executive Director

The Executive Director shall be hired by the Tribal Governing Board and shall have the day-to-day responsibilities and duties for the operation of the Housing Authority. The Executive Director shall work in conjunction with the Board of Commissioners and the Tribal Governing Board on all matters related to the daily operations and strategic operations of the Housing Authority. The Executive Director shall have those powers as stated in this section:

(a) The Executive Director Powers and Duties:

(1) To hire, terminate, and supervise all Housing Authority staff. This duty shall primarily remain with the Executive Director but shall provide a monthly report to the Board of Commissioners, of which the Board shall review and approve such actions taken by the Executive Director.

(2) To advise, develop, and implement, in conjunction with Board of Commissioners to address ongoing housing projects and housing services needs of enrolled members of the tribe and such other persons or entities the Housing Authority may serve.

(3) To research and develop plans to addressing housing tenants needs/concerns and communicate them to the Board of Commissioners.

(4) Assist in the creation and review and provide recommendations on policies governing the activities of the Housing Authority, and other such policies as requested by the Board of Commissioners or the Tribal Governing Board and to implement the same.

(5) To develop and implement in conjunction with the Board of Commissioners a Strategic Plan to address ongoing Housing needs for the tribe, focusing on HUD requirements.

(6) To review and provide information on the development of the annual Indian Housing Plan and the annual Performance Report.

(7) To provide advice as directed by the Tribal Governing Board or requested by the Board of Commissioners on matters relevant to the Housing Authority and the purposes defined in Section PRP.7.3.030(a)(8) of this ordinance.

(8) To run the daily operations of the Housing Authority.

(b) Advisory Capacity. The Executive Director shall serve in an advisory capacity to the Tribal Governing Board and the Board of Commissioners to promote comprehensive planning, delivery of housing services and evaluation of housing programs.

(1) **"Advisory Capacity"** to the Tribal Governing Board means that the Board of Commissioners shall assist the Tribal Governing Board in understanding the housing projects and housing services needs of members and such other persons or entities the Housing Authority may serve. As with other Tribal Committees, Boards and Commissions the Board of Commissioners do not supervise the Tribal Governing Board on Tribal Housing 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 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 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 Board of Commissioners r means that the Executive Director shall assist the Board of Commissioners in understanding the housing and housing project needs of Lac Courte Oreilles Tribal members and such other persons or

entities as the Housing Authority may serve and in the planning and delivery of those services and evaluation of housing and Department programs. The Executive Director is not authorized to supervise the Board of Commissioners on Tribal Housing matters or to require or demand that the Board of Commissioners engage in or approve any particular recommendation and shall not be involved in Housing Authority personnel matters except upon Tribal Governing Board request and then in only an advisory capacity.

(Res. No. 2023-48 §§ 15, 16; Res. No. 2023-19; Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.3.030 was formerly codified as XI LCOTCL §7.303

PRP.7.3.040 Miscellaneous

Repealed.

(Res. No. 2023-19; Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.3.040 was formerly codified as XI LCOTCL §7.304

PRP.7.3.050 Cooperation in Connection with Projects

Repealed.

(Res. No. 2023-19; Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.3.050 was formerly codified as XI LCOTCL §7.305

PRP.7.3.060 Relation to Federal Law

Repealed.

(Res. No. 2023-19; Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.3.060 was formerly codified as XI LCOTCL §7.306

Subchapter PRP.7.4
Housing Court

PRP.7.4.010 Housing Court Division ..... PRP.7.4-**Error! Bookmark not defined.**
PRP.7.4.020 Full Faith and Credit ..... PRP.7.4-**Error! Bookmark not defined.**
PRP.7.4.030 Jurisdiction over Housing Matters ..... PRP.7.4-**Error! Bookmark not defined.**
PRP.7.4.040 Parties..... PRP.7.4-**Error! Bookmark not defined.**
PRP.7.4.050 Discovery ..... PRP.7.4-**Error! Bookmark not defined.**
PRP.7.4.060 Informal Disposition..... PRP.7.4-**Error! Bookmark not defined.**
PRP.7.4.070 Accelerated Proceedings ..... PRP.7.4-**Error! Bookmark not defined.**
PRP.7.4.080 Right of Access to Records..... PRP.7.4-**Error! Bookmark not defined.**

PRP.7.4.010 Housing Court Division

There is hereby established a Housing 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 Housing Court. Any magistrate of the Tribal Court shall serve as magistrate of the Housing Court with such powers as are provided in Chapter TCT.2 and in this ordinance.

(b) All matters under this ordinance shall be filed with the Housing Court.

(c) In the event that a Housing proceeding is transferred to the Housing Court from any other Court, the Housing 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 matter and for conformity with this ordinance.

(d) All hearings in the Housing Court shall be without a jury. All proceedings shall be recorded electronically or verbatim by a licensed court reporter. The Housing 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.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.4.010 was formerly codified as XI LCOTCL §7.401

PRP.7.4.020 Full Faith and Credit

(a) The Housing Court, Executive Director, and other officials of the tribal government shall grant the public acts, records and judicial proceedings of other entities, applicable to Housing 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 PRP.7.4.020(a) above, the Housing Court may, upon filing, accept a case originally brought in another Court.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.4.020 was formerly codified as XI LCOTCL §7.402

PRP.7.4.030 Jurisdiction over Housing Matters

To ensure the peace, harmony, safety, health and general welfare of Tribal members and those permitted to enter or reside on lands under the purview of the Housing Authority, and the efficient resolution of disputes thereon, the Housing Court shall have jurisdiction over the following:

(a) All lands under the purview of the Housing Authority;

(b) All buildings which may lie upon lands held under the purview of the Housing Authority;

(c) The Housing Authority is the entity that rents, leases or allow persons to occupy housing, dwellings or accommodations for the purpose of human dwelling, occupation, or residence. The Tenant means the lessee(s) or person(s) entitled under a lease or rental agreement to occupy a dwelling unit or premises to the exclusion of others. Tenant includes a person who rents a space for a residential structure and persons residing with that tenant under the terms of the lease or rental agreement. Such personal jurisdiction is extended over the Housing Authority and said Tenants whether or not they are members of the Tribe and whether or not they have a place of business within the Reservation;

(d) All contracts, liens, instruments or other agreements to which the Authority is a party; and

(e) Any act within the Reservation dealing with the subject matter of this chapter.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.4.030 was formerly codified as XI LCOTCL §7.403

PRP.7.4.040 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 PRP.7.2.010(e) of this ordinance, shall be parties to a Housing Court proceeding.

(b) In all proceedings before the Housing Court, the Housing Authority shall represent the interests of the Tribe, which may be through the Executive Director or a designated representative of the Authority. The Executive Director or a designated representative of the Authority may be represented by the Tribal Prosecutor or other Tribal Attorney appointed by the Tribe to represent its interests before the Housing Court.

(c) 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.

(d) Upon a showing of good cause, and if the best interests of the Tribe so indicate, the Housing 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. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.4.040 was formerly codified as XI LCOTCL §7.404

PRP.7.4.050 Discovery

(a) Copies of all law enforcement reports, relevant to a proceeding under this ordinance, including all officers' memoranda and witness statements, shall be made available by the Tribal Prosecutor, the Housing Authority upon request of a party, or tenant counsel prior to the initial hearing in any matter.

(b) All records which are relevant to a proceeding under this ordinance, and which are in the possession of the Housing Authority, shall be open to inspection by tenant 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 Tribe. If any records are not released to a requesting party, the reason shall be given to the party, who may ask the Housing Court to review the denial of the request, in which case the Housing 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 Housing Court, which may be entered ex parte. Persons entitled to inspect records may obtain copies of them at their expense upon permission of the Housing Authority or the Housing Court. The Housing Court may require counsel or parties

not to disclose material contained in the records to any other person if the Housing Court reasonably believes such disclosure would be harmful to the Tribe.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.4.050 was formerly codified as XI LCOTCL §7.405

PRP.7.4.060 Informal Disposition

The Executive Director and affected parties may upon mutual consent petition the Housing Court to institute peacemaking proceedings in any case subject to the provisions of this ordinance. Peacemaking shall occur pursuant to the direction of the Housing 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 Executive Director deems it appropriate, proceedings may be instituted under any other Subchapter of this ordinance.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.4.060 was formerly codified as XI LCOTCL §7.406

PRP.7.4.070 Accelerated Proceedings

Notwithstanding any other provision of this ordinance, the Housing Court may, upon proper notice or waiver of notice, accelerate and combine any of the hearings provided for in this ordinance. The Housing Court may require the accelerated preparation of any required documents or may waive the submission of such documents, except that any document required as a prerequisite to an action may not be waived.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.4.070 was formerly codified as XI LCOTCL §7.407

PRP.7.4.080 Right of Access to Records

Any party deemed appropriate by the Housing Court, whom has been the subject of a hearing pursuant to this ordinance, has the right, to review all of the Court's files on these matters subject to redaction or the rights of confidentially as required by Tribal or federal law.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.4.080 was formerly codified as XI LCOTCL §7.408

Subchapter PRP.7.5
Admissions and Occupancy

PRP.7.5.010 Rules and Regulations ..... PRP.7.5-**Error! Bookmark not defined.**
PRP.7.5.020 Purpose..... PRP.7.5-**Error! Bookmark not defined.**
PRP.7.5.030 Special Rules Pertaining to the LIHTC..... PRP.7.5-**Error! Bookmark not defined.**
PRP.7.5.040 Application Fraud ..... PRP.7.5-**Error! Bookmark not defined.**
PRP.7.5.050 ..... PRP.7.5-**Error! Bookmark not defined.**
PRP.7.5.060 Ineligibility for Admission ..... PRP.7.5-**Error! Bookmark not defined.**
PRP.7.5.070 Dependents ..... PRP.7.5-**Error! Bookmark not defined.**
PRP.7.5.080 Application Procedure..... PRP.7.5-**Error! Bookmark not defined.**
PRP.7.5.090 Notice to Applicants ..... PRP.7.5-**Error! Bookmark not defined.**
PRP.7.5.100 Waiting List Eligibility ..... PRP.7.5-**Error! Bookmark not defined.**
PRP.7.5.110 ..... PRP.7.5-**Error! Bookmark not defined.**
PRP.7.5.120 Waiting List Placement..... PRP.7.5-**Error! Bookmark not defined.**
PRP.7.5.130 Unit (Bedroom) Size ..... PRP.7.5-**Error! Bookmark not defined.**
PRP.7.5.140 Waiting List Updating..... PRP.7.5-**Error! Bookmark not defined.**
PRP.7.5.150 Renewal..... PRP.7.5-**Error! Bookmark not defined.**
PRP.7.5.160 Selection Procedure ..... PRP.7.5-**Error! Bookmark not defined.**
PRP.7.5.170 Pre-Admission Requirements ..... PRP.7.5-**Error! Bookmark not defined.**
PRP.7.5.180 Tenant Financial Obligations and Responsibilities.. PRP.7.5-**Error! Bookmark not defined.**
PRP.7.5.190 Terms and Conditions of Occupancy..... PRP.7.5-**Error! Bookmark not defined.**
PRP.7.5.200 Compliance ..... PRP.7.5-**Error! Bookmark not defined.**
PRP.7.5.210 Post Occupancy..... PRP.7.5-**Error! Bookmark not defined.**

PRP.7.5.010 Rules and Regulations

The Housing Authority may develop, promulgate, implement and enforce reasonable policies and rules and regulations regarding the use and occupancy of the premises in addition to those described in this subchapter.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.5.010 was formerly codified as XI LCOTCL §7.501

PRP.7.5.020 Purpose

The purpose of this subchapter is to govern the eligibility, selection and operation of the rental program of the Housing Authority in conformance with Tribal law, the requirements

of the Native American Housing and Self-Determination Act of 1996 (NAHASDA), and those regulations established at 24 CFR Part 1000. The Housing Authority may enact more stringent policies and procedures in accordance with providing a safe and healthy environment. All other admissions policies, resolutions, motions and similar actions pertaining to the Housing Authority that are inconsistent with the provisions of this ordinance are hereby repealed unless specifically re-enacted after adoption of this policy. Any ambiguities that may be found during the application of this subchapter will always be interpreted in favor of the Housing Authority's efforts to provide a safe and healthy living environment.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.5.020 was formerly codified as XI LCOTCL §7.502

PRP.7.5.030 Special Rules Pertaining to the LIHTC

Special rules may apply to resident's applying to reside or currently residing in Low Income Housing Tax Credit Program ("LIHTC"). These units are subject to the requirements of § 42 of the Internal Revenue Code (as amended) and Chapter 5 of the HUD Handbook § 4350.3 (as amended).

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.5.030 was formerly codified as XI LCOTCL §7.503

PRP.7.5.040 Application Fraud

If a family intentionally misrepresents household composition or income at any time in order to avoid the resulting required monthly payment will be required to pay the difference between what was paid and what would have been paid during the period in question. Furthermore, any information provided to the Housing Authority which is subsequently found to be fraudulent or an intentional misrepresentation shall be grounds for immediate termination of the lease and from participation in Housing Authority programs for a period of 5-years and subject to any possible convictions and sanctions HUD.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.5.040 was formerly codified as XI LCOTCL §7.504

PRP.7.5.050

Applicants of the Housing Authority for rental housing must meet the following requirements:

(a) The family must be a Low-income Family or a Non-Low-income Family as further defined in Section PRP.7.2.010(yy) of this ordinance; and

(b) The family is:

(1) An Indian family; or

(2) An essential family where:

(A) The family's need for housing cannot be met without such assistance; and

(B) The Housing Authority determines that the family's presence is essential to the well-being of Indian families living on the Reservation; or

(3) A law enforcement family where:

(A) The family includes a law enforcement officer who is employed on a full-time basis by the Tribe, federal government, state, county, or other unit of local government;

(B) In implementing such full-time employment, is sworn to uphold, and make arrests for, violations of federal, state, county, or tribal law; and

(C) The Housing Authority determines that the presence of the law enforcement officer on the Indian reservation may deter crime; and

(c) All applicants must have sufficient verifiable income to pay basic household expenses (including the minimum rent charge as defined in Section PRP.7.5.180 of this ordinance).

(Res. No. 2023-157; Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.5.050 was formerly codified as XI LCOTCL §7.505

PRP.7.5.060 Ineligibility for Admission

The Housing Authority shall preclude admission of applicants whose activities, past and present, reasonably may be expected to have a detrimental effect on the Tenants or the environment of the Area of Operation. Such behavior would include, but not be limited to:

(a) Disturbances of neighbors, destruction of property, living or housekeeping practices at prior residence which may indicate an adverse effect to the health, safety or welfare of other Tenants;

(b) A history of activity, engaged in by the applicant or any member of the household of the applicant that threatens the health or safety of, or right to peaceful enjoyment of their

premises by other residents of the Reservation or the employees of the Housing Authority, unless otherwise granted a waiver pursuant to Chapter MCC.6 of the LCOTCL – Pardon and Forgiveness Code. A violation history as evidenced by a conviction of a crime, of a city or county ordinance adopting a state criminal statute, or of a tribal ordinance regulating public safety. Such a history also, as evidenced by an activity which violates this ordinance or the policies of the Housing Authority, and threatens health, safety, or Tenants' rights of peaceful enjoyment;

(c) A record of disregard of rules of occupancy and rights of others;

(d) The following sections shall apply to convicted sex offenders who are required to register under tribal, federal, or state law:

(1) No person shall be allowed admission to housing, either as head of household or other member of household, who is subject to either a ten year or lifetime registration requirement under the "Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Program" 42 U.S.C. § 14071, or any state sex offender registration program;

(2) All applicants for housing, and any current resident upon request, shall sign a consent for release of criminal and registration information as a condition for consideration for housing or continued residency. The Housing Authority shall verify with state or local law enforcement authorities that no member of an applicant's household is registered prior to approving the application;

(3) Before an adverse action is taken with respect to an applicant on the basis that the applicant is subject to a ten year or lifetime registration requirement, the Housing Authority shall provide the Tenant or applicant with a copy of the registration information and an opportunity to dispute the accuracy and relevance of that information;

(e) No person shall be allowed admission to housing, either as head of household or other member of household, who has been convicted of the illegal manufacture, sale, or distribution of a controlled substance, or possession with intent to manufacture, sell, or distribute a controlled substance, unless granted pardon and forgiveness;

(f) No person shall be allowed admission to housing, either as head of household or other member of household, who has been convicted with use or possession of a controlled substance with intent to deliver, for a period of five-years after the date of the charge or is granted a waiver pursuant to Chapter MCC.6 of the LCOTCL – Pardon and Forgiveness Code;

(g) No person shall be allowed admission to housing, either as head of household or other member of household, who has been charged with use or possession of a controlled

substance or drug paraphernalia, for a period of three years after the date of the charge or is granted a waiver pursuant to Chapter MCC.6 of the LCOTCL – Pardon and Forgiveness Code;

(h) A resident who abandons a unit shall be ineligible to apply for housing for a period of 24 months;

(i) An applicant that has failed to meet their financial obligations, including Court ordered restitution, to any Indian/Public Housing Agency or any other prior landlord shall be ineligible until such financial obligation is paid in full;

(j) A person who has not yet established residency as defined in Section PRP.7.2.010(vvv) of this ordinance. This section does not apply to elderly applicants, who are eligible to apply for housing regardless of residency;

(k) The application of a person who has been charged with a crime or ordinance violation which has not yet reached final disposition and the disposition of which may affect the person's eligibility under this subchapter shall be held open until such disposition and shall not be acted upon until that time;

(l) Anyone subject to Section PRP.7.5.190(i)(9) of this ordinance.

(Res. No. 136-2021; Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.5.060 was formerly codified as XI LCOTCL §7.506

PRP.7.5.070 Dependents

All dependent(s) listed on the application must be the lawful dependent(s) of the applicant. In the case of shared physical placement, in order for a dependent child to be counted as a member of the applicant's household for eligibility purposes, the applicant must show proof that the applicant has primary physical placement of the child; that is, that the child lives with the applicant. The burden of proof is on the applicant/tenant and must be shown by at least one of the following types of documentation:

(a) An agreement between the parents bearing the notarized signatures of both parents assigning primary placement of the child to the applicant; or

(b) A court order, certified by the court as currently in effect, assigning primary physical placement of the child to the applicant.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.5.070 was formerly codified as XI LCOTCL §7.507

PRP.7.5.080 Application Procedure

(a) Any family may apply for admission to the rental housing program. Families may apply for both rental and homeownership, but must submit a separate application for each program.

(b) All applications will be dated and time-recorded as received and ranked in accordance with the Selection Preferences in Section PRP.7.5.110 of this ordinance.

(c) Verification and Certification of Family Composition. The Housing Authority shall verify household composition for determination of eligibility for unit size.

(1) As a condition of admission to, or continued occupancy of any unit, the Housing Authority shall require all applicable family members, as requested, to execute a consent form authorizing the Release of Information. The Housing Authority shall also require the family to submit the documentation necessary to verify eligibility or continued occupancy. Information or documentation shall be determined to be necessary if it is required for purposes of determining or auditing a family's eligibility to receive housing assistance, for determining the family's annual income or for verifying related information. The use or disclosure of information obtained for a family or from another source pursuant to this release and consent shall be limited to Housing Authority purposes.

(d) Utility Check. If applicant has an outstanding utility bill, the applicant can apply and be placed on the waiting list but cannot be awarded a unit until such financial obligation is paid in full.

(e) Criminal Background Check. Pursuant to applicable laws and regulations the Housing Authority will require any applicant and adults who will occupy the home to execute a consent to a criminal records background check through any Tribal, local, state or federal law enforcement agency.

(f) Juvenile Background Check. All minor children of an applicant family between the ages of 13 and 18 will require a criminal background check to the extent allowed by law.

(g) Criminal Activity. Criminal activity five years old or less, that resulted in bodily harm to any individual and/or was drug related will result in the applicant being deemed ineligible, unless there is evidence of rehabilitation to reasonably ensure that such activity will not be repeated.

(h) Fraud and Misrepresentations. The Housing Authority will notify an applicant in writing if any misrepresentations of information such as, household composition, other stated facts or incomplete information are revealed through the verification process. Fraudulent or intentional misrepresentation of information shall result in a determination of

ineligibility for housing assistance and may also result in the referral to the proper authorities.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.5.080 was formerly codified as XI LCOTCL §7.508

PRP.7.5.090 Notice to Applicants

(a) Eligible Applicants. When a determination has been made that an applicant is eligible and satisfies all requirements to be placed on the waiting list the Applicant shall be notified in writing of their placement on the waiting list.

(b) Ineligible Applicants. If an applicant is determined to be ineligible for admission to a housing program, the Housing Authority shall promptly notify the applicant.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.5.090 was formerly codified as XI LCOTCL §7.509

PRP.7.5.100 Waiting List Eligibility

Only applicants determined to be eligible shall be placed on the waiting list. In the event that an applicant is subsequently found ineligible they may be removed from the waiting list. The Housing Authority shall promptly notify the applicant of their removal from the waiting list.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.5.100 was formerly codified as XI LCOTCL §7.510

PRP.7.5.110

Applications are ranked first by preference points and then by date of application and time of application pursuant to the following criteria:

(a) Lac Courte Oreilles Citizen (Member): 25 points

(Applicant or child is a Lac Courte Oreilles Citizen (Member))

(b) Other Indian Applicant: 15 points

(Citizen (Member) of another federally recognized tribe)

(c) Essential family to the well-being of LCO Families: 5 points

(d) Law Enforcement Family: 5 points

(e) Honorably Discharged Veterans: 5 points

(Must provide a current DD214)

(f) Existing Tenant Transfer Preference: 5 points

(Res. No. 2023-157; Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.5.110 was formerly codified as XI LCOTCL §7.511

PRP.7.5.120 Waiting List Placement

Applicants are advised that placement on the waiting list does not guarantee selection for housing.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.5.120 was formerly codified as XI LCOTCL §7.512

PRP.7.5.130 Unit (Bedroom) Size

(a) The waiting list shall be divided according to bedroom size and eligible applicants will be placed on the appropriate waiting list as determined by the Housing Authority. In determining the size of the unit required, the Housing Authority will consider the age, sex, structural needs, location, handicap or disability needs and any other factors deemed appropriate.

(b) While on the waiting list, if a family subsequently requires a different bedroom size, they will be placed accordingly on the waiting list and will maintain their original application date.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.5.130 was formerly codified as XI LCOTCL §7.513

PRP.7.5.140 Waiting List Updating

The waiting list shall be updated as new applicants are approved to be placed on the waiting list.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.5.140 was formerly codified as XI LCOTCL §7.514

PRP.7.5.150 Renewal

Rental applicants are required to update their application at sometime within the twelve (12) month anniversary date of their application. Failure to update the application will result in the applicant being removed from the waiting list. The Housing Authority shall promptly notify the applicant of their removal from the waiting list. This section shall not apply to homebuyer or other waiting lists.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.5.150 was formerly codified as XI LCOTCL §7.515

PRP.7.5.160 Selection Procedure

(a) Prior to selection of an applicant, verification must be made of their continued eligibility for housing by contacting their utility suppliers, employers, landlord for current information, other third parties, etc.

(b) When a unit becomes available, selections are made by contacting the next person on the waiting list.

(c) Selected applicants will be notified telephonically or by certified US mail of the availability of a unit. If all attempts to contact the applicant are unsuccessful and/or there is no response from the applicant within three (3) days of receipt of the notice, as verified by the certified US Mail Delivery of Receipt card, the applicant will be taken off the Waiting List.

(d) Emergency Placements Due to Fire. The Housing Authority shall give priority to a Tenant family whose home has been destroyed by fire unless the damage was determined to be the result of the Tenant's intentional conduct, negligence, damage or misuse of the property. Emergency placements shall supersede pending awards to waiting list applicants.

(e) Elderly/disabled families will be given preference for units specifically built for elderly/disabled families. Where there are no eligible elderly/disabled families to fill a vacancy, the Authority may allow admission of a near elderly family.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.5.160 was formerly codified as XI LCOTCL §7.516

PRP.7.5.170 Pre-Admission Requirements

(a) After selection and applicant acceptance of a rental unit the adult family members will participate in a mandatory orientation with the Housing Authority staff prior to move-in which will consist of the following (not necessarily in this order):

(1) Review the terms and conditions of the residential lease agreement;

(2) Review the information utilized to calculate rents and other payments;

(3) Collect the required security deposit;

(4) Sign all forms required by the Housing Authority; and

(5) Review applicable policies of the housing program.

(b) The Housing Authority shall make arrangements for utility services to be placed in the Tenant's name after the lease agreement is executed except for utilities paid directly by the Housing Authority.

(c) Two original copies of the lease shall be signed by the Executive Director or designee, and all required Tenant(s), before the family may be admitted to a unit. One copy shall be kept in the Tenant's file and the other given to the Tenant.

(1) LIHTC Program: All adult household members will be required to sign the LIHTC Lease Addendum acknowledging their understanding of the requirements of the LIHTC program.

(d) A move-in inspection will be conducted for the purpose of the Tenant identifying any potential unit deficiencies.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.5.170 was formerly codified as XI LCOTCL §7.517

PRP.7.5.180 Tenant Financial Obligations and Responsibilities

(a) Monthly Rent.

(1) Due Date. Rent and homebuyer payments are due on or before the 10th day of each month.

(2) Where and How to Make Payments.

(A) Rent payments may be made at the Housing Authority administrative offices or sent by mail to LCO Housing Authority, 13416 W Trepania Road, Hayward, WI 54843. Cash should not be sent by mail.

(B) Payments may be made by cash, money orders, personal checks, or credit/debit cards.

(C) Tenants shall be strongly encouraged to participate in employer payroll deduction programs so that rent payments are automatically paid each month.

(3) Rent Calculation. Rent is based upon a family's annual income minus authorized deductions; the resulting adjusted income is divided by twelve months which will be the adjusted monthly income (AMI). The resulting AMI will be multiplied by a percentage not to exceed 30% but in no instance will the rent be less than $25 per month.

(A) Any rent calculation percentages that are less than 30% will be subject to Board of Commissioner review and Tribal Governing Board approval by passage of a formal resolution.

(B) Monthly rent shall also consist of other additional monthly charges assessed by the Housing Authority, as further defined in this ordinance or other Housing Authority policies.

(4) Anticipated Annual Income. If it is not feasible to anticipate a level of income over a 12-month period, the income anticipated for a shorter period may be annualized subject to a redetermination at the end of the shorter period.

(A) If a Tenant is employed for a pre-determined length of time (e.g. teachers), their payments may still be calculated on an annual basis, with a 12-month calculation, and a monthly charge for each of the 12 months of the year.

(5) Non Low-Income Family. A family that was low-income at the time of initial occupancy but subsequently becomes a non-low-income family due to an increase in income may continue to participate in the program in accordance with the admission and occupancy policies. Such families may continue to participate in the program subject to the following additional requirements;

(A) Non-low-income families cannot receive the same benefits provided low-income Indian families. The amount of assistance non-low-income families may receive will be determined as follows:

(i) The rent to be paid by a non-low-income family cannot be less than: (Income of non-low-income family/Income of family at 80 percent of median income) × (Rental payment of family at 80 percent of median income) but need not exceed the fair market rent or value of the unit.

(6) LIHTC Program. The Gross Rent (tenant paid rent plus utility allowance) will not exceed the LIHTC maximum rent limits established for Sawyer County.

(b) Ceiling Rents. Maximum ceiling rent determination will be subject to Board of Commissioner review and Tribal Governing Board approval by passage of a formal resolution.

(c) Recertification. The Housing Authority shall conduct a recertification once every two-years on the anniversary of the move-in date. The Housing Authority may conduct a recertification at any other time that the Housing Authority believes conditions have materially changed from the last certification or as requested by the Tenant due to a change in household income or family composition. Recertification may include a re-examination of the criminal records of all adult members of the household, and of all juvenile members to the extent allowed by law.

(1) LIHTC Program. Housing Authority shall require all households residing in LIHTC units to complete recertification paperwork annually.

(A) The head-of-household must complete the recertification form to include all household members and all adult household members must sign the Release of Information and any other forms required by the Housing Authority.

(B) The Housing Authority shall verify information provided at the time of recertification in accordance with Section PRP.7.5.080(c) of this ordinance, Verification and Certification of Family Income and Composition.

(d) Effective Date. All increases in rent or other payments shall take effect on the 1st day of the second month following the date of the recertification. Decreases in rent will take effect immediately on the 1st day of the next month.

(e) Housing Authority Purchased Utilities/Sanitation Services. A monthly charge for gas, electricity, water/sewer and sanitation services shall be assessed for those units which the Housing Authority pays, as determined by the Housing Authority. Failure to pay these assessed charges will be cause for eviction.

(f) Tenant Purchased Utilities. All utilities provided to the unit will be in the name of the head of household, unless otherwise approved by the Housing Authority. Failure to maintain the utilities is cause for eviction. Further, the head of household, as the Tenant of record, will sign a Release of Information for each utility to allow the Housing Authority to receive utility information on the unit as requested.

(g) Miscellaneous Charges.

(1) Late Fees. If payments are not received by the 10th day of the month, a late fee as determined by the Housing Authority, will be assessed.

(2) Returned Check Fees. If a check is returned for insufficient funds, a fee as determined by the Housing Authority will be assessed to the Tenant's accounts receivable and the Tenant will no longer be able to pay with a personal check for a period of twelve (12) months. The Tenants name will be place on a bad check list, which will be placed in a location visible to the general public.

(3) Insurance Related Charges. The Housing Authority will charge the Tenant for any insurance deductibles or damages to the units which are the result of the Tenant's negligence, damages or misuse of the property. The Tenant will be allowed an appropriate period of time to correct the situation. If the corrective action is not completed within the appropriate period, eviction proceedings may commence, unless satisfactory arrangements are made. If negligence, damages or misuse are repeated, eviction proceedings may commence.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.5.180 was formerly codified as XI LCOTCL §7.518

PRP.7.5.190 Terms and Conditions of Occupancy

(a) Authorized Residents. Only those persons identified in the lease can reside in the unit. Additional household members are not authorized without the prior written consent of the Housing Authority.

(b) Unauthorized Residents. Under no circumstances will the following individuals be allowed to reside in a Housing Authority unit, temporarily or permanently;

(1) Formerly Evicted Person. A person who has been evicted from a unit of the Housing Authority, or who at the time of the eviction was a member of the household of a person who has been evicted from a unit of the Housing Authority, may not be given temporary or permanent housing in a unit of the Housing Authority unless otherwise granted a waiver pursuant to Chapter MCC.6 of the LCOTCL – Pardon and Forgiveness Code.

(2) Harboring. A person who is wanted for questioning or for arrest by any law enforcement agency, or who has escaped or absconded from the custody of any law enforcement or correctional agency, may not be given temporary or permanent housing in a unit of the Housing Authority.

(c) Head of Household Demise. In the event of the demise of the head of household, which is not related to criminal or nefarious activity related activities in a Drug Free Public Housing Zone, the unit shall be assigned to the remaining members of the Tenant family as identified on the lease unless one of the following circumstance arises;

(1) All of the remaining household members are minor children, the person appointed legal guardian of the children shall have the right to occupy the unit as head of household in order to allow the minor children to remain in the unit, provided that the notice procedures as set forth in this section are followed.

(A) Within 30 days of the demise of the head of household, any person petitioning to be appointed legal guardian and desiring to occupy the unit with the children shall notify the Housing Authority of the petition and of the intent to occupy the unit with the children and shall provide to the Housing Authority a copy of the guardianship petition.

(B) In the event more than one-person petitions for guardianship, any person awarded temporary guardianship shall have the occupancy rights stated in this section for as long as the temporary guardianship lasts, provided the named guardian immediately provides a copy of the court order to the Housing Authority establishing temporary guardianship. Finally, the person appointed permanent guardianship shall immediately provide a copy of the court order to the Housing Authority.

(C) Any person petitioning for guardianship who has provided notice of an intent to occupy the unit under this section, shall conscientiously prosecute the guardianship petition so that it is resolved promptly, and shall apprise the Housing Authority of the state of the guardianship proceeding upon Housing Authority request. The Housing Authority may terminate occupancy under this section if the petitioner fails to comply with the requirements of the preceding sentence.

(2) In instances where the head of household is a single Tenant, the unit will revert back to the Housing Authority and all personal property will revert to the designee as identified on the lease. If there is no designee, the personal property recipient will be determined through probate action. All personal property must be removed from the unit within 30 days of the demise by the designee. If not removed by the designee, the Housing Authority will remove the personal property to storage. Stored property may be released to the remaining members of the immediate family by consensus in writing, unless a copy of a probate petition (involving probate of the personal property) has been served on the Housing Authority and must be claimed within 30 days. If such a probate petition has been served, then the Housing Authority will only release the property as ordered by the court exercising probate jurisdiction. Any storage costs will be applied to the security deposit.

(3) LIHTC Program. If the appointed Legal Guardian was not a member of the original household composition at move-in they will be required to income qualify for the LIHTC unit, i.e. the change in Head of Household will result in the household being treated as a new "move-in".

(d) Military Duty. In the event that a Tenant is called to military duty for a period exceeding thirty (30) days:

(1) The unit will be occupied by the remaining members of the Tenants family;

(2) The unit will be temporarily occupied by a responsible person chosen by the Tenant and approved in writing by the Housing Authority; or

(3) The Tenant will be responsible for the storage of their personal property during the absence and the Housing Authority will select a Tenant from the waiting list to occupy the unit until the original Tenant returns. Upon the return of the original Tenant, the temporary Tenant will be offered the next appropriate unit when it becomes available. The original Tenant shall make every possible effort to keep the Housing Authority informed of their possible return date.

(e) Temporary Absences. The Housing Authority must be notified in writing and the Tenant must receive authorization by the Housing Authority of any temporary absences that will exceed fourteen (14) days. In no instance will a Tenant be allowed an absence to be longer than thirty (30) days.

(f) Abandonment. If the Housing Authority has declared a unit abandoned, as identified below, the Housing Authority will secure the unit. If the Housing Authority determines that waiting for a response from the Tenant will result in potentially significant damage to its property, the Housing Authority reserves the right to immediately take control of the unit.

(1) If the Housing Authority has reasonable cause to believe that the premises have been vacated, e.g., reports or statements from neighbors, family members, employers and utility providers, a notice will be sent to the Tenant that the Housing Authority has cause to believe that the home has been abandoned and to respond within three days (3 days) of receipt of the notice or the Housing Authority will terminate the lease and take possession of the premises.

(2) At the end of 3 days, the Housing Authority will send another notice that it has taken possession of and secured the unit; the lease has been terminated effective the date of the letter and that any attempt to enter the premises would be considered trespass. Any possessions remaining in the unit will be removed and stored at the Tenant's expense. A move out inspection will be conducted; the utilities transferred to the Housing Authority, and the Tenant will be charged for any damages beyond the security deposit.

(g) Transfers.

(1) Transfers from one unit to another shall be allowed and is required when the size of the unit is no longer appropriate for the size of the family, if the family/household is in complete compliance with their current lease. The change in household composition must be permanent or expected to be permanent.

(A) If the unit is over-occupied, the Tenant may make application for transfer which shall be treated as a new application.

(B) If the unit is significantly under-occupied, the Authority shall offer a smaller unit to the Tenant, if available, or place the Tenant on the waiting list. If the Tenant refuses to move to the smaller unit, the Authority shall proceed with eviction proceedings.

(2) Transfers between communities are allowed if the residents can locate another family with which to "trade" units. The trade must be pre-approved by the Executive Director and the occupants must agree to accept the unit in its present condition.

(3) Prior to allowing a transfer or trade, Resident Services Counselor must inspect the unit to ensure compliance with the current lease. The Tenant Accounts Receivables Clerk shall review the Tenant account for compliance.

(4) All families/households transferred, or trading units will be required to execute a new lease for the unit transferred into.

(5) Existing Tenant Transfer Preference. Existing tenants in good standing may be given preference points for placement on the waiting list. Tenants deemed eligible whom desire to utilize this transfer option must fill out an application and will be placed on the appropriate waiting list. The following criteria must be met and maintained by the tenant in order to be eligible for this preference:

(A) No compliance violations within the past 24 months;

(B) No late payments within the past 24 months;

(C) No outstanding balances owed to the Housing Authority;

(D) No outstanding balances owed to any utility company;

(E) No activities in the past 24 months which has prevented other tenants from the peaceful use of their rental units;

(F) Existing rental unit must be first inspected and determined to be in exceptional condition with only normal wear and tear and no visible signs of tenant caused damages.

(6) LIHTC Program. Families/Households may transfer to units within an LIHTC project without having to income qualify. However, if a family/household desires to transfer to a unit within a different LIHTC project, the household/family will be required to income qualify in order to be eligible to transfer.

(h) Unit Access/Entry and Inspections. Pursuant to the Housing Authority lease, residents are required to allow unit access/entry by Housing Authority staff and their authorized representatives for the following purposes:

(1) Scheduled/Routine Inspections. The Housing Authority is required to perform inspections of its rental units to ensure that it is maintained in a decent, safe and sanitary condition pursuant to §§ Section PRP.7.11.030, Section PRP.7.11.040, and Section PRP.7.11.050 of this ordinance. The frequency of the inspections is dependent on the particular unit and the associated program requirements. Housing Authority staff will inform tenants of the inspection frequency requirement during admission and if and when the interval should change during their tenancy. Tenants are encouraged to participate in the inspection process and inform staff of any issues that may have not been addressed by the inspector.

(2) Unscheduled Inspections. The Housing Authority reserves the right to inspect any unit pursuant to Section PRP.7.11.060 of this ordinance, with or without notice, to ensure the unit is being maintained in a decent, safe and sanitary condition. This shall include and not limited to suspected lease violations.

(3) Law Enforcement Entry. By entering a lease with the Housing Authority, the Tenant authorizes the Housing Authority to consent on his or her behalf to any entry or search of his or her unit, as requested by any law enforcement official, and agrees to hold harmless the Housing Authority, its officers, employees, and agents for any harm or damages resulting there-from. Consent on behalf of the Housing Authority may be granted by the Executive Director, or designee.

(i) General Occupancy Standards/Requirements. The following is not intended to be an exhaustive all-inclusive list but to be general in nature to ensure that rental units are maintained by the tenants in a safe and sanitary condition and their actions will not impede the peaceful enjoyment of Housing Authority residents and communities. Consistent with the terms of the Residential Lease, any action or inaction by a Tenant, any member of the Tenant's household, any guest, or any other person under the Tenant's control will adhere to the following provisions:

(1) Animals or Pets:

(A) Tenants must abide by Title X, Chapter 4 of the LCOTCL – Animal Control Code.

(B) Exotic animals and farm animals are not allowed in any Housing Authority unit or on the premises of any Housing Authority property.

(C) Pit Bulls, Rottweilers or any mix of the two are not allowed.

(D) Pets per household are limited to the following: two dogs; two cats; one dog and one cat; caged birds; aquarium fish; or other pets as approved by the Housing Authority.

(2) Operable Vehicles. All vehicles kept on Housing Authority property must be operable, licensed and parked on the designated driveway or parking area. Tenants shall not operate or park vehicles on lawns or other areas not designated as vehicle traffic or parking areas.

(3) Inoperable Vehicles. Inoperable vehicles are not permitted on Housing Authority properties. Any requests to deviate from this vehicle policy shall be in writing to the Housing Authority.

(4) ATV's. Tenants will not operate or allow any member of the household or any guest to operate an ATV in any manner that is illegal or destroys the Tenant's yard or any other Tenant's yard, grass, ground cover or causes ruts in any yard, or in any way disturbs the peaceful enjoyment of other Tenants.

(5) Fire Pits. Fire pits must be located at least 20 feet from the exterior perimeter of the unit and have a protective barrier around the rim no less than 10 inches in height. Tenant is responsible for making sure that no fires are left unattended and that all fire is extinguished when not in use. The fire pit cannot be constructed/located in a manner that would create a potential hazard.

(6) Criminal or Nefarious Activity. Tenancy may be terminated for any activity engaged in by the Tenant, any member of the Tenant's household, any guest, or any other person under the Tenant's control, regardless of whether such criminal activity has resulted in a criminal charge or criminal conviction, provided the Housing Authority has sufficient evidence to sustain its civil burden of proof in an eviction action for the following:

(A) Threatens the health or safety of other residents or employees of the Housing Authority or any other person residing in the immediate vicinity of the premises.

(B) Threatens the right to peaceful enjoyment of their premises by other residents of the Housing Authority or any other person residing in the immediate vicinity of the premises.

(C) Criminal or nefarious activity (including drug-related criminal activity, gang-related activity, gang recruitment, or gang reprisal) on or off the premises.

(D) Is a presumptive gang member as defined in Section PRP.7.2.010(rrr) of this ordinance.

(E) Commits vandalism, creates graffiti, or defaces any part of the unit or any other property on or off the premises.

(F) Uses any means, including but not limited to cyber-technology and social media, sometimes known as "cyber-bullying", to threaten anyone with bodily harm, property destruction, libel, invasion of privacy or exposure of personal information or photographs.

(7) Unit/Property Alterations. Alterations to a rental unit or surrounding property are prohibited. No alterations shall be done to the unit by the Tenant or for the Tenant at the Tenant's request. The Tenant will not make changes to the locks, locking mechanisms, or any hardware related to the ingress/egress doors in the unit. Any requests for special alterations must be made to the Housing Authority in writing and approved by the Housing Authority in writing. All approved alterations will become and remain the property of the Housing Authority and the tenant will not be reimbursed for any expenses they may have incurred.

(8) Natural or LP Gas Utilities. Any tampering or attempts to manipulate the gas tanks, meter, or connections to the unit are strictly prohibited and if attempted will be grounds for termination of the lease.

(9) Insurance Claims Due to Tenant Negligence, Damage or Misuse of the Property. Any insurance claims due to Tenant negligence, damage or misuse of the property will result in termination of the lease. Any Tenant, member of Tenant's household, guest, or another person under the Tenant's control terminated from a unit under this section shall be ineligible to apply for housing for a period of 24 months.

(10) Business Use of Unit or Premises. No business use of the unit or premises is allowed without Housing Authority approval in writing. Any approved uses must not potentially damage the unit or property and must not require alterations to the unit.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.5.190 was formerly codified as XI LCOTCL §7.519

PRP.7.5.200 Compliance

(a) The Tenant's household, guest(s), or any other person under the Tenant's control are required to comply with the Residential Lease, the provisions of this ordinance, and other applicable policies while residing in a unit of the Housing Authority. Failure to adhere to the residential lease and other applicable policies will result in the Housing Authority initiating the following corrective measures, up to and including eviction.

(b) Compliance Procedures. The following procedures will be followed when there is a violation of applicable policies and lease requirements. The intent of the procedures is to try and encourage tenants to maintain and treat the Housing Authority property in a manner that ensures the units are not damaged and or a tenant's actions infringe upon the peaceful enjoyment of neighboring citizens. If after the Housing Authority has exhausted all remedies or if the compliance issue is severe enough the Housing Authority will proceed with eviction. Further, the sequence of the compliance process may or may not be followed dependent upon the severity of the issue and at the sole discretion of the Housing Authority. Notification of the following infractions will be in writing, clearly indicate the reason and will be served upon the tenant either personally, via certified mail or posted in a conspicuous location on the rental unit. Additionally, the notice will clearly specify the amount of time allowed to correct the infraction and if not resolved other remedies will be sought up to and including eviction.

(1) Lease Warning. A warning shall be given for a noncompliance issue that:

(A) Has the potential of causing damage to the rental unit:

(B) Does not appear to pose an immediate threat to the health and safety of the tenant(s) or neighboring residents that is from tenant negligence or activities;

(C) Does not immediately impede or disrupt the rights of neighboring citizens to peacefully use and enjoy their rental unit or private home(s);

(D) Is not considered criminal activity;

(E) Violates the General Occupancy Standards/Requirements contained in this policy; or

(F) Violates any provision of the Residential Lease and applicable addendums.

(2) Lease Violation. A violation will be given for a noncompliance issue that:

(A) Is a result of a tenant receiving two (2) Warnings within a 12-month period, regardless if the warnings are for the same infraction or not;

(B) Is determined to be tenant caused damage to the rental unit;

(C) Poses an immediate threat to the health and safety of the tenant(s) or neighboring residents that is from tenant negligence or activities;

(D) Tenant negligence, or activities that significantly impedes or disrupts the rights of neighboring citizens to peacefully use and enjoy their rental unit or private home(s);

(E) Is considered criminal activity;

(F) Significantly violates the General Occupancy Standards/Requirements contained in this policy and/or;

(G) Significantly violates any provision of the Residential Lease and applicable addendums.

(3) Compliance Period.

(A) The Housing Authority may require a tenant to be placed on a compliance period for any residential lease and/or policy infractions. The compliance period will be used as a mechanism to ensure the tenant complies with the requirements of the residential lease and applicable policies as well as an effort to avoid eviction. The term of a compliance period will be determined by the Housing Authority on a case by case situation considering all relevant issues surrounding the non-compliant issues. In no case will a compliance period be longer than twelve (12) months.

(B) The tenant will be required to agree to resolve any issues that resulted in the implementation of the compliance period, remain compliant during the designated time period and if they shall default they further agree to waive their rights to any and all prescribed eviction notification timelines. If the tenant defaults during the designated time period, the Housing Authority may pursue immediate eviction proceedings pursuant to Section PRP.7.6.090 of this ordinance unless the tenant agrees to vacate the unit in a mutually agreed upon time. Further, the Housing Authority may perform unannounced and/or unscheduled inspections during the compliance period pursuant to Section PRP.7.11.060 of this ordinance.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.5.200 was formerly codified as XI LCOTCL §7.520

PRP.7.5.210 Post Occupancy

This section applies to all vacancy related occurrences.

(a) Move-Out Inspections. The Housing Authority must conduct a move-out inspection pursuant to Section PRP.7.11.020 of this ordinance. A copy of the inspection report with an estimate of charges will be provided to the Tenant, at the address provided by the former Tenant, no longer than 60 days after the official vacancy date is established.

(b) Security Deposit. The security deposit will be returned in whole or in part to the head of household or their designee as identified on their lease within ninety (90) days of vacancy of the unit only after it is determined that no past, current or potential of a future balance

owed to the Housing Authority and all keys, garage door openers are returned. If there is no head of household or designee, the security deposit recipient will be determined through official probate action.

(c) Personal Property of the Occupant. The following procedures apply to property left/abandoned by the occupant upon vacancy of the unit:

(1) Notify the Tenant or other household member, by certified letter, that items of property have been left behind and that if not removed within five (5) days of receipt of the letter, the Housing Authority will remove and store the property. The property will not be released to the occupant unless removal and storage charges are paid.

(2) If it appears that the occupant has left the area and other household members as identified on the lease are unwilling to remove the property, the Housing Authority will remove and store the property.

(3) Upon placing the property in storage, a certified letter shall be sent to the Tenant at their last known address advising him/her of the action and what is required for release of the property. If it is not possible to determine the location of the Tenant to send a certified letter, notice shall be accomplished by publication. Property that has been stored and not claimed within thirty (30) days of the date of receipt of the notice by the Tenant shall be disposed of by public or private sale to achieve the greatest feasible value. Any remaining property not sold or having no value will be disposed of by the Housing Authority at their discretion. Any proceeds from the sale shall be applied to the costs of removal, storage and any remaining debts to the Housing Authority left by the former Tenant.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.5.210 was formerly codified as XI LCOTCL §7.521

Subchapter PRP.7.6
Eviction

PRP.7.6.010 Purpose..... PRP.7.6-**Error! Bookmark not defined.**
PRP.7.6.020 Rules and Regulations ..... PRP.7.6-**Error! Bookmark not defined.**
PRP.7.6.030 Grounds for Evictions ..... PRP.7.6-**Error! Bookmark not defined.**
PRP.7.6.040 Notice to Quit Requirements..... PRP.7.6-**Error! Bookmark not defined.**
PRP.7.6.050 Serving the Notice to Quit ..... PRP.7.6-**Error! Bookmark not defined.**
PRP.7.6.060 Pre-Eviction Options..... PRP.7.6-**Error! Bookmark not defined.**
PRP.7.6.070 General Eviction Procedure ..... PRP.7.6-**Error! Bookmark not defined.**
PRP.7.6.080 Computation of Time ..... PRP.7.6-**Error! Bookmark not defined.**
PRP.7.6.090 Immediate Evictions..... PRP.7.6-**Error! Bookmark not defined.**
PRP.7.6.100 Notice to Quit Requirements Pertaining to Immediate Evictions....PRP.7.6-**Error! Bookmark not defined.**
PRP.7.6.110 Serving the Notice to Quit Pertaining to Immediate Evictions.....PRP.7.6-**Error! Bookmark not defined.**
PRP.7.6.120 Removal of Tenant(s) Pertaining to Immediate Evictions.....PRP.7.6-**Error! Bookmark not defined.**
PRP.7.6.130 Removal of Tenant Property Pertaining to Immediate Evictions ....PRP.7.6-**Error! Bookmark not defined.**
PRP.7.6.140 Immediate Eviction Procedure ..... PRP.7.6-**Error! Bookmark not defined.**

PRP.7.6.010 Purpose

(a) It is the purpose of this subchapter to protect the health, safety, welfare and peaceful enjoyment of all peoples and communities residing on or near the Lac Courte Oreilles Reservation and within the jurisdiction of the Housing Authority. Furthermore, it is the purpose of this ordinance to also ensure that property of the Housing Authority is protected, and that criminal, dangerous or non-permitted activities do not occur on or near Housing Authority property.

(b) The provisions of this subchapter shall apply to any and all arrangements between the Housing Authority and a leaseholder or tenant, whether they are formal or informal, written or agreed to orally or by the practice of the parties, in renting, leasing, occupying, or

using any and all housing, dwellings, or accommodations for human occupation and dwelling.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.6.010 was formerly codified as XI LCOTCL §7.601

PRP.7.6.020 Rules and Regulations

The Housing Authority may develop, promulgate, implement and enforce reasonable policies and rules and regulations regarding Eviction from Housing Authority property in addition to those described in this subchapter. 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 also apply to any proceeding initiated hereunder;

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.6.020 was formerly codified as XI LCOTCL §7.602

PRP.7.6.030 Grounds for Evictions

A tenant may be evicted for:

(a) Nonpayment of rent under a lease agreement when such payments are not made after ten (10) calendar days of the agreement date of payment, or ten (10) calendar days following the first day of the month in a month-to-month tenancy.

(b) Any agreement in rent, costs, or damages which have been due and owing for thirty (30) calendar days or more. The receipt by the Housing Authority of partial payments under an agreement shall not excuse the payment of any balance due upon demand.

(c) Nuisance, intentional or reckless damage, destruction, or injury to the property of the Housing Authority or other tenants or disturbing another tenant's right to quiet enjoyment of a dwelling unit.

(d) Serious or repeated violations of the rental agreement, any reasonable rules or regulations adopted in accordance with Subchapter PRP.7.5 of this ordinance, or any applicable building or housing codes pursuant to Section PRP.7.9.030 of this ordinance.

(e) Occupation of any dwelling without permission or agreement, following any reasonable demand by a person in authority over the dwelling to leave.

(f) Under other terms in the rental agreement which do not conflict with the provisions of this Code.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.6.030 was formerly codified as XI LCOTCL §7.603

PRP.7.6.040 Notice to Quit Requirements

(a) When Notice to Quit is Required. When the Housing Authority desires to obtain possession of a dwelling unit, and when there exist one or more legally cognizable reasons to evict the tenant or tenants occupying the unit pursuant to Section PRP.7.6.030 of this ordinance, the Housing Authority shall give notice to the adult tenants to quit possession of such dwelling unit according to the provisions of this subs.

(b) Purpose of Notice to Quit. The purpose of the notice to quit is to provide advance notice to the tenant of a specific problem which needs to be addressed. It is also intended to induce the tenant(s) to enter discussions with the Housing Authority in order to resolve the problem.

(c) Statement of Grounds for Eviction Required. The notice to quit shall be addressed to the adult tenants of the dwelling unit and shall state the legally cognizable reasons(s) for termination of the tenancy and the date by which the tenant is required to quit possession of the dwelling unit.

(d) Form of Notice. The notice shall be in writing substantially in the following form: "I (or we) hereby give you notice that you are to quit possession or occupancy of the dwelling unit now occupied by you at (here insert the address or other reasonable description of the location of the dwelling unit), on or before the (here insert the date) for the following reason (here insert the legally cognizable reason or reasons for the notice to quit possession using the statutory language or words of similar import). Signed, (here insert the signature, name and address of the Housing Authority, as well as the date and place of signing,)."

(e) Time Requirements for Notice. The notice must be delivered within the following periods of time:

(1) No less than thirty (30) calendar days prior to the date to quit specified in the notice for any failure to pay rent or other payments required by the agreement.

(2) No less than fifteen (15) calendar days prior to the date to quit specified in the notice for nuisance, serious injury to property, or injury to persons. In situations in which there is an emergency, such as a fire or condition making the dwelling unsafe or uninhabitable, or in situations involving an imminent or serious threat to public health or safety, the sections pursuant to Section PRP.7.6.090 of this ordinance shall apply.

(3) No less than fifteen (15) calendar days in all other situations, unless an Immediate Eviction is warranted pursuant to Section PRP.7.6.090 of this ordinance.

(f) Housing Authority Termination Notice. The Housing Authority termination notice shall qualify as the notice to quit required under this section so long as the time requirements of the Housing Authority termination notice are at least as long as the time requirements set forth in Section PRP.7.6.040(e), above.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.6.040 was formerly codified as XI LCOTCL §7.604

PRP.7.6.050 Serving the Notice to Quit

Any notice to quit must be in writing, and must be delivered to a tenant in the following manner:

(a) Delivery must be made by an adult person.

(b) Delivery will be effective when it is:

(1) Personally, delivered to a tenant with a copy delivered by mail;

(2) Personally, delivered to an adult living in the dwelling with a copy delivered by mail; or

(3) Personally, delivered to an adult agent or employee of the tenant with a copy delivered by mail.

(c) If the notice cannot be given by means of personal delivery, or tenant cannot be found, the notice may be delivered by means of:

(1) Certified mail, return receipt requested, at the last known address of the tenant; or

(2) Securely taping a copy of the notice to the main entry door of the dwelling in such a manner that it is not likely to blow away, and by posting a copy of the notice in some public place near the dwelling, including a tribal office, public store, or other commonly frequented place and by sending a copy first class mail, postage prepaid, addressed to the tenant at the dwelling.

(d) The person giving notice must keep a copy of the notice and proof of service in accordance with this section, by affidavit or other manner recognized by law.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.6.050 was formerly codified as XI LCOTCL §7.605

PRP.7.6.060 Pre-Eviction Options

(a) Negotiated Settlement. After a Notice to Quit is served upon a tenant, the Housing Authority and tenant may engage in discussions to avoid a proceeding to evict and to settle the issues between the parties. The agreement to enter into discussions will not affect the rights of the parties unless the parties reach an agreement to waive any of their rights.

(b) Stay of Proceedings. Where the parties mutually agree in good faith to proceed with such discussions, and Judicial Eviction procedures have been initiated, the Court will stay such proceedings until it is notified by one or both parties that a hearing is required or that a settlement has been reached.

(c) Settlement Options. In reaching an agreement, the parties may consider, but are not limited to the following options:

(1) The parties may represent themselves;

(2) The parties may employ the use of lay advocates or attorneys;

(3) The parties may make an agreement and stipulate to any terms including, but not limited to, lease violations, code violations, monies past due, surrender of the dwelling or the eviction of tenants;

(4) The parties may agree to dismiss the matter in exchange for any agreement reached through stipulation;

(5) The parties may agree to stipulate to a judgment to be entered by the Court.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.6.060 was formerly codified as XI LCOTCL §7.606

PRP.7.6.070 General Eviction Procedure

(a) Summons and Complaint. If, after the date set forth in the notice to quit for the tenant(s) to quit possession of the dwelling unit, the tenant has not quit possession, the Housing Authority may file a complaint in the Tribal Court for eviction and such other relief as the Court may deem just and proper. The complaint shall state:

(1) The names of the adult tenant(s) against whom the suit is brought;

(2) A description of the rental agreement, if any;

(3) The address or reasonable description of the location of the dwelling;

(4) The grounds for eviction;

(5) A statement showing that the notice to quit and any required termination notices have been served in accordance with this code or other applicable law; and

(6) A statement of the relief demanded, including any claim(s) for possession of the dwelling unit, damages, fees, costs, or other special relief.

(7) A statement that the Housing Authority has complied with all required regulatory processes prior to filing the eviction action.

(b) Action Upon Filing Complaint. When a complaint is filed in the Tribal Court, it shall be immediately presented to a Tribal Court Judge. This shall be on the date of filing, or, if no judge is present, on the first regular Court day after filing or when a judge may first be found. The judge shall review the complaint and shall, if it appears to be in compliance with the provisions of this section and served as set forth in Section PRP.7.6.050, issue an order of the Court requiring the defendant named in the complaint to appear before the Court on a certain date to contest the complaint. The date for appearance for answering the complaint shall be no less than seven (7) calendar days after the date of the order in matters involving serious lease or admissions and occupancy violations pursuant to Section PRP.7.6.090 of this ordinance, or fifteen (15) calendar days in all other cases. Upon setting of the date for appearance, the plaintiff Housing Authority shall have defendant tenant served with the complaint and a summons to appear for the court date.

(c) Commencement of Proceedings.

(1) If the tenant appears before the Court in person or in writing to contest the complaint, the Court shall set a hearing date. Any written response shall state any defenses or factual disputes and where any defendant appears in person, a written response shall be served upon the plaintiff within five (5) calendar days of any hearing, excluding weekends and holidays.

(2) The Court shall set a hearing date which is no more than fifteen (15) calendar days following the date for appearance, except when the hearing date would fall on a weekend or holiday, and in such a situation on the first regular Court day following that date.

(3) A defendant may, for good cause shown, and upon the payment of a reasonable sum for the fair rental value of the dwelling between the date on which the complaint was filed and the date of hearing, obtain an extension of time, beyond the fifteen (15) day period. The Court may refuse to extend the date of hearing where the complaint is based upon nuisance or injuries as provided in Section PRP.7.6.030(c) of this ordinance and shall not extend the date of hearing where the complaint is based upon conduct which is alleged to constitute a serious danger to public health, safety, or peace.

(4) The Court may in its discretion on motion from the Housing Authority order the tenant to pay into the Court rents for the use and occupancy during the pendency of the eviction case.

(d) Defenses. The Court shall grant the remedies allowed in this Code, unless it appears by the evidence that:

(1) The dwelling is untenable, uninhabitable, or constitute a situation where there is a constructive eviction of the tenant, in that the dwelling are in such a condition, due to the fault of the Housing Authority, that they constitute a real and serious hazard to human health and safety and not a mere inconvenience.

(2) The Housing Authority has failed or refused to make repairs which are his responsibility after a reasonable demand by a tenant to do so, without good cause, and the repairs are necessary for the reasonable enjoyment of the dwelling.

(3) There are monies due and owing to the tenant because he has been required to make repairs which are the obligation of the Housing Authority and the Housing Authority has failed or refused to make them after a reasonable notice. Such sums may be a complete or partial defense to a complaint for eviction, but only to the extent that such sums set off monies owed for occupancy. A tenant may be evicted after such a period if he fails or refuses to pay the reasonable rental value of the dwelling.

(4) That due to the conduct of the Housing Authority, there is injury to the tenant in such a way that justice requires that relief be modified or denied. This shall include the equitable defenses of estoppel, laches, fraud, misrepresentation, and breaches of serious and material obligations for public health, safety, and peace standards.

(5) That there are such serious and material breaches of applicable housing law on the part of the Housing Authority that it would be unjust to grant him a remedy.

(6) The Housing Authority is evicting the tenant because of his/her race, sex, sexual orientation, religion, age, marital status, family status, or because the tenant is disabled.

(7) The Housing Authority terminated the tenancy in retaliation for the tenant's attempt to secure his rights under this Code or to force the Housing Authority to comply with his duties under this Code.

(8) Any other material or relevant fact the tenant might present that may explain why his eviction is unjust and unfair.

(e) Discovery and Pre-Hearing Proceedings. Extensive, prolonged, or time-consuming discovery and preheating proceedings will not be permitted, except in the interests of justice and for good cause shown by the moving party. Discovery shall be informal, and reasonably provided on demand of a party, and it shall be completed within five (5) calendar days of the date of hearing. Requests for discovery shall be made no later than three (3) calendar days following the setting of a hearing date. The court may enter reasonable orders requiring discovery or protecting the rights of the parties upon reasonable notice.

(f) Evidence. Evidence in proceedings under this Code shall be informal and may include relevant and reliable hearsay evidence if such evidence is not the basis for a final decision. The books and records of the parties as to the payment or nonpayment of monies owed will be received in evidence and the files and business records of the Housing Authority with respect to the agreement of the parties will be received in evidence and the files and business records of the Housing Authority with respect to the agreement of the parties will be received in evidence upon their presentation to the Court; provided, however, that a tenant may examine the custodian of such records as to their contents. All hearings will be informal and designed to receive evidence in a fair and just manner.

(g) Burden of Proof. The burden of proof in all proceedings under this Code shall be by a preponderance of the evidence.

(h) Judgment.

(1) Within five (5) calendar days of the date of the Trial, the Court shall grant and enter judgment and the judgment shall grant all relief that the parties are entitled to as of the date of the judgment. The judgment may:

(A) Order the immediate eviction of a tenant and delivery of the dwelling to the Housing Authority;

(B) Grant actual damages as provided in the agreement of the parties or this Code, including interest;

(C) Order the parties to carry out an obligation required by law;

(D) Establish a payment plan for the tenant;

(E) Order rent payments or damage judgments through tax intercept or garnishment;

(F) Establish a Power of Attorney in another person/agency to fulfill rights or obligations of either the Housing Authority or the tenant;

(G) Remediate the action in part or in whole through appropriate recalculation of rent;

(H) Order the tenant to perform work for the Housing Authority to pay off back rent due and/or damages;

(I) Order the payment of attorneys' fees and, where allowed by law or agreement, costs and expenses of litigation;

(J) Order the parties into negotiations as provided in Section PRP.7.6.060 of this ordinance; or

(K) Grant any relief provided in this code or allowed in law or equity.

(2) If a tenant fails to appear in person or in writing on or before the date of appearance, the Court shall enter a default judgment against the defendant, so long as the plaintiff can reasonably show that relief should be granted and what kind of relief.

(i) Form of Judgment. The judgment shall state the relief granted by the Court to any party but need not state findings of fact or conclusions of law in support of the judgment. The judgment may state brief reasons for it. If a trial is held, the judge should, whenever possible, render his decision immediately after both parties have rested their case and award costs and restitution as appropriate.

(j) Execution of Judgment. An eviction order may be executed by a duly authorized law enforcement officer or officer of the Court, appointed by the Court for such a purpose. To execute the order, the officer shall:

(1) Remove all the evicted persons from the dwelling and verbally order them not to re-enter;

(2) Provide a copy of the order of eviction to all adult tenants;

(3) Post copies of the order of eviction on the doors of the dwelling is there is not any adult tenant present at the time of execution; and

(4) Supervise the removal of the possessions of the evicted persons. Any law enforcement officer shall, upon receipt of an order of the Court, execute the judgment

or order made by it with in five (5) calendar days of the date of the judgment or order and make a report to the Court on what was done to enforce it. Any law enforcement officer to whom a judgment or order is given for enforcement who fails, in the absence of good faith, or refuses to execute it shall be subject to the payment of reasonable damages, costs, and expenses to a party for failure to execute the judgment and/or suspension from employment. This section shall also apply to any judgment on behalf of a tenant obtained under the general tribal civil procedure code and/or tribal small claims procedure code. All other portions of the judgment shall be subject to execution in the manner otherwise provided under tribal law.

(k) Stay of Execution. If judgment for possession of the dwelling unit enters in favor of the Housing Authority, the tenant may apply for a stay of execution of the judgment or order if within five (5) days of the judgment being rendered, the following is established:

(1) Good and reasonable grounds affecting the wellbeing of the party are stated;

(2) There would be no substantial prejudice or injury to the prevailing party during the period of the stay;

(3) Execution of the judgment could result in extreme hardship for the tenant(s); or

(4) A bond is posted, or monies are paid to the Court, to satisfy the judgment or payment for the reasonable use and occupancy of the dwelling during the period of time following the judgment. No stay may exceed three months in the aggregate. The clerk shall distribute such arrearages to the Housing Authority in accordance to any order of the court.

(l) Appeals. Appeals under this ordinance shall be handled according to the general tribal appellate provisions as established at Chapter TCT.3 of the LCOTCL – Appeals Code, with the exception that the party taking the appeal shall have only five (5) days from the entry of the order of judgment to file an appeal. All orders from the Court will remain in effect during the pendency of an appeal under this ordinance unless otherwise ordered by the Court.

(m) Miscellaneous Complaints and Claims. Any miscellaneous complaint or claim including a complaint or claim by a tenant which does not fall within the procedures of this subchapter may be made pursuant to other provisions of this ordinance.

(n) Notice to Leave the Dwelling. Any notice to leave a dwelling, shall be by written order of the court, and shall be delivered to the tenant in the following manner:

(1) Delivery shall be made by:

(A) A law enforcement officer of the Tribe or an agency of the United States Government, or

(B) Any person authorized by the Tribal Court.

(2) Delivery will be effective when it is:

(A) Personally, delivered to a tenant with a copy delivered by mail, or

(B) Personally, delivered to an adult living in the dwelling with a copy delivered by mail, or

(C) Personally, delivered to an adult agent or employee of the tenant with a copy delivered by mail.

(3) If the notice cannot be given by means of personal delivery, or tenant cannot be found, the notice may be delivered by means of:

(A) Certified mail, return receipt requested, at the last known address of the tenant, or

(B) Securely taping a copy of the notice to the main entry door of the dwelling in such a manner that it is not likely to blow away, and by posting a copy of the notice in some public place near the dwelling, including a tribal office, public store, or other commonly frequented place and by sending a copy first class mail, postage prepaid, addressed to the tenant at the dwelling.

(C) Posting the notice in the Tribal Newspaper, Tribal Newsletter, or any other local Newspaper and by sending a copy first class mail, postage prepaid, addressed to the tenant at the dwelling.

(o) Forcible Eviction.

(1) Where the Court orders an eviction, and the defendant or any other occupant of the dwelling refuses to vacate voluntarily by the effective date of that Order, the defendant or other occupants may be forcibly removed from the dwelling by a law enforcement officer. At the hearing where the eviction is ordered, the Court shall inform the defendant that if he does not vacate the dwelling voluntarily by the effective date, he and the other occupants will be subject to forcible eviction, and their property will be subject to storage, sale and disposal as set forth in Section PRP.7.6.070(o)(3) below.

(2) Following eviction, the Court may allow the Housing Authority access to any property leased by either of them for purposes of preserving and securing it.

(3) Following forcible eviction of the defendant and/or other occupants, the former occupant's personal property shall be stored by the Housing Authority for at least thirty (30) days, either on the dwelling or at another suitable location. In order to reclaim their property, the former occupants shall pay the reasonable costs of its removal and storage. If they do not pay such costs within thirty (30) days, the Housing Authority is authorized to sell the property in order to recover these costs. The Housing Authority shall not condition return of the former occupant's personal property on the payment of any costs or fees other than those of removal and storage of those personal possessions. Should the Housing Authority attempt to condition return of personal possessions on payment of any other cost or fee, the Housing Authority shall forfeit its right to the costs of removal and storage. Upon request by the former occupants, the Housing Authority shall provide them with pertinent information concerning the sale, including the time, date and location. Any proceeds from the sale in excess of the storage and removal costs shall be remitted to the former occupants. Nothing in this section shall be construed to prevent the former occupants from reclaiming property remaining after the sale if they can arrange to do in a manner satisfactory to the owner. If the abandoned property is of cultural, religious, or ceremonial significance, the Housing Authority shall have an affirmative duty to locate next of kin and/or contact the Tribe to return these items.

(p) No Self-Help Evictions. The Housing Authority may not compel a tenant to vacate any dwelling under this subchapter in a forceful fashion or way which causes a breach of the peace. For purposes of this section, the Housing Authority shall give a notice to quit and obtain a court order as provided in this under this subchapter.

(q) Security Deposits.

(1) Payment of Security Deposit at Termination of Tenancy. The Housing Authority shall pay to the tenant or former tenant the amount of the security deposit that was deposited by the tenant with the Housing Authority at the time such security deposit, was deposited less the value of any damages which the Housing Authority, has suffered as a result such tenant's failure to comply with such tenant's obligations. Damages shall not include normal wear and tear.

(2) Action to Reclaim Security Deposit. Any tenant may bring a civil action in Tribal Court to reclaim any part of his/her security deposit which may be due.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.6.070 was formerly codified as XI LCOTCL §7.607

PRP.7.6.080 Computation of Time

In computing a period of time under this subchapter, by rule, by court order, or by statute, the day of the act, event, or default after which the designated period of time begins to run is not included. The last day of the period is included, unless it is a Saturday, Sunday, legal holiday or a holiday which the court is closed. In that event, the period runs until the end of the next business day.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.6.080 was formerly codified as XI LCOTCL §7.608

PRP.7.6.090 Immediate Evictions

(a) A tenant may be immediately evicted by the Housing Authority, acting under its own authority, when the Housing Director or anyone he assigns determines by a preponderance of the evidence that either of the following exists:

(1) Drug Related Criminal or Nefarious Activity. In relation to Drug Related Criminal or Nefarious Activity, a tenant may be immediately evicted when Drug Related Criminal or Nefarious Activity engaged in on or near the dwelling by any tenant, household member, or guest, and any such activity engaged in on the dwelling by any other person under the tenant's control, or such activity engaged in by any tenant or household member within a Drug Free Public Housing Zone, as such activity poses an imminent or serious threat to the public health, safety, welfare of the community. (*See 24 CFR § 5.858*); or

(2) Interference with the Health, Safety, Welfare or Quiet Enjoyment. Any other activity/condition, that interferes with the health, safety, welfare or quiet enjoyment of the leased dwelling or the larger community (regardless of whether the activity/condition is criminal in nature or origin). This includes an activity/condition that poses an emergency, such as a fire or condition making the dwelling unsafe or uninhabitable (including Methamphetamine contamination). (*See 24 CFR § 5.860*)

(A) A determination by the Housing Authority to seek immediate eviction for non-drug related criminal activity shall not be limited to, but shall include the following conditions:

(i) Threat to other residents. All leases with the Housing Authority provide that it may terminate a tenancy for any of the following types of criminal activity by any tenant, household member, or guest, and any such activity engaged in on the dwelling by any other person under the tenant's control:

(I) Any criminal or nefarious activity that threatens the health, safety, welfare or quiet enjoyment of the dwelling by other residents (including Housing Authority staff).

(II) Any criminal or nefarious activity that threatens the health, safety, welfare, or quiet enjoyment of their dwellings by persons residing in the immediate vicinity of the dwelling or the larger community.

(ii) Fugitive felon or parole violator. All leases with the Housing Authority provide that it may terminate a tenancy during the term of a lease if a tenant is:

(I) Fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of New Jersey, is a high misdemeanor; or

(II) Violating a condition of probation or parole imposed under Federal or State Law. (*See 24 CFR § 5.859*)

(b) A tenant may be immediately evicted for criminal or nefarious activity when it falls under either of categories of concern noted above in Section PRP.7.6.090(a)(1) or (b), above. This can be done once the Housing Authority has determined that criminal or nefarious activity has been engaged in by any tenant, household member, or guest, and any such activity engaged in on the dwelling by any other person under the tenant's control, regardless of whether the person has been arrested or convicted for such activity and without satisfying a criminal conviction standard of proof of the activity. (*See 24 CFR § 5.861*)

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.6.090 was formerly codified as XI LCOTCL §7.609

PRP.7.6.100 Notice to Quit Requirements Pertaining to Immediate Evictions

(a) When Required. A Notice to Quit is required when the Housing Authority desires to obtain immediate possession of a dwelling unit, and when there exists one or more concerns to immediately evict the tenant or tenants occupying the unit pursuant to Section PRP.7.6.090 of this ordinance, the Housing Authority shall give notice to the adult tenants to quit possession of such dwelling unit according to the provisions of this section.

(b) Purpose of Notice to Quit. The purpose is to provide notice to the tenant of the specific heightened or severe concerns which are resulting in their immediate eviction. It is also intended to provide notice to the tenant as to the date they must quit the dwelling, and

shall list the documents, evidence or witnesses which have been utilized in making a determination regarding such heightened or severe concerns.

(c) Statement of Grounds for Immediate Eviction Required. The notice to quit shall be addressed to the adult tenants of the dwelling unit and shall state the heightened or severe concerns related to the termination of the tenancy and the date by which the tenant is required to quit possession of the dwelling unit.

(d) Form of Notice. The notice shall be in writing substantially in the following form: "I (or we) hereby give you notice that you are to quit possession or occupancy of the dwelling unit now occupied by you at (here insert the address or other reasonable description of the location of the dwelling unit), on or before the (here insert the date) for the following reason (here insert the legally cognizable reason or reasons for the notice to quit possession using the statutory language or words of similar import). Signed, (here insert the signature, name and address of the Housing Authority, as well as the date and place of signing,)."

(e) Time Requirements for Notice. The notice must be delivered within the following period of time before the Tenant is required to quit the dwelling:

(1) In the event of a concern pursuant to Section PRP.7.6.090 of this ordinance, the Housing Director, or anyone he assigns, may give the tenant(s) either immediate or no more than five (5) days' notice to quit the dwelling.

(f) Housing Authority Termination Notice. The Housing Authority termination notice shall qualify as the notice to quit required under this subchapter so long as the time requirements of the housing authority termination notice are at least as long as the time requirements set forth in Section PRP.7.6.100(e), above.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.6.100 was formerly codified as XI LCOTCL §7.610

PRP.7.6.110 Serving the Notice to Quit Pertaining to Immediate Evictions

Any notice to quit must be in writing, and must be delivered to a tenant in the following manner:

(a) Delivery must be made by an adult person.

(b) Delivery will be effective when it is:

(1) Personally, delivered to a tenant with a copy delivered by mail;

(2) Personally, delivered to an adult living in the dwelling with a copy delivered by mail; or

(3) Personally, delivered to an adult agent or employee of the tenant with a copy delivered by mail.

(c) If the notice cannot be given by means of personal delivery, or tenant cannot be found, the notice may be delivered by means of:

(1) Certified mail, return receipt requested, at the last known address of the tenant;

(2) Securely taping a copy of the notice to the main entry door of the dwelling in such a manner that it is not likely to blow away, and by posting a copy of the notice in some public place near the dwelling, including a tribal office, public store, or other commonly frequented place and by sending a copy first class mail, postage prepaid, addressed to the tenant at the dwelling.

(d) The person giving notice must keep a copy of the notice and proof of service in accordance with this section, by affidavit or other manner recognized by law.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.6.110 was formerly codified as XI LCOTCL §7.611

PRP.7.6.120 Removal of Tenant(s) Pertaining to Immediate Evictions

The notice to quit under this subchapter shall serve as required documentation that the Housing Authority shall deliver to the tribal police before any tribal officer is required to remove any tenant or person from a dwelling in which the Housing Authority has effectively provided notice for immediate eviction. Should any tenant or person be found on the dwelling after being removed, such actions shall be grounds for trespass on behalf of the Housing Authority against the tenant or any individual found on the dwelling, so long as the individual had notice or there was constructive notice due to the conspicuous placement of notice at the dwelling.

(a) Following the removal of tenant(s), the Housing Authority shall have retaken possession of the dwelling and shall have the sole access for purposes of preserving and securing it.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.6.120 was formerly codified as XI LCOTCL §7.612

PRP.7.6.130 Removal of Tenant Property Pertaining to Immediate Evictions

The provisions under Section PRP.7.6.070(o) shall apply unless the personal property of the tenant has been contaminated pursuant to Section PRP.7.10.040 of this ordinance. If the personal property is contaminated, the tenant will be required to sign a liability waiver prior

to the removal of their property. The removal of property shall be supervised by the Housing Authority and shall occur within thirty (30) days of the eviction. In the event that the tenant is unwilling to sign the waiver or is unable to remove their personal property, the property shall be disposed of and the tenant shall bear liability for the cost of disposal.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.6.130 was formerly codified as XI LCOTCL §7.613

PRP.7.6.140 Immediate Eviction Procedure

In regard to the procedure related to an immediate eviction, the provisions of §§ Section PRP.7.6.100, Section PRP.7.6.110, and Section PRP.7.6.120 shall be followed. If the tenant(s) would like to remove his or her personal property they must then comply with Section PRP.7.6.130.

(a) Challenge. To challenge an immediate termination by the Housing Authority, a tenant must file an appeal with the Tribal Court within three (3) days of receipt of the Notice to Quit pursuant to Section PRP.7.6.100 of this ordinance.

(b) In no instance will the immediate eviction of the Housing Authority be stayed by the Tribal Court.

(c) A summons and complaint must be submitted by the tenant in their appeal which alleges the reasons why the immediate eviction was not permitted or was wrongful under this subchapter.

(d) The Housing Authority shall provide all documents and evidence pertaining to the immediate eviction at the initial hearing, which shall not be scheduled more than thirty (30) days after the tenant is required to quit the dwelling. During the initial hearing the Housing Authority will enter a plea and a scheduling order will be agreed to, so as to mandate dates and times which witness, and exhibit lists shall be due, as well as set the date for a trial.

(e) Trial. The trial will be held as scheduled and will be limited to whether the Housing Authority had the necessary documentation to show an immediate eviction was warranted under this subchapter and that the Housing Authority followed its requirements in its notice to quit, in serving said notice and in the removal of any tenant(s) or their personal property.

(f) If the Housing Authority prevails at trial, its determination and immediate eviction shall stand. If the tenant(s) prevails at trial, the tenant(s) shall be allowed to resume his or

her tenancy at the dwelling, however, no damages or other form of recovery for any purpose shall be allowed against the Housing Authority.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.6.140 was formerly codified as XI LCOTCL §7.614

Subchapter PRP.7.7
Administrative Procedures

PRP.7.7.010 Personnel Policy and Procedures..... PRP.7.7-**Error! Bookmark not defined.**
PRP.7.7.020 Property and Procurement Policy and Procedures. PRP.7.7-**Error! Bookmark not defined.**
PRP.7.7.030 Travel Policy and Procedures..... PRP.7.7-**Error! Bookmark not defined.**
PRP.7.7.040 Fiscal Policy and Procedures..... PRP.7.7-**Error! Bookmark not defined.**
PRP.7.7.050 Investment Policy..... PRP.7.7-**Error! Bookmark not defined.**

PRP.7.7.010 Personnel Policy and Procedures

The Housing Authority shall comply with the personnel law and policy of the Housing Authority as established in Chapter PAP.4 of the LCOTCL – Housing Authority Personnel Policies and Procedures.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.7.010 was formerly codified as XI LCOTCL §7.701

PRP.7.7.020 Property and Procurement Policy and Procedures

The Housing Authority shall comply with the property and procurement law and policy of the Tribe as established in Chapter PAP.2 of the LCOTCL – Property and Procurement Policies and Procedures as follows:

(a) For the purpose of the implementation of this policy at the Housing Authority, the "Chief Procurement Officer" or "CPO" means the Housing Authority Procurement Officer whom is the official authorized by the Housing Authority to enter into and/or administer contracts and make related determination and findings on behalf of the Housing Authority as well as establish and maintain an inventory of all property and equipment. For the purpose of this ordinance, the term includes any Housing Authority employee designated and authorized to perform the duties of the CPO.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.7.020 was formerly codified as XI LCOTCL §7.702

PRP.7.7.030 Travel Policy and Procedures

The Housing Authority shall comply with the travel law and policy of the Tribe as established in Chapter PAP.3 of the LCOTCL – Travel Policies and Procedures. This Travel

Policy establishes the rules governing travel by all employees of the Tribe, including all employees and Commissioners of the Housing Authority in the performance of their official job duties on behalf of the Authority ("Business Travel") and the purchase or use of modes of transportation, such as Personal Automobiles, Housing Authority or Tribal vehicles, rental vehicles, tolls, parking, accommodations, air fare, etc. (collectively "Travel Services") as follows:

(a) For the purpose of the implementation of this policy at the Housing Authority, the Housing Authority Executive Director and Housing Authority Program/Department Directors shall have the authority to approve or deny any business travel. Employees shall not approve the reimbursement or advance of their own travel related expenses.

(b) For the purpose of the implementation of this policy at the Housing Authority, the "Travel Clerk" means the Housing Authority Accounting Department whom are the officials authorized by the Housing Authority to administer travel advance requests. For the purpose of this ordinance, the term includes any Housing Authority employee designated and authorized to perform the duties of the Travel Clerk.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.7.030 was formerly codified as XI LCOTCL §7.703

PRP.7.7.040 Fiscal Policy and Procedures

The Housing Authority shall comply with the fiscal law and policy of the Tribe as established in Chapter PAP.10 of the LCOTCL – Fiscal Policies and Procedures as follows:

(a) For the purpose of the implementation of this policy at the Housing Authority, the Housing Authority Finance Manager is the official authorized by the Housing Authority to oversee and implement the provisions of this policy. For the purpose of this ordinance, the term includes any Housing Authority employee designated and authorized to perform the duties of the Finance Manager.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.7.040 was formerly codified as XI LCOTCL §7.704

PRP.7.7.050 Investment Policy

(a) Authority. Pursuant to § 204 of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), tribally designated housing entities may, for the purpose of carrying out affordable housing activities, invest Indian Housing Block Grant (IHBG) funds as approved by the Secretary of the Department of Housing and Urban Development. The Secretary has established limitations on the investment of IHBG funds in 24 C.F.R. § 1000.58. The Secretary has further prescribed administrative requirements for

investing IHBG funds in program guidance notices. The Housing Authority is authorized to invests funds not needed for immediate disbursement pursuant to Section PRP.7.3.010(d)(16) of this ordinance.

(b) Purpose. The purpose of the Housing Authority's investments is to carry out affordable housing activities. Such activities shall be consistent with the Housing Authority's current Indian Housing Plan.

(c) Funds Eligible for Investment.

(1) IHBG funds subject to the approval of the Secretary of HUD may be invested pursuant to this section.

(2) Other funds may be invested pursuant to this section provided that such investment is permissible under the law relating to the source of the funds and that such investment is performed pursuant to any applicable law, and provided further that any such investment is held separately from IHBG funds invested so as to fully comply with 24 C.F.R. § 1000.58 (d).

(d) Investments Allowed.

(1) No investment shall be made which has a duration of more than two years.

(2) All IHGB investment accounts shall be separate from other funds of the Housing Authority.

(3) The Housing Authority shall invest IHGB funds only in:

(A) Obligations of the United States: obligation issued by Government sponsored agencies; securities that are guaranteed or insured by the United States; mutual (or other) funds registered with the Securities and Exchange Commission and which invest only in Obligations of the United State or securities that are guaranteed or insured by the United States; or

(B) Accounts that are insured by an agency or instrumentality of the United States or accounts that ensure the continuous and full collateralization of deposits that are in excess of FDIC insurance amounts to ensure protection of the funds, even in the event of bank failure. Collateralization shall consist of identifiable U.S. Government securities as prescribed by HUD and specific authority contained in the agreement permitting HUD to exercise its rights pursuant to 24 C.F.R. § 1000.60.

(e) Staff Authority and Duties. Subject to the oversight by the Tribal Governing Board, Housing Authority staff is assigned authority to implement this policy as follows:

(1) The Executive Director shall serve as the custodian of all investment securities and shall keep such securities separate from the accounting records, the maintenance of which shall be the responsibility of the Housing Authority's accounting department.

(2) The Executive Director shall obtain authorization for all investment transactions from the Tribal Governing Board. All depository agreements shall be approved by resolution presented to the Tribal Governing Board by the Executive Director. All investment transaction shall be documented in the official records of the Housing Authority, which shall be maintained by the Executive Director.

(3) The Executive Director shall insure that safekeeping procedures for the security of investment documents are maintained.

(4) The Executive Director shall assure that all investments shall be made only in name of the Lac Courte Oreilles Housing Authority and shall be maintained in a custodial or trust account, as appropriate.

(5) The Executive Director shall assure that all investments are recorded in detail in an investment ledger, and that the investment ledger is periodically reconciled. The Executive Director shall further assure the use of a system to ensure that all investment income is collected, recorded, and credited to the appropriate accounts. The investment records shall be audited annually.

(6) The Housing Authority's accounting department shall maintain an investment maturity schedule evidencing that the investments and proposed investments will mature on the approximate dates the funds will be needed and that the investment maturity dates do not exceed two years.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.7.050 was formerly codified as XI LCOTCL §7.705

Subchapter PRP.7.8
Reporting Requirements

PRP.7.8.010 Purpose..... PRP.7.8-**Error! Bookmark not defined.**
PRP.7.8.020 Reporting Responsibilities..... PRP.7.8-**Error! Bookmark not defined.**

PRP.7.8.010 Purpose

This subchapter will ensure the operation of the Housing Authority in a business-like manner, ensure compliance with applicable federal requirements and require the monitoring of performance goals under the Indian Housing Plan.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.8.010 was formerly codified as XI LCOTCL §7.801

PRP.7.8.020 Reporting Responsibilities

(a) The Housing Authority shall comply with the appropriate requirements pertaining to self-monitoring as required by §§ 403 (b) and 404 (a) (1) of NAHASDA as well as 24 CFR §§ 1000.508 and 1000.510.

(b) The Housing Authority shall comply with the appropriate requirements pertaining to the annual performance report as required by § 404 of NAHASDA as well as 24 CFR §§ 24 CFR §§ 1000.512, 1000.514, 1000.516, 1000.518, 1000.520 and 1000.521.

(c) The Housing Authority shall comply with the appropriate requirements pertaining to annual audit as required by § 406 of NAHASDA as well as 24 CFR §§ 1000.524, 1000.544, 1000.546, 1000.548, and 1000.550.

(d) The Housing Authority shall comply with the appropriate requirements pertaining to the Indian Housing Plan as required by §§ 102 and 103 of NAHASDA as well as 24 CFR §§ 1000.212, 1000.214, 1000.216, 1000.218, 1000.220, 1000.222, 1000.224, 1000.225, 1000.227, 1000.228, 1000.230, 232, 1000.234, and 1000.524.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.8.020 was formerly codified as XI LCOTCL §7.802

Subchapter PRP.7.9
Housing Rehabilitation and Construction Standards

PRP.7.9.010 Purpose..... PRP.7.9-**Error! Bookmark not defined.**
PRP.7.9.020 Scope ..... PRP.7.9-**Error! Bookmark not defined.**
PRP.7.9.030 Uniform Dwelling Code ..... PRP.7.9-**Error! Bookmark not defined.**
PRP.7.9.040 Building Inspector ..... PRP.7.9-**Error! Bookmark not defined.**

PRP.7.9.010 Purpose

The purpose of this subchapter is to promote the general health, safety and welfare and to maintain certain quality standards in the rehabilitation and construction of housing units under the management and authority of the Housing Authority as established in 24 CFR § 982.401 – Housing Quality Standards.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.9.010 was formerly codified as XI LCOTCL §7.901

PRP.7.9.020 Scope

The scope of this subchapter includes the construction and rehabilitation of one family and multi-family dwellings under the management and administration of the Housing Authority including the 1937 Housing Act stock and NAHASDA units and other units.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.9.020 was formerly codified as XI LCOTCL §7.902

PRP.7.9.030 Uniform Dwelling Code

The Housing Authority shall comply with the Uniform Dwelling (Building) law and policy of the Tribe as established in Title XI, Chapter 8 of the LCOTCL – Uniform Dwelling (Building) Code. Except as preempted by tribal law, the Wisconsin Uniform Dwelling Code, Chs. 20-25 of the Wisconsin Administrative Code, and all amendments thereto, as adopted and incorporated by reference, shall also apply to all buildings within the scope of this subchapter.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.9.030 was formerly codified as XI LCOTCL §7.903

PRP.7.9.040 Building Inspector

There is hereby created the position of building inspector, who shall administer and enforce this ordinance.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.9.040 was formerly codified as XI LCOTCL §7.904

Subchapter PRP.7.10
Maintenance Policies and Procedures

PRP.7.10.010 Purpose..... PRP.7.10-**Error! Bookmark not defined.**
PRP.7.10.020 Maintenance Responsibilities..... PRP.7.10-**Error! Bookmark not defined.**
PRP.7.10.030 Maintenance Requests and Priorities .. PRP.7.10-**Error! Bookmark not defined.**
PRP.7.10.040 Methamphetamine (Meth) Use in Units ..... PRP.7.10-**Error! Bookmark not defined.**
PRP.7.10.050 Failure to Perform Maintenance ResponsibilitiesPRP.7.10-**Error! Bookmark not defined.**
PRP.7.10.060 Charges for Maintenance ..... PRP.7.10-**Error! Bookmark not defined.**
PRP.7.10.070 Structural Changes ..... PRP.7.10-**Error! Bookmark not defined.**

PRP.7.10.010 Purpose

The Housing Authority recognizes that one of the most important aspects of the operations of the Housing Authority is the maintenance of Housing Authority owned and managed units. If units are not maintained on a regular basis, the long-term viability of the Housing Authority as a property management entity is threatened and the Tribe and the residents will lose a valuable resource. These procedures are intended to implement a full system of maintenance for those units where the Housing Authority has the obligation to perform the maintenance as required. Therefore, the purpose of the Housing Authority's maintenance procedures shall be to:

(a) Maintain all property and equipment under the management of the Housing Authority in a decent, safe and sanitary condition.

(b) Conduct timely inspections, regular and preventive maintenance, timely repairs and replacements to ensure the structural integrity of the units along with making sure all equipment associated with the unit is functioning properly.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.10.010 was formerly codified as XI LCOTCL §7.1001

PRP.7.10.020 Maintenance Responsibilities

(a) Renter Responsibilities. As specified in the lease agreement, the renter is responsible for the normal care of the dwelling unit and common property around it. The renter must maintain the unit in good condition and prevent health or sanitation problems from arising. The renter is responsible for care of the lawn and removal of any garbage and rubbish. The

renter must promptly notify the Housing Authority of the need for repairs to the unit and of conditions which may lead to damage to the unit caused by vandalism or criminal activity. The renter is also responsible for cleaning the unit and grounds upon vacating.

(b) Homebuyer Responsibilities. The homebuyer is responsible for maintenance of the home, including all repairs and replacements. The responsibility extends to the structure, plumbing, appliances, heating system, and electrical work. The homebuyer must report any deficiencies which could arise during the warranty period.

(c) Housing Authority Responsibilities. If the tenant or homebuyer fails to meet his/her obligation, the Housing Authority shall perform the necessary maintenance activities subject to the provisions of Section PRP.7.10.060 of this ordinance. In emergency situations, Housing Authority staff have the authority and responsibility to enter the premises without the consent of the resident in order to protect the unit from damage.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.10.020 was formerly codified as XI LCOTCL §7.1002

PRP.7.10.030 Maintenance Requests and Priorities

(a) Requests for Maintenance. All requests for maintenance, whether made by telephone, in person or by staff of the Housing Authority, shall be processed by completion of a work order which contains the following information:

(1) The date the order was taken;

(2) Resident's name and community;

(3) Project and unit number;

(4) Description of problem or statement of request;

(5) Authorized entry in the event no one is at home.

(b) Review of Work Order Requests. Maintenance requests shall be reviewed by the Supervisors and/or the receptionist in order to determine scheduling of requests, any applicable warranties and responsibilities, and whether or not it will be necessary to employ an outside contractor for the work, such as an electrician or other specialist.

(c) Review for Arrears. Work order requests will be screened to determine whether or not the resident's account is in arrears. If the resident is in arrears, only emergency, urgent and preventive maintenance will be performed. The resident will be informed that the work order will be filed until the arrears are paid.

(d) Scheduling of Work Orders. Maintenance requests will be scheduled by the Supervisor in accordance with the following priorities:

(1) Emergencies. An emergency means a situation in which bodily harm is imminent; that which immediately threatens the safety of the resident or could cause serious property damage. Emergencies shall be responded to within six (6) hours and repaired within a reasonable time, even if the request is made after hours or on weekends. The Supervisor must perform emergency work items; if not available, other maintenance personnel shall respond.

(2) Urgent. An urgent situation means a situation that causes a negative effect to a tenant's lifestyle such as lack of refrigeration, cook stove, water, or a broken entry door. Urgent work shall be responded to within 24 hours after the request is made, or the next available working day if the request is made on the weekend or after normal working hours. If urgent work is necessary due to vandalism or other criminal activity, a Sheriff's report shall be required before the work can be scheduled.

(3) Renovation. A renovation means the repair, painting, and cleaning of a vacant unit to prepare for new occupancy. All work should be finished before a family moves in so that a final inspection can take place.

(4) Non-Routine Maintenance. Non-routine maintenance means required maintenance which is not caused by ordinary wear and tear; usually not occurring in the normal lifetime of the item.

(5) Routine Maintenance. Routine Maintenance means required maintenance which is the result of usual wear and tear; work that should be done regularly by maintenance staff.

(6) Preventive Maintenance. Preventative Maintenance means required maintenance that is performed to prevent further or greater damage from occurring; Preventative Maintenance includes work done on a scheduled or seasonal basis to maintain good working condition on an appointed time basis. Minor items, such as leaking faucets, should be repaired while maintenance staff is at the unit.

(e) Ordering of Materials or Appliances. If work orders require that parts, appliances or other items need to be ordered before maintenance can be performed, the work order shall be given to the Inventory Clerk to order and hold the work order. When the item is delivered, it will be so noted on the work order which will then be given to the Supervisor for scheduling.

(f) Contract Work Items. Subject to budget limitations, the Supervisor may contract work orders relating to electrical work, trash removal, welding, septic pumping, etc.

pursuant to Chapter PAP.2 of the LCOTCL – Property and Procurement Policies and Procedures.

(g) Performance of Work Items.

(1) Employees are not to be taken off jobs until the work is completed; however, if an emergency arises, and the Supervisors are not available, other maintenance personnel shall respond.

(2) Requests by tenants for other repair work at the job site must be treated as new work order requests. The tenant shall be advised that the request must be first called into the office. The maintenance staff shall, however, perform minor preventive maintenance while at the unit in order to prevent further or greater damage from occurring.

(h) Completion of Jobs & Work Orders.

(1) After completion of the requested work, the work order form shall be completed by the employee with the following information:

(A) Identified problem, and causes (i.e. tenant abuse) if applicable or known;

(B) Description of work;

(C) List of materials used and cost;

(D) Total time taken to complete task;

(E) Date completed and signature of maintenance person who completed the job;

(F) Signature of tenant, if home.

(2) Completed work order forms shall be reviewed by the Maintenance Supervisor for completion and a determination of whether the tenant will be charged for the work.

(3) A copy of the work order shall be left for the tenant, one copy for the tenant's maintenance file, and one copy for posting.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.10.030 was formerly codified as XI LCOTCL §7.1003

PRP.7.10.040 Methamphetamine (Meth) Use in Units

(a) Methamphetamine Testing Standard. The Housing Authority, in an effort to protect the public health, safety and welfare of our communities is hereby adopting specific cleanup standards for units contaminated by methamphetamine (meth) use in properties owned and managed by the Housing Authority.

(1) The Housing Authority hereby determines that a heightened safety concern exists when any test result is positive for methamphetamine (meth), and a severe safety concern exists when any test is positive for methamphetamine (meth) and the residue concentration of 1.5 ug/100 cm2 or higher.

(b) Methamphetamine Cleanup and Remediation. The Housing Authority has determined a standard of cleanup and remediation processes is necessary once any level of meth contamination has been established. The following guidelines shall be used to determine the level of contamination and the method used to provide cleanup and decontamination of each unit determined to have meth contamination from use. The Housing Authority Maintenance staff, after receiving a vacancy notice from the Occupancy Department, shall perform the following steps to determine the method of cleanup to ready the unit for the next occupant.

(1) A Meth Media Testing Kit (Wipe Test) will be done on each vacant unit to determine if meth is present and to determine what level of meth is present in the unit.

(2) The Housing Authority will use the following guidelines to ready the unit for the next occupant:

(A) Samples will be taken utilizing a Wipe Test and sent to an authorized laboratory to determine the level of contamination.

(B) For units where the test results come back with a reading of less than 1.5ug/100cm2, cleanup shall be completed internally by the Housing Authority. Once cleanup is completed, the unit shall be processed for move-out repairs and general clean-up. These units may be bid out to contractors utilizing the Housing Authority bid process depending on the amount and type of repairs to be done.

(C) For units where the test results come back with a reading of 1.5 ug/100cm2 or above, cleanup shall be completed by a qualified remediation contractor. A Qualified Contractor will consist of a contractor who has hazardous waste expertise and is certified to conduct clean-up operations in a meth contaminated condition. Contractors who have not been certified in a similar program should, at minimum, complete the 40-hour HAZWOPER training (OSHA 29 CFR § 1910.120). The contractors will need to provide the Housing Authority with documentation of completion for each employee who will be doing meth remediation. A Clearance

test will be performed by a third-party test to insure the unit has been cleaned to at or below the Housing Authority set standard. The Housing Authority will pay for the first clearance test, if this test fails the Housing Authority will pay half the cost of the second test and the qualified contractor will be responsible to cover the other half of the testing cost. If the second test were to fail then the contractor will be responsible to cover all cost associated with the third test and any other testing after that. The Housing Authority shall hold $1500.00 from each remediation contract to cover the cost of testing until the unit passes a clearance test. Cleanup pertaining to these units shall have a scope of work established by the Housing Authority Inspector. This may require removal of all woodwork, any porous material, all affected cabinets and countertops, replace appliances and any other area as determined by the inspector and as written in the scope of work.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.10.040 was formerly codified as XI LCOTCL §7.1004

PRP.7.10.050 Failure to Perform Maintenance Responsibilities

Failure of the resident to perform his maintenance responsibilities is a breach of agreement for which termination proceedings may be instituted. This includes maintaining the unit and premises in a decent, safe and sanitary condition.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.10.050 was formerly codified as XI LCOTCL §7.1005

PRP.7.10.060 Charges for Maintenance

The tenant will be charged for all maintenance (other than routine) that has been caused by their abuse, misuse or neglect of the unit or appliances within the unit. The tenant will also be charged for any damages to the unit caused by vandalism or other criminal activity. (The tenant is free to seek reimbursement from the perpetrator).

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.10.060 was formerly codified as XI LCOTCL §7.1006

PRP.7.10.070 Structural Changes

Structural changes to a unit may not be made unless specifically approved by the Housing Authority Executive Director.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.10.070 was formerly codified as XI LCOTCL §7.1007

Subchapter PRP.7.11
Inspections

PRP.7.11.010 Pre-Occupancy (Move-In) Inspections . PRP.7.11-**Error! Bookmark not defined.**
PRP.7.11.020 Move-Out Inspections ..... PRP.7.11-**Error! Bookmark not defined.**
PRP.7.11.030 Annual Inspections..... PRP.7.11-**Error! Bookmark not defined.**
PRP.7.11.040 Property and Equipment Inspections... PRP.7.11-**Error! Bookmark not defined.**
PRP.7.11.050 Warranty Inspections, New Construction ..... PRP.7.11-**Error! Bookmark not defined.**
PRP.7.11.060 Unscheduled (Emergency) Inspections PRP.7.11-**Error! Bookmark not defined.**
PRP.7.11.070 Inspection Video Recording Procedures ..... PRP.7.11-**Error! Bookmark not defined.**

PRP.7.11.010 Pre-Occupancy (Move-In) Inspections

Each unit shall be carefully inspected by Housing Authority staff and the resident prior to the occupancy in order to document the condition of the Dwelling Unit and Yard (as applicable) at the time the new tenant takes possession. An inspection report shall be signed by both the resident and Housing staff and a copy shall be made available to the resident and another placed in their file. Any deficiencies will be noted on the inspection report and shall be addressed by the Maintenance Department within three (3) days or as soon as reasonably possible. Dwelling units shall not be approved for occupancy unless they are properly equipped with appliances, furnaces, hot water heaters, that are in good working order, and the exterior and interior are in good repair.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.11.010 was formerly codified as XI LCOTCL §7.1101

PRP.7.11.020 Move-Out Inspections

(a) The purpose of the move-out inspection is to document the condition of the dwelling unit at the time the tenant (Renter / Homebuyer) vacates and the Housing Authority regains possession of the unit. When a family decides to vacate a unit (by providing a written Notification of Intent to Vacate); the family abandons the unit; or the families Rental Lease / Homebuyer (MHOA) Agreement with the Housing Authority is terminated (in writing), the Housing Authority shall conduct a move-out inspection.

(b) Units subject to a move-out inspection shall be inspected within twenty-four (24) hours of official notice by a resident that he/she has vacated the premises. The resident

moving out will be invited to participate in the inspection and will be provided a copy of the final inspection results. The Housing Authority shall photograph or videotape move-out inspections to visually display the condition of the unit and grounds. Photographs or videotapes will be kept on file at the Housing Authority offices. The Housing Authority shall notify tenants of all move-out charges deemed over and above normal wear and tear by mail with a detailed list of charges. Charges will be determined from a list of average costs determined by the Maintenance Manager and Inspectors. The costs will include materials and labor for any and all repairs and the list will be updated on a bi-annual basis. Tenants will be given ten (10) working days from the date of the letter to schedule an appointment with the Maintenance Manager to dispute any of the move-out charges.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.11.020 was formerly codified as XI LCOTCL §7.1102

PRP.7.11.030 Annual Inspections

(a) The Housing Authority shall conduct a complete examination of each home once a year at the time of resident move in date, to ensure that resident and Housing Authority maintenance responsibilities are being met to maintain the unit in a decent, safe and sanitary condition.

(b) At the time of the annual inspection, the unit shall be tested for methamphetamine using a Meth Media Testing Kit (Wipe Test) in order to determine if meth is present and to determine what level of meth is present in the unit. The Housing Authority shall use the guidelines established pursuant to Section PRP.7.10.040 for clean-up and remediation for any unit that produces a positive test result. Likewise, the tenant shall be subject to the eviction procedures as established pursuant to Subchapter PRP.7.6 of this ordinance.

(c) Housing Services shall be responsible for arranging the annual inspection of units. Inspection of common areas is also included in the annual inspections.

(d) An inspection report shall be completed for each unit of housing. Immediate action shall be taken to bring any housing that is not in a satisfactory condition up to acceptable and decent standards. Work order requests shall be completed for emergency, urgent or preventive maintenance work. For substantial tenant damages or other deficiencies, the Inspector must send the resident a letter and indicate a date of the compliance review.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.11.030 was formerly codified as XI LCOTCL §7.1103

PRP.7.11.040 Property and Equipment Inspections

The Housing Authority shall inspect all grounds and equipment at least once a year to determine the general condition and trends which may indicate problems. The Housing Authority shall determine the scope of maintenance work that may need to be completed in the area and repair any hazardous conditions as soon as possible.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.11.040 was formerly codified as XI LCOTCL §7.1104

PRP.7.11.050 Warranty Inspections, New Construction

The Housing Authority shall make inspections every three months during the warranty period of a unit until expiration of all warranties. The Housing Authority shall make every effort to ensure that all warranty obligations are met.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.11.050 was formerly codified as XI LCOTCL §7.1105

PRP.7.11.060 Unscheduled (Emergency) Inspections

(a) The Housing Authority reserves the right to conduct Unscheduled Inspections in the event of emergency situations. In such cases the Tenant may not receive advanced notification.

(b) Cooperation / Coordination with Other Agencies.

(1) Unscheduled Inspections shall be conducted in cooperation with tribal, state, and/or federal Law Enforcement Agencies, Indian Child Welfare representative(s) or other Agencies (as dictated by the situation).

(2) Law enforcement inspections are not inspections conducted by the Housing Authority but by the law enforcement agency conducting the inspection.

(3) Law enforcement inspections are authorized pursuant to Section PRP.7.5.190(h)(3) of this ordinance as well as the Lease. The lease provides:

(A) Law Enforcement. Upon request by a law enforcement officer, any employee of the Lac Courte Oreilles Housing Authority may allow entry to your unit by law enforcement officials and to consent on your behalf to any entry or search of the unit, as requested by any law enforcement official. You agree to hold harmless the Lac Courte Oreilles Housing Authority, it's officers, employees, and agents for any harm or damages resulting therefrom.

(4) Such inspections require the prior approval of the Executive Director, or designee, or other Legal Authority (i.e., Tribal Court Order).

(c) Documenting Conditions. The current condition of the leased dwelling unit shall be documented on the standard Housing Authority Inspection Report.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.11.060 was formerly codified as XI LCOTCL §7.1106

PRP.7.11.070 Inspection Video Recording Procedures

The Housing Authority has found it essential to implement video-recording procedures for a number of reasons including the following:

(a) It provides a means to accurately back up paper records compiled during move-in, move-out, annual, and unscheduled inspections.

(b) It provides graphic evidence of the true condition of a unit, at the time of inspection that may be the result of poor housekeeping (cleanliness issues), vandalism or tenant caused damages. Due to the graphic nature of video tape recordings, this kind of documentation / evidence is difficult to refute by the tenant.

(c) It provides a means where by the Housing Authority can better defend itself against the many challenges it receives from tenants who contest charges levied upon them for the repair of damages caused to the dwelling unit.

(d) It provides a means where by the Housing Authority can better defend itself against the many challenges it receives from tenants when trying to uphold a Termination of Rental Lease and subsequently Eviction from the dwelling unit.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.11.070 was formerly codified as XI LCOTCL §7.1107

Subchapter PRP.7.12
Relocation Policy

PRP.7.12.010 Purpose..... PRP.7.12-**Error! Bookmark not defined.**
PRP.7.12.020 Project Planning ..... PRP.7.12-**Error! Bookmark not defined.**
PRP.7.12.030 Project Implementation ..... PRP.7.12-**Error! Bookmark not defined.**
PRP.7.12.040 Schedule of Eligible Costs ..... PRP.7.12-**Error! Bookmark not defined.**
PRP.7.12.050 Waiving Rights..... PRP.7.12-**Error! Bookmark not defined.**
PRP.7.12.060 Grievance / Appeals ..... PRP.7.12-**Error! Bookmark not defined.**
PRP.7.12.070 Recordkeeping Requirements..... PRP.7.12-**Error! Bookmark not defined.**
PRP.7.12.080 Relocation Procedures ..... PRP.7.12-**Error! Bookmark not defined.**

PRP.7.12.010 Purpose

The purpose of this subchapter is to set forth the guidelines and procedures related to the temporary relocation of housing participants by the Housing Authority. These guidelines are established as a result of 49 CFR Part 24 - Uniform Relocation Assistance and Real Property Acquisition Regulations for Federal and Federally Assisted Programs (hereinafter "URA"). Prior to HUD approval for any grant, contract; or agreement requiring relocation activity under which federal funds provide financial assistance, the Housing Authority must provide a certification of compliance that it will comply with the URA. The Housing Authority will take appropriate measures to carry out the requirements contained in this policy in a manner that minimizes fraud, waste, and mismanagement. Instances of fraud and waste will be handled appropriately by the Housing Authority or referred to HUD's Office of Inspector General.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.12.010 was formerly codified as XI LCOTCL §7.1201

PRP.7.12.020 Project Planning

Consistent with the goals and objectives of HUD-funded programs, the Housing Authority assures that it will take all reasonable steps to minimize relocation as a result of a rehabilitation/modernization project. If necessary to accomplish this goal, the Housing Authority will consider the feasibility of carrying out the project in stages.

(a) The Housing Authority shall take the steps necessary to ensure cooperation and coordination among government agencies, utility providers, district officials, and affected persons.

(b) The Housing Authority shall consult with the residents of the house to be rehabilitated during the partnership process. Resident comments will be solicited and receive serious consideration. Resident participation is required for accurate planning.

(c) During the planning stage of the rehabilitation project, the Housing Authority shall review staffing; training; and any special problems associated with the relocation caused by the project.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.12.020 was formerly codified as XI LCOTCL §7.1202

PRP.7.12.030 Project Implementation

(a) All conditions of temporary relocation shall be reasonable. At the time the Housing Authority determines to allocate funds for rehabilitation and/or modernization, an initial notice shall be issued to all affected housing participants.

(b) At the time of project implementation, a general information notice (second notice) will be issued.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.12.030 was formerly codified as XI LCOTCL §7.1203

PRP.7.12.040 Schedule of Eligible Costs

(a) Actual Reasonable Moving and Related Expenses (49 CFR § 24.301). Any displaced owner-occupant or tenant of a dwelling who qualifies as a displaced person including temporary relocation is entitled to payment of his/her actual moving and related expenses, as the Housing Authority determines to be reasonable and necessary, including expenses for:

(1) Transportation of the relocating family and personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the Agency determines that relocation beyond 50 miles is justified.

(2) Packing, crating, unpacking and uncrating of the personal property.

(3) Storage cost of personal property for the duration of the temporary period.

(4) Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances and other personal property.

(5) Utility hook-ups and deposits, including reinstallation of telephone and cable television service if the owner/tenant had the service prior to the temporary relocation move at both the temporary replacement dwelling and at the original home when the rehabilitation work is completed.

(6) Insurance for the replacement value of the property in condition with the move and necessary storage.

(7) Rental Assistance Payment. The base monthly rental for the displacement dwelling is the lesser of: the fair market rent unless its use would result in hardship because of the person's income or other circumstances; or thirty (30) percent (or whatever the current percent charged) of the person's average gross household income.

(8) Any other reasonable costs directly associated to the temporary relocation.

(9) When determining whether a cost is eligible or ineligible, the Housing Authority must consider if the incurred cost directly caused by the relocation.

(10) For families not required to move, but unable to use food preparation facilities (kitchen) due to rehabilitation work, meal vouchers will be provided until the facilities are restored for use. The amount of the voucher will be determined based on provisions in the Travel Policy for meals and incidentals. The amount of the voucher will consider the size of the family.

(11) As much as possible, the Housing Authority will pay costs directly to the provider on behalf of the family. In situations where reimbursements are required, the Housing Authority will process all claims supported by receipts or reasonable proof as quickly as possible. In no case will a reimbursement take longer than seven working days. Requests for reimbursement must be made no later than 12 months from the date of occurrence with appropriate documentation (e.g., receipts).

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.12.040 was formerly codified as XI LCOTCL §7.1204

PRP.7.12.050 Waiving Rights

(a) A family may elect to move on its own despite instructions to the contrary. In this instance, all right to reimbursement for costs is waived. The family must execute a statement acknowledging that a voluntary move will waive all rights under this policy.

(b) A family that willingly moves into a home that is not considered comparable (i.e., decent, safe, or sanitary) waives all rights under this policy. The family must execute a statement acknowledging that it will waive all rights under this policy.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.12.050 was formerly codified as XI LCOTCL §7.1205

PRP.7.12.060 Grievance / Appeals

(a) A participate may file a grievance resulting from the relocation activities pursuant to Subchapter PRP.7.14 of this ordinance.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.12.060 was formerly codified as XI LCOTCL §7.1206

PRP.7.12.070 Recordkeeping Requirements

(a) The Housing Authority will maintain records related to the temporary relocation for a period of at least three years. The required records will include at a minimum:

(1) Evidence of timely written notice of non-displacement;

(2) Evidence of a timely offer of a temporary relocation dwelling;

(3) An individual Relocation Plan;

(4) Records for all expenditures incurred in relation to the relocation activities;

(5) Any other documents determined by the Housing Authority as necessary; and

(6) A copy of any appeal or complaint filed, including the Housing Authority response.

(7) For participants who elect to relocate permanently, the records shall include a statement of the reasons why and any personal contacts made to explain available alternatives. In addition, the records shall include a statement that participants who elect to relocate permanently will not qualify for relocation payments as a "displaced person".

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.12.070 was formerly codified as XI LCOTCL §7.1207

PRP.7.12.080 Relocation Procedures

The following procedures shall be used by Housing Authority staff in the implementation of this subchapter. Relocation, when necessary, shall be accomplished in a cost-effective manner and for the shortest duration of time possible to minimize the disruption to the affected families.

(a) Notices. The Executive Director or his/her designee shall ensure that the following types of notices are issued to the residents to be affected by the modernization or rehabilitation work.

(1) At the time that the Housing Authority submits an application for funding to HUD for any activity that may require relocation of residents of the Housing Authority, an initial notice shall be issued to all affected residents. The initial notice shall include, at a minimum, the following information:

(A) A statement of non-displacement.

(B) A statement advising the family not to move at this time.

(C) A statement that if the family moves at this time they relinquish all rights to relocation benefits.

(D) A statement that the family will be able to reoccupy a rehabilitated house in the same project (or the same house if it is a Mutual Help unit).

(E) A statement that the family will be informed of any events or occurrences that will impact the rehabilitation of their house.

(F) A statement that the family's required monthly payment shall not increase as a result of rehabilitation or modernization work being performed on their house.

(2) Upon notification by HUD of project approval, the Executive Director or his/her designee shall ensure that a second notice is issued to all affected residents again advising them not to move and that they will be notified in sufficient time to prepare for the temporary move.

(3) At least three weeks prior to the move, the Executive Director or his/her designee shall ensure that the final notice is mailed to all families that will be temporarily relocated to begin preparation for the move. The notice shall include a Schedule of Eligible Costs and at least the following information:

(A) The date of the move and the approximate duration of the temporary relocation.

(B) The address of the unit to be occupied by the family for the duration of the temporary relocation.

(C) A statement that the family will be returned to a similar rehabilitated unit (or the same house if it is Mutual Help).

(D) The name and telephone number of the Housing Authority employee to contact for assistance before and during the period of relocation.

(b) Identification/Preparation of Temporary Housing Units. To the greatest extent feasible, the Housing Authority shall utilize vacant housing units for housing relocated families. All units to be utilized for relocation shall be decent, safe, and sanitary, and shall meet Tribal and HUD Housing Quality Standards.

(1) The relocation coordinator shall work closely with the Maintenance Director to identify an adequate number of units for relocation purposes. The maintenance department shall be responsible for ongoing maintenance of the units during the period of relocation.

(2) The relocation coordinator shall also coordinate with the Resident Services Specialist assigned to the families to ensure that the required services (electric, water, sewer, telephone, etc.) are transferred to the relocation unit. All services shall be in the name of the family and will be the responsibility of the family (as in the unit from which they are being moved).

(3) The relocation coordinator or his/her designee shall make arrangements for storage facilities (if needed), and for moving of the family(ies) possessions to the temporary relocation unit.

(4) The relocation coordinator and the Resident Service Specialist assigned to the family, shall conduct a move-in inspection with at least one adult of the family being relocated, prior to the move-in. Deficiencies (if any) shall be noted on the inspection form and shall be signed by the adult family member and the relocation coordinator or the Resident Services Specialist. One copy of the inspection form shall be given to the adult family member, one shall be maintained in the family's relocation file, and one shall be forwarded to the maintenance department so the deficiencies (if any) can be scheduled for correction by the maintenance staff.

(5) In instances where the modernization work would require the family's absence from the unit for a period of less than five working days, the Housing Authority may offer the family the option of staying in a nearby hotel/motel, provided it is cost effective to do so, and the family accepts the offer.

(6) Where the family is not required to move but is unable to use the kitchen for food preparation, the relocation coordinator is responsible for ensuring that meal vouchers are issued to the family prior to, or on the day that the work begins which makes the kitchen unavailable to the family.

(c) Completion of Relocation. At the end of the relocation period, the following actions shall be completed.

(1) The relocation coordinator, with the assistance of the Resident Services Specialist shall schedule the movers to transfer the family back to the rehabilitated unit. The Resident Services Specialist will have transferred all utilities back to the rehabilitated unit in the family's name. A move-in inspection shall be conducted in accordance with established procedures.

(2) The relocation coordinator and the Resident Services Specialist with at least one adult family member shall conduct a move-out inspection of the relocation unit. Deficiencies (if any) shall be noted on the inspection form. A copy of the form shall be given to the family, along with charges for all family-caused damages. A copy shall be forwarded to the maintenance department, and one maintained in the relocation file.

(3) The relocation coordinator or his/her designee shall prepare a form HUD-40054, Claim for Moving and Related Expenses for each family, to document all costs associated with the relocation. The form shall be forwarded to the Executive Director for approval. Upon approval, one copy shall be maintained in the relocation file, and one forwarded to the Finance Officer who will process payment of the claim.

(d) Recordkeeping.

(1) The relocation coordinator shall be responsible for ensuring that all records associated with the relocation of families are properly maintained. All records shall be maintained for a minimum of three years. The following documents (at a minimum) shall constitute the record of relocation:

(A) Documentation of all contacts with the affected family(ies).

(B) A list of all persons authorized to occupy the unit at the time the Housing Authority determined the family's eligibility for relocation assistance.

(C) Copies of timely written notices of non-displacement.

(D) Copy of timely offer of temporary relocation dwelling.

(E) Copies of all relocation needs and preferences of, and services provided to the affected family(ies).

(F) Copies of all referrals and notices issued.

(G) Individual Relocation Plan.

(H) Records for all expenditures incurred for the family associated with the relocation.

(I) A copy of any appeal/complaint filed and the Housing Authority's response.

(J) For participants who elect to relocate permanently, the records shall include a statement of the reason(s) why, and documentation of Housing Authority's contacts with the participant to explain available alternatives. The record shall also contain a statement signed by the participant acknowledging that they will not be eligible for relocation payments as a "displaced person".

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.12.080 was formerly codified as XI LCOTCL §7.1208

Subchapter PRP.7.13
Collection and Compliance Policy

PRP.7.13.010 Purpose..... PRP.7.13-**Error! Bookmark not defined.**
PRP.7.13.020 Collections ..... PRP.7.13-**Error! Bookmark not defined.**
PRP.7.13.030 Payment Arrangements..... PRP.7.13-**Error! Bookmark not defined.**
PRP.7.13.040 Counselling..... PRP.7.13-**Error! Bookmark not defined.**
PRP.7.13.050 Vacancy Without Notice ..... PRP.7.13-**Error! Bookmark not defined.**

PRP.7.13.010 Purpose

(a) The Housing Authority adopts this collections and compliance Subchapter to identify the responsibility for payment and collections, and procedures for eviction in the event of nonpayment. If payments are not made new units cannot be built, existing units cannot be maintained, and administrative costs cannot be paid. Payments must be paid when due to allow the Authority to meet its financial obligations on a timely basis.

(b) For the purposes of this subchapter, rental and homeownership occupants and other families receiving services will be referred to as "tenants". This policy shall apply to tenants who have entered into a lease; homeownership agreement; contract; or any other type of agreement with the Housing Authority.

(c) This subchapter only describes the consequences of violating financial obligations and does not address the policies and procedures that relate to other lease violations.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.13.010 was formerly codified as XI LCOTCL §7.1301

PRP.7.13.020 Collections

(a) Timetable for Notices Applicable to Rental Programs.

(1) First Notice, If the rent payment is not paid by the 10th day of the month the Housing Authority shall hand deliver a Notice to Pay Rent or Quit to the tenant or an adult member of the household. This notice will include the following:

(A) The date of the notice.

(B) The date the rent or homebuyer payment and other charges were due.

(C) Statement of how much is owed the Housing Authority.

(D) A statement of the ramifications of non-payment.

(2) Final Notice. If the rent payment is not paid according to the terms of the First Notice, the Housing Authority shall hand deliver a Termination of Tenancy Fourteen Day Notice. This notice will include the following:

(A) The date of the notice.

(B) The tenancy is being terminated.

(C) Why the tenancy is being terminated.

(D) Statement of who to contact to make payment in full, reach an agreement for payment, or to make arrangements to vacate the premises.

(E) Statement that failure to comply with this notice will result in legal action to terminate the lease and for Housing Authority to reclaim the premises.

(3) The tenant's right to retain occupancy by paying in full all financial obligations after service of a Fourteen Day Notice is terminated if the tenant has been previously served with two or more notices of non-payment of rent and the Housing Authority serves on the tenant a Thirty Day Notice of Termination.

(4) If a tenant has not complied with the financial requirements described in their Dwelling Lease, the Housing Authority shall hand deliver to the tenant or an adult member of the household a Thirty Day Notice of Termination. This notice shall contain the following:

(A) To vacate the premises within 30 days from the date of this notice.

(B) The reason for termination.

(C) Previous notices sent pertaining to this violation.

(D) Failure to vacate the premises within the 30 days, legal action will be taken.

(E) A statement of any right to file a grievance.

(F) The right to examine any relevant documents.

(5) The tenant shall be liable to the Housing Authority for any court costs associated with an eviction or other legal action brought to enforce a lease, including but not limited to filing, service, and legal fees.

(b) Collection or Non-compliance Remedies.

(1) Tenants with delinquent accounts or who are not in compliance with their Dwelling Lease Agreement are encouraged to enter into agreements for payment of their delinquent account or to become in compliance with the requirements of their Dwelling Lease Agreement. The Housing Authority may negotiate an agreement for non-payment or non-compliance with the tenant as an alternative to termination. The agreement will include an acknowledgment of the amount owed, the terms of repayment including the date, amount, and method of payment, other non-compliance issues, along with a default clause in the event the agreement is breached. The agreement will be signed by the head of household or spouse as applicable and designated Housing Authority staff. If a tenant presents credible evidence of hardship that caused or may cause a breach of the agreement, the Housing Authority will have discretionary authority to renegotiate or reconsider the agreement. If prior agreements have failed, the Housing Authority may choose not to reconsider the agreement with the tenant.

(2) Should a tenant violate the terms of their agreement with the Housing Authority, the Housing Authority shall proceed with proper legal eviction action.

(3) Payment agreements may be executed for payment of vacated accounts.

(4) Failure to make the required monthly payments and/or breach of subsequent payment agreements and termination of the tenant's lease agreement will result in suspended eligibility for future services or benefits offered by the Housing Authority.

(5) Tenants with delinquent accounts will be referred to appropriate counseling and provided any other available information that may enhance the prompt payment of their delinquent account. The Housing Authority may schedule a counseling session for the tenant at a specified time and location during the period of account delinquency. Attendance and participation will be required. The Housing Authority shall require the tenant to sign a statement documenting attendance and commitment by the tenant to improve their personal financial management skills.

(6) At the discretion of the Housing Authority, full payment of delinquent rent payments, including any current amounts due, may be accepted and collection proceedings stopped if received prior to court action.

(7) For vacated accounts, reconciliation of the tenant's account including any damages charged to the tenant will be promptly sent to the former tenant after the unit has been vacated at the last known address. If any amount due is not paid or arrangements have not been made within 90 days, the account will be determined to be uncollectible.

(8) Uncollectible accounts will be removed from the accounts of the Housing Authority but not forgiven to the former tenant.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.13.020 was formerly codified as XI LCOTCL §7.1302

PRP.7.13.030 Payment Arrangements

(a) Extension. If a tenant is unable to make their payment when due, they may request an extension from the Executive Director or designee. Such extensions shall be documented and granted only in situations of extreme temporary hardship at the discretion of the Executive Director or designee.

(1) Circumstances warranting approval of an extension are unusual and unexpected family expenses, such as a death in the family or high medical expense not covered by insurance or a sudden loss of income.

(2) The above does not include normal living expenses such as high grocery bills, utility bills, etc., nor does it include payments for household furnishings, clothing or automobiles.

(b) Payment Agreements for Past Due Balances. Written re-payment agreements may be entered between tenant and the Executive Director, or designee, for payment of past due balances which specify due dates and amounts. Extensions of written repayment agreements shall not be granted; instead, agreements may be renegotiated, if justified by a significant change in circumstances. Re-payment Agreements shall be signed stating the tenant will pay the regular monthly payment and a designated amount towards the outstanding balance.

(1) Where a payment agreement is in default it will not be renewed. Eviction action may be taken where payment agreements are not honored by the family.

(c) Automatic Payments and Payroll Deductions. The Authority will cooperate with tenants and homebuyers in order to make arrangements with their employers for direct payroll deductions or source of income for automatic payments.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.13.030 was formerly codified as XI LCOTCL §7.1303

PRP.7.13.040 Counselling

Prior to an eviction action for nonpayment, the Housing Authority shall make every effort to counsel the tenant concerning his/her payment responsibilities. The Housing

Services Specialist shall be provided copies of all eviction notices sent to tenants. The Accounts Receivable Clerk along with the Housing Services Specialist shall make arrangements to provide counseling to tenants sent eviction notices.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.13.040 was formerly codified as XI LCOTCL §7.1304

PRP.7.13.050 Vacancy Without Notice

If a tenant vacates a unit without giving notice as required by his/her lease or agreement, the Housing Authority shall charge rent and other payments for a period of time equal to the required length of notice.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.13.050 was formerly codified as XI LCOTCL §7.1305

Subchapter PRP.7.14
Grievance Policy

PRP.7.14.010 Purpose..... PRP.7.14-**Error! Bookmark not defined.**
PRP.7.14.020 Settlement of Grievance..... PRP.7.14-**Error! Bookmark not defined.**
PRP.7.14.030 Grievance Hearing Procedure..... PRP.7.14-**Error! Bookmark not defined.**
PRP.7.14.040 Grievance Hearing Decision..... PRP.7.14-**Error! Bookmark not defined.**
PRP.7.14.050 Effect of Grievance Hearing Decision... PRP.7.14-**Error! Bookmark not defined.**
PRP.7.14.060 Exclusions of Eviction Related Grievances..... PRP.7.14-**Error! Bookmark not defined.**

PRP.7.14.010 Purpose

The purpose of this subchapter is to establish the procedures by which the Housing Authority shall ensure that all applicants and residents are allowed an opportunity to dispute Housing Authority action or failure to act and receive within a reasonable period of time a resolution of their grievance. The policy shall be applicable only to matters within the control and responsibility of the Housing Authority.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.14.010 was formerly codified as XI LCOTCL §7.1401

PRP.7.14.020 Settlement of Grievance

(a) All grievances shall be in writing (signed by the complainant) and shall be hand delivered by the complainant or his/her representative or delivered by mail, to the Executive Director. The grievance may be simply stated, but shall specify:

(1) The particular grounds(s) upon which it is based;

(2) The action requested; and

(3) The name, address and telephone number of the complainant and similar information about his/her representative, if any.

(b) The grievance must be presented by the complainant or his representative within a reasonable time, not in excess of ten (10) days of the action or failure to act which is the basis of the grievance.

(c) The Executive Director shall schedule a hearing as promptly as possible. A written notification specifying the time place and procedures governing the hearing shall be delivered to the complainant.

(d) Escrow Deposit.

(1) Before a hearing is scheduled in any grievance involving an amount of rent the Authority claims is due, the complainant shall pay to the Authority all rent due and payable as of the month preceding the month in which the act or failure to act took place.

(2) The complainant shall, prior to the initiation of a grievance hearing, deposit the disputed sum into an escrow account, and, if the dispute involves the amount of monthly payment, such continuing monthly payments shall also be deposited into the escrow account until the complaint is resolved by decision of the Executive Director. If the dispute is not over the amount of the monthly rent or payment, the complainant is required to continue such monthly payments as per the lease or agreement.

(3) The requirements specified in Section PRP.7.14.020(d)(1) and (b) above, may be waived by the Housing Authority in extraordinary circumstances.

(4) Unless so waived, failure to make the aforementioned payments shall result in termination of the grievance procedure.

(5) Upon settlement of the dispute by decision of the Executive Director, the funds so deposited in said escrow account shall be distributed as per the decision.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.14.020 was formerly codified as XI LCOTCL §7.1402

PRP.7.14.030 Grievance Hearing Procedure

(a) The hearing shall be held before the Executive Director.

(b) The complainant shall be afforded a fair hearing providing the basic safeguards of due process which shall include:

(1) The opportunity to examine before the hearing and, at the expense of complainant, to copy all documents, records and regulations of the Authority that are relevant to the hearing. Any document not so made available after request therefore by the complainant may not be relied on by the Authority at the hearing.

(2) The right to be represented by counsel or another person chosen as his/her representative.

(3) The right to a private hearing unless the complainant requests a public hearing, but this shall not be construed to limit the attendance of persons with a valid interest in the proceedings.

(4) The right to present evidence and arguments in support of his/her complaint, to controvert evidence relied on by the Authority, and to confront and cross examine all witnesses on whose testimony or information the Authority relies.

(5) A decision based solely and exclusively upon the facts presented at the hearing.

(c) The Executive Director may render a decision without proceeding with the hearing if the Executive Director determines that the issue has been previously decided in another proceeding.

(d) If the complainant fails to appear at the scheduled hearing, the Executive Director may make a determination to postpone the hearing for not to exceed five business days or may make a determination that the party has waived his/her right to a hearing. The complainant shall be notified of the determination by the Executive Director; provided, that a determination that the complainant has waived his right to a hearing shall not constitute a waiver of any right the complainant may have to contest the Authority's disposition of the grievance in an appropriate judicial proceeding.

(e) At the hearing, the complainant must first make a showing of an entitlement of the relief sought. The Authority must sustain the burden of justifying the Authority action or failure to act against which the complaint is directed.

(f) The hearing shall be conducted informally and oral or documentary evidence pertinent to the facts and issues raised by the complaint may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings. The Executive Director shall require the complainant, counsel and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the Executive Director to obtain order may result in exclusion from the proceedings or in a decision adverse to the interests of the disorderly party and granting or denial of the relief sought as appropriate.

(g) The complainant may arrange, in advance and at his/her own expense, for a transcript of the hearing. Any interested party may purchase a copy of the transcript.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

* §PRP.7.14.030 was formerly codified as XI LCOTCL §7.1403

PRP.7.14.040 Grievance Hearing Decision

(a) The decision of the Executive Director shall be based solely and exclusively upon evidence presented at the hearing and upon applicable Authority and HUD regulations, federal and tribal law.

(b) The Executive Director shall prepare a written decision, including a statement of findings and conclusions, as well as the reasons therefore, within a reasonable time after the hearing. A copy of the decision shall be sent to the complainant. The Authority shall retain a copy of the decision in the complainant's folder. A copy of such decision, with names and identifying references deleted, shall be maintained on file by the Authority and made available for inspection by a prospective complainant, or his/her representative.

(c) The decision of the hearing panel shall be binding on the Authority which shall take all actions, or refrain from any actions, necessary to carry out the decision.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.14.040 was formerly codified as XI LCOTCL §7.1404

PRP.7.14.050 Effect of Grievance Hearing Decision

The Executive Director's disposition of the grievance shall be final, however a decision by the Executive Director in favor of the Authority or which denies the relief requested by the complainant in whole or in part shall not constitute a waiver of, nor affect in any manner whatever any rights the complainant may have to any judicial proceedings, which may thereafter be brought in the matter.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.14.050 was formerly codified as XI LCOTCL §7.1405

PRP.7.14.060 Exclusions of Eviction Related Grievances

The provisions of this subchapter do not apply to eviction actions which are covered by Subchapter PRP.7.6 of this ordinance.

(Res. No. 18-71; Res. No. 17-46; Res. No. 15-95)

Prior Codifications

- §PRP.7.14.060 was formerly codified as XI LCOTCL §7.1406

Chapter PRP.9
Homeowner Assistance Fund Policies and Procedures of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians

PRP.9.1 General Provisions ..... PRP.9.1-**Error! Bookmark not defined.**
PRP.9.2 Definitions ..... PRP.9.2-**Error! Bookmark not defined.**
PRP.9.3 Authority and Administrations ..... PRP.9.3-**Error! Bookmark not defined.**
PRP.9.4 General Requirements ..... PRP.9.4-**Error! Bookmark not defined.**
PRP.9.5 Application Procedures ..... PRP.9.5-**Error! Bookmark not defined.**
PRP.9.6 HAF Program Participation ..... PRP.9.6-**Error! Bookmark not defined.**
PRP.9.7 HAF Program Management ..... PRP.9.7-**Error! Bookmark not defined.**
PRP.9.8 Use and Management of Funds ..... PRP.9.8-**Error! Bookmark not defined.**

Preamble

This ordinance is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians to provide for the decent, safe and sanitary dwellings for the members 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 (b), (c) and (h) of the Amended Constitution and Bylaws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, empowers the Tribal Governing Board to: "prevent the sale, disposition, lease, or encumbrance of tribal lands, interests in lands, or other assets" Article V, § (b); to "negotiate, make and perform contracts and agreements of every description, not inconsistent with law or with any provisions of this Constitution, with any person, association, or corporation, with any county, or with the State of Wisconsin or the United States" Article V, § (c); to "engage in any business that will further the social or economic well-being of members of the Band or undertake any programs or projects designed for the economic advancement of the people" Article V, § (h). Pursuant to this inherent sovereign authority, the Tribal Governing Board hereby establishes the following Homeowner Assistance Fund Policies and Procedures, as established in conformity with guidance regarding the Homeowner Assistance Fund (HAF), as established under section 3206 of the American Rescue Plan Act of 2021 (the ARPA) and to the amended Title VI of the Social Security Act sections 602 and section 603 which established the State and Local Fiscal Recovery Funds (SLRF).

Subchapter PRP.9.1
General Provisions

PRP.9.1.010 Title..... PRP.9.1-**Error! Bookmark not defined.**
PRP.9.1.020 Authority..... PRP.9.1-**Error! Bookmark not defined.**
PRP.9.1.030 Purpose..... PRP.9.1-**Error! Bookmark not defined.**
PRP.9.1.040 Application..... PRP.9.1-**Error! Bookmark not defined.**
PRP.9.1.050 Effective Date..... PRP.9.1-**Error! Bookmark not defined.**
PRP.9.1.060 Interpretation ..... PRP.9.1-**Error! Bookmark not defined.**
PRP.9.1.070 Severability and Non-Liability ..... PRP.9.1-**Error! Bookmark not defined.**

PRP.9.1.010 Title

This ordinance shall be known as the Homeowner Assistance Fund Policies and Procedures of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(Res. No. 2024-102)

Prior Codifications

* §PRP.9.1.010 was formerly codified as XI LCOTCL §9.101

PRP.9.1.020 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 (b), (c), (h) and (n) of the Amended Constitution and Bylaws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, empowers the Tribal Governing Board to: "prevent the sale, disposition, lease, or encumbrance of tribal lands, interests in lands, or other assets" Article V, § (b); to "negotiate, make and perform contracts and agreements of every description, not inconsistent with law or with any provisions of this Constitution, with any person, association, or corporation, with any county, or with the State of Wisconsin or the United States" Article V, § (c); to "engage in any business that will further the social or economic well-being of members of the Band or undertake any programs or projects designed for the economic advancement of the people" Article V, § (h); and "to regulate, by enactment of ordinances, the conduct of business within the territory of the band" Article V, § (n). The Homeowner Assistance Fund (HAF) was established to mitigate financial hardships associated with the coronavirus pandemic by providing funds for the purpose of preventing homeowner mortgage delinquencies, defaults, foreclosures, loss of utilities or home energy services, and displacements of

homeowners experiencing financial hardship after January 21, 2020, through qualified expenses related to mortgages and housing.

(Res. No. 2024-102)

Prior Codifications

- §PRP.9.1.020 was formerly codified as XI LCOTCL §9.102

PRP.9.1.030 Purpose

It is the purpose of this ordinance to administer the HAF program in a manner that provides for the fair and equitable assistance to all eligible persons who apply for assistance, and provide a means to assure that the Tribe's actions are in full compliance with standards applicable to the Homeowner Assistance Funds ("HAF Program Funds") received from the U.S. Treasury pursuant to Section 3206 of the American Rescue Plan Act of 2021, P.L. No. 117-2 (March 11, 2021) and to the amended Title VI of the Social Security Act sections 602 and section 603 which established the State and Local Fiscal Recovery Funds.

(Res. No. 2024-102)

Prior Codifications

- §PRP.9.1.030 was formerly codified as XI LCOTCL §9.103

PRP.9.1.040 Application

This ordinance shall govern all applications for assistance for HAF Program for qualified expenses that are only for the purpose of preventing homeowner mortgage delinquencies, homeowner mortgage defaults, homeowner mortgage foreclosures, homeowner loss of utilities or home energy services, and displacements of homeowners experiencing financial hardship.

Assistance to be provided under the HAF Program is subject to the availability of funds. No applicant or household determined to be eligible is entitled to or has a property right to receive funding under the HAF Program. When funding for the HAF Program is fully expended, the HAF Program will terminate and this ordinance shall be repealed. These Policies and Procedures are based on, and the HAF Program will be carried out, in reliance upon and in accordance with the April 14, 2021, guidance document from the Department of Treasury (entitled "Homeowner Assistance Fund Guidance"), along with any future modification, clarification, or supplementation which the Treasury may provide. These Policies and Procedures, and the administration of the HAF Program shall be subject to change if and when additional guidance is provided.

The period of performance for the award of HAF funds begins on the date the Tribe's Financial Assistance Agreement was executed and ends on December 31, 2026. The Tribe

shall not incur any obligations to be paid with the funding from this award after such period of performance ends.

(Res. No. 2024-102)

Prior Codifications

* §PRP.9.1.040 was formerly codified as XI LCOTCL §9.104

PRP.9.1.050 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. 2024-102)

Prior Codifications

* §PRP.9.1.050 was formerly codified as XI LCOTCL §9.105

PRP.9.1.060 Interpretation

The provisions of this Ordinance:

(a) Shall be interpreted and applied as minimum requirements applicable to all;

(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 not be construed as waiving the Tribe's inherent sovereign authority.

(Res. No. 2024-102)

Prior Codifications

* §PRP.9.1.060 was formerly codified as XI LCOTCL §9.106

PRP.9.1.070 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. 2024-102)

Prior Codifications

* §PRP.9.1.070 was formerly codified as XI LCOTCL §9.107

Subchapter PRP.9.2
Definitions

PRP.9.2.010 General Definitions ..... PRP.9.2-**Error! Bookmark not defined.**

PRP.9.2.010 General Definitions

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

(a) **"100% of the Area Median Income"** for a household means two times the income limit for very low-income families, for the relevant household size, as published by the Department of Housing and Urban Development (HUD) in accordance with 42 U.S.C. 1437a(b)(2) for purposes of the HAF Program.

(b) **"100% of the Median Income for the United States"** means the median income of the United States, as published by HUD.

(c) **"150% of the Area Median Income"** for a household means three times the income limit for very low-income families, for the relevant household size, as published by HUD in accordance with 42 U.S.C. 1437a(b)(2) for purposes of the HAF Program.

(d) **"Applicant"** a homeowner who applies for assistance pursuant to this ordinance.

(e) **"ARPA"** means the American Rescue Plan Act.

(f) **"ARPA Program Manager"** means the person employed by the Lac Courte Oreilles Tribe to administer the American Rescue Act Plan programs on behalf of the Band.

(g) **"Broadband Internet Access Service"** in 47 CFR 8.1(b) is "a mass market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up internet access service. This term also encompasses any service that the [Federal Communications] Commission finds to be providing a functional equivalent of the service described in the previous sentence or that is used to evade the protections set forth in this part."

(h) **"Conforming Loan Limit"** means the applicable limitation governing the maximum original principal obligation of a mortgage secured by a single-family residence, a mortgage by a 2- family residence, a mortgage secured by a 3-family residence, or a mortgage secured

by a 4- family residence, as determined and adjusted annually under section 302(b)(2) of the Federal Mortgage Association Charter Act (12 U.S.C. § 1717(b)(2) and section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 US.C. § 1454(a)(2).

(i) **"COVID-19"** the viral disease known as SARS- CoV-2.

(j) **"Dwelling"** means any building, structure, or portion thereof that is occupied as, or designed or intended for occupancy as, a residence by one or more individuals.

(k) **"Eligibly Entity"** under the Homeowner Assistance Fund means (1) a state, (2), the Department of Hawaiian Home Lands, (3) each Indian tribe (or, if applicable, the tribally designated housing entity of an Indian tribe) that was eligible for a grant under Title I of the Native American Housing Assistance and Self- Determination Act of 1996 (25 U.S.C. § 4111 et seq.) for fiscal year 2020, and (4) any Indian tribe that opted out of receiving a grant allocation under the Native American Housing Block Grants program formula in fiscal year 2020.

(l) **"Eligible Homeowner"** means for the purpose of this chapter, an enrolled tribal member of the tribe and they own a pre-existing primary dwelling located on the reservation.

(m) **"Financial Hardship"** means a material reduction in income or material increase in living expenses associated with the coronavirus pandemic that has created or increased a risk of mortgage delinquency, mortgage default, foreclosure, loss of utilities or home energy services, or displacement for a homeowner.

(n) "**Household**" means for the purpose of this chapter a family unit occupying a primary dwelling on the reservation of which the head of household, or the dwelling owner, must be an enrolled member of the tribe.

(o) **"Indian Tribe"** means a tribe that is a federally recognized tribe or a "State recognized tribe" as those terms are defined in NAHASDA, 25 U.S.C. 4103(13).

(p) **"Mortgage"** means any credit transaction (1) that is secured by a mortgage, deed of trust, or other consensual security interest on a principal residence of a borrower that is (a) a one- to four-unit Dwelling, or (b) a residential real property that includes a one- to four-unit Dwelling; and (2) the unpaid principal balance of which was, at the time of origination, not more than the conforming loan limit. For purposes of this definition, the conforming loan limit means the applicable limitation governing the maximum original principal obligation of a mortgage secured by a single-family residence, a mortgage secured by a two-family residence, a mortgage secured by a three-family residence, or a mortgage secured by a four- family residence, as determined and adjusted annually under section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2))

and section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)).

(q) **"Obligation"** means a contract or purchase action such as a new contract, modification, change order, interagency agreement, interdepartmental agreement, application for services or benefits, purchase order or any customary means that obligates the Tribe to pay a contractor or vendor; provided, that such contract or purchase action is approved by the Tribal Governing Board or otherwise authorized by an individual to whom the Tribe has expressly delegated the authority to make such an obligation.

(r) "**Primary Dwelling**" means a residence or dwelling which is located on the reservation and is owned by an enrolled member of the tribe.

(s) "**Qualified Expenses**" means any determination by the ARPA manger that is deemed compliant under this chapter in furtherance of the purpose of the HAF program. Expenses that are not eligible will be projects that cannot be competed under the terms of the chapter, including additional costs, extensive additional repairs beyond the scope of the original determination by the AARPA manager.

(t) "**Reasonable Repair**' for the purposes of this chapter a reasonable repair is a repair to a primary dwelling that is necessary for the safety and health of the occupants. A repair that cannot be completed under the requirements of this chapter shall be deemed to be unreasonable and thus not eligible. Repairs that require additional work outside the scope of the original repair is ineligible. Any repairs that damage or otherwise leave the primary dwelling or building unsafe for the inhabitants shall be deemed ineligible.

(u) **"Secretary"** means the Secretary of the U.S. Department of Treasury, except where otherwise indicated.

(v) **"Socially Disadvantaged Individuals"** means those who have been subject to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities. The social disadvantage must stem from circumstances beyond their control. There is a rebuttable presumption that the following individuals are socially disadvantaged: Black Americans, Hispanic Americans, Native Americans, and Asian Americans and Pacific Islanders. In addition, an individual may be determined to be a socially disadvantaged individual in accordance with the procedures set forth in 13 C.F.R. § 124.103(c) or (d).

(w) **"State and Local Fiscal Recovery Funds"** means the program that was established by sections 602 and section 603 of Title VI of the Social Security Act which provides support to State, local, territorial, and Tribal governments to mitigate the fiscal effects of the COVID-19 public health emergency.

(x) **"Treasury"** means the U.S. Department of Treasury.

(y) **"Tribal Member"** means aa enrolled member of the Lac Courte Oreilles Indian Tribe.

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

(Res. No. 2024-102)

Prior Codifications

- §PRP.9.2.010 was formerly codified as XI LCOTCL §9.201

Subchapter PRP.9.3
Authority and Administrations

PRP.9.3.010 General ..... PRP.9.3-**Error! Bookmark not defined.**
PRP.9.3.020 Delegation of Authority ..... PRP.9.3-**Error! Bookmark not defined.**
PRP.9.3.030 Responsibility of the ARPA Program Manager ..... PRP.9.3-**Error! Bookmark not defined.**

PRP.9.3.010 General

This subchapter discusses the authority for program activity and delegation of the administration of the HAF program function.

(Res. No. 2024-102)

Prior Codifications

- §PRP.9.3.010 was formerly codified as XI LCOTCL §9.301

PRP.9.3.020 Delegation of Authority

(a) Generally, this ordinance delegates responsibility for administration of the HAF Program functions to the Tribal Governing Board (hereinafter "TGB"). As established in Article V(1)(c) of the Lac Courte Oreilles Constitution and Bylaws dated November 2, 1966, the TGB has the power to "negotiate, make and perform contracts and agreements of every description," including this HAF ordinance.

(b) The TGB hereby appoints and delegates authority and the administration of this ordinance to the ARPA Program Manager when performing such functions, regardless of any other job, position or title the individual appointed may have. The ARPA Program Manager shall issue operational procedures, including procedures for the processing of applications and requisitions to implement this ordinance. Violation of this ordinance, including the ethical standards, shall constitute insubordination and shall be subject to disciplinary action (which may include suspension and/or termination) by the TGB.

(Res. No. 2024-102)

Prior Codifications

- §PRP.9.3.020 was formerly codified as XI LCOTCL §9.302

PRP.9.3.030 Responsibility of the ARPA Program Manager

Pursuant to the delegated authority established in this ordinance, it is the responsibility of the ARPA Program Manager or their designee to:

(a) Use sound judgment in accomplishing the HAF Program activities for the Tribe; and

(b) Ensure that applicants receive fair, impartial, and equitable treatment; and

(c) Ensure that program actions comply with all applicable Tribal and Federal laws and rules and with this ordinance.

(d) to Ensure that all grant expenditures of the HAF Program are spent to maximize the available grant funds to the Program and in turn, to tribal members.

(Res. No. 2024-102)

Prior Codifications

* §PRP.9.3.030 was formerly codified as XI LCOTCL §9.303

Subchapter PRP.9.4
General Requirements

PRP.9.4.010 Application..... PRP.9.4-**Error! Bookmark not defined.**
PRP.9.4.020 Participation..... PRP.9.4-**Error! Bookmark not defined.**
PRP.9.4.030 Qualified Expenses..... PRP.9.4-**Error! Bookmark not defined.**
PRP.9.4.040 Duplication of Assistance..... PRP.9.4-**Error! Bookmark not defined.**
PRP.9.4.050 Eligibility Requirements..... PRP.9.4-**Error! Bookmark not defined.**
PRP.9.4.060 Income Determination ..... PRP.9.4-**Error! Bookmark not defined.**
PRP.9.4.070 Documentation of Income Determination PRP.9.4-**Error! Bookmark not defined.**
PRP.9.4.080 Waiver or Exception to Documentation Requirement...PRP.9.4-**Error! Bookmark not defined.**

HAF Program Funds shall only be used to provide financial assistance to Eligible Homeowners to use for qualified expenses for the uses set forth herein and in accordance with the terms of this Policy.

PRP.9.4.010 Application

To participate in the HAF Program, a Homeowner must first submit a complete, written Application to the ARPA Manager. This Application must include all required information, as described herein.

(Res. No. 2024-102)

Prior Codifications

- §PRP.9.4.010 was formerly codified as XI LCOTCL §9.401

PRP.9.4.020 Participation

If an Applicant is approved for participation in the HAF Program, they must then submit information and supporting documentation each month for which they seek continued HAF Program Funds, unless such payments are to be provided for a 3-month period, for which the Applicant must provide such information for the 3-month period.

(Res. No. 2024-102)

Prior Codifications

- §PRP.9.4.020 was formerly codified as XI LCOTCL §9.402

PRP.9.4.030 Qualified Expenses

For the purposes of this chapter the maximum amount of assistance for each tribal member and for each primary dwelling shall not exceed $30,000. The eligible tribal member

may not receive the total maximum amount. The maximum benefit is based on the eligible and reasonable repairs as deemed by the ARPA Program manager and subject to review by the Tribal Governing Board.

HAF Program Funds may only be used for the following types of qualified expenses that are for the purpose of preventing the displacement of homeowners experiencing financial hardship, after January 21, 2020:

(a) Mortgage payment assistance. The Lac Courte Oreilles Tribe will provide full or partial payment assistance to homeowners unable to make full mortgage payments due to a continuing financial hardship associated with the Coronavirus pandemic. HAF funds will be used to reduce a homeowner's monthly mortgage/loan payments for a period up to 12 months or until the Maximum Amount of Assistance is reached. HAF funds will only be used to supplement other loss mitigation measures offered by the servicer or where HAF funds are necessary for the homeowner to qualify for other such loss mitigation measures. Funds will be paid, as applicable, to the mortgage servicer or other third-party payee authorized by the servicer, or other third party authorized to collect eligible charges in accordance with reinstatement instructions received from the payee.

(b) Payment assistance for delinquent property taxes to prevent homeowner tax foreclosures. Payment assistance will be provided for delinquent property taxes to prevent homeowner tax foreclosures. Funds will be paid to resolve any property charge default that threatens a homeowner's ability to sustain ownership of the property, whether concurrently with other loss mitigation options offered by the loan servicer or in conjunction with other assistance programs. HAF Funds may be used to brought current by program assistance or resolved concurrently with the program providing assistance. Funds may also be used to pay property charges coming due in the 90 days following program approval. Funds will be paid directly to the appropriate County Office.

(c) Measures to prevent homeowner displacement, such as home repairs to maintain the habitability of a home or assistance to enable homeowners to age in place.

Each Homeowner will be eligible with respect to the applicant's primary residence, including a dwelling to be made habitable so it may serve as the homeowner's primary residence, or improvements that allow a senior to age in place. Assistance will be provided to homeowners to ensure the habitability of the home through reasonable repairs and other renovations that increase the useful life of the dwelling and reasonable home repair expenses to the homeowner's primary residence as necessary to restore the property to habitable condition or to resolve housing/property code violations. HAF Funds may be used to pay the reasonable cost of repairs necessary to address property conditions, including pre-development costs, necessary architectural or engineering fees, construction oversight, or other costs incidental but necessary to the completion of the eligible scope of work. The

Tribe will utilize HAF administrative funds to provide technical assistance to the homeowner (e.g., identifying and contracting for the necessary repair work).

Eligible Property Conditions:

● Property will continue to be the applicant's owner-occupied primary residence once the repairs are made.

● Properties that have outstanding violations may receive assistance if corrections are addressed before funding or are included in the scope of work funded by the program.

● Housing deficiencies or conditions exist which may be hazardous to occupants/residents,

● Property has a code violation or other citation, or is in danger of being cited or condemned, without the necessary repair,

● Property is uninhabitable or condemned and the repair is necessary to make the home habitable, OR

● Home improvements are necessary to improve accessibility and help senior residents age in place.

● Repairs will be completed by a professional local contractor found to be qualified and reputable in accordance with reasonable criteria established by the Tribe;

● Copy of contract must be provided to the program for approval, or homeowners and contractors must use a program-approved contract template.

● Projects must comply with applicable building and other applicable code requirements.

Funds will be paid directly to the general contractor or entity responsible for the repairs/ installation upon satisfactory completion of the work. HAF technical assistance funds will be utilized to ensure reasonable oversight of the quality and completion of work will be performed before full payment is made.

(d) Reimbursement of funds expended by a state, local government, or entity described in clause (3) or (4) of the definition above of "eligible entity" during the period beginning on January 21, 2020, and ending on the date that the first funds are disbursed by the Tribe under the HAF Program, for a qualified expense (other than any qualified expense paid directly or indirectly by another federal funding source, or any qualified expenses described in clauses; and

(e) Planning, community engagement, needs assessment, and administrative expenses related to disbursement of HAF Program Funds for qualified expenses, in an aggregate amount not to exceed 15% of the funding from the HAF Program received by the Tribe.

(Res. No. 2024-102)

Prior Codifications

* §PRP.9.4.030 was formerly codified as XI LCOTCL §9.403

PRP.9.4.040 Duplication of Assistance

An Eligible Homeowner that occupies a Dwelling for which that Homeowner is receiving or has already received other federal assistance may receive HAF Program assistance, provided that HAF Program Funds are not applied to costs that have been or will be reimbursed under any other federal assistance. To the extent feasible, the Tribe will ensure that any financial assistance provided to an Eligible Homeowner pursuant to the HAF Program Funds is not duplicative of any other Federally funded rental assistance provided to such Homeowner.

If an Eligible Homeowner receives homeowner assistance other than through the HAF Program, the HAF Program Funds may only be used to pay for costs that are not paid for by the other homeowner assistance. When providing HAF Program Funds, staff must review the Eligible Homeowner's income and sources of assistance to confirm that the HAF Program Funds do not duplicate any other assistance, including federal, state, and local assistance provided for the same costs.

(Res. No. 2024-102)

Prior Codifications

* §PRP.9.4.040 was formerly codified as XI LCOTCL §9.404

PRP.9.4.050 Eligibility Requirements

In order to be eligible to apply for the HAF Program, at the time the Applicant applies to the HAF Program, the Applicant must meet the following eligibility requirements:

(a) The home must be located within the Lac Courte Oreilles Indian Reservation.

(b) The home must be a primary dwelling that has been owned and occupied prior to March 2020.

(c) Dwellings that are finished after this date must be fully completed, occupied and operational.

(d) Eligible applicants whose income exceeds 150% of the area median income will be assisted with the Homeowner Assistance Program set-aside of the Tribe's ARPA funds.

(e) Land lots, non-primary dwelling, or dwelling under construction (initial construction) are not eligible for HAF funding under this chapter.

(f) The Applicant is a homeowner who has experienced a financial hardship after January 21, 2020 and have an income equal to or less than 150% of the area median income.

(g) The Applicant attests to the nature of the financial hardship experienced after January 21, 2020. The attestation must describe the nature of the financial hardship (for example, job loss, reduction in income, or increased costs due to healthcare or the need to care for a family member).

(h) HAF Program Funds received by an Applicant must only be used for qualified expenses set forth in these Policies and Procedures that are related to the Dwelling that is used as the homeowner's primary residence.

(Res. No. 2024-102; Res. No. 2022-47)

Prior Codifications

* §PRP.9.4.050 was formerly codified as XI LCOTCL §9.405

PRP.9.4.060 Income Determination

In determining the Income of a household for purposes of determining such household's eligibility for assistance from the HAF Program Funds, staff may use HUD's definition of "annual income" in 24 C.F.R. § 5.609 or use adjusted gross income as defined for purposes of reporting on Internal Revenue Service (IRS) Form 1040 series for individual federal annual income tax purposes.

(Res. No. 2024-102)

Prior Codifications

* §PRP.9.4.060 was formerly codified as XI LCOTCL §9.406

PRP.9.4.070 Documentation of Income Determination

Applicant must provide sufficient information under the circumstances to have a reasonable basis under the circumstances for purposes of determining if the income eligibility requirements in (1) above are met.

Two approaches for income verification are permissible:

(a) the household may provide a written attestation as to household income together with supporting documentation such as paystubs, W-2s or other wage statements, IRS Form 1099s, tax filings, depository institution statements demonstrating regular income, or an attestation from an employer; or

(b) the household may provide a written attestation as to household income and may use a reasonable fact-specific proxy for household income, such as reliance on data regarding average incomes in the household's geographic area. In implementing the HAF Program, the Tribe will avoid establishing documentation requirements that are likely to be barriers to participation for eligible households, including those with irregular incomes such as from a small business.

All applications must include some form of information attesting to their income for the past calendar year in order to determine eligibility. Failure to provide income attestation will result in an automatic denial for the application.

(Res. No. 2024-102)

Prior Codifications

* §PRP.9.4.070 was formerly codified as XI LCOTCL §9.407

PRP.9.4.080 Waiver or Exception to Documentation Requirement

The Tribe may provide a waiver or exception to documentation of income requirement as reasonably necessary to accommodate extenuating circumstances, such as disabilities, practical challenges related to the pandemic, or a lack of technological access by homeowners; in these cases, the Tribe is still responsible for making the required determination regarding household income and documenting that determination.

(Res. No. 2024-102)

Prior Codifications

* §PRP.9.4.080 was formerly codified as XI LCOTCL §9.408

Subchapter PRP.9.5
Application Procedures

PRP.9.5.010 Application Process ..... PRP.9.5-**Error! Bookmark not defined.**
PRP.9.5.020 Application Review..... PRP.9.5-**Error! Bookmark not defined.**
PRP.9.5.030 Preferences and Priorities ..... PRP.9.5-**Error! Bookmark not defined.**
PRP.9.5.040 Decision on Application..... PRP.9.5-**Error! Bookmark not defined.**
PRP.9.5.050 Denial of Application ..... PRP.9.5-**Error! Bookmark not defined.**
PRP.9.5.060 Appeal..... PRP.9.5-**Error! Bookmark not defined.**

PRP.9.5.010 Application Process

To participate in the HAF Program, an Applicant must first submit a complete, written Application on the forms provided by the Tribe, which are attached as Exhibits to this Policy. All information required to be on the forms must be completed, or the Application will be returned.

Applications for the HAF Program must be submitted to the Tribe by mailing or dropping off the Applications to the following address:

Lac Courte Oreilles Tribal Government

Attention: ARPA Team

13394 W. Trepania Road

Hayward, WI 54843

The Application must include the information prescribed on approved program forms.

Falsification and Investigation. If it is discovered that an Applicant has falsified his or her application, or otherwise abused the HAF Program, or if an Eligible Homeowner fails to notify the Tribe of changes to eligibility, the homeowner will be subject to penalties. Penalties will include ineligibility for continued participation in the HAF Program and repayment of the value of any benefit for which they were not eligible to receive. The Tribe shall have the right to seek such repayment through garnishment of the Recipient's wages or through a judgment from the Lac Courte Oreilles Tribal Court, or any other court with jurisdiction.

The Tribe shall retain the right to conduct a follow-up investigation into any self-attestations submitted or regarding any other documentation, at its own discretion, if it determines that the reliability or accuracy of the information provided is in doubt.

(Res. No. 2024-102)

Prior Codifications

- §PRP.9.5.010 was formerly codified as XI LCOTCL §9.501

PRP.9.5.020 Application Review

The staff member receiving the Application shall sign and date the Application when it is received at the Tribal or other offices.

(Res. No. 2024-102)

Prior Codifications

- §PRP.9.5.020 was formerly codified as XI LCOTCL §9.502

PRP.9.5.030 Preferences and Priorities

Applications will be reviewed and processed as they are received. However, in anticipation of receiving a substantial number of applications within a short period of time, and with a finite amount of funding available, the Tribe shall review and process Applications for HAF Program Funds under this Policy according to the following order of preferences, and in accordance with the HAF Plan submitted to, and approved by, the Secretary (of the Treasury).

(a) Elders, age 62 years or older, with a primary dwelling in their name or member of their household will be considered first priority including accessibility or unsafe living conditions

(b) Tribal Member homeowners who have Federal Housing Administration (FHA), Department of Veterans Affairs (VA), or U.S. Department of Agriculture (USDA) mortgages and Tribal Member homeowners who have mortgages made with the proceeds of mortgage revenue bonds or other mortgage programs that target low- and moderate-income borrowers will receive priority assistance;

(c) Not less than 60% of amounts made available to the Tribe must be used for qualified expenses that assist Eligible Tribal Member Homeowners having incomes equal to or less than 100% of the area median income or equal to or less than 100% of the median income for the United States, whichever is greater, utilizing the following preferences:

(1) First preference will be given to Eligible Tribal Member Homeowners who are an adult head of household.

(2) Second preference will be given to Eligible Homeowners that have at least one family member residing with them who is a Tribal Member.

(d) The remaining 40% of amounts made available to the Tribe will be used to assist Eligible Homeowners having incomes equal to or less than 150% of the area median income or equal to or less than 150% of the median income for the United States, whichever is greater prioritized to individuals utilizing the same preferences as set out in Section PRP.9.5.030(b) above.

(Res. No. 2024-102)

Prior Codifications

* §PRP.9.5.030 was formerly codified as XI LCOTCL §9.503

PRP.9.5.040 Decision on Application

Within fourteen (14) days of receipt of their Application, the Applicant will be notified of the decision to receive HAF Program Funds.

(Res. No. 2024-102)

Prior Codifications

* §PRP.9.5.040 was formerly codified as XI LCOTCL §9.504

PRP.9.5.050 Denial of Application

If upon initial review, the Tribe determines that the Applicant is not eligible or the request is outside of this Policy, or there are no longer any HAF Program Funds available, the Applicant will be notified in writing of this determination, the applicable policies which support the determination, and the process of appeal (if allowed by the Tribe).

(Res. No. 2024-102)

Prior Codifications

* §PRP.9.5.050 was formerly codified as XI LCOTCL §9.505

PRP.9.5.060 Appeal

Any Applicant who is dissatisfied with a decision concerning eligibility of assistance, the level of benefit approved, or the type of services available, can appeal that decision under the Tribe's appeal procedures for denial of services.

If the reason for the denial of the Application is that there are no longer any HAF Program Funds remaining, such denial is not subject to appeal.

(Res. No. 2024-102)

Prior Codifications

* §PRP.9.5.060 was formerly codified as XI LCOTCL §9.506

Subchapter PRP.9.6
HAF Program Participation

PRP.9.6.010 Documentation ..... PRP.9.6-**Error! Bookmark not defined.**

PRP.9.6.010 Documentation

Once an Applicant is approved for participation in the HAF Program, they must submit information and documentation of the qualified expenses for which they are seeking HAF Program Funds. Documentation requirements, other than that required for general eligibility, do not apply to those applicants whose income exceeds 150% of the area median income.

Applicants may initially submit the above information and documentation at the same time that they submit their initial program Application.

For Mortgage Assistance:

Same as general eligibility requirements, plus Statement of current inability to resume mortgage payments due to unemployment, underemployment or other continuing hardship. Documentation requirements: Evidence of total balance due from servicer.

Delinquent property taxes:

Same as general eligibility requirements plus: Homeowner is at least one installment payment in arrears on one or more property tax charges. Documentation requirements: Evidence of total balance due: current property tax bill or invoice.

Housing Stability Improvements:

Same as general eligibility requirements, plus: (1) At the time repairs begin, homeowner is current on other secured home payment obligations, on an active payment plan or forbearance, and/or getting related HAF assistance for those obligations. Homeowner will be able to afford applicable payments necessary to sustain homeownership (mortgage, taxes, insurance, association dues, etc.) after repairs are completed, based on a financial analysis established at the reasonable discretion of Grantee. (2) Homeowner does not qualify for or has not been able to access affordable home repair financing (self-attestation of applicant's efforts will satisfy). The Tribe will determine, based on a reasonable analysis of homeowner needs data, that homeowners meeting certain criteria (e.g., income at or below a percentage of AMI) are presumed to meet this requirement without requiring homeowner

attestation or documentation; and (3) Attestation of financial hardship that homeowner(s) has been impacted by COVID from January 21,2020 to present time.

(Res. No. 2024-102; Res. No. 2022-47)

Prior Codifications

* §PRP.9.6.010 was formerly codified as XI LCOTCL §9.601

Subchapter PRP.9.7
HAF Program Management

PRP.9.7.010 HAF Plan ..... PRP.9.7-**Error! Bookmark not defined.**
PRP.9.7.020 Maintenance of and Access to Records ... PRP.9.7-**Error! Bookmark not defined.**
PRP.9.7.030 Reporting Requirements ..... PRP.9.7-**Error! Bookmark not defined.**
PRP.9.7.040 Compliance with Applicable Laws and Regulations PRP.9.7-**Error! Bookmark not defined.**

PRP.9.7.010 HAF Plan

To receive HAF funds beyond the initial 10% payment described above, the Tribe must develop and submit a plan for its use of HAF funding. The Tribe's HAF plan will describe in detail the needs of Eligible Homeowners under this ordinance, the design of each program the Tribe proposes to implement using HAF funds, performance goals, and information regarding the Tribe's readiness to implement the programs. Treasury encourages the Tribe to post draft HAF plans for public comment and hold public hearings. The Tribe will receive funds under the HAF only after Treasury approves a HAF plan. It is expected that Treasury will provide a template for the HAF plan, which is expected to include the elements described in Treasury's HAF Guidance, dated April 14, 2021(Homeowner Needs and Engagement; Program Design; Performance Goals; Readiness; Budget). Notwithstanding anything else in this paragraph, the Tribe will begin implementing the HAF Program upon adoption of the policies and procedures in this ordinance, utilizing the initial 10% payment of HAF funds.

By September 30, 2021, the Tribe must submit to Treasury a completed HAF plan or a date by which a HAF plan will be submitted.

(Res. No. 2024-102)

Prior Codifications

* §PRP.9.7.010 was formerly codified as XI LCOTCL §9.701

PRP.9.7.020 Maintenance of and Access to Records

The Tribe must create and maintain a set of files for the HAF Program separate from all other tribal programs. If any Eligible Homeowner participates in another housing program, there must be a separate file maintained specifically for the HAF Program.

The Tribe shall maintain records and financial documents sufficient to evidence compliance with Section 3206 of the American Rescue Plan Act of 2021 and applicable Guidance regarding the eligible uses of funds.

The U.S. Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of the Tribe in order to conduct audits or other investigations.

The Tribe shall maintain records for a period of five (5) years after all funds have been expended or returned to the Treasury.

(Res. No. 2024-102)

Prior Codifications

* §PRP.9.7.020 was formerly codified as XI LCOTCL §9.702

PRP.9.7.030 Reporting Requirements

The Tribe agrees to comply with any reporting obligations established by Treasury related to the HAF Program and acknowledges that any such information required to be reported may be publicly disclosed.

The Tribe will submit quarterly reports to Treasury that include financial data, targeting data, and other information, in compliance with upcoming Treasury Guidance. The Tribe will be subject to the reporting requirements under 2 C.F.R. Part 200, and will also submit an annual program report to Treasury regarding the impact of the HAF Program.

(Res. No. 2024-102)

Prior Codifications

* §PRP.9.7.030 was formerly codified as XI LCOTCL §9.703

PRP.9.7.040 Compliance with Applicable Laws and Regulations

In carrying out the activities funded by the HAF Program Funds, the Tribe will comply with the following laws and regulations.

(a) Section 3206 of the American Rescue Plan Act of 2021 relating to the HAF Program and any guidance on the HAF Program issued by Treasury.

(b) The ARPA amended Title VI of the Social Security Act which added sections 602 and 603 that established the State and Local Fiscal Recovery Funds (SLRF).

(c) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as the Secretary may determine are inapplicable to the HAF Program Funds and subject to such exceptions as may be otherwise provided by the Secretary. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to the HAF Program Funds.

(d) Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25 and pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.

(e) Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.

(f) OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180 (including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and the Treasury's implementing regulation at 31 C.F.R. Part 19.

(g) Title VI of the Civil Rights Act of 1964 and the Fair Housing Act, which prohibit discrimination on the basis of race, color, national origin, sex, familial status, or disability, with the understanding, codified in regulation at 24 CFR 1000.12(d), that Tribes and TDHEs carrying out housing activities satisfy these requirements by their compliance with the Indian Civil Rights Act, 25 U.S.C. §§ 1301-1304 (ICRA), and with the further understanding that, as codified in 25 U.S.C. §§ 4114(b) and 4131(b), Tribes and TDHEs are permitted to use Indian and Tribal-specific preference in providing housing services, as well as in contracting and hiring.

(h) The non-discrimination requirements as applied under Section 504 of the Rehabilitation Act of 1973 and the Department of Housing and Urban Development implementing regulations at 24 CFR Part 8.

(i) The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.) and the Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance.

(j) Conflict of Interest. The Tribe agrees that it will maintain in effect a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) covering each activity funded under this award. The Tribe shall disclose in writing to Treasury any potential conflicts of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.

(k) False Statements. The Tribe understands that false statements or claims made in connection with the HAF Program award is a violation of federal criminal law and may result

in fines, imprisonment, debarment from participating in federal awards or contracts, and/or any other remedy available by law.

(Res. No. 2024-102)

Prior Codifications

- §PRP.9.7.040 was formerly codified as XI LCOTCL §9.704

Subchapter PRP.9.8
Use and Management of Funds

PRP.9.8.010 Use of Funds ..... PRP.9.8-**Error! Bookmark not defined.**
PRP.9.8.020 Initial Payment ..... PRP.9.8-**Error! Bookmark not defined.**
PRP.9.8.030 Program Limitations ..... PRP.9.8-**Error! Bookmark not defined.**
PRP.9.8.040 Debts Owed to the Federal Government . PRP.9.8-**Error! Bookmark not defined.**
PRP.9.8.050 Right to Rescind Eligibility of a Qualified Homeowner...PRP.9.8-**Error! Bookmark not defined.**

PRP.9.8.010 Use of Funds

The Tribe understands and agrees that the HAF Program Funds may only be used for the purposes set forth in Section 3206 of the American Rescue Plan Act of 2021 and the Guidance for the Homeowner Assistance Fund issued by Treasury on April 14, 2021, as amended from time to time, Title VI of the Social Security Act's section 602 and 603, Compliance and Reporting Guidance for SLRF, 31 CFR Part 35 Interim Rule for SLRF, and any other guidance issued by Treasury regarding the HAF and SLRF.

(Res. No. 2024-102)

Prior Codifications

* §PRP.9.8.010 was formerly codified as XI LCOTCL §9.801

PRP.9.8.020 Initial Payment

Treasury will make initial payments from the HAF Program available to eligible entities that are approved to participate in the HAF Program, in an amount equal to 10% of the total amount allocated to the eligible entity. In order to receive this initial payment, The Tribe must (1) enter into the financial assistance agreement with Treasury described above, and (2) commit to use the funds only for qualified expenses other than subsection (9) of the "Qualified Expenses" section above. Treasury will make payments to the Tribe, or an agency of the eligible entity identified on the eligible entity's notice of funds request. No more than 50% of the initial payment may be used for planning, community engagement, needs assessment, and administrative expenses described in subsection (10) of the "Qualified Expenses" section above. An eligible entity that elects not to receive this initial payment may receive its allocated funds after Treasury approves its HAF plan. Treasury encourages HAF participants to use these initial payments to create or fund pilot programs to serve

targeted populations, and to focus on programs that are most likely to deliver resources most quickly to targeted populations, such as mortgage reinstatement programs.

(Res. No. 2024-102)

Prior Codifications

* §PRP.9.8.020 was formerly codified as XI LCOTCL §9.802

PRP.9.8.030 Program Limitations

(a) Counseling or Educational Costs. The Tribe may not use more than 5% of the total amount of HAF Program Funds for counseling or educational efforts by housing counseling agencies approved by HUD, or legal services, targeted to households eligible to be served with funding from the HAF Program related to foreclosure prevention or displacement unless allowable through SLRF funding.

(b) Administrative Costs. The Tribe may not use more than 15% of the total amount of HAF Program Funds for planning, community engagement, needs assessment, and administrative expenses related to the Tribe's disbursement of the HAF Program Funds for qualified expenses, in an aggregate amount unless allowable through SLRF funding.

(c) Expenditure of HAF Program Funds. Pursuant to Section 3206(c)(2), at least 60 percent of the total amount of HAF Program Funds received by the Tribe shall be used for qualified expenses that assist homeowners having incomes equal to or less than 100% of the area median income for their household size or equal to or less than 100% of the median income for the United States, as determined by the Secretary of Housing and Urban Development, whichever is greater.

(Res. No. 2024-102)

Prior Codifications

* §PRP.9.8.030 was formerly codified as XI LCOTCL §9.803

PRP.9.8.040 Debts Owed to the Federal Government

(a) Any funds paid to the Tribe that are in excess of the amount to which the Tribe is finally determined to be authorized to retain under the terms of this award, or funds that are determined by the Treasury Office of Inspector General to have been misused, constitute a debt to the federal government.

(b) Any debts determined to be owed the federal government must be paid promptly by the Tribe. A debt is delinquent if it has not been paid by the date specified in the Treasury's initial written demand for payment, unless other satisfactory arrangements have been made. Interest, penalties, and administrative charges shall be charged on delinquent debts in accordance with 31 U.S.C. § 3717 and 31 C.F.R. § 901.9. The Treasury will refer any debt that is more than 180 days delinquent to the Treasury's Bureau of the Fiscal Service for debt collection services.

(c) Penalties on any debts shall accrue at a rate of not more than 6 percent per year or such other higher rate as authorized by law. Administrative charges, that is, the costs of processing and handling a delinquent debt, shall be determined by the Treasury.

(d) Funds for payment of a debt must not come from other federally sponsored programs.

(Res. No. 2024-102)

Prior Codifications

* §PRP.9.8.040 was formerly codified as XI LCOTCL §9.804

PRP.9.8.050 Right to Rescind Eligibility of a Qualified Homeowner

(a) The tribe reserves the right to rescind the eligibility of any qualified homeowner or potential eligible recipient if the application or use of funds is deemed to be non-conforming to the purpose of this policy. The ARPA Program Manager shall make this determination and recommendation to the TGB. The TGB decision in rescinding any eligibility may be subject to appeal. If the funds for the HAF program are expended, the appeal shall be void as a matter of law.

(b) If any recipient of HAF funds violates the terms of chapter, or interferes with the projects that are authorized under this program, the ARPA Program Manager may rescind the eligibility of the qualified homeowner and cancel any projects that may have approved. Any funds disbursed on behalf of a qualified homeowner that has been rescinded shall be the responsibility of the qualified homeowner. The tribe reserves the right to collect any funds disbursed under this chapter for any project that has been rescinded under this section and in compliance with the Tribe's Rules of Civil Procedure TCT.2.

(Res. No. 2024-102)

Prior Codifications

* §PRP.9.8.050 was formerly codified as XI LCOTCL §9.805

Chapter PRP.10
Leasing Code of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians

PRP.10.1 General Provisions ..... PRP.10.1-**Error! Bookmark not defined.**
PRP.10.2 Definitions ..... PRP.10.2-**Error! Bookmark not defined.**
PRP.10.3 General ..... PRP.10.3-**Error! Bookmark not defined.**
PRP.10.4 Environmental Reviews ..... PRP.10.4-**Error! Bookmark not defined.**
PRP.10.5 Enforcement ..... PRP.10.5-**Error! Bookmark not defined.**

Preamble

This Code is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians to provide a system for the Tribe to offer long term leasing options on trust land for the members of the Tribe and other individuals and entities that no longer requires the Secretary of Interior approval and restores inherent tribal sovereignty, 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, the Amended Constitution and Bylaws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, empowers the Tribal Governing Board to "promulgate and enforce ordinances. . . providing for the maintenance of law and order and the administration of justice…" (Article V, §§1(s)); to "manage, lease, permit or otherwise deal with tribal lands, interests in lands or other assets, and to purchase lands, or interests in lands, within or without the reservation" (Article V, § 1 (f)); and to "delegate to subordinate boards, officers, committees or cooperative associations which are open to all members of the Tribe 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 enacts this Code which shall establish the purposes, powers and duties of the Land Management Division and the system for leasing tribal trust lands. In any suit, action or proceeding involving the validity or enforcement of or relating to any of its leases, the Land Management Division shall be conclusively deemed to have become established and authorized to transact business and exercise its powers upon proof of the adoption of this Code. A copy of this Code duly certified by the Secretary/Treasurer of the Tribal Governing Board shall be admissible in evidence in any suit, action, or proceeding.

Subchapter PRP.10.1
General Provisions

PRP.10.1.010 Title..... PRP.10.1-**Error! Bookmark not defined.**
PRP.10.1.020 Authority..... PRP.10.1-**Error! Bookmark not defined.**
PRP.10.1.030 Declaration of Need ..... PRP.10.1-**Error! Bookmark not defined.**
PRP.10.1.040 Purpose..... PRP.10.1-**Error! Bookmark not defined.**
PRP.10.1.050 Territorial Applicability..... PRP.10.1-**Error! Bookmark not defined.**
PRP.10.1.060 Effective Date..... PRP.10.1-**Error! Bookmark not defined.**
PRP.10.1.070 Interpretation ..... PRP.10.1-**Error! Bookmark not defined.**
PRP.10.1.080 Severability and Non-Liability ..... PRP.10.1-**Error! Bookmark not defined.**
PRP.10.1.090 Relation to Other Laws ..... PRP.10.1-**Error! Bookmark not defined.**
PRP.10.1.100 Repeal of Inconsistent Tribal Ordinances..... PRP.10.1-**Error! Bookmark not defined.**
PRP.10.1.110 Amendment or Rescission ..... PRP.10.1-**Error! Bookmark not defined.**
PRP.10.1.120 No Waiver of Sovereign Immunity..... PRP.10.1-**Error! Bookmark not defined.**

PRP.10.1.010 Title

This Code shall be known as the Leasing Code of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(Res. No. 2023-12)

PRP.10.1.020 Authority

This Code is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians and pursuant to and in accordance with the Helping Expedite and Advance Responsible Tribal Homeowners Act of 2012 (HEARTH Act), 15 U.S.C. § 415. In the implementation of this inherent sovereign authority, the Amended Constitution and Bylaws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, empowers the Tribal Governing Board to "promulgate and enforce ordinances. . . providing for the maintenance of law and order and the administration of justice…" (Article V, §§1(s)); to "manage, lease, permit or otherwise deal with tribal lands, interests in lands or other assets, and to purchase lands, or interests in lands, within or without the reservation" (Article V, § 1 (f)); and to "delegate to subordinate boards, officers, committees or cooperative associations which are open to all members of the Tribe 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. 2023-12)

PRP.10.1.030 Declaration of Need

It is hereby declared;

(a) A code governing the leases of trust lands is necessary to govern the leasing of real property held in trust by the United States for the Lac Courte Oreilles Band of Lake Superior Chippewa;

(b) The Tribe has a crucial role and responsibility to provide Tribal Members with a sustainable, compatible method of leasing the Tribe's trust lands that clarifies the expectations and responsibilities between the lessor and lessee;

(c) The Tribe recognizes that the provision of land and improvements play a vital role in the successful function and use of the Tribe's lands; and

(d) The Tribe recognizes the need to exercise its inherent sovereign authority by opting out of the Secretary of Interior approval requirements for tribal leases.

(Res. No. 2023-12)

PRP.10.1.040 Purpose

The purposes of this Code are to:

(a) Establish uniform policies and procedure of the use of Tribal trust lands;

(b) Promote the efficient use of Tribal trust lands;

(c) Promote home ownership and access to credit for Tribal members;

(d) Ensure that interests in Tribal lands can be easily identified; and

(e) Protect the Tribe's long-term interests in its lands.

(Res. No. 2023-12)

PRP.10.1.050 Territorial Applicability

(a) This Code applies to the following transactions on Tribal trust lands made for any lawful purpose, including but not limited to, for agricultural purposes, business purposes, educational purposes, governmental purposes, recreational purposes, residential purposes, religious purposes, and wind and solar resource purposes:

(1) Leases, subleases, and assignments of Tribal trust land;

(2) Mortgages of leasehold interests involving Tribal trust land; and

(3) Amendment to the leases, subleases, assignments, and mortgages referred to in subparagraphs (a)(1) and (a)(2) of this Subsection.

(b) This Code does not apply to:

(1) Leases of land held in trust or restricted status for an individual Indian;

(2) Leases of unrestricted fee simple land;

(3) Leases of fractionated interests in land;

(4) Mortgages of Tribal trust lands or fee lands; or

(5) Mineral leases.

(Res. No. 2023-12)

PRP.10.1.060 Effective Date

The provisions of this code shall be effective on approval by the Secretary of Interior and upon the date ratified by the Tribal Governing Board.

(Res. No. 2023-12)

PRP.10.1.070 Interpretation

The provisions of this Code:

(a) Shall be interpreted and applied as minimum requirements applicable to the leasing of trust lands subject to this Code;

(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 liberally interpreted and construed to implement the Helping Expedite and Advance Tribal Home Ownership Act of 2012 ("HEARTH Act"), 15 U.S.C. § 415, by establishing a process which shall not require the approval of the Secretary of the Interior if the lease is executed pursuant to the terms of this Code.

(e) Shall not be deemed to expand or limit the authority or responsibility of the Secretary of Interior beyond that provided for under applicable federal statutes or regulations.

(f) 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 Code, 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 Court may use tribal law, federal law.

(Res. No. 2023-12)

PRP.10.1.080 Severability and Non-Liability

If any section, provision, or portion of this Code is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Code shall not be affected thereby.

(Res. No. 2023-12)

PRP.10.1.090 Relation to Other Laws

(a) Applicable Law. Unless affected or displaced by this Code, principles of law and equity in the common law of the Tribe and tribal customs and traditions are applicable, and the general principles of law of any other Tribe or any other state may be used as a guide to supplement and interpret this Code.

(b) Other Applicable Laws. Additional tribal and federal laws may apply, including but not limited to tribal housing and real property laws and regulations.

(c) Conflicts with Other Laws.

(1) Tribal Law. To the extent that this Code may conflict with tribal laws or ordinances this ordinance shall govern and take precedence over the provisions of the conflicting ordinance.

(2) Federal Law. Where a conflict may appear between this Code and any statute, regulation, or agreement of the United States, the federal law shall govern if it has specific applicability and if it is clearly in conflict with the provisions of this Code.

(Res. No. 2023-12)

PRP.10.1.100 Repeal of Inconsistent Tribal Ordinances

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

(Res. No. 2023-12)

PRP.10.1.110 Amendment or Rescission

(a) The Tribal Governing Board may amend this Code as it deems necessary to protect the public health, safety, and welfare of the Lac Courte Oreilles reservation or its membership. The provisions of this Code may be amended from time to time by resolution of the Tribal Governing Board.

(b) Any amendment to this Code through resolution of the Tribal Governing Board is effective only if:

(1) the amendment is substantive and approved by the Secretary of the Interior; or

(2) the amendment is a minor technical amendment.

(Res. No. 2023-12)

PRP.10.1.120 No Waiver of Sovereign Immunity

Nothing in this Code shall be construed to constitute a waiver of the sovereign immunity of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians or consent to jurisdiction by any government or forum not expressly authorized to exercise jurisdiction under this Code. 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 Code.

(Res. No. 2023-12)

Subchapter PRP.10.2
Definitions

PRP.10.2.010 General Definitions ..... PRP.10.2-**Error! Bookmark not defined.**

PRP.10.2.010 General Definitions

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

(a) **"**A**gricultural Land"** means Tribal Trust Land suited or used for the production of crops, livestock, or other agricultural products, or a business that supports the surrounding agricultural community.

(b) **"Agricultural purposes"** means the purposes of farming, haying, raising livestock, or similar agricultural uses.

(c) **"Assignment"** means an agreement between a lessee and an assignee, whereby the assignee acquires all or some of lessee's rights, and assumes all or some of the lessee's obligations, under a lease.

(d) **"Band"** means the Lac Courte Oreilles Band of Lake Superior Chippewa.

(e) "**Best Interest of the Tribe"** means, but is not limited to, an outcome that is most favorable based on a balancing of interests undertaken in order to attain the highest economic income, increase economic development, preserve, and enhance the value of Tribal Trust Land, increase employment, and preserve the sovereignty of the Tribe.

(f) **"BIA"** means the Secretary of Interior of the Bureau of Indian Affairs within the Department of the Interior.

(g) **"Building"** is a structure, and any appurtenances or additions thereto, designed for habitation, shelter, storage, and the like.

(h) **"Business purposes"** means commercial purposes and use by for-profit and nonprofit organizations.

(i) **"Educational purposes"** means the purposes of delivering educational services.

(j) **"Governmental purposes"** means the purposes of delivering government services by the Tribe or conducting Tribal governmental functions.

(k) **"Lease"** means a written contract between the Tribe and a lessee, whereby the lessee is granted a right to possess Tribal land, for a specified purpose and duration. The lessee' s right to possess shall limit the Tribe's right to possess the leased premises only to the extent provided in the lease.

(l) **"Lessee"** means a person or entity who has acquired a right to possess the Tribe's lands by executing a Lease.

(m) **"Leasehold Estate"** means the possessory interest in the Tribe's land established pursuant to a Lease between a Lessor and a Lessee.

(n) **"Leasehold mortgage"** means a mortgage, deed of trust, or other instrument that pledges a lessee's leasehold interest as security for a debt or other obligation owed by the lessee to a lender or other mortgagee.

(o) **"Lessor"** means the Tribe or any of its Indian corporations chartered under section 17 of the Act of June 18, 1934 (48 Stat. 988; 25 U.S.C. 477), or any of their assigns.

(p) **"Livestock"** means those animals commonly associated with a farm or performing work in an agricultural setting. Such animals include horses, donkeys, mules, cattle, sheep, poultry, swine, goats, and other animals typically associated with a farm, ranch, or stable.

(q) **"LTRO"** means the Land Titles and Records Office of the Bureau of Indian Affairs within the United States Department of Interior.

(r) **"Mortgage"** means a lien on a Leasehold Estate given to secure advances on a loan to purchase, construct, refinance, or renovate a structure or improvement, and may refer both to a security instrument creating a lien, whether called a mortgage, deed of trust, security deed, or other term, as well as the credit instrument, or note, secured thereby.

(s) **"Mortgagee"** means any person, entity, or government agency which lends under a Leasehold Mortgage, and includes any assignee, or any heir, successor, executor, administrator, or assign thereof.

(t) **"Mortgagor"** means any person or entity who has executed a Leasehold Mortgage or assigned thereof.

(u) **"NEPA"** means the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*

(v) **"Permanent Improvements"** means buildings, other structures, and associated infrastructure attached to the Tribe's lands**.**

(w) **"Premises"** means any portion of Tribal Trust Land, as described in any lease, and any common areas and grounds appurtenant thereto.

(x) **"Public"** for the purposes of Subchapter 4 of this Code means any person or entity who can demonstrate that they shall be directly and substantially affected by the lease or lease activity.

(y) **"Real Property"** means the Tribe's Trust and Restricted Land.

(z) **"Recreational purposes"** means the purposes of camping, fishing, hunting, ATV use, snowmobile use, constructing and maintaining seasonal dwellings (such as cabins and hunting shacks), or similar recreational uses.

(aa) **"Residential purposes"** means the purposes of constructing or maintaining a residential house which the lessee shall use as their primary residence.

(bb) **"Restoration and reclamation plan"** means a plan that defines the reclamation, revegetation, restoration, and soil stabilization requirements for a project area, and requires the expeditious reclamation of construction areas and revegetation of disturbed areas to reduce invasive plant infestation and erosion.

(cc) **"Secretary"** means the Secretary of the Interior.

(dd) **"Significant Effect on the Environment"** means a substantial, or potentially substantial, adverse change in the environment, including land, air, water, minerals, flora, fauna, ambient noise, cultural areas, and objects of historic, cultural, or aesthetic significance.

(ee) **"Sublease"** means a written agreement by which the lessee grants to an individual or entity a right to possession no greater than that held by the lessee under the lease.

(ff) **"Trespass"** means any unauthorized occupancy, use of, or action on the Tribe's land.

(gg) **"Tribal Court"** means the Court of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(hh) **"Tribal Governing Board"** means the Tribal Governing Board of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(ii) **"Tribal Trust Land"** means the surface estate of any tract of land held by the U.S. in trust or restricted status for the benefit of the Tribe. The term also includes the surface estate of lands held by the United States in trust for an Indian corporation chartered under section 17 of the Act of June 18, 1934 (48 Stat. 988; 25 U.S.C. 477).

(jj) **"Trust or Restricted Status"** means (1) that the United States holds title to the tract in trust for the benefit the Tribe or (2) that the Tribe holds title to the tract but can alienate or encumber it only with the approval of the United States because of limitations in the conveyance instrument under Federal law or limitations in Federal law.

(kk) **"WEEL"** means a Wind Energy Evaluation Lease, which is a short-term lease that authorizes possession of Tribal Trust Land for the purpose of installing, operating, and maintain instrumentation, and associated infrastructure, such as meteorological towers, to evaluate wind resources for electricity generation.

(ll) **"WSR Leases"** are Wind and Solar Resource leases, which are leases that authorize possession of Tribal Trust Land for the purpose of installing, operating, and maintaining instrumentation, facilities, and associated infrastructure, such as wind turbines and solar panels, to harness wind and/or solar energy to generate and supply electricity: (1) For resale on a for-profit or non-profit basis; (2) To a utility grid serving the public generally; or (3) To users within the local community (e.g., on and adjacent to the Tribe's Reservation).

(Res. No. 2023-12)

Subchapter PRP.10.3
General

PRP.10.3.010 Application of Other Laws ..... PRP.10.3-**Error! Bookmark not defined.**
PRP.10.3.020 Mandatory Lease Provisions..... PRP.10.3-**Error! Bookmark not defined.**
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PRP.10.3.050 Additional Requirements for WEEL's ... PRP.10.3-**Error! Bookmark not defined.**
PRP.10.3.060 Additional Requirements for WSR Leases ..... PRP.10.3-**Error! Bookmark not defined.**
PRP.10.3.070 Terms of Leases..... PRP.10.3-**Error! Bookmark not defined.**
PRP.10.3.080 Lease Renewal Terms..... PRP.10.3-**Error! Bookmark not defined.**
PRP.10.3.090 Applying for a Lease ..... PRP.10.3-**Error! Bookmark not defined.**
PRP.10.3.100 Land Descriptions..... PRP.10.3-**Error! Bookmark not defined.**
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PRP.10.3.130 Environmental Reviews Required..... PRP.10.3-**Error! Bookmark not defined.**
PRP.10.3.140 Fair Market Lease Value and Payments PRP.10.3-**Error! Bookmark not defined.**
PRP.10.3.150 Insurance Requirements..... PRP.10.3-**Error! Bookmark not defined.**
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PRP.10.3.010 Application of Other Laws

This Code shall not relieve a lessee's burden to comply with all other applicable laws, including all other Tribal ordinances that are not inconsistent with this Code.

(Res. No. 2023-12)

PRP.10.3.020 Mandatory Lease Provisions

Every lease shall:

(a) Describe the land being leased with a description of sufficient detail to meet the recording requirements of the Land Titles and Records Office;

(b) State the parties to the lease;

(c) State the term of the lease;

(d) State the effective date of the lease;

(e) State the purpose of the lease and authorized uses of the leased premises (i.e., agricultural, business, governmental, recreational, residential, WEEL or wind and solar resource purposes);

(f) State how much rent is due;

(g) State when rent is due;

(h) State who receives rent and the place of payment;

(i) State what form of payment is acceptable;

(j) State whether any late payment charges or special fees apply, including the rate of interest to be charged if the lessee fails to make timely payments;

(k) If lease payments are to be made directly to the Tribe, the Lease shall state that the tribe shall maintain documentation of the Lease payments that are sufficient to enable the Secretary to discharge the trust responsibility to the United States.

(l) State whether lessee is required to pay any additional fees, taxes, and assessments associated with the use of the Leased premises.

(m) State the following: "If the leased premises are within an Indian irrigation project or drainage district, except as provided by 25 CFR 171, the lessee shall pay all operation and maintenance charges that accrue during the lease term. The lessee shall pay these amounts to the appropriate office in charge of the irrigation project or drainage district.";

(n) State whether any due diligence requirements apply;

(o) State whether a performance bond is required and the form of bond that is acceptable;

(p) State any insurance requirements;

(q) Address whether permanent improvements may be constructed; the general type of improvements authorized and whether plans of development or construction schedules are

required; address ownership of improvements; identify the party or parties responsible for constructing, operating, maintaining, and managing improvements during the lease term; and address removal of improvements;

(r) State the rights to inspection of property and records;

(s) State any mitigation measures or reclamation and restoration plan required as a result of the environmental review process;

(t) State whether there shall be rental reviews or adjustments, how and when they shall be done, who shall make them, when any adjustments shall be effective, and how disputes regarding adjustments shall be resolved;

(u) State whether livestock may be kept on the land (if the lease is for residential or recreational purposes, the lease shall state that no livestock may be kept on the land);

(v) State that the lessee shall not encroach onto neighboring property and that ongoing trespass onto neighboring property shall be grounds for cancellation of the lease;

(w) State that the lessee holds the United States and the Tribe harmless from any loss, liability, or damages resulting from the lessee's use or occupation of the leased premises;

(x) State that the lessee indemnifies the United States and the Tribe against all liabilities or costs relating to the use, handling, treatment, removal, storage, transportation, or disposal of hazardous materials, or the release or discharge of any hazardous material from the leased premises that occurs during the lease term, regardless of fault, with the exception that the lessee is not required to indemnify the Tribe for liability or cost arising from the Tribe's negligence or willful misconduct.

(y) State that if historic properties, archeological resources, human remains, or other cultural items not previously reported are encountered during the course of any activity associated with this lease, all activity in the immediate vicinity of the properties, resources, remains, or items shall cease, and the lessee shall contact BIA and the Tribe with jurisdiction over the land to determine how to proceed and appropriate disposition;

(z) State the governing law, which may include this Code, the Tribe's laws and applicable federal statutes and regulations; and list other laws and ordinances applicable to the lease;

(aa) State that the lease is subject to cancellation in accordance with the enforcement procedures contained in Subchapter PRP.10.5;

(bb) State any other negotiated remedies for lease cancellation or termination;

(cc) State the process for Amendment, which shall be in writing signed by both parties, and with the consent of any mortgagee; and

(dd) State the respective addresses at which the lessee and the lessor respectively agree to accept all notifications, including any required service of process, relating to the lease and the process by which the parties can update such addresses if needed.

(Res. No. 2023-12)

PRP.10.3.030 Inspection Rights

(a) The Tribe, Secretary, lender, and their authorized representatives shall have the rights, at any reasonable times during the term of this lease, and with reasonable notice, to enter upon the Leased Premises, or any part thereof, to inspect the same and all buildings and other improvements erected and placed thereon.

(b) The Lessor and the Secretary may treat any failure by the Lessee to cooperate with a request to make appropriate records, reports, or information available for inspection and duplication as a lease violation.

(Res. No. 2023-12)

PRP.10.3.040 Additional Requirements for Agricultural Leases

(a) All lessees of leases for agricultural purposes are required to manage the land in accordance with any agricultural resource management plan developed by the Tribe.

(b) Appropriate stipulations or conservation plans shall be developed and incorporated in all leases for agricultural purposes.

(c) Lessee shall provide environmental and archaeological reports, surveys, and site assessments, as needed, to document compliance with applicable laws.

(d) If lessee is a corporation, partnership, or other legal entity, it shall provide organizational and financial documents, as need to show that the lease shall be enforceable against the lessee and that lessee is able to perform all its lease obligations.

(e) State law may apply to agricultural lease disputes or define the remedies available to the Tribe in the event of an agricultural lease violation by the lessee; the agricultural lease shall state whether or not the Tribe and lessor expressly agree to the application of state law.

(Res. No. 2023-12)

PRP.10.3.050 Additional Requirements for WEEL's

Every lease shall:

(a) State that the lessee is to install testing and monitoring facilities within twelve (12) months after the effective date of the lease and that the lessee shall provide an explanation of good cause if the installation does not occur within the twelve (12)-month time period.

(b) State that the lease shall specify the ownership of any energy resource information the lessee obtains during the lease term.

(c) State that if the lease provides for the lessee to remove the improvements, it shall also provide the Tribe with an option to waive the removal requirement and take possession of the improvements if they are not removed within the specified time period.

(Res. No. 2023-12)

PRP.10.3.060 Additional Requirements for WSR Leases

Every lease shall:

(a) State that the lease shall indicate who is responsible for evaluating the leased premises for suitability, purchasing, installing, operating, and maintaining the WSR equipment.

(b) State that the lessee shall commence installation of energy facilities within two (2) years after the lease effective date or a timeframe in the resource development plan and that the lessee shall provide an explanation of good cause if installation does not occur within the specified time period.

(c) State that the lessee shall maintain all on-site electrical generation equipment and related infrastructure and repair, place into service, or remove from the site within a time period specified in the lease, any idle, improperly functioning, or abandoned equipment.

(d) State that if the lease provides for the lessee to remove the improvements, it shall also provide the Tribe with an option to waive the removal requirement and take possession of the improvements if they are not removed within the specified time period.

(Res. No. 2023-12)

PRP.10.3.070 Terms of Leases

(a) Leases for residential, recreational, governmental, educational, and religious purposes may have a term not to exceed seventy-five (75) years; and

(b) Leases for business, agricultural, and wind and solar resource purposes may have a term not to exceed twenty-five (25) years with an option to renew for up to two (2) additional terms, each of which may not exceed twenty-five (25) years.

(c) WEEL leases may have a term not to exceed three (3) years with an option to renew for one additional term, which may not exceed three years.

(d) WEEL leases may have an option period following the expiration of the WEEL term during which the lessee and the Tribe may enter into a WSR Lease.

(Res. No. 2023-12)

PRP.10.3.080 Lease Renewal Terms

(a) Leases with an option to renew shall state: The time and manner for when the option shall be exercised or whether it is automatically effective;

(b) Any additional consideration that shall be due upon the exercise of the option; and

(c) And any other conditions for renewal.

(Res. No. 2023-12)

PRP.10.3.090 Applying for a Lease

(a) A potential lessee shall submit a lease application to the Land Management Division. The application shall be stamped with the date and time received. The Land Management Division retains the original application. A copy of the time and date stamped application shall be sent to the applicant.

(b) The lease application shall identify the lessee, the type of lease requested, the parcel of land requested, and any additional information required by policies approved by the Tribal Governing Board.

(c) The Land Management Division is responsible for processing the lease applications, for providing reasonable assistance to potential lessees, and for coordinating with other Tribal departments to ensure that all necessary approvals are obtained before the lease is transferred to the Tribal Governing Board for review. If the Land Management Division determines that the lease application submitted is incomplete, it shall inform the applicant of the deficiencies in the application and permit the applicant to remedy such deficiencies.

(d) The Land Management Division shall process lease applications in a timely manner, but there shall be no mandatory timeframe for processing lease applications.

(Res. No. 2023-12)

PRP.10.3.100 Land Descriptions

(a) Leases shall contain legal descriptions based on metes and bounds, rectangular or lot and block systems based on the Public Land Survey System. When applicable, the lease shall

contain a description or exhibit identifying the portion(s) of the floor(s) of a building that are subject to the lease.

(b) If a legal description is already available for the requested parcel, the existing legal description may be used.

(c) If a legal description is unavailable or the Land Management Division determines that the existing legal description is inadequate, the Land Management Division shall obtain a site survey and a legal description.

(d) A potential lessee may be required to pay for the cost of preparing the legal description, regardless of whether the legal description was already available.

(Res. No. 2023-12)

PRP.10.3.110 Zoning Review

A potential lessee shall submit plans of any and all development and construction schedules to the Land Management Division. The plans of development and construction schedules shall be sufficient to conduct a zoning review in accordance with applicable law.

(Res. No. 2023-12)

PRP.10.3.120 Improvements

All leases shall require the lessee to exercise due diligence and best efforts to complete construction of any improvements within the schedule specified in the lease.

(a) Lessee, at lessee's expense or as otherwise provided in the lease, may construct improvements under a lease if the lease specifies, or provides for the development of:

(1) a plan that describes the type and location of any improvements to be built by the lessee;

(2) a general schedule for construction of the improvements; and

(3) a process for changing the schedule by mutual consent of the parties.

(b) The lease shall not allow for any construction or development of improvements unless the lessee has first obtained any required permits or other approvals required under any applicable Tribal law.

(b) Lessee shall provide to the Tribe written justification as to the nature of any delay, the anticipated date of construction of the improvements, and evidence of progress toward commencement of construction.

(c) When requested by the Tribe or otherwise required in the lease, lessee shall further provide the Tribe, with an updated schedule for construction, in writing.

(d) Failure of the lessee to comply with these requirements shall be deemed a violation the lease and may lead to cancellation of the lease pursuant to PRP.10.5.

(e) At the expiration, termination, or cancelation of the lease term, if permanent improvements were authorized, and permanent improvements remain on the leased premises in a condition satisfactory to the Tribe then the improvements shall become the property of the Tribe unless otherwise provided for in the lease.

(f) If improvements shall be removed, the lease shall specify, unless waived by the Tribe, the maximum time allowed for such removal, the lessee's responsibility for such removal, and the lessee's obligations to restore and reclaim the property to conditions acceptable to the Tribe.

(g) A lessee may develop equity value in the improvements and sell its interest in the lease based on the equity value. The Tribe has a right of first refusal to purchase the interest.

(h) Improvements may be subject to taxation by the Tribe.

(Res. No. 2023-12)

PRP.10.3.130 Environmental Reviews Required

Unless exempted from this requirement under this Code, the Tribe shall not approve a lease until the proposed lease has completed the environmental review process under Subchapter 4 of this Code. Leases approved and executed without complying with this section shall be invalid.

(Res. No. 2023-12)

PRP.10.3.140 Fair Market Lease Value and Payments

(a) The Fair Market Lease Value shall be determined using one of the following appraisal methods:

(1) The Fair Market Lease Value shall be determined by an appraisal or equivalent procedure performed by the Tribe using the following data: improvement cost, replacement cost, earning capacity, sales, and lease data of comparable sites or by similar methodology as approved by the Tribe and deemed to be in the Best Interests of the Tribe.

(2) Alternatively, the Fair Market Lease Value shall be determined by an appraisal performed by a licensed appraiser using the Uniform Standards of Professional Appraisal Practice or commonly accepted method of appraisal.

(b) No lease may be approved for less than the present Fair Market Lease Value as set forth in the appraisal, unless the Tribe determined such action is in the Best Interests of the Tribe.

(c) An appraisal log reporting the methods of appraisal and value shall be attached to every lease unless Fair Market Lease Value payments are waived by the Tribe.

(d) A lease may be structured at a flat lease rate.

(e) A lease may be structured at a flat lease rate plus a percentage of gross receipts, if the lessee is a business located in a shopping center or mall, or the lessee generates over $1,000,000.00 annually in gross receipts.

(f) A lease may be structured based on a percentage of gross receipts or based on a market indicator.

(g) The lease may provide for periodic review and such review may consider the economic conditions, exclusive of improvement or development required by the contract or the contribution value of such improvements.

(h) Leases may be structured to allow for lease rate adjustments. The lease shall specify how adjustments shall be made, who shall make such adjustments, when adjustments shall go into effect, and how disputes shall be resolved.

(i) Leases may be amended to allow for lease rate adjustments.

(j) The Tribe shall keep written records of the basis used in determining the fair market lease value, as well as the basis for adjustments. These records shall be presented to the lessee for its review and acceptance or non-acceptance and included in any lease file.

(k) All lease payments shall be made directly to the Tribe. The Tribe shall maintain documentation of the lease payments that are sufficient to enable the Secretary to discharge the trust responsibility of the United States.

(Res. No. 2023-12)

PRP.10.3.150 Insurance Requirements

(a) A lessee shall provide insurance necessary to protect the interests of the Tribe and in amounts sufficient to protect all insurable improvements on the premises.

(b) The insurance may include, but is not limited to, property, liability or casualty insurance or other insurance as specified in the lease.

(c) The Tribe and the United States shall be identified as additional insured parties.

(d) The insurance policy shall be written to provide the Tribe and any mortgagee with thirty (30) days' notice before the cancellation of any insurance policy on the property.

(e) The Lessee shall provide proof of insurance to the Tribe.

(f) The Tribe may waive this requirement if the Tribe determines it is in the Best Interests of the Tribe. The waiver may be revoked at any time if the waiver ceases to be in the Tribe's best interest.

(g) Failure of the Lessee to provide adequate insurance may result in the Tribe obtaining an insurance policy on the property and charging the cost for such insurance back on the Lessee.

(Res. No. 2023-12)

PRP.10.3.160 Performance Bonds

(a) Unless waived in writing by the Tribe in accordance with this Code, the lessee shall obtain a satisfactory performance bond in an amount sufficient to secure the contractual obligations of the lease. The obligations of the lessee and its sureties under the bond to the Tribe shall also be enforceable by the United States, so long as the land remains in Trust or Restricted Status. The bond shall be written to ensure that the Lessor is provided a thirty (30)-day advance written notice before any cancellation of the bond. The bond shall be for the purpose of securing the lessee's contractual obligations under the lease and shall guarantee:

(1) The annual lease payment;

(2) The estimated development cost of improvements; and

(3) Any additional amount necessary to ensure compliance with the lease.

(b) The Tribe may waive the bond requirement, or reduce the amount, if doing so is in the Best Interests of the Tribe. The Tribe shall maintain written records of the waivers and reductions.

(c) The performance bond may be in one of the following forms:

(1) Certificates of deposit issued by a federally insured financial institution authorized to do business in the United States;

(2) Irrevocable letters of credit issued by a federally insured financial institution authorized to do business in the United States;

(3) Negotiable Treasury securities; or

(4) A surety bond issued by a company approved by the U.S. Department of the Treasury.

(Res. No. 2023-12)

PRP.10.3.170 Subleases, Assignments, Amendments, and Leasehold Mortgages

(a) Subleases, assignments, amendments, or leasehold mortgages of any lease shall be by written consent of the Tribal Governing Board and lessee, unless otherwise provided herein.

(b) The lease may authorize subleases and assignments, in whole or in part, without approval from the Tribe, provided a copy of the sublease or assignment is provided to the Tribe and the following conditions, where applicable, are met and stated in the lease:

(1) There is no event of default under the lease or this Code;

(2) Any restrictions and use limitations on the use of the premises shall continue to apply to any subtenant or assignee;

(3) The proposed assignee or sublessee submits a current financial statement showing financial adequacy; and

(4) The lessee shall not be relieved or released from any of its obligations under the lease.

This PRP.10.3.140(b) in no way relieves the parties from carrying out their duties under the lease, which may contain additional restrictions and conditions.

(c) The lease may authorize mortgages of the leasehold interest for the purpose of financing to develop and improve the premises subject to the approval of the Tribe. The lease shall state the foreclosure law that shall apply in the event of default and foreclosure.

(d) If a sale or foreclosure of the lessee's business or assets occurs and the leasehold mortgagee is also the purchaser, the leasehold mortgagee may assign the lease without approval of the Tribe or lessee, provided the assignee agrees in writing to be bound by all the terms and conditions of the lease. If the purchaser is a party other than the leasehold mortgagee, approval by the Tribe is required and the purchaser shall agree in writing to be bound by all terms and conditions of the lease.

(Res. No. 2023-12)

PRP.10.3.180 Supporting Documentation for Tribal Governing Board Review

To be considered for authorization by the Tribal Governing Board, the following documentation shall be produced in support of a lease:

(a) A draft lease that contains the minimum provisions identified in PRP.10.3.020; if the lease is for agricultural purposes, the terms set forth in PRP.10.3.040; if it is a WEEL, the terms set forth in PRP.10.3.050; and, if the lease is for WSR purposes, the terms set forth in PRP.10.3.060.

(b) Plans of development and construction schedules as required by PRP.10.3.050, PRP.10.3.060, PRP.10.3.120, and applicable Tribal law;

(c) Reports, surveys, and site assessments needed to facilitate compliance with the environmental review as required by PRP.10.4.040 and applicable Tribal law;

(d) Evidence of insurability covering the scope of necessary insurance under PRP.10.3.150;

(e) An appraisal log reporting the methods of appraisal used and value as required by PRP.10.3.140, unless Fair Market Lease Value payments shall be waived by the Band; and

(f) Any reasonable additional documentation the Land Management Division deems relevant to the Tribal Governing Board's review.

(Res. No. 2023-12)

PRP.10.3.190 Lease Approvals

(a) All leases, amendments, assignments, subleases, and leasehold mortgages under this Code shall be approved by a resolution of the Tribal Governing Board;

(b) Leases shall be signed by the Chair or Secretary/Treasurer of the Tribal Governing Board; and

(c) Leases shall be signed by the lessee.

(Res. No. 2023-12)

PRP.10.3.200 Recording of Leases

(a) All leases and lease documents shall be recorded in the Tribe's land recording system, which is maintained by the Land Management Division; and

(b) All leases and lease documents, except residential subleases approved pursuant to this Code, shall be provided to the Bureau of Indian Affairs for recording in the Land Titles and Records Office.

(Res. No. 2023-12)

Subchapter PRP.10.4
Environmental Reviews

PRP.10.4.010 Environmental Review Required..... PRP.10.4-**Error! Bookmark not defined.**
PRP.10.4.020 Threshold Determination ..... PRP.10.4-**Error! Bookmark not defined.**
PRP.10.4.030 Categorical Exclusions ..... PRP.10.4-**Error! Bookmark not defined.**
PRP.10.4.040 Environmental Review Process..... PRP.10.4-**Error! Bookmark not defined.**
PRP.10.4.050 Notice of Completion ..... PRP.10.4-**Error! Bookmark not defined.**
PRP.10.4.060 Response to Public Comments and Final Report PRP.10.4-**Error! Bookmark not defined.**

PRP.10.4.010 Environmental Review Required

(a) Unless a lease is exempt from the environmental review process under PRP.10.4.020, the Tribe shall not approve a lease until the environmental review process pursuant to this Chapter has been completed with respect to the lease. Leases approved and executed without compliance with this Chapter shall be invalid and void ab initio.

(b) The Conservation Department shall be responsible for making threshold determinations under this Chapter and for conducting the environmental review process. The Conservation Department may charge a reasonable fee for conducting the environmental review process.

(Res. No. 2023-12)

PRP.10.4.020 Threshold Determination

(a) If the Conservation Department determines that the lease approval by its nature would not have a Significant Effect on the Environment, the leasing decision is exempt from additional requirements of the environmental review process in PRP.10.4.040 to PRP.10.4.060.

(b) If the Conservation Department determines that the lease approval might be expected to have a Significant Effect on the Environment in accordance with PRP.10.4.030, the Conservation Department shall fulfill the requirements of the environmental review process.

(Res. No. 2023-12)

PRP.10.4.030 Categorical Exclusions

(a) The following types of leases do not individually or cumulatively have a significant effect on the environment and therefore, except as provided in PRP.10.4.030(b), are categorically excluded from the environmental review process in PRP.10.4.040 to PRP.10.4.060.

(1) Approval of a lease for residential use of an existing housing unit, including any associated improvements, access roads and utilities.

(b) Notwithstanding PRP.10.4.030(a), the Conservation Department shall follow the procedures set forth in PRP.10.4.040 to PRP.10.4.060 if it determines that extraordinary circumstances exist under which the residential use of the premises may, individually or cumulatively, have a Significant Effect on the Environment, including without limitation, as set forth below:

(1) Substantial controversy on environmental grounds; or

(2) Presence of cultural resources or historic properties.

(Res. No. 2023-12)

PRP.10.4.040 Environmental Review Process

(a) Unless a lease is exempt from the environmental review process, the Conservation Department shall cause to be prepared before the approval of the lease a comprehensive and adequate tribal environmental report, analyzing the potentially significant effects of the proposed action on the environment; provided, however, that information or data which is relevant to such a report and is a matter of public record or is otherwise publicly available need not be repeated in its entirety in the report, but may be specifically cited as the source for conclusions stated therein; and provided further that such information or data shall be briefly described, that its relationship to the report shall be indicated, and that the source thereof shall be reasonably available for inspection at a public place or public building. The report shall provide detailed information about the Significant Effects on the Environment that the lease is likely to have, and shall include a detailed statement setting forth all of the following:

(1) A description of the physical environmental conditions in the vicinity of the proposed lease, including the environmental setting and existing baseline conditions, as they exist at the time the notice of preparation is issued;

(2) All Significant Effects on the Environment of the proposed lease;

(3) In a separate section:

(A) Any Significant Effect on the Environment that cannot be avoided if the lease is executed; and

(B) Any Significant Effect on the Environment that would be irreversible if the lease is executed; and

(C) Any mitigation measures or restoration and reclamation plan proposed, recommended, or required.

(b) In addition to the information required pursuant to subdivision (a), the tribal environmental report shall also contain a statement indicating the reasons for determining that various effects of the proposed lease on the off-reservation environment are not significant and consequently have not been discussed in detail in the report. In the report, the direct and indirect Significant Effects on the Environment shall be clearly identified and described, giving due consideration to both the short-term and long-term effects.

(Res. No. 2023-12)

PRP.10.4.050 Notice of Completion

(a) Within no less than thirty (30) days following the completion of a draft tribal environmental report, the Conservation Department shall post a notice of completion and a copy of the draft report on the Tribe's website or at a prominent location at the Tribal Office or Conservation Department. The notice of completion shall include all of the following information:

(1) A brief description of the proposed lease and lease-related activities, such as any anticipated improvements;

(2) The location of the proposed lease;

(3) An address where copies of the draft report are available; and

(4) Notice of a period of thirty (30) days during which the Conservation Department shall receive comments on the draft report.

(b) In addition, the Conservation Department shall provide public notice by at least one of the procedures specified below:

(1) Publication of the Notice of the draft report in a newspaper of general circulation in the area affected by the proposed lease, with notice to the public of the opportunity to comment on any Significant Effect on the Environment of the proposed action.

(2) Posting of the Notice of the draft report in the offices of the Tribe with notice to the public of the opportunity to comment on any Significant Effect on the Environment of the proposed action.

(Res. No. 2023-12)

PRP.10.4.060 Response to Public Comments and Final Report

After the thirty (30) day comment period has ended, the Conservation Department shall review all comments received from the public. Prior to the approval and execution of the lease, the Conservation Department shall provide written responses to relevant and substantive public comments on any Significant Effects on the Environment arising as a result of the proposed lease and proposed or recommended mitigation measures addressing any such effects. The Conservation Department shall also prepare a final tribal environmental report. The Conservation Department's written responses shall be posted in the offices of the Band with a notice to the public in the same manner as outlined in PRP.10.4.050.

(Res. No. 2023-12)

Subchapter PRP.10.5
Enforcement

PRP.10.5.010 General Enforcement Authority & Lease Compliance Monitoring ..... PRP.10.5-**Error! Bookmark not defined.**
PRP.10.5.020 Jurisdiction of the Tribal Court..... PRP.10.5-**Error! Bookmark not defined.**
PRP.10.5.030 Commencement of an Action ..... PRP.10.5-**Error! Bookmark not defined.**
PRP.10.5.040 Notice of Hearing ..... PRP.10.5-**Error! Bookmark not defined.**
PRP.10.5.050 Service of the Complaint and Notice of Hearing. PRP.10.5-**Error! Bookmark not defined.**
PRP.10.5.060 Answer by the Lessee..... PRP.10.5-**Error! Bookmark not defined.**
PRP.10.5.070 Burden of Proof..... PRP.10.5-**Error! Bookmark not defined.**
PRP.10.5.080 Finding of Default..... PRP.10.5-**Error! Bookmark not defined.**
PRP.10.5.090 Remedies ..... PRP.10.5-**Error! Bookmark not defined.**
PRP.10.5.100 Penalties ..... PRP.10.5-**Error! Bookmark not defined.**
PRP.10.5.110 Order and Judgment ..... PRP.10.5-**Error! Bookmark not defined.**
PRP.10.5.120 Re-opening of Judgment and Appeal Rights..... PRP.10.5-**Error! Bookmark not defined.**
PRP.10.5.130 Repossession of Property ..... PRP.10.5-**Error! Bookmark not defined.**
PRP.10.5.140 Lease Trespass ..... PRP.10.5-**Error! Bookmark not defined.**
PRP.10.5.150 Trespass Enforcement Actions..... PRP.10.5-**Error! Bookmark not defined.**
PRP.10.5.160 Recording of Lease Cancellations and Terminations..PRP.10.5-**Error! Bookmark not defined.**

PRP.10.5.010 General Enforcement Authority & Lease Compliance Monitoring

(a) The Tribe and the Secretary/Treasurer shall have all powers necessary to enforce the lease terms, laws, ordinances, regulations, rules, policies, and covenants consistent with this Code. This includes the power to enter the leased premises at a reasonable time after providing reasonable notice.

(b) The Conservation Department is responsible for monitoring lease compliance and for recommending lease enforcement actions consistent with this Code.

(c) Nothing in this Chapter precludes the Tribe or a lessee or sublessee from terminating a lease without regard to any default if the terms of the lease so provide.

(d) In addition to enforcement actions provided for in this Chapter, the BIA may, upon reasonable notice from the Tribe at the BIA's discretion, enforce the provisions of, or cancel a lease document.

(Res. No. 2023-12)

PRP.10.5.020 Jurisdiction of the Tribal Court

The Lac Courte Oreilles Tribal Court shall have exclusive jurisdiction over enforcement actions brought under PRP.10.5.030.

(Res. No. 2023-12)

PRP.10.5.030 Commencement of an Action

If the Tribe believes a lessee to be in default, the Tribe may commence an enforcement action by filing a complaint under the Tribe's Rules of Civil Procedure Code, Title II Chapter 1, as amended. The complaint shall state the facts forming the basis of the default, the relief sought, and shall include a description of the leased premises at issue. The Tribe may be represented by an attorney or an authorized Conservation Department Employee.

(Res. No. 2023-12)

PRP.10.5.040 Notice of Hearing

After a complaint is filed, the Tribal Court shall schedule a hearing and issue a notice of hearing to the Tribe and the lessee. The hearing shall be held within fifteen (l5) days of the date the complaint is filed.

(Res. No. 2023-12)

PRP.10.5.050 Service of the Complaint and Notice of Hearing

(a) The Tribe shall serve the complaint and notice of hearing upon the lessee at least three (3) business days before the hearing date. Service shall be completed as follows:

(1) By personal service of the complaint and notice of hearing on any lessee; or

(2) By mailing the complaint and notice of hearing to the address identified by the lessee or lessees pursuant to PRP.10.3.020(y).

(b) The Tribe shall complete an affidavit of service and file the affidavit with the Tribal Court.

(Res. No. 2023-12)

PRP.10.5.060 Answer by the Lessee

The lessee shall be exempt from the requirement in the Rules of Civil Procedure to file an answer. Unless the lessee affirmatively admits an allegation, the lessee shall be presumed to have denied all allegations in the complaint. The hearing shall not be delayed in order to give the lessee time to file an answer.

(Res. No. 2023-12)

PRP.10.5.070 Burden of Proof

At the trial, the Tribe shall have the burden of establishing by a preponderance of the evidence at least one of the grounds for a default listed in PRP.10.5.080 of this Code. The lessee shall have the right to present evidence and testimony to defend against the complaint.

(Res. No. 2023-12)

PRP.10.5.080 Finding of Default

The lessee is in default if:

(a) The lessee has failed to make rent payments or other payments required by the lease, provided that the lessee has been given notice of the violation and has failed to make the required payments within thirty (30) days' after receiving notice; or

(b) The lessee is otherwise in breach of the terms of the lease or any other requirements of this Code.

(Res. No. 2023-12)

PRP.10.5.090 Remedies

Upon a finding of default, the Tribal Court may upon the request of the Tribe:

(a) cancel the lease;

(b) assess any damages resulting from the default, including interest and late payment penalties;

(c) within the Court's reasonable discretion, determine whether to grant the lessee additional time to diligently proceed to complete the necessary corrective actions to cure the lease violations within a specified or reasonable time period;

(d) grant other appropriate remedies, including execution on bonds, collection of insurance proceeds, specific performance, or negotiated remedies; or

(e) order any combination of the remedies listed in this PRP.10.5.090.

(Res. No. 2023-12)

PRP.10.5.100 Penalties

Unless the lease provides otherwise, the interest charges and late payment penalties prescribed by the lease shall apply in the absence of any specific notice to the lessee from the Tribe, and the failure to pay such amount shall constitute a breach of the lease.

(Res. No. 2023-12)

PRP.10.5.110 Order and Judgment

Within thirty (30) days after the hearing, the Tribal Court shall issue an order and judgment containing the following:

(a) Findings of fact;

(b) If lease cancellation was requested, an order granting the lease cancellation effective immediately or a statement that a ground for lease cancellation was not established;

(c) If damages were requested, an order establishing the damages owed by the lessee or a statement that damages were not established; and

(d) Any additional orders or conclusions with respect to the claims raised, remedies requested, defenses proffered, or any other subject matter relevant to ruling on the allegations in the complaint.

(Res. No. 2023-12)

PRP.10.5.120 Re-opening of Judgment and Appeal Rights

(a) An aggrieved party may file for a judgment to be reopened in accordance with Section 1.1105 of the Rules of Civil Procedure Code.

(b) A judgment may be appealed in accordance with the requirements of Title II Lac Courte Oreilles Tribal Code of Law Chapter 4 – Appellate Code.

(c) The filing to reopen a judgment or of an appeal shall not prevent the enforcement of the judgment of the trial court, unless the trial court, on its own motion or that of the party, finds good cause to stay enforcement of the judgement pending the appeal or reopening of the judgment.

(d) No later than ten (10) days after entry of the order and judgment, an aggrieved party may move the Tribal Court to amend the findings of fact or conclusions, make additional findings of fact or conclusions, and amend the judgment accordingly. The movant shall

provide support for the request. If the Court denies the motion, the order and judgment shall be final. If the Court grants the motion, the amended order and judgment shall be final.

(Res. No. 2023-12)

PRP.10.5.130 Repossession of Property

Immediately upon cancellation of a lease by Court order and judgment, the Tribe may take possession of the leased premises, unless otherwise provided for by the order and judgment. Personal property shall be disposed of in accordance with the lease and applicable policies. The Tribe's Property Exemption for Execution under the Rules of Civil Procedure TCT.2.12.040(a) "exempt[ing] from levy and sale under any execution . . . all interest in property held in trust by the United States" shall not be a defense to execution of the judgment and repossession of property under this Code.

(Res. No. 2023-12)

PRP.10.5.140 Lease Trespass

A lease trespass occurs when:

(a) an individual or entity takes possession of, or uses, Tribal trust land without a lease and a lease is required under this Code; or

(b) a lessee remains in possession of Tribal trust land after the expiration, termination, or cancellation of a lease.

(Res. No. 2023-12)

PRP.10.5.150 Trespass Enforcement Actions

In the event of a lease trespass under PRP.10.5.140, the Tribe may:

(a) bring an action in Tribal Court to recover possession and/or damages. including through an eviction action, and may pursue any additional remedies available under Tribal law (except as otherwise prohibited by federal law);

(b) contact the BIA office with jurisdiction over the Tribal trust lands and request that the office take enforcement action on behalf of the Tribe; or

(c) pursue any other available remedies.

(Res. No. 2023-12)

PRP.10.5.160 Recording of Lease Cancellations and Terminations

(a) All lease cancellations or terminations shall be recorded in the Tribe's land recording system, which is maintained by the Tribe's Resource Management Division;

(b) All lease cancellations or terminations shall be provided to the Bureau of Indian Affairs for recording.

(Res. No. 2023-12)

Title CMP
Commercial Practices

CMP.1 Gaming Code of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians ..... CMP.1-**Error! Bookmark not defined.**
CMP.2 Tribal Consumer Financial Services Regulatory Code of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians ..... CMP.2-**Error! Bookmark not defined.**
CMP.6 Workers' Compensation Ordinance of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians ..... CMP.6-**Error! Bookmark not defined.**

Chapter CMP.1
Gaming Code of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians

CMP.1.1 Introduction ..... CMP.1.1-**Error! Bookmark not defined.**
CMP.1.2 Definitions ..... CMP.1.2-**Error! Bookmark not defined.**
CMP.1.3 Administration ..... CMP.1.3-**Error! Bookmark not defined.**
CMP.1.4 Tribal Games ..... CMP.1.4-**Error! Bookmark not defined.**
CMP.1.5 Licensing for Non-tribal Games ..... CMP.1.5-**Error! Bookmark not defined.**
CMP.1.6 Gaming Assessment ..... CMP.1.6-**Error! Bookmark not defined.**
CMP.1.7 Bingo ..... CMP.1.7-**Error! Bookmark not defined.**
CMP.1.8 Severability and Non-Liability ..... CMP.1.8-**Error! Bookmark not defined.**
CMP.1.9 Amendments ..... CMP.1.9-**Error! Bookmark not defined.**

Subchapter CMP.1.1
Introduction

CMP.1.1.010 Title ..... CMP.1.1-**Error! Bookmark not defined.**
CMP.1.1.020 Repeal of Prior Authority ..... CMP.1.1-**Error! Bookmark not defined.**
CMP.1.1.030 Authority ..... CMP.1.1-**Error! Bookmark not defined.**
CMP.1.1.040 Declaration of Policy ..... CMP.1.1-**Error! Bookmark not defined.**
CMP.1.1.050 Interpretation ..... CMP.1.1-**Error! Bookmark not defined.**
CMP.1.1.060 Ownership of Gaming ..... CMP.1.1-**Error! Bookmark not defined.**
CMP.1.1.070 Use of Gaming Revenue ..... CMP.1.1-**Error! Bookmark not defined.**
CMP.1.1.080 Audit ..... CMP.1.1-**Error! Bookmark not defined.**
CMP.1.1.090 Protection of the Environment and Public Health and Safety.....CMP.1.1-**Error! Bookmark not defined.**
CMP.1.1.100 Notices to Agent ..... CMP.1.1-**Error! Bookmark not defined.**

CMP.1.1.010 Title

This Code shall be known as the "Lac Courte Oreilles Gaming Code".

(Res. No. 2024-23)

CMP.1.1.020 Repeal of Prior Authority

This Code hereby repeals all other previously enacted gaming codes to the extent that the previous gaming codes are inconsistent with this Code.

(Res. No. 2024-23)

CMP.1.1.030 Authority

This Code is enacted pursuant to Article V, Section I (n) of the Constitution and By-Laws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, as amended.

(Res. No. 2024-23)

CMP.1.1.040 Declaration of Policy

The Tribal Governing Board declares that:

(a) All phases of the conduct of games of chance should be closely controlled by appropriate laws and rules which should be strictly and uniformly enforced throughout the Lac Courte Oreilles Reservation.

(b) The conduct of games of chance and all attendant activities, should be so regulated as to discourage private commercialization and to ensure the maximum use of gaming exclusively for lawful purposes specified in this Code.

(c) It is a matter of tribal concern to foster and support such lawful purposes and to prevent commercialized gambling, participation by criminal and other undesirable elements and diversion of funds from the lawful purposes herein authorized.

(d) Lawful purposes contemplated within this Code are: support of tribal government operations, of tribal members, contributions to tribal philanthropic activities, and support of social welfare and education of tribal members.

(e) Preference shall be granted in the recruiting, training, and employment to qualified members of the Tribe, their spouses, and children. Tribal preference shall apply in all job categories falling under the gaming code and provisions.

(f) To the extent that qualified members of the Tribe, their spouses, or children are not available to fill a position, preference shall be given first to qualified members of other Tribes of Chippewa Indians and then to qualified members of any other Indian Tribe.

(Res. No. 2024-23)

CMP.1.1.050 Interpretation

The provisions of this Code:

(a) Shall be interpreted and applied as minimum requirements applicable to gaming activities on the Lac Courte Oreilles Reservation.

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

(c) Shall be construed consistent with the provisions of the National Indian Gaming Regulatory Act, 25 U.S.C. Section 2701, **et seq**., and the 1991 Tribal-State Gaming Compact (governing Class III games) between the Tribe and the State of Wisconsin and such Gaming Management Contracts as the Tribe may enter into.

(Res. No. 2024-23)

CMP.1.1.060 Ownership of Gaming

The Lac Courte Oreilles Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this ordinance.

(Res. No. 2024-23)

CMP.1.1.070 Use of Gaming Revenue

Net revenues from class II gaming shall be used only for the following purposes:

(1) to fund tribal government operations and programs, provide for the general welfare of the Tribe and its members, promote tribal economic development, and donate to charitable organizations.

(2) If the Tribe elects to make per capita payments to tribal members, it shall authorize such payments only upon approval of a plan submitted to the Secretary of the Interior under 25 U.S.C. Section 2710 (b).

(Res. No. 2024-23)

CMP.1.1.080 Audit

(a) The Tribe shall cause to be conducted annually an independent audit of gaming operations and shall submit the resulting audit reports that include financial statements and management letters to the National Indian Gaming Commission.

(b) All gaming-related contracts that result in the purchase of supplies, services, or concessions in excess of $25,000.00 annually, except contracts for professional legal and accounting services, shall be specifically included within the scope of the audit that is described in subsection (a) above.

(Res. No. 2024-23)

CMP.1.1.090 Protection of the Environment and Public Health and Safety

Lac Courte Oreilles Class II gaming facilities shall be constructed, maintained, and operated in a manner that adequately protects the environment and the public health and safety.

(Res. No. 2024-23)

CMP.1.1.100 Notices to Agent

The Secretary of the Lac Courte Oreilles Tribe shall be designated as agent for service of any official determination, order, or notice of violation pursuant to 25 CFR Section 522.2(g).

(Res. No. 2024-23)

Subchapter CMP.1.2
Definitions

CMP.1.2.010 General Definitions ..... CMP.1.2-**Error! Bookmark not defined.**

CMP.1.2.010 General Definitions

The following definitions shall be applicable.

(a) **"Act"** shall mean the Indian Gaming Regulatory Act. P.L. 100 - 497, 25 U.S.C. Section 2701 et seq.

(b) **"Class I Gaming"** means:

(1) Social games played solely for prizes of minimal value or traditional forms of Indian gaming engaged in as part of tribal ceremonies or celebrations.

(c) **"Class II Gaming"** means:

(1) **BINGO -** The game of chance, which is played for prizes, including monetary prizes, with cards bearing numbers or other designations, in which the holder of the card oversees such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined in which the game is won by the first person.

Electronic, computer, or technological aids such as computer-generated number sequences-can be used in connection with Class II bingo, so long as all players are playing against each other to achieve the same sequences. Computerized or "video" bingo, in which players play against the machine rather than against each other, are Class III games, subject to Chapter V of this Title.

Class II gaming shall not include bingo included as Class I gaming in Section CMP.1.2.010

(2) **OTHER GAMES OF CHANCE -** Games similar to bingo, including, if played at the same location as bingo, pull-tabs, lotto, punch boards, tip jars, and "instant bingo", in which prizes are awarded on the basis of a designated winning number or numbers, color or colors, symbol or symbols determined by chance.

(d) **"Class III Gaming"** means all forms of gaming that are not Class I or Class II gaming, including:

(1) Electronic or electromechanical facsimiles of any game of chance or slot machines of any kind, including "video bingo".

(2) All banking card games: that is, card games played against the house. including baccarat, chemin de fer, and blackjack.

(e) **"Department of Justice"** means the Department of Justice of the State of Wisconsin, its authorized officials, agents, and representatives.

(f) **"Enterprise"** is a commercial enterprise of the Tribe authorized to engage in (a) gaming of every variety defined as Class II Gaming by the IGRA; (b) gaming defined as Class III Gaming pursuant to the Lac Courte Oreilles Band of Lake Superior Chippewa Indians/State of Wisconsin Gaming Compact for 1991 (the "Compact"); and (c) any other lawful commercial activity related to Gaming and permitted by the Tribe.

(g) **"Facility"** shall mean the building, including related or connected modular, tent-like or other structures, and associated and adjacent real estate property, within which the Enterprise will be housed, and the parking areas serving the Facility, all as located on the Property.

(h) **"Gaming"** shall mean activities defined as Class I Gaming, Class II Gaming, and Class III Gaming under the IGRA and the Compact.

(i) **"General Contractor"** shall mean the person or entity selected by the Governing Board, on behalf of the Tribe, who is a licensed general contractor experienced in the Construction of commercial buildings and appurtenant structures and service facilities.

(j) **"General Manager"** shall mean the person selected by the Tribal Governing Board, who is experienced in the operation, maintenance, and accounting of a Gaming facility. Such General Manager shall be employed by the Tribe and shall be the person responsible for and with the necessary authority for general operations, in connection with the operation of the Facility.

(k) **"LCO"** shall mean the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(l) **"Lottery Board"** means the Wisconsin Lottery Board, its authorized officials, and agents and representatives.

(m) **"Management Contract"** means agreements covering the overall management and operation of a Tribal game or gaming facility by an entity other than the Tribe or its employees, including all collateral agreements to such agreement that relate to gaming activity. The term does not include agreements for the procurement of particular services, materials, or supplies related to the Tribe's operation of Class III gaming under the Compact

and Class II gaming activities, such as the supply of gaming aids, communication and other equipment, computers and software and scratch tickets.

(n) **"Person"** includes all partnerships (general and limited), associations and corporations.

(o) **"State"** means the State of Wisconsin, its authorized officials, agents, and representatives.

(p) **"Tribal Gaming Commission"** Tribal members who are appointed by the Tribal Governing Board who shall be responsible for carrying out the duties of this Gaming Code as specified in CMP.1.3.070.

(q) **"Tribal Governing Board"**, **"Governing Board"** or **"Board"** shall mean the Governing Board established under the Constitution and By-Laws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin Tribe with jurisdiction to oversee and regulate all gaming activities on behalf of the Tribe

(r) **"Tribal lands"** for purposes of this code has the following meaning:

(1) All lands within the territorial limits of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians Reservation:

(2) All lands within the State of Wisconsin held in trust by the United States for the benefit of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians as of October 17, 1988; and

(3) All lands within the State of Wisconsin which may be acquired in trust by the United States for the benefit of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians after October 17, 1988, over which the Tribe exercises governmental power, and which meet the requirements of sec. 20 of the Act, 25 U.S.C. Section 2719.

(s) **"Tribe"** means the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, its authorized officials, agents, and representatives.

(t) **"Tribal Gaming Attorney"** means the Chief Legal Counsel employed by the Tribe, in charge of and responsible for legal issues relating to gaming operations of the Tribe and associated enterprises.

(u) **"Tribal Gaming Enforcement Officer"** means the Enforcement Officer, appointed by the Tribe to work with the Tribal Gaming Commission, who is responsible for initiating background investigations and monitoring all aspects of gaming operations within the Lac Courte Oreilles jurisdiction.

(v) **"Tribal Gaming Liaison"** means the tribal official designated to interact between the gaming operations, the Tribal Governing Board, and the Tribal Gaming Commission.

(Res. No. 2024-23)

Subchapter CMP.1.3
Administration

CMP.1.3.010 Duties of the Tribal Governing Board .... CMP.1.3-**Error! Bookmark not defined.**
CMP.1.3.020 Gaming Commission ..... CMP.1.3-**Error! Bookmark not defined.**
CMP.1.3.030 Qualifications of Commissioners ..... CMP.1.3-**Error! Bookmark not defined.**
CMP.1.3.040 Term ..... CMP.1.3-**Error! Bookmark not defined.**
CMP.1.3.050 Officers ..... CMP.1.3-**Error! Bookmark not defined.**
CMP.1.3.060 Powers of Commission ..... CMP.1.3-**Error! Bookmark not defined.**
CMP.1.3.070 Duties of Commission ..... CMP.1.3-**Error! Bookmark not defined.**
CMP.1.3.080 Meetings of Gaming Commission ..... CMP.1.3-**Error! Bookmark not defined.**
CMP.1.3.090 Reporting of Commission ..... CMP.1.3-**Error! Bookmark not defined.**
CMP.1.3.100 Compensation of Commissioners ..... CMP.1.3-**Error! Bookmark not defined.**
CMP.1.3.110 Restrictions on Gaming Commission ..... CMP.1.3-**Error! Bookmark not defined.**
CMP.1.3.120 Personal Liability and Immunity ..... CMP.1.3-**Error! Bookmark not defined.**
CMP.1.3.130 Review ..... CMP.1.3-**Error! Bookmark not defined.**

CMP.1.3.010 Duties of the Tribal Governing Board

(a) The Tribal Governing Board shall oversee, supervise and govern all aspects of tribal gaming.

(b) The Tribal Governing Board shall:

(1) Effectuate policy associated with tribal gaming;

(2) Delegate authority as appropriate to tribal gaming commission members, tribal officers, and other instrumentalities of tribal government;

(3) Promulgate rules relating to the issuance, renewal, amendment, suspension, and revocation of gaming licenses and the conduct of such activity upon Lac Courte Oreilles Lands;

(4) Receive recommendations from the Tribal Gaming Commission to approve, license, and suspend or deny tribal licensees as to gaming activities;

(5) Establish terms and conditions as to the distribution of lottery tickets associated with the tribal lottery;

(6) Appoint key personnel, including Tribal Games Manager, and Gaming Enforcement Officer;

(7) Determine appeals from actions of tribal officers associated with gaming; and

(8) Determine the powers and duties of the Board in addition to those set forth under this Code.

(9) Designate areas on the reservation on which the selling of gaming supplies and equipment may be purchased and sold by approved suppliers to licensees.

(10) Delegate oversight to the Tribal Gaming Commission in the fitness of all contractors providing supplies and equipment through contracts exceeding $10,000.00 in value.

(11) No member of the Board, nor tribal official, shall participate in the approval, denial, revocation, or suspension of any application or license of an organization of which he or she is an officer, director, shareholder, member, or if any member of his or her immediate family, or in any matter affecting the scope of business or financial resources of such an organization or person. This shall not serve to limit the authority and/or responsibility of individual members of the Board as to activities of the Tribe or tribal organizations.

(Res. No. 2024-23)

CMP.1.3.020 Gaming Commission

(a) In order to carry out the purpose of this Code and to assure the proper operation of gaming within the Lac Courte Oreilles jurisdiction, the Tribal Governing Board shall establish a Lac Courte Oreilles Tribal Gaming Commission with delegated powers to oversee and preserve the integrity of gaming activities.

(b) The Tribal Governing Board, with a majority constituting a quorum, convened at a duly called meeting, shall appoint five members to the Lac Courte Oreilles Tribal Gaming Commission. Such persons appointed must meet the qualifications set forth in this Code.

(c) The Tribal Governing Board shall recruit and post vacancies to be filled from the tribal membership. Applications for appointment shall be developed by the Tribal Governing Board.

(d) Applicants shall submit to a background investigation for a determination of suitability by the Tribal Governing Board. Applicants shall be required to cooperate with the fingerprint process and provide all relevant information to facilitate the investigation.

(Res. No. 2024-23)

CMP.1.3.030 Qualifications of Commissioners

Applicants for appointment to the Tribal Gaming Commission must satisfy the following requirements:

(a) Be an enrolled Lac Courte Oreilles tribal member.

(b) Be at least 21 years of age.

(c) Have obtained a High School Diploma or GED equivalent or a degree of Higher Education.

(d) 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:

(1) a felony.

(2) any gaming-related offense.

(3) fraud or misrepresentation in any connection.

(4) a violation of any provision of this Code or any law of Lac Courte Oreilles, including the Compact, regulating or prohibiting gaming.

(e) Shall not be an immediate family member or cohabiting partner of any member of the Tribal Governing Board or Key Employee of a gaming facility.

(f) Shall not be employed by any Gaming Operation and not be a Primary Management Official in any gaming facility.

(g) Shall have no financial interest in any management or vendor contract.

(h) Shall not be primarily employed in a tribal Director or Management position that will impede the availability as a Commissioner.

(i) Shall not be an elected tribal official.

(j) Shall have some gaming experience through education, experience, and/or interest.

(Res. No. 2024-23)

CMP.1.3.040 Term

The Tribal Governing Board may appoint applicants who meet the above criteria as Gaming Commissioners as follows:

(a) The original Commission shall be:

(1) Three commissioners shall be appointed for a two-year term, and

(2) Two commissioners shall be appointed for a one-year term.

(b) Subsequent terms on the Commission shall be maintained to assure that consistency of the Commission functions are maintained. The Tribal Governing Board shall appoint Commissioners for all vacancies.

(c) Appointments shall occur on the anniversary date of the original Commission appointment unless otherwise scheduled due to reasons of death, resignation, or removal.

(d) The Tribal Governing Board may remove appointed Gaming Commission members when required by conflict of interest, non-participation, misfeasance, malfeasance, death, or resignation.

(Res. No. 2024-23)

CMP.1.3.050 Officers

Gaming Commission Officers shall be Chairman, Vice-Chairman, and Secretary/ Treasurer. The Chairman shall serve for two-year periods. The Vice-Chairman and Secretary/Treasurer shall serve one-year periods. The Tribal Gaming Commission shall elect its own Officers.

(Res. No. 2024-23)

CMP.1.3.060 Powers of Commission

The Commission shall be delegated the following powers:

(a) The Tribal Gaming Commission is hereby vested with the delegated authority and powers to perform its duties and responsibilities pursuant to this Code and any regulations or policies adopted by the Lac Courte Oreilles Tribe in connection with this Code.

(b) To promulgate rules of procedure as are reasonably necessary to carry out the responsibilities of this Code and all relevant gaming regulations and policies so as to ensure the integrity of gaming activities of the Lac Courte Oreilles Tribe.

(c) To review, determine, and recommend the suitability of license applications and felony waiver petitions to the Tribal Governing Board who makes the final determination as to approval or denial of license or felony waiver applications.

(d) To conduct background investigations of employment license applicants, petitioners seeking felony waivers for employment, and vendor license applicants seeking to do business with the Tribe in its gaming activities.

(e) To resolve disputes between players or patrons of gaming facilities located on trust lands of the Lac Courte Oreilles Reservation within an expedient manner on behalf of the Tribe.

(f) To enforce this Code upon all gaming operations and licensed gaming activities located within the territorial boundaries of the Lac Courte Oreilles Tribe, except as otherwise exempted by tribal law, ordinance, or code.

(Res. No. 2024-23)

CMP.1.3.070 Duties of Commission

The Tribal Gaming Commission shall carry out the following official duties:

(a) Convene duly called meetings not less than monthly called meetings or more frequent as determined by the Commission.

(b) Implement and enforce all provisions of the Code within the scope of powers pertaining to background investigations, licensing, and player disputes.

(c) Establish an efficient process for license applications and promptly communicate suitability determinations to tribal and federal authorities and license applicants.

(d) Establish a fee schedule for license applicants and vendors doing business with Tribally licensed gaming facilities.

(Res. No. 2024-23)

CMP.1.3.080 Meetings of Gaming Commission

(a) Quorum

(1) Three of the Commissioners present at a duly called meeting of the Lac Courte Oreilles Tribal Gaming Commission shall constitute a quorum necessary to conduct Gaming Commission business.

(b) Voting

(1) All Gaming Commission members are entitled to vote on all issues. At the Call of any one member on a particular issue, voting shall take place thereon. Voting by proxy representation shall be prohibited.

(c) Regularity of Meetings

(1) The Gaming Commission shall meet at least monthly, with additional meetings as required at the Call of the Chairman or from four (4) Commission members. Notices for meetings shall be provided at least 24 hours before the meeting.

(d) Proceedings

(1) All deliberations of the Gaming Commission, except in Executive session, shall be recorded. Minutes of all meetings shall be taken and copies distributed to Gaming Commission members prior to the next meeting. Minutes shall be provided to the Tribal Governing Board upon adoption by the Commission.

(e) Executive Sessions

(1) The Gaming Commission may consider the following matter in executive (closed) sessions, but no action shall be taken in executive session, but rather thereafter in open session:

(A) Conferring with legal counsel who is rendering oral or written legal advice concerning strategy to be adopted by the Gaming Commission with respect to litigation in which it is or likely to become involved.

(B) Administrative status of background investigations for management license applicants, vendor license applications, and felony waiver petitions.

(Res. No. 2024-23)

CMP.1.3.090 Reporting of Commission

The Gaming Commission shall submit regular monthly reports of every Gaming Commission meeting to the Tribal Governing Board consisting of at least minutes of meetings, summary data of investigative activity, dispute resolution actions, and Gaming Commission activities.

(Res. No. 2024-23)

CMP.1.3.100 Compensation of Commissioners

(a) The Tribal Gaming Commission shall establish an annual operation budget for funding approval by the Tribal Governing Board. Such budget shall be submitted on the anniversary date of the first annual Commission budget adoption.

(b) Commissioners shall be paid an amount determined by the Tribal Governing Board which reasonably reflects time required for services to carry out the powers and duties specified in this Code.

(c) Training for commission members to effectively and diligently carry out the powers and duties of this Code shall be provided by the Tribe, including travel, training/conference registration fees, and lodging costs.

(d) Commissioners shall be prohibited from charging or receiving actual or inkind compensation, fees, or $fts from license applicants, vendors, and Tribally licensed gaming facility

(Res. No. 2024-23)

CMP.1.3.110 Restrictions on Gaming Commission

(a) No Gaming Commission member shall be in a position involving a conflict of interest.

(b) No Lac Courte Oreilles Casino Employee shall be a member of the Gaming Commission.

(c) No immediate family members of a Casino employee shall serve on the Gaming Commission. Immediate family members are defined as: Father/Mother, Husband/Wife, Sister/Brother, Cohabiting partners, and/or children.

(d) No elected official of the Tribal Governing Board shall be a Gaming Commissioner.

(e) Nothing in this Code authorizes the Tribal Gaming Commission to interfere with gaming management, operations, and employment relations or to overturn any decision of employee grievance boards.

(Res. No. 2024-23)

CMP.1.3.120 Personal Liability and Immunity

(a) Gaming Commission members shall not have any personal liability for Gaming Commission activities and obligations, except as may be imposed by law.

(b) The Gaming Commission, as a delegated body of the Tribal Governing Board pursuant to the Lac Courte Oreilles Constitution, Article V, Section I (m), is immune, as is the Tribe, from suit and legal process, including but not limited to, levy, seizure, execution, and sale. Notwithstanding any provision of this Code, the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin does not waive any aspect of its sovereign immunity.

(Res. No. 2024-23)

CMP.1.3.130 Review

Notwithstanding any other provisions of this Code, all activities, actions, powers exercised, requirements, restrictions, and the like of this Gaming Commission, are subject to

the review by the Tribal Governing Board, pursuant to Article V, Section I(m), of the Lac Courte Oreilles Tribal Constitution. In the event any corrective action appears necessary by reason of, for example, debilitating litigation or conduct that compromises the integrity of the tribe, which threaten the existence or stability of the Gaming Commission and/or the Lac Courte Oreilles Casino or gaming activities and/or the Tribe, this right may be exercised by the Tribal Governing Board, and, as such is hereby reserved. This right will not be arbitrarily, discriminatorily, politically, vindictively, or capriciously exercised, but will be exercised with restraint so that the Gaming Commission may duly fulfill its purpose. Each member of the Gaming Commission shall be given notice of the Tribal Governing Board's intent to exercise this right.

(Res. No. 2024-23)

Subchapter CMP.1.4
Tribal Games

CMP.1.4.010 General..... CMP.1.4-**Error! Bookmark not defined.**
CMP.1.4.020 Tribal Bingo..... CMP.1.4-**Error! Bookmark not defined.**
CMP.1.4.030 Tribal Class III Games - General Regulations ..... CMP.1.4-**Error! Bookmark not defined.**
CMP.1.4.040 Dispute Resolution..... CMP.1.4-**Error! Bookmark not defined.**
CMP.1.4.050 Felony Waivers ..... CMP.1.4-**Error! Bookmark not defined.**
CMP.1.4.060 Licenses for Key Employees and Primary Management Officials..CMP.1.4-**Error! Bookmark not defined.**

CMP.1.4.010 General

(a) The Board may, in its discretion, organize and supervise tribal operations of gaming activities, including:

(1) Bingo, including traditional bingo and video bingo.

(2) Pulltabs.

(3) Raffles, including special raffles, lotto, punch boards, tip jars, and instant bingo.

(4) Electronic games of chance with video facsimile displays.

(5) Electronic games of chance with mechanical displays.

(6) Blackjack.

(7) All Class I games.

(8) All Class II games.

(9) Any other Class III games as provided in the 1991 Tribal-State Gaming Compact.

(10) Any additional Class III games, in addition to those specified above, that the Tribe in the opinion of the Tribal Governing Board, advised by legal counsel, is of the opinion that it may legally offer to the public.

(b) Any persons employed to offer, operate, supervise, or manage any tribal games shall be investigated in a manner consistent with the LCO/State of Wisconsin Compact and

federal National Indian Gaming Commission regulations. Such investigations shall be confidential.

(c) No person shall be licensed to offer, operate, supervise, or manage tribal games whose prior activities, criminal record, reputation, habits and associations pose a threat to the public interest or to the effective regulation of gaming, or who creates or enhances the dangers of unsuitable, unfair or illegal practices and methods and activities in the conduct of gaming.

(Res. No. 2024-23)

CMP.1.4.020 Tribal Bingo

(a) The Board periodically shall offer such advice, guidance, and review as it deems appropriate as to all bingo events. The Tribe shall schedule and conduct such bingo events as he or she finds appropriate and in the interest of the Tribe, provided that no person under the age of 18 shall be allowed to play bingo or be allowed on the premises where bingo is played during business hours.

(b) Profits from tribal bingo operations shall be utilized for tribal purposes as determined by the Board. Specific bingo events may be held for the benefit or a particular tribal organization, a public cause of interest to the Tribe or needy tribal members.

(Res. No. 2024-23)

CMP.1.4.030 Tribal Class III Games - General Regulations

(a) The Tribe may not hire, employ or enter into a contract for services relating to Class III gaming with any person or entity which employs a person who:

(1) Is under the age of 18, except that the Tribal Games Manager may not enter into a retailer or management contract with any person who is under the age of 18.

(2) Has, within the immediately preceding ten (10) years, been convicted of, or entered a plea of guilty or no contest to a felony, any gambling-related offense, fraud or misrepresentation or any violation of Wisconsin Statues, Chapters 562 or 565, unless the person has been pardoned or the Board has made a determination consistent with Wis. Stats. , Chapters 562.5(5)(b)4, or Chapter 565.10 (3)(c)4.

(b) The Tribe upon request shall make available the odds and prize structure of each Class III game.

(c) The Tribe shall permanently maintain the following records. All accounting records shall be kept on a double-entry system of accounting, maintaining detailed, supporting, subsidiary records.

(1) Revenues, expenses, assets, liabilities, and equity for each location at which any component of Class III gaming, including ticket sales is conducted.

(2) Daily cash transactions for each game at each location at which Class Ill gaming is conducted, including but not limited to transactions relating to each gaming table bank, game drop box and gaming room bank

(3) All returned checks, hold checks or other similar credit instruments.

(4) Individual and statistical game records to reflect statistical drop and statistical win, and the percentage of statistical win to statistical drop by table for each table game, and individual and statistical game records reflecting similar information for all other games.

(5) For video, slot or other electronic or electromechanical machine games, analytic reports which, by each machine, compare actual hold percentages to theoretical hold percentages.

(6) Contracts, correspondence and other transaction documents relating to all vendors and contractors.

(7) All audits prepared by or on behalf of the Tribe.

(8) Personnel information on all Class III gaming employees or agents, including rotation sheets, hours worked, employees' profiles and background checks.

(d) No person under the age of 18 may purchase a ticket, make a wager, or otherwise participate in any Class III game; provided that this section shall not prohibit a person 18 years old or older from giving a ticket or share to a person under the age of 18 as a gift.

(e) No person under 18 years of age may be employed in the conduct of gaming.

(f) No person under the age of 18 shall be permitted on the premises where any component of Class III gaming is conducted, during business hours, unless accompanied by a member of the minor's immediate family; provided that his subsection shall not apply to locations at which sale of tickets is the only component of Class III gaming.

(g) No person who is employed in connection with tribal gaming, including vendors or contractors, shall be permitted to participate in any tribal gaming, either directly or indirectly by offering consideration to another person to play a game on their behalf

(h) The Tribe shall not conduct pari-mutuel betting except in accordance with 1991 Tribal-State Gaming Compact.

(i) No person who is visibly intoxicated shall be permitted to play any game.

(j) All gaming shall be conducted on a cash basis. Except as herein provided, no person shall be extended credit for gaming by any tribal gaming facility, or shall the Tribe permit any other person to offer such credit for a fee. This section shall not restrict the right of the Tribe to install or accept bank card or credit card transactions in the same manner as would normally be permitted at any retail business within the State.

(k) Alcohol beverages may be served at locations where games are conducted only during the hours prescribed in sec. 125.315(3), Wis. Stats. Alcohol beverages may not be sold for the purpose of off-premises consumption at locations where games are conducted.

(Res. No. 2024-23)

CMP.1.4.040 Dispute Resolution

(a) In the event of a player dispute concerning the conduct of a game, the General Manager of the facility or his appointed representative shall confer with the player in an effort to resolve the dispute.

(b) Disputes not resolved between the gaming facility and player shall be documented for mediation with the Tribal Gaming Commission. A quorum of the Commission shall resolve and settle the patron dispute within thirty (30) days of the notice of filing.

(c) These procedures will be made available to players and customers.

(Res. No. 2024-23)

CMP.1.4.050 Felony Waivers

(a) The Lac Courte Oreilles Tribe retains the discretion to approve or deny a felony waiver for employment in gaming upon a due diligent investigation of rehabilitation and present fitness, accompanied by a recommendation from the Tribal Gaming Commission.

(b) Information required for "Background Investigations" is specified in this Code and the Lac Courte Oreilles Tribal Felony Waiver Policy and Procedure adopted and incorporated as an Exhibit to this Code.

(c) Any person requesting a Tribal Waiver must also complete a "Felony Waiver Petition" which is attached and incorporated as an exhibit to this Code.

(d) No person who meets the criteria in 25 U.S.C. 2711(a). A shall be granted a Felony Waiver.

(e) Any person filing a Felony Waiver Petition must also complete an Employee License Application Form.

(f) The Tribal Gaming Enforcement Official conducting the Background Investigation will complete a "Background Investigation Form" as described in CMP.1.4.060(c).

(g) The Tribal Gaming Enforcement Official will also contact a sufficient number of the persons listed on the Felony Waiver Petition and others including, but not limited to: current and past Probation/Parole Officers, counselors, psychotherapists, neighbors and others.

(Res. No. 2024-23)

CMP.1.4.060 Licenses for Key Employees and Primary Management Officials

The Tribe shall ensure that the policies and procedures set out in this section are implemented with respect to key employees and primary management officials employed at any class II gaming enterprise operated on Indian lands:

(a) Definitions

For the purposes of this section, the following definitions apply:

(1) Key Employee Means

(A) A person who performs one or more of the following functions:

(i) Bingo caller;

(ii) Counting room supervisor

(iii) Chief of security;

(iv) Custodian of gaming supplies or cash;

(v) Floor manager;

(vi) Pit boss;

(vii) Dealer,

(viii) Croupier;

(ix) Approver of credit; or

(x) Custodian of gambling devices including persons with access to cash and accounting records within such devices;

(B) If not otherwise included, any other person whose total cash compensation is in excess of $50,000.00 per year; or

(C) If not otherwise included, the four most highly compensated persons in the gaming operation.

(2) Primary Management Official Means

(A) A person having responsibility for a management contract

(B) Any person who has authority:

(i) To hire and fire employees; or

(ii) To set up working policy for the gaming operation; or

(C) The chief financial officer or other person who has financial management responsibility.

(b) Application Forms

(1) The following notice shall be placed on the application form for a key employee or a primary management official before that form is filled out by an applicant:

"In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, Local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to hire you in a primary management official or key employee position.

The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application."

(2) Existing key employees and primary management officials shall be notified in writing that they shall either:

(A) Complete a new application form that contains a Privacy Act notice; or

(B) Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

(3) The following notice shall be placed on the application form for a key employee or primary official before that form is filled out by an applicant.

"A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment (U.S. Code, title 18, section 1001.)"

(4) The Tribe shall notify in writing existing key employees and primary management officials that they shall either:

(A) Complete a new application form that contains a notice regarding false statements; or

(B) Sign a statement that contains the notice regarding false statements.

(c) Background Investigations

The Tribe will conduct Background Investigations of "Key Employees and Primary Management Officials" as well as Felony Waiver Petitioners.

(1) The Tribe shall request from each primary management official, key employee and petitioner for felony waiver (see 704.05) all of the following information:

(A) Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);

(B) Currently and for the previous 5 years: Business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;

(C) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (1) (B) of this section;

(D) Current business and residence telephone numbers;

(E) A description of any existing and previous business relationships with Indian Tribes, including ownership interests in those businesses;

(F) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

(G) The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;

(H) For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;

(I) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within 10 years of the date of the application, the name and address of the court involved and the date and disposition;

(J) For each criminal charge (excluding minor traffic charges), whether or not there is conviction, if such criminal charge is within 10 years of the date of application and is not otherwise listed pursuant to paragraph (1) (H) or (1) (I) of this section, the criminal charge, the name and address of the court involved and the date and disposition.

(K) The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;

(L) A current photograph;

(M) Any other information the Tribe deems relevant; and

(N) Fingerprints consistent with procedures adopted by the Tribe according to 25 C.F.R. Section 522.2(h).

(2) The Tribe shall conduct an investigation sufficient to make a determination under subsection (d) below. In conducting a background investigation, the Tribe or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

(3) The Tribe will follow the procedures outlined in the Background Investigations Policy and Procedures as attached to and incorporated in this Code in conducting investigations.

(d) Eligibility Determination

The Tribe shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation. If the Tribe determines that employment of the person poses a threat to the public interest or to the effective

regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, a tribal gaming operation shall not employ that person in a key employee or primary management official position.

(e) Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission

(1) When a key employee or primary management official begins work at a gaming operation authorized by this ordinance, the Tribe shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in subsection (d) of this section.

(2) The Tribe shall forward the report referred to in subsection (f) of this section to the National Indian Gaming Commission within 60 days after an employee begins work or within 60 days of the approval of this ordinance by the Chairman of the National Indian Gaming Commission.

(3) The gaming operation shall not employ as a key employee or primary management official a person who does not have a license after 90 days.

(f) Report to the National Indian Gaming Commission

(1) Pursuant to the procedures set out in subsection E of this section, the Tribe shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation. An investigative report shall include all of the following:

(A) Steps taken in conducting a background investigation;

(B) Results obtained,

(C) Conclusions reached; and

(D) The basis for those conclusions.

(2) The Tribe shall submit, with the report, a copy of the eligibility determination made under subsection D of this section.

(3) If a license is not issued to an applicant, the Tribe;

(A) Shall notify the National Indian Gaming Commission; and

(B) May forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.

(4) With respect to key employees and primary management officials, the Tribe shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the National Indian Gaming Commission or his or her designee for no less than three (3) years from the date of termination of employment.

(g) Granting a Gaming License

(1) If, within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the tribe that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the tribe has provided an application and investigative report to the National Indian Gaming Commission, the Tribe may issue a license to such applicant.

(2) The Tribe shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30-day period under paragraph (g)(1) or this section until the Chairman of the National Indian Gaming Commission receives the additional information.

(3) If, within the thirty (30) day period described above, the National Indian Gaming Commission provides the Tribe with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Tribe has provided an application and investigative report to the National Indian Gaming Commission, the Tribe shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. The Tribe shall make the final decision whether to issue a license to such applicant.

(h) License Suspension

(1) If, after the issuance of a gaming license, the Tribe receives from the National Indian Gaming Commission reliable information indicating that a key employee or a primary management official is not eligible for employment under subsection D. above, the Tribe shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

(2) The Tribe shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.

(3) After a revocation hearing, the Tribe shall decide to revoke or to reinstate a gaming license. The Tribe shall notify the National Indian Gaming Commission of its decision.

(Res. No. 2024-23)

Subchapter CMP.1.5
Licensing for Non-tribal Games

CMP.1.5.010 Prohibition Against Non-Tribal Games... CMP.1.5-**Error! Bookmark not defined.**
CMP.1.5.020 Tribally Licensed Games – Generally ..... CMP.1.5-**Error! Bookmark not defined.**
CMP.1.5.030 License Applications..... CMP.1.5-**Error! Bookmark not defined.**
CMP.1.5.040 Additional Application Documents ..... CMP.1.5-**Error! Bookmark not defined.**
CMP.1.5.050 Investigation ..... CMP.1.5-**Error! Bookmark not defined.**
CMP.1.5.060 Selection of Licensees ..... CMP.1.5-**Error! Bookmark not defined.**
CMP.1.5.070 Requirements of Licensees..... CMP.1.5-**Error! Bookmark not defined.**
CMP.1.5.080 Reports and Finances of Licensees ..... CMP.1.5-**Error! Bookmark not defined.**
CMP.1.5.090 Records Improperly Filed ..... CMP.1.5-**Error! Bookmark not defined.**
CMP.1.5.100 Gaming Account..... CMP.1.5-**Error! Bookmark not defined.**
CMP.1.5.110 Bookkeeping and Accounting ..... CMP.1.5-**Error! Bookmark not defined.**
CMP.1.5.120 Suspension and Revocation of Licenses. CMP.1.5-**Error! Bookmark not defined.**
CMP.1.5.130 Monitoring..... CMP.1.5-**Error! Bookmark not defined.**

CMP.1.5.010 Prohibition Against Non-Tribal Games

The conduct of any non-licensed gaming shall be prohibited within the exterior boundaries of the Lac Courte Oreilles Reservation except:

(a) Games presented by the Tribe itself and/or any instrument of tribal government including tribally controlled non-profit corporations.

(b) Single events involving no more than eight (8) persons wherein there is no sponsor or odds favoring only one particular player and individual winnings do not exceed fifty dollars ($50.00.).

(Res. No. 2024-23)

CMP.1.5.020 Tribally Licensed Games – Generally

(a) The Tribal Governing Board may, in its discretion, license on a nonexclusive basis and supervise the conduct of specified gaming operations within boundaries of the Lac Courte Oreilles Reservation.

(b) A separate license shall be required for each place, facility, or location on Lac Courte Oreilles Lands at which any Class II games are conducted.

(c) Activities which the Tribal governing Board may license include:

(1) Bingo, if three hundred (300) seats or less and a maximum prize pay-out of Three Thousand Dollars ($3,000.00) per session; and

(2) Pull tabs as permitted by law.

(a) The Gaming Commission shall establish appropriate license fees, for approval by the Tribal Governing Board, and facilitate assessments as provided herein which those granted licenses shall be responsible for paying.

(b) The Board shall appoint and supervise the Tribal Gaming Commission to oversee such gaming operations as may be licensed under the authority of the Tribe and to authorize the licensing procedures and the collection of all license fees and assessments.

(Res. No. 2024-23)

CMP.1.5.030 License Applications

(a) An organization eligible for a gaming license must:

(1) Be a nonprofit corporation upon or engaged in activities within the Lac Courte Oreilles Reservation as a group (including partnerships and corporations) to operate the license in which at least 81% of the individuals in the group are members of the Tribe and at least 51% of the financial interest of the group is held by members of the Tribe.

(2) Have at least seven (7) members in good standing.

(3) Operate without profit to its members, and no part of the net earnings of such organization shall inure to the benefit of any private shareholder or individual.

(4) Have been in existence for one (l) year immediately preceding its application for a license, and shall have had during that one (l) year period a bona fide membership actively engaged in furthering a lawful purpose.

(5) Have received and used and shall continue to receive and use, for lawful purposes, funds derived from sources other than from the conduct of Class II games.

(a) Each applicant for a gaming license shall file with the Tribal Gaming Commission an application on a form prescribed by the Tribe. The application shall include:

(1) The names and address of the applicant.

(2) Sufficient facts relating to the incorporation or organization of the applicant to prove the applicant is eligible for a license under this Code.

(3) The name and address of each officer of the applicant, if an organization.

(4) The place and date of each gaming occasion proposed to be conducted during the effective period of the license.

(5) The name and address of the owner of the premises in which gaming will be conducted and the approximate capacity of the premises.

(6) The name, date of birth, and address of each supervising member for each gaming occasion who shall be of good moral character and one or more of whom shall be present and in immediate charge of and responsible for the conduct of games at each occasion.

(7) The name of any licensed organization or individual co-sponsoring any gaming occasion.

(8) The specific purposes to which the profits from the conduct of games are to be devoted.

(9) Other information which the Tribal Governing Board deems necessary to administer this Code.

(Res. No. 2024-23)

CMP.1.5.040 Additional Application Documents

An application for a license to conduct gaming shall be accompanied by:

(a) A sworn statement of each designated supervising member that he or she will be responsible for compliance with this Code and rules promulgated under it for each gaming occasion which he or she supervises.

(b) A specification of the period of time for which a license is sought or the specific events for which a license is requested.

(c) A license fee as may be required by the Tribal Governing Board which shall be returned should the license not be granted.

(d) Such bond as may be required by the Tribal Governing Board.

(Res. No. 2024-23)

CMP.1.5.050 Investigation

Upon receipt of an application for a license to conduct gaming activities, the Gaming Commission shall cause to conduct a background investigation on the primary management officials and key employees of the applicant and determine whether the interests of the Tribe will be met through the issuance of such license and shall make recommendations to

the Tribal Governing Board, which shall take final action. The Gaming Enforcement Officer shall notify the Commission of the results of any background investigation.

(Res. No. 2024-23)

CMP.1.5.060 Selection of Licensees

(a) The Tribal Governing Board shall not issue a gaming license unless:

(1) It is satisfied with the moral character, financial responsibility and quality of operations of the proposed licensee.

(2) The proposed gaming operation will complement rather than adversely affect games offered by the Tribe.

(3) The issuance of the license shall be in the best interest of the Tribe.

(4) The applicant is not deficient in the payment of post gaming assessments.

(5) The construction and maintenance of the gaming facility, and the operation of that gaming is conducted in a manner which adequately protects the environment and the public health and safety.

(6) There is no manager or employee of the applicant whose prior activities, criminal record, reputation, habits and associations pose a threat to the public interest or to the effective regulation of gaming, or who creates or enhances the dangers of unsuitable, unfair or illegal practices and methods and activities in the conduct of gaming.

(Res. No. 2024-23)

CMP.1.5.070 Requirements of Licensees

In applying for and accepting a gaming license, the applicant/licensee agrees:

(a) To abide by the rules and regulations of the Tribe and with all other applicable legal authority as to all aspects associated with the conduct of licensed games, including any rules, regulations or assessments under the Act.

(b) To pay all applicable license fees and assessments.

(c) To make all books and records of gaming operations upon the Lac Courte Oreilles Reservation available for inspection by the Tribal Governing Board or its appointed agents during all hours of operation and all normal business hours.

(d) To provide preferential hiring to qualified members of the Tribe as to all positions open for employment.

(e) To promptly pay to all winners such prizes as they might respectively be entitled to.

(f) To provide annual outside audits of the gaming and al] contracts for supplies, services of concessions in excess of $25,000.00 per year, to the Commission.

(g) To conspicuously post any gaming license granted.

(h) To accept the Lac Courte Oreilles Tribe as the sole dispute resolution forum disputes associated with games operations.

(i) To hold the Tribe, the Tribal Governing Board and tribal officers harmless as to all claims associated with the conduct of the licensed gaming operations and to indemnify each as to all expenses including legal fees utilized to defend against such claims.

(Res. No. 2024-23)

CMP.1.5.080 Reports and Finances of Licensees

Within three (3) days after the conclusion of each gaming occasion, each licensee shall execute and file a report of operations on a form prescribed by the Tribal Governing Board. The licensee shall retain a copy of the report for its permanent record. The report shall include:

(a) The name and address of each supervising member and each member responsible for the proper utilization of gross receipts.

(b) The date, hour and address of the gaming occasion.

(c) The number of games played.

(d) An itemized statement of the gross receipts from the gaming occasion, including gross receipts from sales of regular bingo cards, extra regular cards, special game cards and sale of supplies.

(e) An itemized statement of expenditures, including amounts paid for prizes, supplies and equipment, license fees and other expenses.

(f) The name of the depository and the title and number of the account.

(g) The report shall be signed by an individual responsible for the proper utilization of gross receipts for the gaming occasion.

(Res. No. 2024-23)

CMP.1.5.090 Records Improperly Filed

(a) If a licensee fails to file a financial statement of gaming operations within five (5) days after notification by the Gaming Commission of the delinquency, the Gaming Commission may suspend the license pending the filing of the financial statement.

(b) If the financial statement filed by a licensee is not fully, accurately, and truthfully completed, the Commission may suspend a license until such time as a statement in proper form has been filed.

(Res. No. 2024-23)

CMP.1.5.100 Gaming Account

Each licensee shall maintain one (l) account which shall be designated as the "Gaming Account. " All gross receipts derived from the conduct of gaming operations shall be deposited into the gaming account. No other receipts shall be deposited into the gaming account.

(Res. No. 2024-23)

CMP.1.5.110 Bookkeeping and Accounting

(a) Each licensee shall maintain a double-entry bookkeeping system for the purpose of recording all receipts and expenditures in connection with the conduct of gaming operations and the disbursement of profits derived therefrom. Such bookkeeping system shall consist of a columnar book maintained on a calendar of fiscal year basis.

(b) The columnar book, deposit books, savings account pass books, canceled checks, checkbooks, deposit slips, and bank statements of gaming operations and all other books and accounts shall be available at reasonable times for examination by the Tribe or its authorized representative. All documents supporting the entries made in the books of accounts shall be kept by the licensee for a period of not less than four (4) years. Such documents shall include, but are not limited to, bank statements, canceled checks, deposit slips and invoices for all expenditures.

(Res. No. 2024-23)

CMP.1.5.120 Suspension and Revocation of Licenses

(a) A violation of any applicable ordinance, law or code of the Tribe or rules promulgated thereunder shall constitute grounds for suspension or revocation of a gaming license.

(b) Procedures for suspending or revoking a gaming license shall be as follows:

(1) Proceeding to suspend a license to conduct games shall be initiated by the Tribal Gaming Commission of the Board. The notice shall state the alleged violations which constitute the grounds for the proceedings. The Tribal Gaming Commission for the Board may temporarily suspend such license for a period of 40 days while any such proceedings are pending and shall notify the licensee of the date of the temporary suspension.

(2) The Tribal Gaming Commission shall hold a hearing on a proposed suspension or proposed revocation as soon as practicable should such be requested by the licensee. The Tribal Gaming Commission shall issue, in writing, its findings and decision on suspension or revocation within 20 days aner the hearing. A copy of the findings and decision shall be sent immediately to the licensee. If the Tribal Gaming Commission suspends or revokes the license, the licensee shall be informed of the effective date of such suspension or revocation. Within twenty (20) days of the Tribal Gaming Commission's written decision, an appeal may be filed with the Tribal Governing Board and such decision shall be final.

(3) When a license suspension or revocation is upheld by the Tribal Governing Board, the licensee shall immediately surrender the license to the Board. A licensee whose license has been revoked may reapply for a license one (l) year after the effective date of the revocation. If a license has been suspended, the Tribal Gaming Commission shall reinstate the licensee at the end of the period of suspension.

(Res. No. 2024-23)

CMP.1.5.130 Monitoring

The Tribal Gaming Commission and the Tribal Gaming Enforcement Officer are hereby designated and empowered to monitor the gaming activities of any licensee, to investigate the backgrounds of management officials and key employees, to investigate the backgrounds of vendor license applicants and felony waiver petitioners, to enforce the provisions of this Code, and to report criminal violations of state, federal or tribal laws to the Tribal Gaming Commission.

(Res. No. 2024-23)

Subchapter CMP.1.6
Gaming Assessment

CMP.1.6.010 Gaming Activities Assessed ..... CMP.1.6-**Error! Bookmark not defined.**

CMP.1.6.010 Gaming Activities Assessed

(a) There shall be an assessment upon all gaming activities within the exterior boundaries of the Lac Courte Oreilles Reservation except as hereafter specified. Said assessment shall equal ten percent (10%) of the total moneys included within a prize as to all prizes in excess of twenty dollars ($20.00) and ten percent (10%) of the total value of all non-cash prizes when such value exceeds twenty dollars ($20.00). The gaming assessment shall be paid by the party presenting any form of regulated gaming.

(b) Assessments shall be payable within 72 hours of a gaming occasion. Assessments shall be paid to the Gaming Commission or to such other agent as shall be identified by the Tribal Governing Board.

(c) Assessments that are not timely paid shall, after 72 hours, be increased to incorporate a penalty of five percent (5%) and thereafter be increased an additional five percent (5%) per week to a maximum of twenty-five percent (25%).

(d) The following are exempt from assessment:

(1) Games presented by the Tribe itself and/or any instrument of tribal government, including Tribally controlled non-profit corporations.

(2) Single events wherein proceeds are directed to a previously announced charitable purpose and wherein a waiver of assessments is applied for in advance of the event and is granted by the Board

(3) Single events involving no more than eight (8) persons wherein there is no sponsor nor odds favoring only one particular player and individual winnings do not exceed fifty dollars ($50.00).

(Res. No. 2024-23)

Subchapter CMP.1.7
Bingo

CMP.1.7.010 Sale of Bingo Cards ..... CMP.1.7-**Error! Bookmark not defined.**
CMP.1.7.020 Method of Play ..... CMP.1.7-**Error! Bookmark not defined.**
CMP.1.7.030 Verification of Winners ..... CMP.1.7-**Error! Bookmark not defined.**
CMP.1.7.040 AWARD OF PRIZES ..... CMP.1.7-**Error! Bookmark not defined.**
CMP.1.7.050 Personnel..... CMP.1.7-**Error! Bookmark not defined.**
CMP.1.7.060 Operation as Part of Network ..... CMP.1.7-**Error! Bookmark not defined.**

CMP.1.7.010 Sale of Bingo Cards

(a) Bingo cards shall be sold or rented without disclosing the face of the card to either the purchaser or seller. Bingo cards shall be printed only on one side.

(b) An accurate, separate count of the number of regular bingo cards, extra regular bingo cards, special bingo cards and video bingo games, which are sold, rented or used. Such information shall be available for inspection at the close of the bingo occasion.

(c) Regular bingo cards, extra regular cards and special bingo cards and video bingo cards shall each be assigned a specific price, and the price shall remain the same during a bingo occasion. At any time during a bingo occasion, a card may be changed between games at no additional cost. Cards shall be sold or rented only on the premises at which bingo is being conducted. A price list shall be posted where the regular bingo cards are distributed, setting for the price of each type of card. Only the posted price may be charged. The regular bingo cards and the extra regular cards shall be readily distinguishable from each other.

(Res. No. 2024-23)

CMP.1.7.020 Method of Play

(a) The method of play in any bingo game and the utilization of bingo equipment and supplies shall be such that each player is afforded an equal opportunity to win.

(b) The object to be drawn shall be essentially the same in all characteristics, so that at all times during the conduct of bingo, each object possesses the capacity for equal agitation with any other object within the receptacle.

(c) The announcement of all numbers drawn shall be clearly audible to the players present.

(d) When more than one room is used for any one bingo game, the receptacle and the caller and any assistant shall be in the room where the greater number of players are present; and all numbers shall be announced in a manner clearly audible to the players in each room.

(e) Once removed, no object shall be returned to the receptacle until after the conclusion of the game.

(f) The particular arrangement of numbers required to be covered in order to win and the amount of the prize for each game shall be clearly described and audibly announced to the players immediately before each game. The amount of the prize for each bingo game also shall be posted where the regular bingo cards are distributed.

(Res. No. 2024-23)

CMP.1.7.030 Verification of Winners

(a) The numbers on the winning card at the time a winner is determined shall be verified in the immediate presence of at least one disinterested player.

(b) At the time a winner is determined, any player may call for verification of all numbers and of the objects remaining in the receptacle and not yet drawn, This verification shall be made in the immediate presence of the supervising members and at least one disinterested player.

(Res. No. 2024-23)

CMP.1.7.040 AWARD OF PRIZES

(a) Each Bingo winner shall be determined and every prize awarded after each game.

(b) When more than one winner is found to be a winner on the call of the same number in the same bingo game, a cash prize shall be divided equally, to the nearest nickel, among the winners, except that any licensed organization may elect to set a minimum prize of not exceeding $5.00 for each winner. When equal division of a merchandise prize is not possible, identical substitute prizes whose aggregate retail value is approximately equal to that of the designated prize may be awarded or a cash prize equal to the retail value may be divided to the nearest nickel.

(Res. No. 2024-23)

CMP.1.7.050 Personnel

(a) No person who is conducting or assisting in the conduct of bingo on a bingo occasion shall participate as a player in any game within said bingo occasion but shall be permitted to play on other occasions at normal rates.

(b) All persons conducting or assisting in the conduct of bingo shall conform to such policies and procedures as may be adopted by the Tribal Governing Board.

(Res. No. 2024-23)

CMP.1.7.060 Operation as Part of Network

Bingo may be conducted as part of a network consisting of other sites and operators and common prizes only upon approval of the Tribal Governing Board.

(Res. No. 2024-23)

Subchapter CMP.1.8
Severability and Non-Liability

CMP.1.8.010 Severability ..... CMP.1.8-**Error! Bookmark not defined.**
CMP.1.8.020 Non-Liability ..... CMP.1.8-**Error! Bookmark not defined.**

CMP.1.8.010 Severability

If any section, provision or portion of this Code is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Code shall not be affected thereby.

(Res. No. 2024-23)

CMP.1.8.020 Non-Liability

The Lac Courte Oreilles Band of Lake Superior Chippewa Indians 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 Code

(Res. No. 2024-23)

Subchapter CMP.1.9
Amendments

CMP.1.9.010 ..... CMP.1.9-**Error! Bookmark not defined.**

CMP.1.9.010

This Code may be amended solely by the Tribal Governing Board by a majority vote of the entire existing Tribal Governing Board at any special or regular meeting of the Tribal Governing Board provided, however, that consideration of the proposed amendment(s) shall be provided to the Tribal Gaming Commission at least seventy-two (72) hours prior to said meeting of the Tribal Governing Board.

(Res. No. 2024-23)

Chapter CMP.2
Tribal Consumer Financial Services Regulatory Code of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians

CMP.2.1 Introduction ..... CMP.2.1-**Error! Bookmark not defined.**
CMP.2.2 Definitions ..... CMP.2.2-**Error! Bookmark not defined.**
CMP.2.3 Tribal Regulatory Authority ..... CMP.2.3-**Error! Bookmark not defined.**
CMP.2.4 Licenses ..... CMP.2.4-**Error! Bookmark not defined.**
CMP.2.5 [Reserved] ..... CMP.2.5-**Error! Bookmark not defined.**
CMP.2.6 Licensees ..... CMP.2.6-**Error! Bookmark not defined.**
CMP.2.7 Authorized Consumer Financial Services ..... CMP.2.7-**Error! Bookmark not defined.**
CMP.2.8 Enforcement ..... CMP.2.8-**Error! Bookmark not defined.**
CMP.2.9 Resolving Borrower Disputes ..... CMP.2.9-**Error! Bookmark not defined.**
CMP.2.10 Uniform Commercial Code; Secured Transactions .. CMP.2.10-**Error! Bookmark not defined.**
CMP.2.11 Uniform Commercial Code; Leases ..... CMP.2.11-**Error! Bookmark not defined.**
CMP.2.12 Uniform Commercial Code; Lease Distinguished from Security Interest ... CMP.2.12-**Error! Bookmark not defined.**

Preamble

The Tribe declares that the public good and the welfare of the Tribe requires the enactment of this ordinance in order to improve the Tribe's economic self-sufficiency, to enable the Tribe to better serve the social, economic, educational, and health and safety needs of its members and visitors, and to provide its members with opportunities to improve their own economic circumstances, which is enacted pursuant to the Tribe's inherent sovereign authority 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(h) of the Amended Constitution and By-laws of the Lac Courte Oreilles Tribe of Lake Superior Chippewa Indians empowers the tribal governing board to "To engage in any business that will further the social or economic well-being of members of the Band or undertake any programs or projects designed for the economic advancement of the people."

Subchapter CMP.2.1
Introduction

CMP.2.1.010 Title ..... CMP.2.1-**Error! Bookmark not defined.**
CMP.2.1.020 Authority ..... CMP.2.1-**Error! Bookmark not defined.**
CMP.2.1.030 Findings, Intent and Policy ..... CMP.2.1-**Error! Bookmark not defined.**
CMP.2.1.040 Effective Date ..... CMP.2.1-**Error! Bookmark not defined.**
CMP.2.1.050 Interpretation ..... CMP.2.1-**Error! Bookmark not defined.**
CMP.2.1.060 Severability and Non-Liability..... CMP.2.1-**Error! Bookmark not defined.**
CMP.2.1.070 Repeal of Inconsistent Tribal Ordinances..... CMP.2.1-**Error! Bookmark not defined.**
CMP.2.1.080 Sovereign Immunity..... CMP.2.1-**Error! Bookmark not defined.**

CMP.2.1.010 Title

This Code shall be known as the Consumer Financial Services Regulatory Code of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians (hereinafter "Tribe").

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.1.010 was formerly codified as XII LCOTCL §2.101

CMP.2.1.020 Authority

This Code is enacted pursuant to the inherent sovereign powers of the Tribe and in accordance with the Tribe's Constitution.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.1.020 was formerly codified as XII LCOTCL §2.102

CMP.2.1.030 Findings, Intent and Policy

(a) Findings. The Governing Board of the Tribe finds that:

(1) The Tribe desires to expedite the development of the Tribe's economy to improve the Tribe's economic self-sufficiency, enable the Tribe to better serve the social, economic, educational, and health and safety needs of its members and visitors, and provide its members with opportunities to improve their own economic circumstances.

(2) Tribal creation and operation of Consumer Financial Services businesses is a legitimate means of generating revenue to address the aforementioned needs and for pursuing the Tribe's goal of self-sufficiency and self-determination.

(3) The Tribe has the legal authority to license and regulate Consumer Financial Services businesses within its jurisdiction.

(4) A properly licensed and regulated Consumer Financial Services industry is consistent with announced federal policy promoting tribal self-government and economic self-sufficiency.

(5) Tribal regulation and control of Consumer Financial Services businesses within the jurisdiction of the Tribe is essential for the protection of the public welfare.

(6) It is essential that the Governing Board regulate Consumer Financial Services in a manner commensurate with this Consumer Financial Services Regulatory Code ("Code") and all applicable federal consumer protection law.

(7) It is essential that public confidence in Consumer Financial Services that originate from the Tribe's reservation or within the Tribe's jurisdiction be maintained.

(8) Adoption of this Code by the Governing Board is a necessary precondition for the legal operation of Consumer Financial Services originating from the Tribe's reservation or within the Tribe's jurisdiction and is in the best interest of the Tribe.

(9) Establishment of a Consumer Financial Services Regulatory Authority ("Authority") to implement the purpose and intent of this Code is in the best interest of the Tribe.

(b) Intent. The Governing Board, on behalf of the Tribe, declares that the intent of this Code is to:

(1) Diversify and expedite the development of the Tribe's economy for the purposes described in Section CMP.2.1.030(a)(1).

(2) Define the general regulatory powers to be exercised by the Authority in relation to the regulation, control, and oversight of Consumer Financial Services.

(3) Ensure that all net revenue generated by Consumer Financial Services is used for the benefit of the Tribe in accordance with the purposes described herein.

(4) Ensure that Consumer Financial Services are conducted appropriately by Licensees and remain free from corrupt, incompetent, unconscionable and dishonest practices.

(5) Protect the interests of the public in the offering of Consumer Financial Services.

(6) Ensure the maintenance of public confidence in Consumer Financial Services practices.

(7) Ensure that there is a Tribal government forum for the fair and orderly resolution of Consumer Financial Services disputes, consistent with the preservation of the Tribe's sovereign immunity.

(8) Ensure that Consumer Financial Services laws and regulations are enforced.

(c) Policy.

(1) Tribal Policy of Self-Government. The Tribe is firmly committed to the principle of Tribal self-government. Revenues from Consumer Financial Services shall be utilized and expended only for the following purposes:

(2) To fund the Tribe's government operations or programs;

(3) To provide for the public health and general welfare of the Tribe and its members and visitors to the Tribal community;

(4) To promote Tribal economic development and self-sufficiency; and

(5) To donate to charitable organizations.

(6) Consumer Financial Services Policy. The establishment, promotion and operation of Consumer Financial Services is necessary, provided that such Consumer Financial Services are regulated and controlled by the Tribe pursuant to this Code and the revenues of such Consumer Financial Services are used exclusively in accordance with Section CMP.2.1.030(c)(1) of this Code.

(7) Responsibility for Regulation. The Tribe shall have the sole proprietary interest in, and responsibility for, the regulation of Consumer Financial Services authorized by this Code.

(8) Consumer Financial Services Authorized. Consumer Financial Services that are subject to licensing under this Code are authorized and permitted only as described in this and any regulations of the Authority adopted under this Code.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.1.030 was formerly codified as XII LCOTCL §2.103

CMP.2.1.040 Effective Date

Except as otherwise provided in specific Sections, the provisions of this Code shall be effective on the date adopted by the Governing Board of the Tribe.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.1.040 was formerly codified as XII LCOTCL §2.104

CMP.2.1.050 Interpretation

(a) The provisions of this Code:

(1) Shall be interpreted and applied as minimum requirements applicable to Consumer Financial Services subject to this Code;

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

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

(b) The Authority shall observe the Findings, Intentions, and Policies as provided in Section CMP.2.1.030 of this Code in the exercise of its discretionary powers.

(c) No Person acting, or who has acted, in good faith reliance upon a rule, order, or declaratory statement issued by the Authority shall be subject to any criminal, civil, or administrative liability for such action, notwithstanding a subsequent decision by a court of competent jurisdiction invalidating the rule, order, or declaratory statement.

(d) No Person other than the Person to whom an order or declaratory statement is issued is entitled to rely upon that order or declaratory statement if it is not of general application unless the material facts or circumstances are substantially the same as those upon which the order or declaratory statement was based.

(e) Words of the masculine gender or neuter include masculine and feminine genders and are the neuter.

(f) Words in the present tense include the future and past tenses.

(g) Words in the singular number include the plural, and words in the plural number include the singular.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.1.050 was formerly codified as XII LCOTCL §2.105

CMP.2.1.060 Severability and Non-Liability

If any Section, provision, or portion of this Code is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Code shall not be affected thereby. Neither the Tribe, its agencies, employees, or agents waive its sovereign immunity from any action or damages that may occur as a result of reliance upon and conformance with this Code.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.1.060 was formerly codified as XII LCOTCL §2.106

CMP.2.1.070 Repeal of Inconsistent Tribal Ordinances

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

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.1.070 was formerly codified as XII LCOTCL §2.107

CMP.2.1.080 Sovereign Immunity

(a) Immunity from Suit. The Tribe, the Authority, and any entity formed as an arm of the Tribe and operating according to this Code shall possess all the rights, privileges, and immunities of the Tribe as allowed under Tribal and federal law, including sovereign immunity from suit and unconsented judicial or administrative processes, except as specifically limited by this Code.

(b) No Waiver. Nothing in this Code shall be deemed or construed to be a waiver of sovereign immunity.

(c) No Consent to Jurisdiction. Nothing in this Code shall be deemed or construed to be consent to the jurisdiction of the United States or of any state or of any other tribe.

(d) Waivers of Sovereign Immunity. Only the Governing Board may waive the sovereign immunity of the Tribe, the Authority, or any arm of the Tribe. The Governing Board shall not delegate authority to waive immunity to the Authority or to any Person for any purpose related to Consumer Financial Services.

(1) Resolution Effecting Waivers. All waivers of sovereign immunity must be preserved with resolutions of continuing force and effect issued by the Governing Board.

(2) Policy on Waivers. Waivers of sovereign immunity are disfavored and shall be granted only when necessary to secure a substantial advantage or benefit to the Tribe, the Authority or any arm of the Tribe.

(3) Limited Nature of Waivers. Waivers of sovereign immunity shall not be general but shall be specific and limited, including limits as to duration, jurisdiction, venue, causes of action, relief available, grantee, transaction, and recoverable property or funds.

(4) Consent to Enforcement Actions and Immunity. A Licensee's sovereign immunity shall not prevent, either by operation or interpretation, Authority investigations, enforcement actions, and Consumer dispute resolution procedures as described in this Code.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.1.080 was formerly codified as XII LCOTCL §2.108

Subchapter CMP.2.2
Definitions

CMP.2.2.010 General Definitions ..... CMP.2.2-**Error! Bookmark not defined.**

CMP.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 Code, shall be construed to apply as follows:

(a) **"Applicant"** means any Person who has applied for a License under the provisions of this Code.

(b) **"Application"** means a request for the issuance of a License under the provisions of this Code.

(c) **"Business Day"** means all calendar days except Saturdays, Sundays, and legal public holidays.

(d) **"Code"** means this Consumer Financial Services Regulatory Code, Lac Courte Oreilles Band of Lake Superior Chippewa Indians Tribal Code of Law this chapter.

(e) **"Conspicuously Displayed"** means emphasized through the use of capitalization, font size, bold print, underlining, highlighting or some combination thereof.

(f) **"Consumer"** means a natural Person who acquires goods, services, or credit primarily for Personal, family or household purposes. The term does not include a Person who acquires goods, services, or credit primarily for business, commercial, or investment purposes.

(g) **"Consumer Financial Services"** means the business of providing (a) goods, services, or credit to Consumers in transactions subject to this Code in exchange for interest, fees, rent, or other form of consideration originating from the Tribe's Reservation or from within the Tribe's jurisdiction or (b) services directly to a Licensee, the Tribe, or other tribally owned entity when provided from the Tribe's Reservation or from within the Tribe's jurisdiction. Goods, services, or credit to consumers offered by any tribally licensed gaming operator are not Consumer Financial Services.

(h) **"Control"** means the power to vote more than twenty-five percent (25%) of the outstanding voting shares of a licensed corporation, partnership, association or trust, or the possession, directly or indirectly, of the power to direct or cause the direction of the

management, operations, policies and practices of a Person, whether through equity ownership, contract, or other means.

(i) **"Controlling Person"** means a Person who has Control or who has the ability to affect one or more significant business decisions of the Licensee or Applicant.

(j) **"Governing Board"** means the Tribal Governing Board of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, the governing body of the Tribe as defined and described in the Tribe's Constitution and pursuant to Tribal law.

(k) **"Indian lands"** means all lands within the limits of the Tribe's Reservation and all lands, owned by the Tribe, and over which the Tribe exercises governmental power.

(l) **"Installment Loan"** means a Loan made to an individual Consumer that charges interest and/or fees for which the stated repayment period is greater than 60 days but no longer than 5 years and is not secured by title to a motor vehicle.

(m) **"Lease"** means a contract by which a rightful possessor of Personal property conveys the right to use and possess the Personal property in exchange for consideration, e.g., fixed regular payments.

(n) **"Lender"** means a wholly owned economic arm of the Tribe formed or organized by the Tribe and licensed by the Authority to engage in the business of providing Loans to Consumers from the Tribe's Reservation or from within the Tribe's jurisdiction.

(o) **"License"** means the official and legal privilege to engage in certain and specified conduct. A License is issued by the Authority. A License relating to Consumer Financial Services is a revocable privilege subject to revocation in accordance with the Code.

(p) **"Licensee"** means any Person licensed by the Authority.

(q) **"Line of Credit"** means an arrangement between a Licensee and a customer that establishes a maximum Loan balance that the Licensee will permit a borrower to maintain. The borrower can draw down on the Line of Credit at any time as long as he or she does not exceed the maximum set in the agreement.

(r) **"Loan"** means any extension of credit in connection with a Consumer Financial Services transaction.

(s) **"New Merchant Technology Leasing Product"** means a Technology Lease product offering. Lease amounts will be secured by customer collateral consisting of phones, tablets, laptops, and other technology products. Lease payments will be based on pay frequency. The Lease will be a true Lease and there will be no required principal payments by the customer.

(t) **"Person"** means any natural Person, partnership, joint venture, association, trust, firm, estate, club, society, receiver, assignee, trustee in bankruptcy, political entity, company, corporation or other group, however organized, and any owner, director, officer or employee of any such entity or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, business entities that are wholly owned or operated by the Tribe, or any other entity whatsoever. The term does not include the Federal Government, State Government, or any agency thereof, The Tribe, the Governing Board, or any agency thereof including the Authority, or any other tribal government.

(u) **"Reservation"** means all lands identified in Art. I § 1 of the Constitution and also includes any other land set aside and held in trust by the United States over which the Tribe is recognized as having governmental power.

(v) **"Right of Rescission"** means, with respect to any installment Loan, the right to return any amount borrowed, in full, within the timeframe allotted by this Code, any promulgated regulation, or by any installment Loan agreement, without the incursion of any fee or other charges.

(w) **"Single-payment Consumer Loan"** means a Loan made to a Consumer that is repayable in full on the Consumer's next pay date.

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

(y) **"Vendor"** means any Person who engages or seeks to engage in the business of providing services directly to a Licensee, the Tribe, or other tribally owned entity.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.2.010 was formerly codified as XII LCOTCL §2.201

Subchapter CMP.2.3
Tribal Regulatory Authority

CMP.2.3.010 Establishment and Purpose ..... CMP.2.3-**Error! Bookmark not defined.**
CMP.2.3.020 Location and Place of Business ..... CMP.2.3-**Error! Bookmark not defined.**
CMP.2.3.030 Duration ..... CMP.2.3-**Error! Bookmark not defined.**
CMP.2.3.040 Attributes ..... CMP.2.3-**Error! Bookmark not defined.**
CMP.2.3.050 Assets of the Authority..... CMP.2.3-**Error! Bookmark not defined.**
CMP.2.3.060 Regulatory Agent(s); Compensation, Duties ..... CMP.2.3-**Error! Bookmark not defined.**
CMP.2.3.070 Meetings..... CMP.2.3-**Error! Bookmark not defined.**
CMP.2.3.080 Prohibited Acts ..... CMP.2.3-**Error! Bookmark not defined.**
CMP.2.3.090 Removal of Regulatory Agent / Vacancy CMP.2.3-**Error! Bookmark not defined.**
CMP.2.3.100 Powers of the Authority ..... CMP.2.3-**Error! Bookmark not defined.**
CMP.2.3.110 Annual Budget ..... CMP.2.3-**Error! Bookmark not defined.**
CMP.2.3.120 Authority Regulations ..... CMP.2.3-**Error! Bookmark not defined.**
CMP.2.3.130 Quarterly Report to the Governing Board..... CMP.2.3-**Error! Bookmark not defined.**

CMP.2.3.010 Establishment and Purpose

The Governing Board hereby charters, creates and establishes the Consumer Financial Services Regulatory Authority ("Authority") as a governmental subdivision of the Tribe. The Authority is charged with the implementation of this Code and regulations promulgated thereunder to ensure fair and equitable treatment of Consumers and to enforce compliance of the Code by Licensees. The Tribe created the Authority to operate on behalf of the Tribe for the benefit of the Tribe and its members and to protect Consumers.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.3.010 was formerly codified as XII LCOTCL §2.301

CMP.2.3.020 Location and Place of Business

The Authority may maintain its headquarters, principal place of business and office within the Reservation as determined by the Governing Board. The Authority may, however, with a majority vote from the Governing Board, establish other places of business in such

other locations as the Authority may from time to time determine to be in the best interest of the Tribe.

(Res. No. 2024-23)

Prior Codifications

- §CMP.2.3.020 was formerly codified as XII LCOTCL §2.302

CMP.2.3.030 Duration

The Authority shall have perpetual existence and succession in its own name, unless dissolved by the Governing Board pursuant to Tribal law.

(Res. No. 2024-23)

Prior Codifications

- §CMP.2.3.030 was formerly codified as XII LCOTCL §2.303

CMP.2.3.040 Attributes

As a governmental subdivision of the Tribe, the Authority is under the direction and control of the Governing Board, and it is the purpose and intent of the Governing Board that the operations of the Authority be conducted on behalf of the Tribe for the sole benefit and interests of the Tribe, its members and residents of and visitors to the Tribe's Reservation.

(Res. No. 2024-23)

Prior Codifications

- §CMP.2.3.040 was formerly codified as XII LCOTCL §2.304

CMP.2.3.050 Assets of the Authority

The Authority shall have only those assets specifically assigned to it by the Governing Board, acquired in its name by the Tribe, or acquired by the Authority on its own behalf. No

activity of the Authority or any indebtedness incurred by it shall implicate or in any way involve any assets of tribal members or the Tribe not assigned in writing to the Authority.

(Res. No. 2024-23)

Prior Codifications

- §CMP.2.3.050 was formerly codified as XII LCOTCL §2.305

CMP.2.3.060 Regulatory Agent(s); Compensation, Duties

(a) Regulatory Agent(s); Term of Office.

(1) The Authority shall be governed by an Agent(s) appointed by the Governing Board. The Governing Board may change the number of Agent(s) by Resolution as it deems necessary.

(2) Agents shall serve seven (7) year terms, commencing upon appointment, or until removed by the Governing Board pursuant to Section CMP.2.3.090.

(3) If more than one Agent is appointed, Agents' terms shall be staggered.

(4) There shall be no limit on the number of times an Agent may be reappointed.

(5) An Agent's term shall automatically renew unless the Governing Board appoints a replacement before expiration of the then-current term.

(b) Compensation. The compensation of the Agent(s) shall be established from time to time by the Governing Board.

(c) Director; Other Officers. The Governing Board shall designate a Director. The Director may establish subordinate officers as needed.

(d) Duties. The Agent(s) shall have the following duties:

(1) Oversee and have responsibility for the day-to-day operations of the Authority, including supervision of Authority employees;

(2) Serve as the agent for service of process;

(3) Conduct or oversee the conduct of any meetings or hearings held by the Authority in accordance with this Code or further directive of the Governing Board;

(4) Monitor Licensees under this Code;

(5) Exercise the powers enumerated in Section CMP.2.3.110 as needed and at its discretion.

(6) Perform any other tasks or functions assigned by the Governing Board or not expressly stated within the Code but which are necessary to ensure the Tribe's purposes and policies are met.

(e) Agent Qualifications. Any Person appointed to be an Agent shall meet the

following qualifications:

(1) The appointee shall have expertise, experience, education or a combination thereof in financial services, finance, management, business, governmental regulation, law, and/or Tribal policy.

(2) The appointee shall be at least twenty-one (21) years of age and show proof of high school diploma or equivalent.

(3) No Person shall serve as Agent if:

(A) the Person has been convicted of or entered a plea of no contest to any crime involving breach of trust or dishonesty in any jurisdiction; or

(B) as determined by the Governing Board, the Person's prior activities, reputation, habits or associations pose a threat to the public interest; threaten the effective regulation and control of financial services; or enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of financial services.

(C) the Person (or the Person's spouse or significant other, parents, children, and siblings) has an ownership, partnership, or other direct financial interest in any Licensee, one of its agents, contractors, or sub-contractors. Upon disclosure, a conflict may be waived by the Governing Body provided the appropriate safeguards are put in place to ensure impartiality.

(D) He/she would not comply with Section CMP.2.3.080 if appointed to the Authority.

(Res. No. 2024-23)

Prior Codifications

- §CMP.2.3.060 was formerly codified as XII LCOTCL §2.306

CMP.2.3.070 Meetings

(a) The Authority shall hold meetings as necessary to fulfill its duties.

(b) The Authority may meet in an Executive Session when necessary to protect confidentiality and privilege.

(c) The Authority shall hold or participate in meetings at least quarterly with the Governing Board.

(Res. No. 2024-23)

Prior Codifications

- §CMP.2.3.070 was formerly codified as XII LCOTCL §2.307

CMP.2.3.080 Prohibited Acts

The Agent and Authority employees shall not do any of the following:

(a) Be indebted to any Licensee, either directly or indirectly, as borrower, accommodation endorser, surety, or guarantor, unless such indebtedness was contracted

before becoming employed by or appointed to the Authority and is fully disclosed to the Governing Board.

(b) Be an officer, director, or employee of any Licensee.

(c) Have an Economic Interest (as defined in the Tribe's Code of Conduct, Section MCC.1.5.010) in any License.

(d) Accept any Gifts, Awards, Loans, or Reimbursements (as Tribe's Code of Conduct, Section MCC.1.5.030) from any Licensee (or any officer, director, or employee of any Licensee); except that an Agent or Authority employee is permitted to receive a pro-rata share of revenue that has been generated by a Licensee and is distributed among all eligible Tribal members by virtue of membership in the Tribe.

(e) Violate the Tribe's Code of Conduct, Chapter MCC.1 of the Tribal Code of Law.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.3.080 was formerly codified as XII LCOTCL §2.308

CMP.2.3.090 Removal of Regulatory Agent / Vacancy

(a) Removal. An Agent may be removed by the Governing Board for the any following reasons: serious inefficiency; neglect of duty; malfeasance, misfeasance, nonfeasance; misconduct in office; for any of the reasons listed in Section CMP.2.3.060(e)(3); or, for any conduct which threatens the honesty and integrity of the Tribe, its financial services, the Authority, or violates the letter or intent of this Code.

(b) Removal Procedures.

(1) Before removal, an Agent shall be granted a hearing before the Governing Board and be given a written notice of the specific charges against him or her at least ten (10) Business Days prior to such hearing.

(2) Any basis for removal must be substantiated by a preponderance of the evidence.

(3) An Agent subject to removal will be given an opportunity to provide evidence rebutting the grounds for their proposed removal before the removal is considered.

(4) A decision of the Governing Board to remove an Agent is final and not appealable.

(c) Vacancy. If an Agent shall die, resign, be removed or for any reason be unable to serve as an Agent, the Governing Board shall declare his or her position vacant and shall

appoint another qualified Tribal member to fill the position within thirty (30) days of the vacancy. The term of office of the Person appointed to fill the vacancy shall be for the balance of the unexpired term for the position.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.3.090 was formerly codified as XII LCOTCL §2.309

CMP.2.3.100 Powers of the Authority

The Authority has the power to discharge all duties imposed by this Code and its associated regulations including, but not limited to:

(a) Promulgate, adopt, and enforce regulations and rules furthering the purpose and provisions of this Code.

(b) Examine or inspect, or cause to be examined or inspected, each Licensee at least annually or according to timeframes established by regulation.

(c) Establish procedures designed to permit detection of any irregularities, fraud, or the like.

(d) Receive and act on complaints, take action designed to obtain voluntary compliance with this Code, or commence proceedings on its own initiative.

(e) Establish financial literacy programs.

(f) Upon prior explicit resolution and approval of the Governing Board, to employ such advisors as it may deem necessary at rates to be set by the Governing Board. Advisors may include, but are not limited to, lawyers, accountants, law enforcement specialists and financial services professionals.

(g) Accept, review, approve or deny any Application for a License, including conducting or arranging for background investigations of all Applicants.

(h) Examine under oath, either orally or in writing, in hearings or otherwise, any Licensee or Person, or agent, officer or employee of any Licensee, or any other witness with respect to any matters related to this Code.

(i) Compel by subpoena the attendance of witnesses and the production of any books, records, and papers with respect thereto. Upon refusal to appear or produce, the Authority may apply to a court of competent jurisdiction to compel appearance or production.

(j) Examine or investigate, or cause to be examined or investigated, the place of business, equipment, facilities, tangible personal property and the books, records, papers,

vouchers, accounts, documents and financial statements of any Licensee or Person engaging or participating in, or suspected to be engaging or participating in, Consumer Financial Services to:

(1) ensure compliance with this Code, applicable federal law, or any order of the Authority;

(2) determine whether any Licensee or Person has engaged, is engaging, or is about to engage in any act, practice or transaction that constitutes an unsafe or unsound practice or violation of this Code or any order of the Authority; or

(3) aid in adopting rules or regulations pursuant to this Code.

(k) Discipline any Licensee or Person engaging or participating in Consumer Financial Services in violation of this Code by ordering immediate compliance, issuing fines and sanctions, and suspending or revoking any License pursuant to the hearings and due process required by Section CMP.2.9.030 of this Code.

(l) Impose a lien in the amount of any fine or sanction that a Licensee or Person fails to pay upon all assets and property of such Licensee or Person within the Tribe's jurisdiction.

(m) Institute a civil action to recover any fine or sanction that a Licensee or Person fails to pay.

(n) Arbitrate, compromise, negotiate or settle any dispute to which it is a party relating to the Authority's authorized activities, subject to any approval of the Governing Board.

(o) Sue in courts of competent jurisdiction within the United States with the explicit written approval of the Governing Board.

(p) Impose a schedule of fees, attached hereto as Exhibit A, as applicable for:

(1) the processing, issuance, and renewal of Licenses, including fees or charges associated with conducting background checks;

(2) reasonable examinations of Licensees; and

(3) services rendered relating to transcripts and the furnishing or certifying of copies of proceedings, files, and records.

(q) Establish and maintain such bank accounts as may be necessary or convenient.

(r) Enter cooperative arrangements and to coordinate enforcement activity with other Tribal, Federal, or State regulatory agencies.

(s) Make such findings as may be necessary to implement the Authority's duties and powers, with such findings to be given deference as the legally binding findings of a governmental entity.

(t) None of the powers enumerated in this section shall be construed to allow the Authority to manage the operations of a Licensee.

(Res. No. 2024-23)

Prior Codifications

- §CMP.2.3.100 was formerly codified as XII LCOTCL §2.310

CMP.2.3.110 Annual Budget

The Authority shall prepare an annual operating budget for all Authority activities and present it to the Governing Board no less than thirty (30) Business Days prior to the commencement of each operating year.

(Res. No. 2024-23)

Prior Codifications

- §CMP.2.3.110 was formerly codified as XII LCOTCL §2.311

CMP.2.3.120 Authority Regulations

(a) Regulations may be necessary to carry out the implementation and orderly performance of the Authority's duties and powers. Regulations may include, but shall not be limited to, the following:

(1) The making of findings or other information required by or necessary to implement this Code;

(2) Interpretation and application of this Code, as may be necessary to enforce the Authority's duties and exercise its powers;

(3) A regulatory system for overseeing Consumer Financial Services, including accounting, contracting, management and supervision;

(4) The conduct of inspections, investigations, hearings, enforcement actions and other powers of the Authority authorized by this Code; and

(5) Specification of the amount and the schedule of applicable Licensing and examination fees that shall be imposed by the Authority.

(b) Promulgation of Regulations. The Authority may promulgate regulations as follows:

(1) The Authority may propose a regulation at any time. A Licensee may propose a regulation by submitting a written request and draft of the proposed regulation to the Authority.

(2) Before promulgating any regulation, the Authority will notify the Tribe and all Licensees of the proposed regulation by publishing notice on the Authority's website or by other means determined to ensure timely notice. Such notification will include a description of the regulation and the reason for its considered implementation.

(3) After notice is sent, the Authority will allow a reasonable time for any Licensee to submit written comments on the proposed regulation that support, oppose, or suggest amendments.

(4) After the comment period has expired, the Authority will either: amend the proposed regulation and allow a new comment period; promulgate and publish the proposed regulation with a separate written response to any comments; or decline to promulgate the regulation. The Authority shall notify the Tribe and Licensees of its decision by publishing notice on the Authority's website or by other means determined to ensure timely notice.

(5) The Governing Board may promulgate or rescind any regulation at any time by majority vote. The Governing Board is in no way bound by this section.

(6) Only regulations promulgated by the Authority in accordance with this procedure or by the Governing Board will be enforceable by the Authority.

(c) Dispute Resolution Regulations. The Authority shall promulgate regulations providing procedures that govern the consumer dispute resolution processes provided in §§ Section CMP.2.9.030 and Section CMP.2.9.040 of this Code.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.3.120 was formerly codified as XII LCOTCL §2.312

CMP.2.3.130 Quarterly Report to the Governing Board

The Authority shall file reports with the Governing Board, either quarterly or as otherwise authorized by the Governing Board, summarizing reports received from each Licensee and additional information necessary to keep the Governing Board fully informed

as to the status of the Authority's activities. The Authority shall define by regulation, subject to the approval of the Governing Board, the schedule for the submission of such reports.

(Res. No. 2024-23)

Prior Codifications

- §CMP.2.3.130 was formerly codified as XII LCOTCL §2.313

Subchapter CMP.2.4
Licenses

CMP.2.4.010 Applicability ..... CMP.2.4-**Error! Bookmark not defined.**
CMP.2.4.020 Application Procedure..... CMP.2.4-**Error! Bookmark not defined.**
CMP.2.4.030 Licenses – Review, Issuance and Denial, Term..... CMP.2.4-**Error! Bookmark not defined.**
CMP.2.4.040 Denial, Suspension, or Revocation of License ..... CMP.2.4-**Error! Bookmark not defined.**
CMP.2.4.050 Renewal..... CMP.2.4-**Error! Bookmark not defined.**
CMP.2.4.060 Voluntary Surrender of License ..... CMP.2.4-**Error! Bookmark not defined.**
CMP.2.4.070 Assignment or Transfer ..... CMP.2.4-**Error! Bookmark not defined.**
CMP.2.4.080 Deposits of Fees and Assessments ..... CMP.2.4-**Error! Bookmark not defined.**

CMP.2.4.010 Applicability

(a) Unless exempt, any entity seeking to engage in Consumer Financial Services subject to this Code shall obtain all required licenses before engaging in Consumer Financial Services. Any exemption to this licensure requirement shall be granted by the Authority or by Governing Board resolution and shall only be granted after a showing of good cause. The following Persons are exempt from all licensing requirements:

(1) Any Person providing products or services in support of a Licensee not provided directly to the Licensee;

(2) Any national, state, or tribally chartered bank that is insured by the Federal Deposit Insurance Corporation or any subsidiary thereof;

(3) Any national, state, or tribally chartered credit union;

(4) Any Person licensed or otherwise authorized to engage in payment processing, money transmission, tax preparation, or the practice of law;

(5) Any credit bureau or similar third-party service provider or vendor engaged by a Licensee for purposes of risk assessment or similar pre-origination services.

(6) Any other federal insured financial institution and any of their subsidiaries; and

(7) Any employee of the above.

(b) A License is a revocable privilege to do business within the Tribe's jurisdiction.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.4.010 was formerly codified as XII LCOTCL §2.401

CMP.2.4.020 Application Procedure

(a) Submission to Authority. An Applicant seeking a License shall submit an Application to the Authority on such form as the Authority may require and accompanied by any required support materials and applicable fees, the amount of which shall be set by the Authority.

(b) Application Contents. At a minimum, the Applicant shall supply the following information:

(1) Each of the Applicant's Controlling Persons, if applicable; and

(2) For each natural Person identified on the Application, the name, mailing address, telephone number, email address, and other such identification information the Authority deems necessary; and

(3) A brief description on the type and nature of the Consumer Financial Services the Applicant intends to offer; and

(4) The Applicant's creation or incorporation documents, any articles of operation or bylaws, as well as any tax identification numbers; and

(5) For each natural Person identified on the Application, an Applicant shall supply the following information, if any:

(A) Each natural Person's criminal record and an explanation of any crimes for which he has been convicted or to which he or she has entered a plea of no contest, in any jurisdiction; and

(B) Each Person's civil record, identifying any civil suits, administrative proceedings, or regulatory actions in which a judgment has been entered against him or her in any jurisdiction; and

(C) A complete disclosure of any pending or anticipated civil, administrative, regulatory, or criminal action in any jurisdiction against the Applicant or any Person identified on the Application; and

(D) Governing Board Members are exempt from this subsection (e).

(6) The Applicant, and each natural Person identified, shall provide written permission giving the Authority the right to conduct background investigations, including any criminal, civil, and financial records, including credit history searches. Governing Board Members are exempt from this subsection (f); and

(7) A list of all Consumer Financial Services-related licenses the Applicant has ever applied for, in any jurisdiction, whether or not such licenses were issued; and

(8) The disclosure of whether there is a previous contractual relationship with any Indian tribe related to any Consumer Financial Services or similar Consumer financial industry; and

(9) A sworn statement that if the License applied for is issued, the Applicant will submit to the jurisdiction of the Tribe; the Applicant will abide by Tribal law and regulation as well as applicable Federal laws, regulations and policies; and that the information contained in the Application is true and correct to the best of the Applicant's knowledge.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.4.020 was formerly codified as XII LCOTCL §2.402

CMP.2.4.030 Licenses – Review, Issuance and Denial, Term

(a) Generally, Substance, and Classification. Subject to this Code, the Authority may issue Licenses that authorize a Licensee to provide all types of Consumer Financial Services or a limited-purpose License that only authorizes certain types of Consumer Financial Services.

(b) Temporary License. The Authority may in its discretion issue a temporary License after submission of a completed application and a preliminary determination of suitability by the Authority.

(c) Automatic Issuance. A Consumer Financial Services License shall automatically issue if the following criteria are met:

(1) The Applicant complied with the provisions of Section CMP.2.4.020 of this Code; and

(2) Within (10) prior years from the date of the Application, no Controlling Person or natural Person identified on the Application has been, in any jurisdiction, convicted of a felony or convicted of any other crime involving breach of trust or dishonesty; been convicted or entered a plea of no contest of any felony or entered a plea of no contest related to any other crime involving breach of trust or dishonesty ; had an order entered

by an administrative agency finding conduct that involved fraud, deceit or misrepresentation, or other misconduct related to financial services;; or had a financial judgment ordered in a civil action finding fraud, deceit or misrepresentation, or other misconduct related to financial services; and

(3) The Consumer Financial Services are authorized pursuant to this Code; and,

(4) The Consumer Financial Services are authorized by a Governing Board Resolution; and

(5) The Tribe has the sole ownership interest in the Applicant that will provide the Consumer Financial Services.

(d) Issuance. Upon completion of any necessary background investigation and/or verifications, the Authority may issue a License on a conditional or unconditional basis. The Authority shall not unreasonably withhold issuance or renewal of a License.

(e) Denial. The Authority, when it does not license an Applicant shall notify the Applicant in writing, provide the basis for the denial of the License, and otherwise comply with the procedural requirements of as provided in Section CMP.2.4.040 of this Code. The Authority shall have the final word on whether to license an Applicant. Any denial may be appealed as described herein.

(f) Term. Any License issued pursuant to this section shall be effective for a period of two (2) years from the date of issuance. A temporary License may be for such period of time as determined by the Authority.

(g) Display and Format. The License shall be presented as a certificate which shall bear on its face the name of the Licensee, the Tribal Logo, the issue date, the License number, and the applicable classification of the License. Each License shall specify its scope. Each Licensee must display the License number on its Consumer website, if applicable.

(h) Record Retention. The Authority shall maintain the Applicant's file, including Applications, background investigation reports, and eligibility determination reports for no less than three (3) years from the date of termination of employment.

(i) Nothing herein creates a property right in a License.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.4.030 was formerly codified as XII LCOTCL §2.403

CMP.2.4.040 Denial, Suspension, or Revocation of License

(a) Denial; Suspension, or Revocation. The Authority shall deny a License or suspend or revoke a License if the Authority finds that an Applicant or Licensee:

(1) Failed to notify the Authority within thirty (30) Business Days after the occurrence of any material development, including, but not limited to:

(A) Bankruptcy or other undertaking of insolvency;

(B) Business reorganization due to insolvency;

(C) The filing of a criminal indictment, civil complaint, or administrative or regulatory action against the Licensee or any of its officers, directors; and/or

(D) A felony conviction against the Licensee or any of a Licensee's officers, directors;

(2) Failed to pay initial Application or renewal fees;

(3) Made a material misstatement or omission on the Application or on any document required to be filed with the Authority or failed to update any Application or any document required to be filed with the Authority;

(4) Withheld or provided incomplete or insufficient pertinent information;

(5) Is not a Person of honesty, truthfulness, or good character;

(6) Violated or aided, abetted, or conspired with another Licensee or Person or knowingly caused any Licensee or Person to violate this Code or the rules and regulations of the Authority;

(7) Participated in unauthorized Consumer Financial Services;

(8) Knowingly falsified books or records that relate to a transaction connected with the operation of Consumer Financial Services;

(9) Failed to keep sufficient books and records to substantiate receipts, disbursements, and expenses incurred or paid;

(10) Failed to take reasonable measures to ensure that an agreement with a Consumer is not materially breached;

(11) Has been convicted or has entered a plea of no contest in any jurisdiction of any crime involving breach of trust or dishonesty;

(12) Has had an order entered against it by an administrative agency of any jurisdiction and the order is based on conduct that involved fraud, deceit, or misrepresentation by the Applicant or Licensee;

(13) Has had a financial judgment ordered against it in a civil action based on fraud, deceit, or misrepresentation while it was a Licensee or Licensee Applicant;

(14) Employed any Person whom the Licensee knew or should have known was convicted of fraud, theft, or embezzlement, or would otherwise be precluded from licensure;

(15) Refused to comply with any lawful order, inquiry or directive of the Authority, the Governing Board, or any court or administrative body of competent jurisdiction;

(16) Attempted to bribe or offer something of value to any Person, Governing Board member, or Agent;

(17) Threatened or attempted to coerce any Person, Governing Board Member, or Agent;

(18) Stole or attempted to steal funds or other items of value;

(19) Poses a threat to the public interest or the effective regulation of Consumer Financial Services;

(20) Creates or enhances the danger of unsuitable, unfair, or illegal practices and methods and activities in the conduct of Consumer Financial Services; and/or

(21) Has demonstrated an inability to manage the Applicant's personal or business finances or demonstrates a sufficient indebtedness in relation to income so as to cause concern for the Applicant's ability to fulfill its responsibilities under this Code.

(b) Acts of Controlling Persons. It is sufficient cause for denial, suspension, or revocation of a License if a Controlling Person of the Licensee or Applicant, or natural Person identified on the Application, acted or failed to act in a manner that if the Licensee or Applicant acted or failed to act in that manner would be cause for denial, suspension or revocation of the License.

(c) If a Licensee fails to renew its License and does not voluntarily surrender the License, the Authority may issue a notice of expiration of the License without further revocation proceedings.

(d) Revocation, suspension, cancellation, surrender, or expiration of a License shall not affect civil or criminal liability for acts committed before the revocation, suspension,

cancellation, surrender, or expiration. Nothing in this section precludes the Authority from any enforcement.

(e) Procedure for Suspension or Revocation. Upon the Authority's reasonable belief that a violation of this Code has occurred, the Authority may initiate an investigation and/or suspend or revoke a License. Unless exigent circumstances exist, within 10 days of any denial, suspension, or revocation, an Applicant or Licensee may request a hearing contesting any denial, suspension, or revocation of a License according to the procedures outlined in Section CMP.2.9.030

(Res. No. 2024-23)

Prior Codifications

- §CMP.2.4.040 was formerly codified as XII LCOTCL §2.404

CMP.2.4.050 Renewal

(a) Renewals. To renew a License, a Licensee shall reapply and resubmit any applicable Licensing fee, as required under Section CMP.2.4.020. The Authority may promulgate procedures to expedite the renewal process. Applicants may be required to provide updated material as requested.

(b) Non-renewal. The Authority may deny renewal of a License or suspend or revoke a License if the Authority finds the existence of any circumstance listed in Section CMP.2.4.040 of this Code, or that any other fact or condition exists that, if it had existed at the time of the original Application for the License, would have warranted the Authority to refuse to issue the License.

(Res. No. 2024-23)

Prior Codifications

- §CMP.2.4.050 was formerly codified as XII LCOTCL §2.405

CMP.2.4.060 Voluntary Surrender of License

Any Licensee may voluntarily surrender its License at any time by giving written notice of the surrender to the Authority.

(Res. No. 2024-23)

Prior Codifications

- §CMP.2.4.060 was formerly codified as XII LCOTCL §2.406

CMP.2.4.070 Assignment or Transfer

A License is not salable, lendable, transferable, or assignable and control of a License shall not be acquired through any stock purchase or other devise without the prior written

consent of the Authority. The Authority shall not give consent if the Authority finds that the acquiring Person does not meet the qualifications described in this Code.

(Res. No. 2024-23)

Prior Codifications

- §CMP.2.4.070 was formerly codified as XII LCOTCL §2.407

CMP.2.4.080 Deposits of Fees and Assessments

Application fees, renewal fees, late payment penalties, civil penalties, administrative fines and other fees or penalties provided for in this Code shall in all cases be paid directly to the Authority. The Authority shall deposit such proceeds into an account or fund designated by the Governing Board.

(Res. No. 2024-23)

Prior Codifications

- §CMP.2.4.080 was formerly codified as XII LCOTCL §2.408

Subchapter CMP.2.5
[Reserved]

Subchapter CMP.2.6
Licensees

CMP.2.6.010 Compliance ..... CMP.2.6-**Error! Bookmark not defined.**
CMP.2.6.020 Applicable Consumer Protection Laws... CMP.2.6-**Error! Bookmark not defined.**
CMP.2.6.030 Prohibited Acts by Licensees ..... CMP.2.6-**Error! Bookmark not defined.**
CMP.2.6.040 Compliance Management System ..... CMP.2.6-**Error! Bookmark not defined.**
CMP.2.6.050 Books, Accounts and Records, Examinations, Costs ... CMP.2.6-**Error! Bookmark not defined.**
CMP.2.6.060 Reports ..... CMP.2.6-**Error! Bookmark not defined.**
CMP.2.6.070 Public Notice ..... CMP.2.6-**Error! Bookmark not defined.**

CMP.2.6.010 Compliance

Licensees shall at all times comply with the provisions of this Code, rules and regulations promulgated pursuant to this Code, and all other applicable Tribal and applicable federal laws.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.6.010 was formerly codified as XII LCOTCL §2.601

CMP.2.6.020 Applicable Consumer Protection Laws

(a) Licensees and Vendors shall conduct business in a manner that complies with this Code and all applicable federal consumer protection law, including, without limitation:

The Dodd-Frank Wall Street Reform and Consumer Protection Act, 12, U.S.C. § 5301 *et seq*., including the Consumer Financial Protection Act ("Dodd-Frank Act"), 12 U.S.C. § 5481 *et seq*., and, the restrictions on Unfair, Deceptive, or Abusive Acts or practices, 12 U.S.C. § 5531, *et seq*.; the Consumer Credit Protection Act, 15 U.S.C. Chapter 41, including the Truth in Lending Act, 15 U.S.C. § 1601 *et seq*., 12 C.F.R. § 226; the Fair Credit Billing Act, 15 U.S.C. § 1666a; the Consumer Leasing Act, 15 U.S.C. § 1667 *et seq*.; 12 CFR § 213 *et seq*.; the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq*., 12 C.F.R. § 222; the Equal Credit Opportunity Act, 15 U.S.C. § 1691 *et seq*., 15 C.F.R. § 202; the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq*., 16 C.F.R. § 901; and, the Electronic Fund Transfer Act, 15 U.S.C. § 1693 *et seq*., 12 C.F.R. § 205. Also, the Children's Online Privacy Protection Act, 15 U.S.C. §§ 6501-6506, 16 C.F.R. § 312.1-312.13; the Gramm-Leach-Bliley Act, 15 U.S.C. § 6801 *et seq*., 16 C.F.R. §§313 and 314; the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 *et seq*.; the Controlling the Assault of Non-Solicited Pornography and

Marketing Act, 15 U.S.C. § 7701, *et seq*.; the Military Lending Act, 10 U.S.C. § 987, 32 C.F.R. § 232; the Servicemembers' Civil Relief Act, 50 U.S.C. App. § 501 *et seq*.; the Telephone Consumer Protection Act, 47 U.S.C. § 227, 47 CFR § 64.1200 *et seq*.; the Bank Secrecy Act, 31 U.S.C. § 5311 *et seq*., 12 U.S.C. §§ 1829b, 1951-1959; the Anti-Money Laundering Act, 18 U.S.C. § 1960; and, the Telemarketing Sales Rule, 16 C.F.R. § 310.

(b) This Code does not disclaim or otherwise preclude the application of applicable federal law or federal authority. To the greatest extent possible, this Code is to be interpreted in a manner consistent with federal Indian policy and applicable federal law.

(Res. No. 2024-23)

Prior Codifications

- §CMP.2.6.020 was formerly codified as XII LCOTCL §2.602

CMP.2.6.030 Prohibited Acts by Licensees

(a) A Person shall not engage in the business of Consumer Financial Services subject to this Code without first obtaining a License pursuant to this Code.

(b) A Licensee shall not:

(1) Engage in any Consumer Financial Services other than those allowed under this Code and authorized by its License.

(2) Assess any interest, fee, or charge fee that is greater than any applicable limitation, if any, prescribed in this Code.

(3) Use or cause to be published or disseminated any advertisement that contains false, misleading or deceptive statements or representations.

(4) Engage in unfair, deceptive, or fraudulent practices.

(5) Tie or otherwise condition the providing of Consumer Financial Services to the sale of any good or service by the Licensee.

(6) Originate any Loan or approve any Loan agreement outside the Tribe's Jurisdiction.

Prospectively waive any applicable federal law in any Loan agreement.

(Res. No. 2024-23)

Prior Codifications

- §CMP.2.6.030 was formerly codified as XII LCOTCL §2.603

CMP.2.6.040 Compliance Management System

Each Licensee shall maintain a compliance management system, which shall include procedures for vendor diligence, to ensure compliance with this Code and applicable federal laws.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.6.040 was formerly codified as XII LCOTCL §2.604

CMP.2.6.050 Books, Accounts and Records, Examinations, Costs

(a) A Licensee shall maintain all books, accounts, and records that the Authority reasonably requires to ensure compliance. Each Licensee shall:

(1) Ensure that the books, accounts, and records are sufficiently detailed to comply with the Code and all applicable federal laws.

(2) Maintain the books, accounts, and records separately from any other business in which the Licensee is engaged and shall retain the books, accounts, and records for at least three years or according to the specific requirements of applicable federal law.

(b) The Authority may examine or cause to be examined each Licensee at least annually. In conducting such examination, the Authority or its agent may examine the books, accounts, and records to determine if the Licensee has complied with this Code and any applicable federal laws The Licensee shall pay the cost of the examination.

(c) Tribal Records. All books, accounts, records, agreements, reports and audits, communications, and other documents held by a Licensee and related to Consumer Financial Services authorized by this Code are records of the Tribe.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.6.050 was formerly codified as XII LCOTCL §2.605

CMP.2.6.060 Reports

(a) Reports. At a minimum, every Licensee shall file an annual report with the Authority in a time and manner specified by the Authority. Each report shall contain information specified by the Authority sufficient for the Authority to determine compliance with this Code including, at a minimum, the following:

(1) The name, address, and telephone number of the Licensee;

(2) The names, addresses and titles of all of the current managers of the Licensee;

(3) A sworn statement that the Licensee, to the best of its knowledge, has complied and will continue to comply with all Tribal and federal laws applicable to Consumer Financial Services; and

(4) The name and address of the agent who will accept service of process on behalf of the Licensee.

(5) The Authority may promulgate regulations to require additional information and more periodic reporting.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.6.060 was formerly codified as XII LCOTCL §2.606

CMP.2.6.070 Public Notice

(a) Each Licensee shall have a copy of this Code and any promulgated regulations readily available for inspection by any Person at each authorized physical location and on each website.

(b) Technology and Data Security. Each Licensee shall secure all information technology hardware and data using such levels of protection and technology that is commensurate with recommended data security practices of the industry. Each Licensee shall have all technology and data security audited annually or more often if necessary.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.6.070 was formerly codified as XII LCOTCL §2.607

Subchapter CMP.2.7
Authorized Consumer Financial Services

CMP.2.7.010 General Authority ..... CMP.2.7-**Error! Bookmark not defined.**
CMP.2.7.020 Consumer Agreements: Immunity, Conditions, and Disclosures ..CMP.2.7-**Error! Bookmark not defined.**
CMP.2.7.030 Consumer Financial Services: Products, Specific Terms .....CMP.2.7-**Error! Bookmark not defined.**
CMP.2.7.040 Consumer Financial Services: General Terms..... CMP.2.7-**Error! Bookmark not defined.**

CMP.2.7.010 General Authority

Subject to this Code, a Licensee may engage in the business of providing Consumer Financial Services as provided in this Code.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.7.010 was formerly codified as XII LCOTCL §2.701

CMP.2.7.020 Consumer Agreements: Immunity, Conditions, and Disclosures

(a) Preservation of Tribal Sovereign Immunity and Exclusive Jurisdiction. All Consumer agreements must provide a notice regarding preservation of tribal sovereign immunity and exclusive jurisdiction of the Tribe, as well as a Consumer's limited and exclusive rights to submit complaints through the Tribal dispute resolution process in accordance with this Code and regulations of the Authority. The notice must inform the Consumer that:

(1) the Licensee consents to the jurisdiction of the Tribe and to the Tribal dispute resolution process in accordance with this Code and regulations of the Authority; and

(2) until the Tribal dispute resolution process is exhausted, the Consumer may not bring any claims in any court, in which case the Licensee reserves all rights and defenses.

(b) Consumer Agreement Required Notices and Disclosures; Borrower's Rights and Responsibilities. Each Loan Agreement must contain a notice and disclosure that advises the Consumer of their rights. The notice and disclosures must be Conspicuously Displayed within the Loan agreement. For Loans originated by a Licensee, the Loan Agreement must contain, at a minimum, the following information:

(1) Identify that the Licensee is wholly owned economic instrumentality of the Tribe, formed and operated pursuant to Tribal law for the express purpose of the economic development and betterment of the Tribe;

(2) The Licensee and the Tribe are immune from suit in any court unless the Tribe expressly and unequivocally waives its sovereign immunity or Congress authorizes suit under federal law;

(3) The Licensee is regulated and licensed by the Authority according to Tribal law, Tribal regulations, the Dodd-Frank Act, 12 USC § 5552, and applicable federal law and regulation;

(4) The Loan is made within the Tribe's jurisdiction and governed by Tribal law and applicable federal law;

(5) No portion of the Loan attempts to waive or otherwise prohibit the application of applicable federal law;

(6) The Loan may have a high interest rate and is not intended as a long-term financial solution;

(7) Alternative forms of credit may be less expensive;

(8) The Loan is not governed by the laws of any State and that Loans issued according to State law may offer interest rate limits and other consumer protections that are inapplicable to the Consumer, the Loan, and the Licensee;

(9) Consumer's signature and acceptance of the Loan indicates:

(A) Consumer understands that it is in the Consumer's best interests to evaluate their ability to repay the Loan;

(B) Consumer has had the opportunity to consult an independent financial counselor;

(C) Consumer understands that the Consumer, and not the Lender, is responsible to evaluate the Consumer's financial options;

(D) Consumer has read and understands the terms of the Loan, including the interest rate;

(E) Consumer understands the inapplicability of state law;

(F) Consumer understands that the Loan is made in accordance with the terms of a Loan agreement which is governed by Tribal law and that, by signing the Loan

agreement and accepting the Loan, the Consumer is consenting to the Tribe's jurisdiction;

(10) Consumer consents to the dispute resolution process provided in the Loan agreement;

(11) Consumer has provided current and accurate information related to the Consumers' employment, income, credit, and asset history;

(12) Consumer is able to repay the loan according to the terms of the Loan agreement.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.7.020 was formerly codified as XII LCOTCL §2.702

CMP.2.7.030 Consumer Financial Services: Products, Specific Terms

(a) Extension of Credit. Any Licensee may, subject to any limitations on lending authority or otherwise imposed by law and subject to the other provisions of this section, offer and extend credit to a Consumer and, in connection therewith, may charge and collect the interest and other charges permitted by this subchapter and may take such security as collateral in connection therewith as may be acceptable to the Licensee.

(b) Installment Loans.

(1) When a Licensee offers Installment Loans, in addition to such other disclosure requirements as are imposed pursuant to other provisions of this subchapter, the application for such Loan must contain a written disclosure, Conspicuously Displayed, that:

(A) The Loan is designed as a short-term cash flow solution and not designed as a solution for longer term financial problems;

(B) Additional fees and interest may accrue if the Loan is refinanced; and

(C) Credit counseling services are available to Consumers who are experiencing financial problems.

(2) Nothing in this section prohibits a Licensee from refinancing the principal amount of an Installment Loan, subject to the limitations and requirements imposed herein.

(3) Every Licensee must post on any website a prominent statement that: "This Loan is not intended to meet long-term financial needs."

(c) Single-payment Consumer Loans. When a Licensee offers Single-payment Consumer Loans, in addition to such other limitations and requirements imposed pursuant to other provisions of this subchapter, Single-payment Consumer Loans shall be subject to the following:

(1) Repayment. A Single-payment Consumer Loan is repayable in full on the Consumer's next pay date.

(2) Loan Term. The minimum Loan term is two (2) days and the maximum Loan term is fourteen (14) days. Where a Loan is requested but cannot be issued in time to meet the minimum two-day Loan term requirement, it is held in a pending status and issued at a future date.

(3) Eligibility. In order to qualify for a Loan, customers must be at least 18 years of age, reside in the United States and have a regular source of income directly deposited to their bank account.

(4) Exclusions.

(A) Military. Military is excluded as the product does not comply with the Military Lending Act's APR requirements.

(B) Reserved.

(5) Loan Limits. Loan limits are determined based on Consumer net income and Loan history.

(d) New Merchant Technology Leasing Product. When a Licensee offers a New Merchant Technology Leasing Product, in addition to such other limitations and requirements as are imposed pursuant to other provisions of this subchapter, New Merchant Technology Leasing Products shall be subject to the following:

(1) Potential Consumers will be identified through existing channels that currently purchase non-organic and organic leads.

(2) Lease amounts will be secured by Consumer collateral consisting of phones, tablets, laptops, and other products. Collateral will not be physically collected and Customer Service Representatives (CSRs) will collect serial numbers, brand, model and potentially, photos of the product.

(3) A Licensee may elect to charge an administrative fee to the Consumer for inventory management or other costs, which fee shall not exceed the lesser of $100 or 20 percent (20%) of the ascribed value of the leased good or goods, and minimum rentals based upon the first 45 days of the Lease in the event the lessee terminates the

lease. These charges to not constitute penalties. A fixed price purchase option in a Lease does not of itself create a security interest. This is particularly true if the fixed price is substantial in relation to the reasonably predictable fair market value of the goods at the time the option is to be performed. Other prices are also sufficient provided they are not nominal.

(4) Lease payments will be based on pay frequency. The Lease will be a true Lease and there will be no required principal payments by the customer. New Lease documents will not be required after each Lease payment on the Consumer's pay date and the customer may choose to pay off the Lease at any time.

(5) Consumers in default of their Lease will be required to send in the goods committed as collateral and will be sold to a third-party vendor to liquidate the item.

(6) Storage of the leased product will be housed on tribal lands.

(e) Line of Credit Product. When a Licensee offers a Line of Credit product, in addition to such other limitations and requirements as are imposed pursuant to other provisions of this subchapter, the Line of Credit product shall be subject to the following:

(1) Underwriting. The initial screening of a Line of Credit application will pass through the multi-tiered waterfall process which includes both internal "black-box" and external 3rd party scorecards for assessment. The Line of Credit Product will take this process into consideration and provide the same level of data for real-time assessment.

(2) Credit Line Draw Down. The Line of Credit product will allow a customer to request a draw down on available credit and manage the disbursement of the draw.

(3) Billing Statements. Payments will be scheduled and processed on the customers' pay-dates. The billing cycle and statement delivery will be set on a minimum fourteen (14) day cycle.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.7.030 was formerly codified as XII LCOTCL §2.703

CMP.2.7.040 Consumer Financial Services: General Terms

(a) Interest. A Licensee may charge and collect interest in respect of a Loan at such daily, weekly, monthly, annual, or other periodic percentage rate or rates as the agreement governing the Loan provides or as established in the manner provided in such agreement and may calculate such interest by way of simple interest or such other method as the agreement governing the Loan provides. If the interest is precomputed it may be calculated on the assumption that all scheduled payments will be made when due. For purposes

hereof, a year may but need not be a calendar year and may be such period of from 360 to 366 days, including or disregarding leap year, as the Licensee may determine.

(b) Variable Rates. If the agreement governing the Loan so provides, the periodic percentage rate or rates of interest charged and collected in respect of the Loan may, if the interest is not precomputed and taken in advance, vary in accordance with a schedule or formula. Such periodic percentage rate or rates may vary from time to time as the rate determined in accordance with such schedule or formula varies and such periodic percentage rate or rates, as so varied, may be made applicable to all or any part of outstanding unpaid amounts of such Loan on and after the effective date of such variation. This section shall not be construed to limit the authority of a Licensee to charge and collect interest in respect of a Loan in the manner and at the rate or rates authorized in any other Section of this subchapter. Without limitation, a permissible schedule or formula hereunder may include provisions in the agreement governing the Loan for a change in the periodic percentage rate or rates of interest applicable to all or any part of outstanding unpaid amounts whether by variation of the then applicable periodic percentage rate or rates of interest, variation of an index or margin or otherwise, contingent upon the happening of any event or circumstance specified in the Loan agreement, which event or circumstance may include the failure of the Consumer to perform in accordance with the terms of the Loan agreement.

(c) Additional Charges. In addition to or in lieu of interest at a periodic percentage rate or rates permitted by Section CMP.2.7.040(a) and Section CMP.2.7.040(b), the Licensee may charge and collect, in respect of a Loan:

(1) Loans.

(A) If the agreement governing the Loan so provides, charge and collect any other fees or charges, costs, points, premiums, and all other expenses which may be assessed by the Licensee in connection with the Loan.

(B) If the agreement governing a Loan so provides, a License may impose, as interest, a late or delinquency charge upon any outstanding unpaid installment payments or portions thereof under the Loan agreement which are in default; provided, however, that no more than 1 such delinquency charge may be imposed in respect of any single such installment payment or portion thereof regardless of the period during which it remains in default. Nothing contained in this subdivision shall limit, restrict, or otherwise affect the right of a Licensee under and pursuant to § 2.702 (5) of this subchapter to change the periodic percentage rate or rates of interest applicable to the Loan agreement between the Licensee and a Consumer upon the occurrence of a delinquency or default or other failure of the Consumer to perform in accordance with the terms of the Loan agreement.

(C) Such other charges as are set forth in the Agreement governing the Loan including, but not limited to, costs, fees, services, points, premiums and all other reasonable expenses which may be incurred by such Applicant in connection with a Loan. No Licensee shall demand, collect, or receive from any Applicant for a Loan, directly or indirectly, any other charges, or any greater amounts for any authorized charges than those permitted by this subchapter.

(D) Licensee may also charge a transaction charge or credit extension fee as well as a minimum charge for each scheduled period under the plan where there is an outstanding unpaid indebtedness.

(2) Leases.

(A) A Licensee may elect to charge an administrative fee to the Consumer for inventory management or other costs, which fee shall not exceed the lesser of $100 or 20 percent (20%) of the ascribed value of the leased good or goods, and minimum rentals based upon the first 45 days of the lease in the event the lessee terminates the lease. These charges to not constitute penalties. A fixed price purchase option in a lease does not of itself create a security interest. This is particularly true if the fixed price is substantial in relation to the reasonably predictable fair market value of the goods at the time the option is to be performed. Other prices are also sufficient provided they are not nominal.

(d) Deferred Installments. A Licensee may at any time or from time to time permit a Consumer to defer installment payments of a Loan and may, in connection with such deferral, charge and collect deferral charges.

(e) Refinancing.

(1) A Consumer may, with the consent of the Licensee, refinance the entire outstanding and unpaid amount of a Loan, and the Licensee may charge and collect a refinancing charge in connection with any such refinancing.

(2) For the purposes of this section, the entire outstanding and unpaid amount of a Loan shall be deemed to be the total of the unpaid balance and the accrued and unpaid interest and charges on the date of refinancing.

(f) Attorney's Fees; Costs. In the event a Consumer defaults under the terms of a Loan, the Licensee may, if the Consumer's account is referred to an attorney (not a regularly salaried employee of the Licensee) or to a third party for collection and, if the agreement governing, or the bond, note or other evidence of, the Loan so provides, charge and collect from the Consumer a reasonable attorney's fee. In addition, following a Consumer's default, the Licensee may, if the agreement governing, or the bond, note or other evidence of, the

Loan so provides, recover from the Consumer all court, alternative dispute resolution or other collection costs (including, without limitation, fees, and charges of collection agencies) actually incurred by the Licensee.

(g) No Oral Agreements. A Loan agreement may provide that it represents the entire agreement of the parties and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties. Such provisions are enforceable and disallow evidence of oral agreements.

(h) Credits, Debits & Payments. A Licensee may rely on the ACH network as the funding and primary payment mechanism for its consumer financial services, however, alternative payment methods shall available, which include US Postal Service and card payments.

(i) Complaints, Credit Counseling & Bankruptcy. All Consumer complaints are handled by individuals authorized to manage complaints, credit counseling, and/or bankruptcy.

(j) Nonpayment. No Licensee shall pursue, or threaten to pursue, criminal action against an individual Consumer in connection with the nonpayment of any amount due, including the unpaid return of any check or automated clearing house transaction.

(k) Right of Recission. In addition to such other limitations and requirements as are imposed pursuant to other provisions of this subchapter, no Licensee shall make a Loan unless such Loan is subject to a right of rescission of no less than 2 business days on the part of the individual Consumer.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.7.040 was formerly codified as XII LCOTCL §2.704

Subchapter CMP.2.8
Enforcement

CMP.2.8.010 Jurisdiction ..... CMP.2.8-**Error! Bookmark not defined.**
CMP.2.8.020 Guidelines..... CMP.2.8-**Error! Bookmark not defined.**
CMP.2.8.030 Civil Violations ..... CMP.2.8-**Error! Bookmark not defined.**
CMP.2.8.040 Cumulative Fines..... CMP.2.8-**Error! Bookmark not defined.**
CMP.2.8.050 Purpose of Civil Penalties..... CMP.2.8-**Error! Bookmark not defined.**
CMP.2.8.060 Civil Action for Penalties ..... CMP.2.8-**Error! Bookmark not defined.**
CMP.2.8.070 Seizure and Forfeiture of Property ..... CMP.2.8-**Error! Bookmark not defined.**

CMP.2.8.010 Jurisdiction

Except as provided otherwise in this Code, the Authority shall have jurisdiction over all violations of this Code.

(a) Jurisdiction over Members. The Tribe has jurisdiction over all Tribal Members.

(b) Jurisdiction over Tribal Business Entities. The Tribe has jurisdiction over all business entities organized under Tribal law.

(c) Jurisdiction over non-Members. The Tribe has jurisdiction over non-Members (i) that are within the Tribe's Indian lands, (ii) who enter into consensual relationships (e.g., commercial dealings, contracts, leases, or other arrangements) with the Tribe, its arms and instrumentalities, businesses organized under Tribal law, and the Tribe's Members; (iii) who threaten the Tribe's political integrity, economic security, or health and welfare; and/or (iv) as delegated by Congress. Without limiting the foregoing:

(1) Obtaining a License pursuant to this Code is consent by the Licensee or Applicant to the Tribe's jurisdiction and consent to the Tribe's exercise of jurisdiction over the Licensee in any action arising out of the Licensee's activities whether the Licensee or the Licensee's activities are on or off-reservation. The Authority is specifically granted authority under this Code to act on behalf of the Tribe to exercise jurisdiction over Licensees.

(2) Obtaining any Consumer Financial Service, Loan, or other product or service authorized by this Code or any duly promulgated regulation invokes and is consent to the Tribe's jurisdiction for the application of Tribal law, including, but not limited to, the Code.

(3) Providing any services directly to a Licensee, the Tribe, or other tribally owned entity is consent to the Tribe's jurisdiction for the application of Tribal law including, but not limited to, the Code.

(d) Jurisdiction over Consumer Financial Services. The Tribe has jurisdiction over all Consumer Financial Services authorized by this Code and by promulgated regulations. The Authority is specifically granted authority under this Code to act on behalf of the Tribe to exercise jurisdiction over those providing, offering, or engaging in Consumer Financial Services.

(e) Jurisdiction over Indian lands. The Tribe has jurisdiction over Indian lands as provided for in the Tribe's Constitution.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.8.010 was formerly codified as XII LCOTCL §2.801

CMP.2.8.020 Guidelines

In imposing any administrative remedy or civil penalty provided for in this Code, the Authority shall take into account the appropriateness of the remedy or penalty with respect to the size of the financial resources and good faith of the violator charged, the extent to which the violation was intentional, the gravity of the violation, the history or previous violations, and such other matters as justice may require.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.8.020 was formerly codified as XII LCOTCL §2.802

CMP.2.8.030 Civil Violations

Any Person who violates or fails to comply with any provision of this Code or who fails or neglects to comply with any final order of the Authority may be charged with a violation and given due process pursuant to Section CMP.2.9.030 of this Code. If the Person is found to have committed a violation, he/she/it may be required to pay a civil fine to the Authority not to exceed Five Thousand Dollars ($5,000) for each violation. Each day during which any such violation or failure to comply continues may be treated as a separate violation of this Code, but not to exceed $100,000. A violation or series of violations related to the same act or omission may be treated as one violation.

(a) A Licensee found responsible for a material violation pursuant to this section may also be subject to revocation of the Licensee's License.

(b) An officer or agent of a business entity who knowingly or recklessly participates in a material violation of this Code may be subject to termination by the Authority. If an officer

or agent of a Licensee participates in a violation of this Code, then the Authority may immediately revoke the Licensee's License.

(c) If an officer, agent, or employee of a Vendor participates in a violation of this Code, the Authority may immediately ban the Vendor from operating within the Tribe's jurisdiction and may require other Licensees working with such Vendor to show cause why they should not be held accountable and disciplined for the Vendor's conduct.

(d) Any unlicensed Person that violates Section CMP.2.4.040(a) subsections (a) – (t), or otherwise violates this Code, may be subject to a civil enforcement action described here.

(Res. No. 2024-23)

Prior Codifications

- §CMP.2.8.030 was formerly codified as XII LCOTCL §2.803

CMP.2.8.040 Cumulative Fines

All civil fines accruing under this Code shall be cumulative and a suit for the recovery of one fine shall not bar or affect the recovery of any other fine, or judgment, penalty, forfeiture or damages, nor bar the power of a court of competent jurisdiction to enter an order of contempt, nor bar any criminal prosecution against any officer, director, agent, or employee of any Licensee, or any other Person.

(Res. No. 2024-23)

Prior Codifications

- §CMP.2.8.040 was formerly codified as XII LCOTCL §2.804

CMP.2.8.050 Purpose of Civil Penalties

The civil fines imposed under this Code are intended to be remedial and not punitive and are designed to compensate the Tribe for the damage done to the peace, security, economy, and general welfare of the Tribe, and to compensate the Tribe for costs incurred by the Tribe in enforcing this Code. The civil fines under this Code are also intended to coerce all people into complying with this Code and Authority regulations and not to punish such people for violation of such laws and regulations.

(Res. No. 2024-23)

Prior Codifications

- §CMP.2.8.050 was formerly codified as XII LCOTCL §2.805

CMP.2.8.060 Civil Action for Penalties

In enforcing the civil infraction provisions of this Code, the Authority may proceed, in the name of the Tribe, against a Person for violation of such provision by civil complaint in a court of competent jurisdiction pursuant to the provisions of this Code. Nothing in this

section precludes the Authority from any license suspension or revocation authorized by this Code.

(Res. No. 2024-23)

Prior Codifications

- §CMP.2.8.060 was formerly codified as XII LCOTCL §2.806

CMP.2.8.070 Seizure and Forfeiture of Property

Property utilized in violation of this Code shall be subject to seizure and forfeiture by order of the Authority pursuant to such implementing regulations as the Authority shall promulgate.

(Res. No. 2024-23)

Prior Codifications

- §CMP.2.8.070 was formerly codified as XII LCOTCL §2.807

Subchapter CMP.2.9
Resolving Borrower Disputes

CMP.2.9.010 General Principles ..... CMP.2.9-**Error! Bookmark not defined.**
CMP.2.9.020 Tribal and Administrative Exhaustion .... CMP.2.9-**Error! Bookmark not defined.**
CMP.2.9.030 Initial Consumer Dispute Resolution Procedure... CMP.2.9-**Error! Bookmark not defined.**
CMP.2.9.040 Formal Consumer Dispute Resolution Procedure; Tribal Forum ...CMP.2.9-**Error! Bookmark not defined.**
CMP.2.9.050 Applicant and Licensee Dispute Resolution Procedure .....CMP.2.9-**Error! Bookmark not defined.**
CMP.2.9.060 Appeals..... CMP.2.9-**Error! Bookmark not defined.**

CMP.2.9.010 General Principles

(a) The Tribe values its Consumers and intends, at all times, to see that Consumers' questions, concerns, issues, and disputes are addressed in a fair and orderly manner.

(b) A Consumer's Loan agreement, a License, or a contract with a Licensee constitutes a consensual contractual relationship with an arm of the Tribe sufficient to allow the Authority both Tribal and administrative jurisdiction over any dispute arising thereunder.

(c) For all Consumer Loans originated before the DATE, Consumer concerns about a Licensee's operations, its Consumer Financial Services or products, the Consumer's agreement with the Licensee, or who is aggrieved by some aspect of the operation of any part of the Licensee's business shall be resolved according to the terms of the Consumer's agreement unless the Consumer agrees to the procedures herein.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.9.010 was formerly codified as XII LCOTCL §2.901

CMP.2.9.020 Tribal and Administrative Exhaustion

(a) Consumers, Licensees, and any Person within the Tribe's jurisdiction are required to exhaust the tribal and administrative procedures before filing suit in any court.

(b) Unless superseded by later enacted Tribal administrative procedures and/or Tribal Court Rules, a Consumer, Licensee, or any Person exhausts Tribal and administrative remedies by adhering to the dispute resolution procedures herein.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.9.020 was formerly codified as XII LCOTCL §2.902

CMP.2.9.030 Initial Consumer Dispute Resolution Procedure

(a) A Consumer who has concerns about a Licensee's operations, its Consumer Financial Services or products, the Consumer's agreement with the Licensee, or who is aggrieved by some aspect of the operation of any part of the Licensee's business, shall direct the concerns or dispute in the first instance to the Licensee in the manner prescribed by the Consumer's agreement to afford the Licensee an opportunity to offer a remedy.

(b) Any Consumer Loan agreement shall not prohibit any Consumer from exercising any right under Tribal law or applicable federal law.

Any Consumer Loan agreement must inform the Consumer of the right to raise any concerns about a Licensee's operations, its Consumer Financial Services or products, the Consumer's agreement with the Licensee, or other grievance related to any aspect a Licensee's operation or business with the Authority according to Section CMP.2.9.040.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.9.030 was formerly codified as XII LCOTCL §2.903

CMP.2.9.040 Formal Consumer Dispute Resolution Procedure; Tribal Forum

(a) The Authority shall establish an intake process to receive, record and direct Consumer complaints to the appropriate Licensee to allow the Licensee an opportunity to remedy the complaint according to Section CMP.2.9.030. The Authority may require any Licensee to inform the Authority of the status of Consumer complaints and the resolutions to Consumer complaints.

(b) After complying with Section CMP.2.9.030, any Consumer dissatisfied with the Licensee's proposed resolution to the Consumer's complaint may file the complaint with the Authority and proceed pursuant to the Authority's Dispute Resolution Regulations, or, if enacted, Tribal administrative procedures.

(c) Administrative Forum. The Authority shall serve as a tribal administrative forum to adjudicate and resolve consumer disputes.

(d) Authority Final Decision and Order. Following full compliance with the procedures in Section CMP.2.9.030, the Authority's Dispute Resolution Regulations, and, if enacted, the Tribal administrative procedures, the Authority shall issue a Final Decision and Order that shall include separate sections entitled "findings of fact" and "conclusions of law." Findings of fact shall include a concise statement of the underlying supporting facts. Each conclusion of law shall be supported by authority or reasoned opinion.

A Final Decision and Order is appealable pursuant to Section CMP.2.9.060. A Consumer does not exhaust Tribal and administrative remedies until after any appeal of any Final Decision and Order pursuant to Section CMP.2.9.060.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.9.040 was formerly codified as XII LCOTCL §2.904

CMP.2.9.050 Applicant and Licensee Dispute Resolution Procedure

(a) Investigations, Right of Entrance.

(1) Investigations. The Authority may investigate and examine the operation and premises of any Licensee or Person engaging or suspected to be engaging in Consumer Financial Services or otherwise in violation of this Code within the Tribe's jurisdiction.

(A) In undertaking such investigations, the Authority may request the assistance of law enforcement officials, legal counsel, and other third parties.

(B) In conducting such investigation, the Authority shall make no order or final decisions without affording any affected party notice and a hearing pursuant this Code.

(C) This power to investigate does not authorize the Authority to manage the day-to-day operations of a Licensee.

(D) All investigations, information obtained during an investigation, and findings are confidential and remain confidential unless or until disclosed by the Authority, including disclosure by notice of violation or enforcement action, or by the Tribal Council.

(2) Right of Entrance. The Authority, its employees, and its agents may enter the premises of any Licensee, during the Licensee's regular business hours, or of a Person engaging in or suspected to be engaging in Consumer Financial Services, or otherwise in violation of this Code, to inspect the premises, accounts, books, papers, and documents of any such License. The Authority may seek a court order to enter the premises of any Person engaging in or suspected to be engaging in Consumer Financial Services or

otherwise in violation of this Code, to inspect the premises, accounts, books, papers, and documents of any such Licensee or Person.

(3) Aid to Entry. The staff of the Licensee or Person engaging in or suspected to be engaging in Consumer Financial Services, or otherwise in violation of this Code, shall facilitate such inspection or examinations by giving every reasonable aid to the Authority, its employees, and its agents.

(b) Notice; Opportunity to Cure; Due Process; Hearings; Examiner.

(1) Notice of Violation. If the Authority believes that any Licensee or Person has engaged in or is about to engage in any act or practice constituting a violation of this Code or any applicable federal law the Authority is empowered to enforce, the Authority may issue a Notice of Violation, which may include a cease-and-desist order, and provide the violator an opportunity to cure the violation or to request a hearing.

(A) Notice. Upon discovery of a violation, the Authority shall promptly serve a notice with an explanation of the reasons the notice was issued, a timeframe for compliance or to otherwise cease any violation, and detail any consequences or enforcement actions for noncompliance.

(B) Request for Hearing. A Licensee or Person may request a hearing, in writing, within fifteen (15) Business Days after the notice was issued.

(C) Upon receipt of a written request for a hearing, the Authority shall set a hearing within a reasonable time or at an agreed upon time and send notice to the requestor. A notice of hearing shall specifically identify the issues to be heard, and the date, time, and location at which a hearing shall be conducted.

(D) If a hearing is not requested within fifteen (15) Business Days after a notice is served, the Authority may issue an order confirming the violations in the notice and impose any applicable enforcement action, which shall remain in effect until modified or vacated by the Authority.

(E) Vacation or Modification of Cease-and-Desist Order. The Authority may vacate or modify a notice of violation or an order if it finds that the conditions supporting the notice or order have changed or that it is otherwise in the public interest to do so.

(2) No Hearing, Voluntary Resolution. Whenever it shall appear to the satisfaction of the Authority that the violation has been cured, or that all of the interested parties involved in any violation or dispute have agreed to a resolution, the Authority may dismiss or approve resolution of the issue, as appropriate, without a hearing.

(3) Notice of Hearing. The Authority shall, within ten (10) days after a request for a hearing as provided in 2.904(2)(a)(ii), provide a written notice setting forth, with specificity, the issues to be resolved and the date and time at which a hearing shall be conducted.

(4) Hearing. The Authority shall designate an Agent or appoint a Presiding Officer to serve as an administrative law judge and preside over a hearing. Any such appointment shall constitute a delegation to such examiner of the powers of the Authority under this Code with respect to any such hearing.

(A) Hearings shall be scheduled to take place within a reasonable time following service of a notice.

(B) At the hearing, the Person or Licensee that received the notice of violation shall be provided the opportunity to make an opening statement, present oral or written evidence, examine witnesses, and make a closing statement.

(C) No Agent may be called to testify at a hearing conducted under this section.

(D) Decision. The Authority shall issue a written decision to all affected parties within thirty (30) days after the hearing. The Authority may confirm or withdraw any notice of violation, remove or extend an order, confirm the denial of an Application, suspend, or revoke a License, and order fines, penalties, or other relief.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.9.050 was formerly codified as XII LCOTCL §2.905

CMP.2.9.060 Appeals

(a) Petition. Any party to a proceeding brought under Section CMP.2.9.040 may appeal the Authority's Final Decision and Order by filing a written petition to appeal with the Tribal Court according to the Tribal Court Rules of Procedure. The Authority shall not be a party to any appeal.

(b) Any appeal shall be an administrative appeal and shall not constitute an original civil action and shall not constitute a suit against the Tribe.

(c) Perfecting Appeal. Upon perfecting an appeal by filing a petition, the Authority shall lose jurisdiction over the dispute. If the matter is remanded, the Authority shall regain jurisdiction for any additional proceedings.

(d) Appellate Standards. Unless superseded by later enacted Tribal administrative procedures and/or Tribal Court Rules, the Tribal Court shall adhere to the following appeal standards:

(1) The Tribal Court shall limit its review to the administrative record. The Tribal Court shall implement a briefing schedule and detail briefing policies, procedures, and format;

(2) the Tribal Court has discretion to allow oral arguments on the appeal;

(3) The Tribal Court shall give deference to the Authority's reasonable interpretation and application of the Code and applicable federal laws and regulations;

(4) If the Tribal Court concludes that the Authority's decision and order is arbitrary and capricious or that it is not supported by the evidence, the Tribal Court may reverse and/or remand the Authority's decision and order. Mere disagreement with the Authority's findings is not a basis for reversal.

(5) If the Tribal Court concludes that the Authority's conclusions of law conflict with Tribal law or the Tribal Constitution, or are in conflict with applicable federal law, the Tribal Court may either reverse and remand the Authority's decision to the Authority for additional proceedings or enter a decision and judgment.

(6) The Tribal Court may implement additional rules to manage appeals that are not inconsistent with this Code.

(e) Opinion and Order. Within a reasonable time after oral argument, the Tribal Court shall issue a written opinion and order.

(f) The Tribal Court's opinion and order may not be appealed.

(g) Final Judgment; Exhaustion of Tribal and Administrative Remedies. A Tribal Court's opinion and order shall be confirmed by the Authority by Final Judgment which exhausts tribal and administrative remedies. No action shall be brought in any court by any party until the dispute procedures in Section CMP.2.9.030 or Section CMP.2.9.040 and the appeal procedure in this section are fully exhausted.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.9.060 was formerly codified as XII LCOTCL §2.906

Subchapter CMP.2.10
Uniform Commercial Code; Secured Transactions

CMP.2.10.010 Adoption by Reference ..... CMP.2.10-**Error! Bookmark not defined.**
CMP.2.10.020 References..... CMP.2.10-**Error! Bookmark not defined.**
CMP.2.10.030 Characterization of Transactions ..... CMP.2.10-**Error! Bookmark not defined.**
CMP.2.10.040 Preservation of Sovereign Immunity and Exclusive Jurisdiction .....CMP.2.10-**Error! Bookmark not defined.**
CMP.2.10.050 Exceptions ..... CMP.2.10-**Error! Bookmark not defined.**

CMP.2.10.010 Adoption by Reference

The Tribe hereby adopts and incorporates by reference Wisconsin Statutes, Chapter 409, Uniform Commercial Code – Secured Transactions, as it may be amended from time to time (the "Wisconsin UCC9"), but subject to the exceptions and qualifications provided in this ordinance. In the event of any conflict between this ordinance and Wisconsin UCC9, this ordinance shall control. This this subchapter may be referred to as the "Tribal UCC9.

(Res. No. 2024-23)

Prior Codifications

- §CMP.2.10.010 was formerly codified as XII LCOTCL §2.1001

CMP.2.10.020 References

All references to the State of Wisconsin shall mean the Tribe. Any references to sections in the Wisconsin UCC 9 may be referenced for purposes of this ordinance with the prefix Section CMP.2.10.010 instead of 409. For example, § 409.101 of the Wisconsin UCC9 may be cited as § 2.1001.101 of this ordinance.

(Res. No. 2024-23)

Prior Codifications

- §CMP.2.10.020 was formerly codified as XII LCOTCL §2.1002

CMP.2.10.030 Characterization of Transactions

Any characterization in this ordinance of a transaction as a sale, lease, pawn, or other transaction shall control over any contrary provision in the Tribal UCC9.

(Res. No. 2024-23)

Prior Codifications

- §CMP.2.10.030 was formerly codified as XII LCOTCL §2.1003

CMP.2.10.040 Preservation of Sovereign Immunity and Exclusive Jurisdiction

Nothing in this section or the Wisconsin UCC9 as adopted in this section shall be construed:

(a) As a waiver of the Tribe's sovereign immunity or exclusive jurisdiction, including, but not limited to the immunity of its entities, agents, officers, employees, or elected officials; or

(b) To grant jurisdiction to any other governmental agency or entity other than the Tribe.

(Res. No. 2024-23)

Prior Codifications

- §CMP.2.10.040 was formerly codified as XII LCOTCL §2.1004

CMP.2.10.050 Exceptions

The Tribe's adoption of the Wisconsin UCC9 is subject to the exceptions and comments as follows:

Wisconsin UCC 9 Reference	Tribal UCC9 Exception or Comment
§409.501 Filing Office.	Tribal UCC 9 Section CMP.2.10.010.501 shall read as follows: (1) Unless otherwise provided by Tribal law, the office in which to file a financing statement to perfect any security interest is the office of the Secretary/Treasurer of the Tribe in all cases. The Secretary/Treasurer shall mark any security interests so filed with the date and time such security interest was received and maintain any such recorded interests in searchable files so that members of the public may reasonably research the priority of security interests with respect to any property subject to the Tribe's jurisdiction that has also been the subject of some financing statement filed with the Secretary/Treasurer. (2) If the Secretary/Treasurer receives a financing statement under subsection (1) for filing, and any debtor identified on the

Wisconsin UCC 9 Reference	Tribal UCC9 Exception or Comment
	financing statement is an individual, the Secretary/Treasurer shall provide written notice of the filing of the financing statement to that debtor. The Secretary/Treasurer shall determine the form of the written notice and the written notice shall contain at least all of the following information: (a) The debtor's name and address as shown on the financing statement. (b) The secured party's name and address as shown on the financing statement. (c) The remedies available to the debtor under this act if he or she believes that the financing statement is erroneously or fraudulently filed. (3) In addition to the written notice described in subsection (2), the Secretary/Treasurer shall provide at no charge to a debtor described in that subsection a copy or image of the filed financing statement and any attachments. If the debtor requests additional copies or searches, the fees provided in section 9525 apply to that request. (4) A person shall not knowingly or intentionally file a false or fraudulent financing statement with the office of the Secretary/Treasurer under subsection (1). A violation of this subsection is punishable under Tribal law and/or other applicable laws.
§409.612 Timeliness of notification before disposition of collateral.	Tribal UCC 9 §2.1001.612 shall read as follows:

Wisconsin UCC 9 Reference	Tribal UCC9 Exception or Comment
	A notification of disposition sent after default and 10 days or more before the earliest time of disposition set forth in the notification is sent within a reasonable time before the disposition.
§409.620 Acceptance of collateral in full or partial satisfaction of obligation; compulsory disposition of collateral.	Tribal UCC 9 §2.1001§.620 shall not include subsections(5) or (7) and any related references to those subsections.
§409.602 Waiver.	Tribal UCC9 §2.1001.602 shall not include any special treatment with respect to consumer-goods transactions.
§409.624 Remedies for secured party's failure to comply with article.	Tribal UCC9 does not incorporate §409.624.
§409.636 Action in which deficiency or surplus is in issue.	Tribal UCC9 does not incorporate §409.626.
PART 7 TRANSITION	Tribal UCC9 does not incorporate subchapter VII, Wis. Stat. 409.720 et seq.
[Reserved for expansion]	

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.10.050 was formerly codified as XII LCOTCL §2.1005

Subchapter CMP.2.11
Uniform Commercial Code; Leases

CMP.2.11.010 Adoption by Reference ..... CMP.2.11-**Error! Bookmark not defined.**
CMP.2.11.020 References..... CMP.2.11-**Error! Bookmark not defined.**
CMP.2.11.030 Characterization of Transactions ..... CMP.2.11-**Error! Bookmark not defined.**
CMP.2.11.040 Preservation of Sovereign Immunity and Exclusive Jurisdiction .....CMP.2.11-**Error! Bookmark not defined.**
CMP.2.11.050 Exceptions ..... CMP.2.11-**Error! Bookmark not defined.**

CMP.2.11.010 Adoption by Reference

The Tribe hereby adopts and incorporates by reference Wisconsin Statutes, Chapter 411, Uniform Commercial Code – Leases, as it may be amended from time to time (the "Wisconsin UCC2A"), but subject to the exceptions and qualifications provided in this ordinance. In the event of any conflict between this ordinance and Wisconsin UCC2A, this ordinance shall control. This this subchapter may be referred to as the "Tribal UCC2A."

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.11.010 was formerly codified as XII LCOTCL §2.1101

CMP.2.11.020 References

All references to the State of Wisconsin shall mean the Tribe. Any references to sections in the Wisconsin UCC2A may be referenced for purposes of this ordinance with the prefix 2.1101 instead of 411. For example, § 411.101 of the Wisconsin UCC2A may be cited as § 2.1101.101 of this ordinance.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.11.020 was formerly codified as XII LCOTCL §2.1102

CMP.2.11.030 Characterization of Transactions

Any characterization in this ordinance of a transaction as a sale, lease, pawn, or other transaction shall control over any contrary provision in the Tribal UCC2A.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.11.030 was formerly codified as XII LCOTCL §2.1103

CMP.2.11.040 Preservation of Sovereign Immunity and Exclusive Jurisdiction

Nothing in this section or the Wisconsin UCC2A as adopted in this section shall be construed:

(a) As a waiver of the Tribe's sovereign immunity or exclusive jurisdiction, including, but not limited to, the immunity of its entities, agents, officers, employees, or elected officials; or

(b) To grant jurisdiction to any other governmental agency or entity other than Tribe.

(Res. No. 2024-23)

Prior Codifications

- §CMP.2.11.040 was formerly codified as XII LCOTCL §2.1104

CMP.2.11.050 Exceptions

The Tribe's adoption of the Wisconsin UCC2A is subject to the exceptions and comments as follows:

Wisconsin UCC 2A Reference	Tribal UCC2A Exception or Comment
§ 411.104 Leases subject to other law.	Tribal UCC2A § 2.1101.104 is adopted with the deletion of Wisconsin UCC2A § 411.004(1)(c). This ordinance contains its own consumer protection provisions.
§ 411.106 Limitation on power of parties to consumer lease to choose applicable law and judicial forum	Tribal UCC2A § 2.1101.106 is adopted to read as follows: § 2.11.106 Power of parties to consumer lease to choose applicable law and judicial forum. In all instances, the choice of law, jurisdiction, and forum of the parties to a consumer lease with the Tribe is enforceable.
§ 411.108 Unconscionability	Tribal UCC2A does not adopt Wisconsin §411.108. This ordinance contains its own consumer protection provisions.
§411.208 Modification, rescission and waiver	Tribal UCC 2A § 2.1101.208 incorporates Wisconsin UCC2A § 411.208, but is subject to § 2.702 (15) of this ordinance, which provides that a consumer financial services transaction may provide that it represents

Wisconsin UCC 2A Reference	Tribal UCC2A Exception or Comment
	the entire agreement of the parties and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties. Such provisions are enforceable and disallow evidence of oral agreements.
§ 411.503 Modification or impairment of rights and remedies	Tribal UCC2A § 2.1101.503 is adopted with an amended subsection (3) to read as follows: (3) Consequential damages may be liquidated under § 411.504, or may otherwise be limited, altered or excluded. In this regard, this ordinance contains its own consumer protection provisions.
§411.504 Liquidation of damages	Tribal UCC2A § 2.1101.504 is adopted with the deletion of Wisconsin UCC2A § 411.504(3) and (4).
[Reserved for expansion]	

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.11.050 was formerly codified as XII LCOTCL §2.1105

Subchapter CMP.2.12
Uniform Commercial Code; Lease Distinguished from Security Interest

CMP.2.12.010 Adoption by Reference ..... CMP.2.12-**Error! Bookmark not defined.**
CMP.2.12.020 References..... CMP.2.12-**Error! Bookmark not defined.**
CMP.2.12.030 Characterization of Transactions ..... CMP.2.12-**Error! Bookmark not defined.**
CMP.2.12.040 Preservation of Sovereign Immunity and Exclusive Jurisdiction .....CMP.2.12-**Error! Bookmark not defined.**
CMP.2.12.050 Exceptions ..... CMP.2.12-**Error! Bookmark not defined.**

CMP.2.12.010 Adoption by Reference

The Tribe hereby adopts and incorporates by reference Wisconsin Statutes, Chapter 401-203, Uniform Commercial Code – Lease Distinguished from Security Interest, as it may be amended from time to time (the "Wisconsin UCC1-203"), but subject to the exceptions and qualifications provided in this ordinance. In the event of any conflict between this ordinance and Wisconsin UCC1-203, this ordinance shall control. This this subchapter may be referred to as the "Tribal UCC1-203."

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.12.010 was formerly codified as XII LCOTCL §2.1201

CMP.2.12.020 References

All references to the State of Wisconsin shall mean the Tribe. Any references to sections in the Wisconsin UCC1-203 may be referenced for purposes of this ordinance with the prefix 2.1201 instead of 401. For example, § 401.203 of the Wisconsin UCC1-203 may be cited as § 2.1201.203 of this ordinance.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.12.020 was formerly codified as XII LCOTCL §2.1202

CMP.2.12.030 Characterization of Transactions

Any characterization in this ordinance of a transaction as a sale, lease, pawn, or other transaction shall control over any contrary provision in the Tribal UCC1-203.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.12.030 was formerly codified as XII LCOTCL §2.1203

CMP.2.12.040 Preservation of Sovereign Immunity and Exclusive Jurisdiction

Nothing in this section or the Wisconsin UCC1-203 as adopted in this section shall be construed:

(a) As a waiver of the Tribe's sovereign immunity or exclusive jurisdiction, including but not limited to the immunity of its entities, agents, officers, employees, or elected officials; or

(b) To grant jurisdiction to any other governmental agency or entity other than the Tribe.

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.12.040 was formerly codified as XII LCOTCL §2.1204

CMP.2.12.050 Exceptions

The Tribe's adoption of the Wisconsin UCC1-203 is subject to the exceptions and comments as follows:

Wisconsin UCC1-203 Reference	Tribal UCC1-203 Exception or Comment
§ 401.203 Lease distinguished from security interest.	Tribal UCC2A § 2.1201.203 is adopted with an amended subsection (4) to read as follows: (4) Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised. Among other bases, additional consideration is not nominal if any of the following apply: (a) when the option to renew the lease is granted to the lessee, the rent is stated to be the fair market rent, or substantially the same as fair market rent, for the use of the

Wisconsin UCC1-203 Reference	Tribal UCC1-203 Exception or Comment
	goods for the term of the renewal determined at the time the option is to be performed; (b) when the option to become the owner of the goods is granted to the lessee, the price is stated to be the fair market value, or substantially the same as the fair market value, of the goods determined at the time the option is to be performed.
[Reserved for expansion]	

TRIBAL CONSUMER FINANCIAL SERVICES REGULATORY CODE

OF THE

LAC COURTE OREILLES BAND OF LAKE SUPERIOR CHIPPEWA INDIANS

EXHIBIT A

Application Fee to become a Financial Services Licensee (subject to wavier at the sole and absolute discretion of the Authority……..$250.00.

Application Fee to become an Employee of a Financial Services Licensee…….. $25.00.

Application Fee to become a Vendor Licensee……$500.00

(Res. No. 2024-23)

Prior Codifications

* §CMP.2.12.050 was formerly codified as XII LCOTCL §2.1205

Chapter CMP.6
Workers' Compensation Ordinance of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians

CMP.6.1 General Provisions ..... CMP.6.1-**Error! Bookmark not defined.**
CMP.6.2 Definitions ..... CMP.6.2-**Error! Bookmark not defined.**
CMP.6.3 Eligibility ..... CMP.6.3-**Error! Bookmark not defined.**
CMP.6.4 Procedures ..... CMP.6.4-**Error! Bookmark not defined.**
CMP.6.5 Benefits ..... CMP.6.5-**Error! Bookmark not defined.**
CMP.6.6 Review ..... CMP.6.6-**Error! Bookmark not defined.**

Subchapter CMP.6.1
General Provisions

CMP.6.1.010 Purpose ..... CMP.6.1-**Error! Bookmark not defined.**
CMP.6.1.020 Exclusive Remedy..... CMP.6.1-**Error! Bookmark not defined.**

CMP.6.1.010 Purpose

By the adoption of this Ordinance, the Tribal Governing Board of Lac Courte Oreilles Band of Lake Superior Chippewa Indians intends to provide the benefits outlined herein to Employees of the Lac Courte Oreilles Tribe and Enterprises located on the Lac Courte Oreilles Reservation, for all injuries or illness resulting out of the employment relationship with the Employer. The effective date of this Ordinance is October 14, 2005.

(Res. No. 2024-23)

CMP.6.1.020 Exclusive Remedy

When no other liability exists for compensable liability, all Employees are covered for compensable bodily injuries or illness when on the Employer's premise or where Employer has instructed Employee to leave the premise in conjunction with duties associated with his/her job.

The Lac Courte Oreilles Tribal Government's sovereign immunity applies to this ordinance. The use of benefits and rights under this Ordinance are the Employees' exclusive remedy against Lac Courte Oreilles Tribal Government and Enterprises.

(Res. No. 2024-23)

Subchapter CMP.6.2
Definitions

CMP.6.2.010 Definitions ..... CMP.6.2-**Error! Bookmark not defined.**

CMP.6.2.010 Definitions

(a) Accident

An event that is sudden, unexpected and unforeseen by the injured person.

(b) Claim

A written request for Worker's Compensation benefits under this Ordinance.

(c) Claims Administrator/Managed Care Provider

"Claims Administrator/Managed Care Provider", with whom the Employer has contracted with to act on behalf of the Employer for compliance with this Ordinance and to evaluate Worker's Compensation claims.

(d) Compensable Injury

A bodily illness or accident to an Employee while performing the specified duties and services associated with employment in or on the premises of the Employer. Injuries due to repetitive or cumulative trauma may be deemed compensable if the condition is determined to be solely related to the employment and the Employee has no prior treatment history of a pre-existing condition.

(e) Disability

The actual incapacity to perform the tasks usually encountered in the Employee's employment and the wage loss resulting there from, or physical impairment of the body that may or may not be incapacitating.

(f) Employee

An individual hired by the Employer who performs specified duties and services at an established wage or salary. An employee of Lac Courte Oreilles Tribal Government and Enterprises is covered, whether they are employed full-time, part-time, temporarily or seasonally. Employees are covered while in the course and scope of employment for Lac

Courte Oreilles Tribal Government and Enterprises, whether on or off the reservation. Employee includes persons who are serving community service, fire department volunteers, first responders, assigned from the county jail Huber program and summer youth workers. If there is a question as to whether or not you are covered, check with your Director/Supervisor/Manager.

(g) Employer

The Lac Courte Oreilles Tribal Government and Enterprises

(h) Insurance Appeal Board

An appeal board consisting of five individuals appointed by the Tribal Governing Board who will hear an appeal filed by an Employee in accordance with Section CMP.6.6.020. The Board shall be comprised of one medical professional, a human resources representative, the employee's immediate supervisor and two members of the Lac Courte Oreilles Insurance Task Force.

(i) MMI

Maximum Medical Improvement means the date after which no further significant lasting improvement to a personal injury can reasonably be anticipated.

(j) Occupation Disease

A harm that results from occupational exposure but is not so sudden or traumatic as to fit within the definition of an accident. It includes systemic infections and exposure to toxins/poison fumes in the work environment usually over a long period of time.

(k) Plan Administrator

"Plan Administrator" means the person appointed by the Lac Courte Oreilles Tribal Governing Board, who will serve at the direction of the Employer to administer this Ordinance in accordance with its terms. Also referred to as the Employer's Insurance Officer.

(l) Premises

The specific geographic area within which the Employee fulfills the Employee's duties and responsibilities to the Employer in the normal course of employment.

(m) Rehabilitations

Vocational Rehabilitation is a tool used to assist the employee in returning to work.

(n) The Plan

The Lac Courte Oreilles Tribal Government Workers' Compensation Ordinance.

(o) Weekly Wage

Weekly wage is arrived at by multiplying the daily wage by the number of days or fraction of days normally worked

(Res. No. 2024-23)

Subchapter CMP.6.3
Eligibility

CMP.6.3.010 Persons Eligible..... CMP.6.3-**Error! Bookmark not defined.**
CMP.6.3.020 Conditions of Liability..... CMP.6.3-**Error! Bookmark not defined.**
CMP.6.3.030 Right of Action When a Third Party Liable ..... CMP.6.3-**Error! Bookmark not defined.**

CMP.6.3.010 Persons Eligible

The following people are eligible to apply for compensation under this Ordinance.

(a) Employees.

(b) Beneficiaries of the Employee, if the accident or occupational disease results in the death of the Employee. Defined as:

(1) The surviving legal spouse of the Employee

(2) Dependent child/children of the Employee

(A) This includes individuals who have not reached the age of 18 and are the natural or legally adopted child/children, stepchild, legal ward, or orphan of the Employee.

(B) This does not include minor child/children who are not dependents or who are not supported by the Employee.

(c) Any payments to or on account of a minor dependent beneficiary collected under this Ordinance terminate when such a dependent child/children reach the age of 18 years, unless the dependent child/children is physically or mentally incapacitated or is under the age of 25 years and enrolled as a full-time student at a high school, college, university, vocational or technical school. (If the dependent child is physically or mentally incapacitated, payments continue until he/she shall cease to be dependent. If an enrolled full-time student, payments terminate when the dependent child/children reach the age of 25 years or ceases to be a full-time student, whichever occurs first.)

(Res. No. 2024-23)

CMP.6.3.020 Conditions of Liability

(a) Liability under this Ordinance shall exist against an Employer where the following conditions occur

(1) The Employee sustains the injury in the course of his/her employment

(2) Where, at the time of the injury, both the Employer and Employee are subject to the provisions of this Ordinance.

(3) Where, at the time of the injury, the Employee is performing service growing out of and incidental to his/her employment

(4) The premises of the Employer include the premises of any other person on whose premises the Employee performs service.

(5) Any Firefighter or First Responder Volunteer, responding to a call for assistance outside the limits of his/her village, unless that response is in violation of law, is performing service growing out of and incidental to employment

(6) Every Employee whose employment requires the Employee to travel shall be deemed to be performing service growing out of and incidental to the Employee's employment at all times while on a trip, except when engaged in a deviation for private or personal purpose. Any accident or disease arising out of a hazard of such service shall be deemed to arise out of the Employee's employment

(7) Within 14 days of notice of an injury to Employer, the Claims Administrator/Managed Care Provider will either pay or formally deny the Employee's claim.

(b) Exclusions

To qualify for Worker's Compensation benefits under this Ordinance, an injury, illness or death must arise out of and in the course of the Employee's employment with the Employer. No benefits under this Ordinance shall be allowed for any injury, illness or death caused by or arising for the following:

(c) Gross negligence by the injured Employee.

(d) Disobedience, refusal or failure by the injured Employee to use a safety device or appliance furnished by the Employer which if used would have reasonably prevented or significantly reduced the likelihood of the injury, illness or death.

(e) Horseplay engaged in by the injured Employee, which significantly contributes to the injury, illness or death.

(f) The injured Employee's intoxication, use of any illegal substance or abuse of any prescription medication which contributes to the Employee's injury, illness or death. Any Employee suspected of being under the influence of alcohol or drugs when the injury occurs shall be subject to drug testing conducted by the Lac Courte Oreilles Health Center or other appropriate drug testing facility.

(g) Self-inflicted injury, including suicide.

(h) A pre-existing condition, including a degenerative condition, established by medical evidence, whether pre- or post-injury, which significantly causes, aggravates, or otherwise contributes to the disability or need for medical treatment.

(i) The Employee's failure, prior to commencement of employment, to disclose a physical condition, which prevented the Employee from safely performing the work for which the Employee was hired or which was a substantial contributing factor to the injury.

(j) Act by a third person or fellow employee intended to injure the Employee for personal reasons, and not directly against the Employee as an Employee or because of employment

(Res. No. 2024-23)

CMP.6.3.030 Right of Action When a Third Party Liable

Whenever an injury for which benefits are payable under this Ordinance occurs under circumstances creating a legal liability in a person other than the Employer, the injured Employee may either claim benefits under this Ordinance or proceed at law against such other person to recover damages, but the Employee shall not collect from both.

If the Employee proceeds against a person other than the Employer with respect to such an injury or condition and recovers any amount, that action shall constitute an irrevocable election to proceed against such person and the Employee shall have no rights to any compensation from the Employer under this Ordinance with respect to such injury or condition.

If benefits have been awarded or paid under this Ordinance, and the Employee has suffered damages for which a person other than the Employer is legally liable on account of the same injury or condition for which benefits were paid, the Employer may collect in its own name or that of the injured Employee an amount equal to the amount of benefits paid by the Employer to the Employee. Acceptance of benefits under this Ordinance constitutes an assignment of the Employee's rights to the Employer to the extent benefits are paid or payable.

(Res. No. 2024-23)

Subchapter CMP.6.4
Procedures

CMP.6.4.010 Submission of Claims ..... CMP.6.4-**Error! Bookmark not defined.**
CMP.6.4.020 Limitation of Claims and Reports..... CMP.6.4-**Error! Bookmark not defined.**

CMP.6.4.010 Submission of Claims

Under this Ordinance, all claims made by the Employee for work related injuries/illness must be submitted to his/her immediate Supervisor/Director/Manager as soon as possible, but no later than three workdays after the incident occurs. The Employee is to complete a *First Report of Injury/Illness* form and a *Patient Authorization for Release of Information* form and submit them to their Supervisor/Director/Manager, who then co-signs the *First Report of Injury/Illness* form and immediately forwards both forms on to the Employer's Insurance Office. The Insurance Office will review the Report, and if warranted, will then, in a timely manner, forward the Report to the Claims Administrator/Managed Care Provider for evaluation and determination as to whether it is a valid claim under this Ordinance. The Claims Administrator/Managed Care Provider will, within fourteen (14) workdays of their receipt of the Report, provide written notice to the Employer's Insurance Office as to whether the claim has been approved or denied. The Insurance Office will notify the appropriate personnel of the decision. If approved, the Employer's Insurance Office will process payment of benefits due and related health care expenses incurred as a result of this injury/illness.

If denied, the Claims Administrator shall forward a written notice to the Employee and Plan Administrator. This notice shall contain the specific reason for the denial and clearly state the facts forming the basis of the denial. The denial must include information identifying the Employee, date of claimed injury, claim number, and instructions to the Employee of the rules and time limitations involved in the appeal process. The burden of proof of these facts is on the Employer. The facts arising under this section shall be determined by a preponderance of the evidence.

(Res. No. 2024-23)

CMP.6.4.020 Limitation of Claims and Reports

No compensation shall be due under this Ordinance unless the Employee provides the Employer with notice *of* such claim as outlined in Section 7 of this Ordinance. In the case of mental or physical incapacity, the period of limitation shall be extended for fifteen (15) workdays from the initial date of occurrence. A repetitive traumatic injury or occupational

disease is deemed to have occurred when the Supervisor/Director/Manager is notified that the injury or disease caused the Employee to be unable to work.

The Plan Administrator shall supply the Employee's Supervisor/Director/Manager with any forms that may be required for completion, specifically the Report of Work Ability form that must be completed and submitted after each visit by the Employee with their Medical Provider. It is the responsibility of the Supervisor/Director/Manager to give such forms to the Employee for completion by either the Employee, their primary physician or approved Medical Provider. It is the responsibility of the Employee to return all completed forms to their Supervisor/Director/Manager, who will then immediately forward them on to the Plan Administrator.

All medical records are to be forwarded to the Claims Administrator/Managed Care Provider. The Employee must continue to keep the Employer notified and advised during the course of treatment The Employee must cooperate with Employer in obtaining all related medical records. A failure to do so may result in the termination of benefits. The Employee shall not return to work without a written release from the primary physician or approved Medical Provider and the authorization from the Plan Administrator.

(Res. No. 2024-23)

Subchapter CMP.6.5
Benefits

CMP.6.5.010 Medical Care, Benefits and Examination of Claims .... CMP.6.5-**Error! Bookmark not defined.**

CMP.6.5.010 Medical Care, Benefits and Examination of Claims

(a) Medical Care

(1) A licensed professional Health Care Provider must provide medical care. The treating medical doctor is referred to as the primary physician. The primary physician can only make referral to a chiropractor or another physician, such as a specialist, and approval must be sought from the Claims Administrator/Managed Care Provider. The Employee may not change primary physicians or seek treatment from another referral physician without the approval of the Employer and the Claims Administrator/Managed Care Provider. Only medical expenses ordered by the primary physician or the approved referral physician are payable under the Plan.

(2) The primary physician or approved referral physician can also refer the Employee to a rehabilitation consultant, which will assist the Employee in their return to work If the Employee fails to cooperate with that consultant, medical and other benefits will cease immediately.

(3) Surgical charges are payable only if pro-certification has been obtained and medical necessity recommendation has been determined by the Claims Administrator/ Managed Care Provider.

(4) Medical invoices should be paid as soon as reasonably possible, but no later than thirty (30) calendar days of receiving the invoices and medical records.

(5) The Plan will pay the cost of all reasonable and necessary charges related to the worker's injury/illness after investigation of the validity of the worker's compensation injury/illness subject to the following restrictions:

(A) The employee must have all follow-up care in the treatment of the worker's illness/injury with a licensed professional Health Care Provider. After the second visit, the Employee may not change providers without approval from the Claims Administrator/Manager Care Provider.

(B) The Plan will pay the reasonable and necessary medical costs and the cost of medicines, supplies and equipment of a therapeutic nature that are necessary for treatment of the injury or illness

(C) The Plan will pay surgical charges only when the surgery is done on an "emergency" basis, or if it has been pre-certified by the Claims Administrator/Managed Care Provider, who may request a second opinion before approving any procedures.

(D) The Plan will reimburse the Employee for cost of mileage (if documented), and other related expenses, except childcare, necessary to obtain medical treatment, if approved by the Employer, Claims Administrator/Managed Care Provider.

(E) If the Employee fails to appear for a scheduled appointment without notification to the Claims Administrator/Managed Care Provider within one business day of that appointment, then the Employer's responsibility for payment of all benefits will cease immediately. Only one rescheduled date per appointment is allowed under this Plan.

(F) The Claims Administrator/Managed Care Provider may contract for services of a rehabilitation consultant to assist the Employee in return to work efforts. If the Employee fails to cooperate in the return to work process, all benefits will cease immediately.

(b) Primary Physician

An Employee may receive initial emergency care from a Hospital ER, Urgent Care Facility or primary physician for treatment of a compensable injury. The Employee must receive follow-up care with a licensed professional Health Care Provider approved by the Claims Administrator/Managed Care Provider within seven (7) business days of initial treatment. If this policy is not adhered to it may result in denial of worker's compensation benefits.

(c) Referral to Specialty Providers

The Employee must receive the referral to specialty provider from the Medical Provider approved by the Claims Administrator/Managed Care Provider, If this policy is not adhered to it may result in denial of the worker's compensation benefits.

(d) Alternative Health Care Provider

If an Employee is dissatisfied with the medical treatment offered by the primary physician and/or approved referral physician, the Employee shall submit a written statement to the Claims Administrator/Managed Care Provider indicating the dissatisfaction

and the reasons for it. Based on this statement, an agreement may be reached between the Employee and the Claims Administrator/Managed Care Provider to permit the Employee to seek an alternative Health Care Provider. The following conditions shall also apply:

(1) The Employee must receive prior approval from the Claims Administrator/Managed Care Provider before receiving any treatment/service from the alternate medical provider chosen by the Employee.

(2) If the Employee foils to obtain prior approval from the Claims Administrator/Managed Care Provider for the selected alternative Health Care Provider, the Plan shall not be responsible for any expense incurred as a result of that service/treatment.

(3) Other Health Care Providers used by the Employee may confer with and obtain information on the Employee's condition from the primary physician, approved referral physician or IME provider.

(e) Examination of Claims

Whenever an injured Employee claims compensation, the Employee must submit to an *Independent Medical Examination/Evaluation (IME),* or second opinion, when requested by the Claims Administrator/Managed Care Provider. The Claims Administrator/Managed Care Provider may schedule an Employee for an *Independent Medical Examination* or evaluation at any time during the Employee's course of medical treatment. The expense for this service, except expense for child care, will be paid by the Plan. If an Employee unreasonably fails to appear for a scheduled IME, all medical and other benefits will cease immediately.

The Claims Administrator/Manage Care Provider will provide the Employee with a written request for IME and shall notify the Employee at least five (5) workdays prior of the proposed date, time and place of examination/evaluation, and the identity of the Health Care Provider that will provide the service. Only one rescheduled date per appointment is allowed under this Plan.

The Employee is entitled to have a physician or other Health Care Provider selected by the Employee, present at any scheduled examination/evaluation, and is entitled to receive a copy of all reports prepared by the examining physician immediately upon receipt of those reports by the Claims Administrator/Managed Care Provider or the Lac Courte Oreilles Insurance Appeal Board.

The physician or Health Care Provider shall furnish to the Claims Administrator/Managed Care Provider a legible duplicate of all reports, bills and other written material requested. Any person who refuses to provide duplicates of written

material in the person's custody that is required under the Ordinance shall be liable for reasonable and necessary costs including reasonable attorney fees.

(f) Temporary Total Disability

Benefits are payable when the disability results solely from a bodily injury arising in and out of the course of employment with the Lac Courte Oreilles Tribal Government. The benefits are calculated as sixty-seven (67%) of the weekly wage of the Employee at the time of the injury, and subject to a maximum of $450.00 per week. The daily wage will be calculated by using the average of the prior 26 work weeks. Disability benefits are paid only if the disability is evidenced by medical opinion based on examination and treatment rendered at the time of the claimed disability and requires an Independent Medical Examination.

(g) Temporary Partial Disability

This benefit represents sixty-seven (67%) of the difference between the pre-injury weekly wage and weekly wage the Employee earns after returning to light duty restricted modified work if the wage loss is due solely to the injury and disability suffered while in the course and scope of the employment with the Lac Courte Oreilles Tribal Government. Temporary partial disability benefits are subject to the same maximums and restrictions as temporary total disability benefits.

(h) Permanent Partial Disability

This benefit will compensate the injured Employee for any permanent loss/loss of use of a body part suffered as a result of compensable bodily injury. The designated percentage of the disability rating is multiplied by the weekly permanent disability benefit, which determines the dollar amount payable to the Employee and is allocated in one lump sum. Permanent partial disability benefits are not payable concurrently with temporary total/temporary partial benefits. To determine Permanent Partial Disability the health care provider must use the American Medical Association's "Guide to the Evaluation of Permanent Partial Impairment,'' 5th Edition.

(i) Waiting Period

For All Employees: Vacation or sick time benefits may be used for the first three (3) scheduled days lost. When verified that the Employee's claim is a legitimate work related claim and the employee is off work for ten or more calendar days, compensation is payable beginning with the first day of disability. Vacation and sick time benefits may be reconciled if used.

(j) Dependency Benefits

If an Employee dies from a work related injury or illness leaving a legal spouse and/or dependent child/children, the Employer shall make payments to the legal spouse and/or dependent child/children in an amount equal to sixty-seven percent (67%) of the Employee's average weekly wage at the time of the Employees injury or illness to a maximum of $450.00 per week. This amount will be evenly distributed to the surviving issue, if the legal spouse is deceased.

As determined by the Plan Administrator, payments to the legal spouse shall be for a maximum of one (1) year, terminating upon the remarriage or death of the spouse, whichever comes first. Payments to a dependent child/children shall be made until the dependent child/children reaches the age of 18 unless the dependent child/children is a full-time student or determined by medical evidence to be physically or mentally incapable of self-support, in which case payment shall be made to age 25.

(Res. No. 2024-23)

Subchapter CMP.6.6
Review

CMP.6.6.010 Fraudulent Claims/Reporting and Investigations . CMP.6.6-**Error! Bookmark not defined.**
CMP.6.6.020 Appeals..... CMP.6.6-**Error! Bookmark not defined.**
CMP.6.6.030 Apportionment of Liability ..... CMP.6.6-**Error! Bookmark not defined.**
CMP.6.6.040 Department Forms and Records..... CMP.6.6-**Error! Bookmark not defined.**
CMP.6.6.050 Maximum Limitations ..... CMP.6.6-**Error! Bookmark not defined.**
CMP.6.6.060 Burial Expenses..... CMP.6.6-**Error! Bookmark not defined.**
CMP.6.6.070 Return to Work ..... CMP.6.6-**Error! Bookmark not defined.**
CMP.6.6.080 Sovereign Immunity..... CMP.6.6-**Error! Bookmark not defined.**

CMP.6.6.010 Fraudulent Claims/Reporting and Investigations

If the Employer, Plan Administrator or Claims Administrator/Managed Care Provider has evidence that a claim is false or fraudulent the claim shall be denied and the Plan Administrator shall report the matter to the Lac Courte Oreilles Insurance Appeal Board designated by the Lac Courte Oreilles Tribal Governing Board within 10 business days. The Lac Courte Oreilles Insurance Appeal Board may require an investigation for an allegedly false or fraudulent claim. On any investigation, the results shall be reported to the Lac Courte Oreilles Insurance Appeal Board. If based on the investigation, the Lac Courte Oreilles Insurance Appeal Board has a reasonable basis to believe that a violation of a State or Federal criminal code has occurred; the Lac Courte Oreilles Insurance Appeal Board may refer the results of the investigation to the Lac Courte Oreilles Tribal Court for final resolution.

(Res. No. 2024-23)

CMP.6.6.020 Appeals

If the Employee is dissatisfied with the decision of the Claims Administrator/Managed Care Provider relative to a denial of claimed injury, the Employee may request a hearing before the Lac Courte Oreilles Insurance Appeal Board designated by the Lac Courte Oreilles Tribal Governing Board. The request must be in writing and the Employee must file it within thirty days (30) of the denial date. The decision of the Lac Courte Oreilles Insurance Appeal Board is final and the Employee can pursue no further action.

All testimony at any hearing held under this Ordinance shall be recorded by a recording machine and said duplicate of such recordings will be made available to the Employee or Employer upon written request to the Lac Courte Oreilles Insurance Appeal Board.

(Res. No. 2024-23)

CMP.6.6.030 Apportionment of Liability

If it is established at the Lac Courte Oreilles Insurance Appeal Board hearing that two (2) or more parties have each contributed to a physical or mental condition for which benefits would be otherwise due, liability for such benefits shall be apportioned according to the proof of the relative contribution to disability resulting from the injury or illness.

If after the Lac Courte Oreilles Insurance Appeal Board hearing, it has been determined that an injured Employee is entitled to compensation but that there remains in dispute only the issue of which of two (2) or more parties are liable for that compensation and one of the parties is the Employer, the Lac Courte Oreilles Insurance Appeal Board may recommend that the Employer pay the prorated share in an amount, time and manner as determined. If the Lac Courte Oreilles Insurance Appeal Board later determines another party is liable for compensation, reimbursement will be sought from the responsible party.

(Res. No. 2024-23)

CMP.6.6.040 Department Forms and Records

The Lac Courte Oreilles Insurance Office shall print and furnish free to any Employee such blank forms as it shall deem requisite to facilitate efficient administration of this Ordinance; it shall keep such record books or records as it shall deem requisite for the proper and efficient administration of the Ordinance.

Records maintained that reveal the identity of an Employee who claims worker's compensation benefits, nature of claimed injury, past or present medical condition, extent *of* disability, amount, type or duration of benefits paid to the Employee or any financial information provided to the Plan Administrator or Claims Administrator/Managed Care Provider is confidential and not open for inspection. The Plan Administrator may deny a request made or refuse to honor a subpoena issued by an attorney of record in a civil or criminal action or special proceeding to inspect and copy a record that is confidential under this paragraph, unless one of the following applies:

(a) The Employee who is the subject of the record or an attorney or authorized agent of that Employee makes a written request. An Attorney or authorized agent of the Employee who is subject of a record shall provide a written authorization for inspection and copying from the Employee if requested by the Plan Administrator or Claims Administrator/Managed Care Provider for use pursuant to this Ordinance.

(b) A court of competent jurisdiction orders the Plan Administrator or Claims

Administrator/Managed Care Provider to release the record.

(c) The requester is the subunit of the department that administers child support and spousal support or a county child support agency under Wis. Stat S59.53 (5), the request is made under the Wis. Stat S. 49.22 (2m) and the request is limited to the name and address of the Employee who is the subject of the record, the name and address of the Employee's Employer and any financial information about the Employee contained in the record.

(d) The Federal or State Department of Revenue requests the record for the purpose of locating a person, who has failed to file tax returns, who has under reported taxable income or who is a delinquent taxpayer, identifying fraudulent tax returns; or providing information for tax-related prosecutions.

(Res. No. 2024-23)

CMP.6.6.050 Maximum Limitations

The maximum medical benefits under this Ordinance available to Employees is limited to one (1) year from the first date of injury or illness with a 26 week maximum for combined Temporary Total Disability and Temporary Partial Disability benefits.

(Res. No. 2024-23)

CMP.6.6.060 Burial Expenses

In all cases where death of the Employee proximately results from a work-related injury or illness, the Lac Courte Oreilles Tribal Government will provide burial expenses in an amount not to exceed $7,500.00.

Sec. 16/PERMANENT/PARTIAL IMPAIRMENT

Benefits shall be paid according to the following schedule. Permanent impairment must be based upon medical evidence.

For Total Loss of the Following Body Parts

(by amputation or total loss of use)

Body Parts	**Benefits**
Thumb	$3,000.00
Index Finger	$3,500.00
Middle Finger	$3,000.00

Body Parts	Benefits
Ring Finger	$2,500.00
Small Finger	$2,500.00
Great Toe	$2,000.00
One or More Toes (not Great Toe)	$4,000.00
Hand	$8,000.00
Arm	$9,500.00
Foot	$9,000.00
Leg	$10,000.00
Back	$10,500.00
Internal Organ	$10,000.00
Sight of One Eye	$10,000.00
Sight of Both Eyes	$20,000.00
Hearing in One Ear	$8,000.00
Hearing in Both Ears	$16,000.00
Permanent Disfigurement/Scarring	$1,000.00 (Only for face head, neck, or dorsa of the hands.)

(Res. No. 2024-23)

CMP.6.6.070 Return to Work

Positions will be held for an Employee with legitimate compensable injury or illness for up to three (3) months for the return of the Employee. The Employer, at the end of three (3) months, can reassess the Employee's position and may fill that position with a permanent replacement Employee. Prior to return to work, the Employee must be cleared for return to work through the primary physician or approved Medical Provider, and a completed *Report of Work Ability* form must be submitted as set forth in Section CMP.6.4.020 of this Ordinance.

The Employer will make every effort to provide light duty and modified work to the injured Employee after the injured employee has sought medical treatment and has provided the Employer with the appropriate *Return to Work Restrictions* paperwork. If an injured Employee refuses the light duty or modified work position offered by the Employer, all medical and other benefits will cease immediately. Light duties will be facilitated through

the Employer when deemed appropriate by the Claims Administrator/Managed Care Provider.

(Res. No. 2024-23)

CMP.6.6.080 Sovereign Immunity

By approval of this Ordinance, the Lac Courte Oreilles Band of Lake Superior Chippewa Indians in no way waives its inherent sovereignty and retains all rights and privileges, including but not limited to, sovereign immunity.

WHEN THE RETURN TO WORK DOCUMENT INDICATES THE EMPLOYEE CAN RETURN TO WORK WITH NO RESTRICTIONS, ALL BENEFITS RELATED TO THE INJURY/ILLNESS SHALL CEASE.

(Res. No. 2024-23)

Title LLC
Limited Liability Company

LLC.1 Limited Liability Company Code of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians ..... LLC.1-**Error! Bookmark not defined.**

Chapter LLC.1
Limited Liability Company Code of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians

LLC.1.1 General Provisions ..... LLC.1.1-**Error! Bookmark not defined.**
LLC.1.2 Operating Agreement and Dealing with LLC ..... LLC.1.2-**Error! Bookmark not defined.**
LLC.1.3 Owners and Managers ..... LLC.1.3-**Error! Bookmark not defined.**
LLC.1.4 Finance ..... LLC.1.4-**Error! Bookmark not defined.**
LLC.1.5 Non-Liquidating Distributions ..... LLC.1.5-**Error! Bookmark not defined.**
LLC.1.6 Ownership and Transfer of Property ..... LLC.1.6-**Error! Bookmark not defined.**
LLC.1.7 Dissolution ..... LLC.1.7-**Error! Bookmark not defined.**
LLC.1.8 Merger ..... LLC.1.8-**Error! Bookmark not defined.**
LLC.1.9 Limited Liability Companies Wholly-Owned by the Tribe LLC.1.9-**Error! Bookmark not defined.**

Subchapter LLC.1.1
General Provisions

LLC.1.1.010 Short Title ..... LLC.1.1-**Error! Bookmark not defined.**
LLC.1.1.020 Purposes; Sovereign Immunity..... LLC.1.1-**Error! Bookmark not defined.**
LLC.1.1.030 Scope..... LLC.1.1-**Error! Bookmark not defined.**
LLC.1.1.040 Applicable Law..... LLC.1.1-**Error! Bookmark not defined.**
LLC.1.1.050 Definitions ..... LLC.1.1-**Error! Bookmark not defined.**
LLC.1.1.060 Name..... LLC.1.1-**Error! Bookmark not defined.**
LLC.1.1.070 Registered Office and Registered Agent .... LLC.1.1-**Error! Bookmark not defined.**
LLC.1.1.080 Tribe as Owner..... LLC.1.1-**Error! Bookmark not defined.**
LLC.1.1.090 Nature of Business ..... LLC.1.1-**Error! Bookmark not defined.**
LLC.1.1.100 Execution of Documents ..... LLC.1.1-**Error! Bookmark not defined.**
LLC.1.1.110 Filing..... LLC.1.1-**Error! Bookmark not defined.**
LLC.1.1.120 Certificate of Status ..... LLC.1.1-**Error! Bookmark not defined.**
LLC.1.1.130 Execution by Judicial Act ..... LLC.1.1-**Error! Bookmark not defined.**
LLC.1.1.140 Interstate Application ..... LLC.1.1-**Error! Bookmark not defined.**

LLC.1.1.010 Short Title

This Code shall be known as the "Lac Courte Oreilles Limited Liability Company Code."

LLC.1.1.020 Purposes; Sovereign Immunity

(a) The purpose of this Code is to provide for economic development of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians and its Owners by:

(1) providing the legal framework for organizing individually-owned business entities in order to expand the private business sector on the Reservation; and

(2) authorizing the formation of wholly-owned Tribal business entities for managing the Tribe's economic activities separate from the general affairs of the Tribal Governing Board, with the ability to enter into legally-binding contracts and commercial relationships without the need for formal Tribal Council action.

(b) By the adoption of this Code, the Tribe does not waive its sovereign immunity or consent to suit in any court, federal, tribal or state, and neither the adoption of this Code, nor the incorporation of any limited liability company hereunder, shall be construed to be a

waiver of the sovereign immunity of the Tribe or a consent to suit against the Tribe in any court.

LLC.1.1.030 Scope

This Code shall apply to all limited liability companies organized under its provisions or which elect to accept the provisions of this Code.

LLC.1.1.040 Applicable Law

The companies organized and created under this Code shall be subject to this Code, and all other laws of the Tribe. By organizing and creating a company under this Code, the company and its Owners shall be considered to have entered into a consensual relationship with the Tribe and agree to be subject to the full extent of the Tribe's legislative, regulatory and adjudicatory jurisdiction. Unless displaced by particular provisions of this Code or other Tribal law, the principles of law and equity supplement this Code.

LLC.1.1.050 Definitions

Terms used in this Code have the following meaning:

(a) "Articles of Organization" means the articles filed under Section LLC.1.2.010 and those articles as amended or restated.

(b) "Corporation" means a domestic corporation for profit organized under the law of the Tribe or a foreign corporation formed under the laws of any other jurisdiction.

(c) "Distribution" means a direct or indirect transfer by a limited liability company of money or other property to or for the benefit of its Owners in respect of their interests.

(d) "Entity" includes an individual, a general partnership, limited partnership, a domestic or foreign limited liability company, a trust, an estate, an association, a corporation or any other legal or commercial entity.

(e) "Foreign" refers to limited liability companies, corporations and limited partnerships organized under the laws of a jurisdiction other than the Tribe.

(f) "Limited Liability Company" or "Domestic Limited Liability Company" means an organization formed under this Code, except as provided for in Section 801(1).

(g) "Limited Liability Company Interest" or "Interest in the Limited Liability Company" or "Owner's Interest" means an Owner's rights in the limited liability company, including rights to distributions, profits and losses, and to participate in management, as specified in the Operating Agreement.

(h) "LLC" means a limited liability company.

(i) "Majority in Interest" means an Owner or Owners holding more than fifty percent (50%) of the total voting interests in the limited liability company excluding any interest which is not to be counted as voting on a matter as described elsewhere in this Code.

(j) "Manager" or "Managers" means the person(s) or entity(ies) designated to manage the LLC pursuant to the Articles of Organization and Operating Agreement.

(k) "Office of the Secretary/Treasurer" means the Office of the Secretary-Treasurer of the Tribal Governing Board as provided by the Tribal Constitution.

(l) "Operating Agreement" means an agreement in writing among all of the Owners as to the conduct of the business of a limited liability company and its relationships with its Owners.

(m) "Organizer(s)" means the person(s) or entity(ies) which signs and delivers the Articles of Organization for filing to the Office of the Secretary/Treasurer.

(n) "Owner" "Member" means a Person that is a member of a limited liability company or has ownership interest in a limited liability company. The term does not include a person that has dissociated as a member under Section 307.

(o) "Person" includes a natural person, Tribal Entity and an organization such as a general partnership, limited partnership, a domestic or foreign limited liability company, a trust, an estate, an association, or a corporation.

(p) "Reservation" means all lands under the jurisdiction of the Tribe, including all lands within the exterior boundaries of the Tribe's Reservation, individual tribal owner allotments, whether located on or off the Reservation, and all lands held in trust by the United States of America for the benefit of the Tribe.

(q) "State" includes a state, territory, or possession of the United States and the District of Columbia.

(r) "Tribal Entity" includes the Tribe, the Tribal Governing Board, a general partnership, limited partnership, a domestic or foreign limited liability company, a trust, an estate, an association, a corporation, a program, a department, an administrative agency or any other legal, commercial or governmental entity of the Tribe.

(s) "Tribal Governing Board" means the Tribal Governing Board as established by the Amended Tribal Constitution, adopted and revised in November 1966 as the governing body of the Tribe.

(t) "Tribal Constitution" means the Amended Tribal Constitution and Bylaws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(u) "Tribal Corporation" means a corporation wholly-owned by the Tribe and duly formed pursuant to the Tribe's Business Corporation Code.

(v) "Tribal Court" means the Lac Courte Oreilles Tribal Court.

(w) "Tribally-owned LLC" means a limited liability company wholly-owned by the Tribe with the Tribe as its sole Owner.

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

(y) "Trust Land" means land held in trust by the United States for the benefit of the Tribe or its Owners.

LLC.1.1.060 Name

(a) The name of a limited liability company as set forth in its Articles of Organization must contain the words "limited liability company" or end with the abbreviation "L.L.C." or "LLC." The name may not contain language stating or implying that the limited liability company is organized for any purpose other than that permitted under Section LLC.1.1.090, below.

(b) The name of a domestic LLC shall be distinguishable from any LLC or corporation previously organized under the laws of the Tribe.

LLC.1.1.070 Registered Office and Registered Agent

(a) A limited liability company's registered agent is the company's agent for receiving service of process, notice, or demand required or permitted by law to be served on the company under the laws of the Tribe.

(b) Each LLC shall continuously maintain a registered office and a registered agent. The registered office may, but need not, be the same as any of its places of business. The agent may be the same person then serving in a designated office of the Tribe rather than a specified person if the Tribe is an Owner in the LLC of which the Tribe's officer is the appointed agent.

(c) An LLC may change its registered office or registered agent, or both, filing a written notice of change containing the name of its registered agent and the street address of its registered office, as changed, with the Office of the Secretary-Treasurer and paying the filing fee.

(d) The registered agent of an LLC may resign as a registered agent by delivering to the Office of the Secretary/Treasurer for filing a written statement of resignation and the appointment by the LLC of another registered agent.

LLC.1.1.080 Tribe as Owner

(a) The Tribe shall form or become an Owner of a Tribally-owned LLC formed under this Code only upon a tribal resolution by the Tribal Governing Board.

(b) If the Tribe or a Tribal Entity is an Owner of an LLC formed under this Code, any action which the Tribe is required or permitted to take with respect to any vote, approval, consent, appointment, direction, or other matter shall be taken as specified in Section LLC.1.9.120 of this Code or, as to actions related to the managers of a manager-managed LLC, as stated in the LLC's Operating Agreement approved by the Tribal Council.

(c) If the Tribe is the sole Owner of an LLC formed under this Code, such Tribally-owned LLC shall possess all of the privileges and immunities of the Tribe, including the Tribe's sovereign immunity from suit except to the extent otherwise provided in its Operating Agreement.

(d) If the Tribe or a Tribal Entity is an Owner with a Majority in Interest in an LLC formed under this Code, such LLC may possess the privileges and immunities of the Tribe, including sovereign immunity from suit, to the extent allowed by Federal law, this Code or its Operating Agreement.

(e) In no event shall any manager not an Owner of an LLC in which the Tribe is an Owner, bind the Tribe in any manner; provided that the Tribe's interest as an Owner may be bound by manager or Owner actions as stated in this Code and the Operating Agreement of the LLC.

(f) Nothing contained in this Code shall be construed as creating any liability or waiving of sovereign immunity of the Tribe in any manner; provided that the assets of the LLC in which the Tribe holds an interest may be subject to liabilities and claims unless otherwise provided herein. In no event shall any action taken by the Tribe as Owner concerning the exercise of any right or privilege or discharge of any duty with respect to an interest in an LLC be construed as a waiver of immunity or creation of a liability on the part of the Tribe separate and apart from its interests as an Owner of the LLC.

(g) For all Tribally-owned limited liability companies, the additional provisions of Part 9 of this Code shall apply.

LLC.1.1.090 Nature of Business

A limited liability company may be organized under this Code for any lawful purpose. Unless otherwise provided in its Operating Agreement, an LLC organized and existing under

this Code has the same powers as an individual to do all things necessary and convenient to carry out its business, including but not limited to, nor required to, all of the following:

(a) Consent to be sued, complain and defend in its name; provided, however, that if an LLC is Tribally-owned, or wholly-owned by another entity which itself is wholly-owned by the Tribe, it shall be entitled to and shall enjoy the Tribe's sovereign immunity from suit unless the Operating Agreement otherwise provides.

(b) Purchase, take, receive, lease, or otherwise acquire and own, hold, improve, use, and otherwise deal in or with real, or personal property or any legal or equitable interest in real or personal property, wherever situated.

(c) Sell, convey, mortgage, pledge, create a security interest in, lease, exchange, or otherwise dispose of all or any part of its property.

(d) Lend money, property, and services to, and otherwise assist, its Owners and managers, if any.

(e) Purchase, take, receive, subscribe for, or otherwise acquire and own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of and deal in and with shares or other interests in, or obligations of, any other enterprise or entity.

(f) Make contracts and guarantees; incur liabilities; borrow money; issue notes, bonds, and other obligations; and secure any of its obligations by mortgage or pledge of all or part of its property, franchises, and income.

(g) Lend money, invest and reinvest its funds, and receive and hold real or personal property as security for repayment.

(h) Conduct its business, locate offices, and exercise the powers granted by this Code inside or outside of the Reservation.

(i) Be a promoter, incorporator, partner, Owner, associate, or manager of any enterprise or entity.

(j) Elect or appoint managers, agents, and employees, define their duties, and fix their compensation.

(k) Pay pensions and establish pension plans, pension trusts, profit-sharing plans, and benefit or incentive plans for any or all of its current or former Owners, managers, employees, and agents.

(l) Make donations to and otherwise devote its resources for the public welfare or for charitable, scientific, educational, humanitarian, philanthropic, or religious purposes.

(m) Indemnify an Owner, manager, employee, officer or agent, or any other person.

(n) Provide benefits or payments to Owners, managers, employees, and agents of the LLC, and to their estates, families, dependents or beneficiaries in recognition of the past services of the Owners, managers, employees, and agents of the LLC.

(o) Make payments or donations, or do any other act not prohibited by law, that furthers the business of the LLC.

(p) Transact any lawful business that the Owners or the managers find to be appropriate to promote and further the business and affairs of the limited liability company.

LLC.1.1.100 Execution of Documents

(a) Except as otherwise provided in this Code, any document required or permitted by this Code to be delivered for filing in accordance with Section LLC.1.1.110 shall be executed by any of the following:

(1) Any manager, if management of the LLC is vested in a manager or managers, or by an Owner, if management of the LLC is reserved to the Owners.

(2) All organizers of the LLC if the LLC has not been organized. The name and address of each organizer shall be provided.

(3) The name of the drafter of the document.

(b) The person executing the document shall sign it and state beneath or opposite the signature the person's name and capacity in which the person signs.

(c) The person executing the document may do so as an attorney-in-fact. Powers of attorney relating to the executing of the document need not be shown to nor filed with the Office of the Secretary/Treasurer.

LLC.1.1.110 Filing

(a) The Office of the Secretary/Treasurer shall receive all filings required under this Code and maintain the records of such filings pursuant to this section, including but not limited to the Articles of Organization, amended or restated articles, annual reports, names and addresses of registered offices and agents, and, in the case of Tribally-owned LLC's, the Operating Agreement and amendments thereto, and other reports required by this Code.

(b) Upon receipt of a document for filing under this Code, the Office of the Secretary/Treasurer shall ensure it meets the requirements herein and then shall stamp or otherwise endorse the date and time of receipt of the original, the duplicate copy, and, upon request, any additional copy received.

(c) If the Office of the Secretary/Treasurer refuses to file a request, the Office shall return it to the person tendering the document for filing within five (5) business days after the date on which the document is received by the Office for filing, together with a brief written explanation of the reason for refusal.

(d) Any document accepted by the Office of the Secretary/Treasurer shall be effective at the time of receipt unless a delayed effective date and/or time not more than ninety (90) days after receipt by the Office of the Secretary-Treasurer is specified in the document.

(e) Fees. The Office of the Secretary-Treasurer shall impose a reasonable filing fee for each document filed, initially not to exceed the sum of $100.00, and an annual renewal fee initially not to exceed the sum of $25.00 during the life of the LLC, subject to any uniform schedule of fees as may hereafter be adopted by the Office from time to time.

LLC.1.1.120 Certificate of Status

Any person may obtain from the Office of the Secretary/Treasurer, upon written request, a certificate of status for either a domestic or a foreign LLC.

LLC.1.1.130 Execution by Judicial Act

Any person who is adversely affected by the failure or refusal of any person to execute and file any articles or other document to be filed under this Code may petition the Tribal Court to direct the execution and filing of the articles or other document. Nothing in this Code, however, serves to waive any aspect of the Tribe's sovereign immunity, and any waiver thereof must be provided explicitly in the LLC's Articles of Organization and/or Operating Agreement.

LLC.1.1.140 Interstate Application

An LLC may conduct its business, carry on its operations and have and exercise the powers granted by this Code, in any sovereign Native Nation, any state, territory, district or possession of the United States, or in any foreign jurisdiction.

Subchapter LLC.1.2
Operating Agreement and Dealing with LLC

LLC.1.2.010 Articles of Organization..... LLC.1.2-**Error! Bookmark not defined.**
LLC.1.2.020 Agency Power of Owners and Managers ... LLC.1.2-**Error! Bookmark not defined.**
LLC.1.2.030 Admissions of Owners and Managers..... LLC.1.2-**Error! Bookmark not defined.**
LLC.1.2.040 Knowledge of or Notice to Owner or Manager ..... LLC.1.2-**Error! Bookmark not defined.**
LLC.1.2.050 Liability of Owners to Third Parties..... LLC.1.2-**Error! Bookmark not defined.**
LLC.1.2.060 Parties to Action ..... LLC.1.2-**Error! Bookmark not defined.**
LLC.1.2.070 Authority to Sue..... LLC.1.2-**Error! Bookmark not defined.**

LLC.1.2.010 Articles of Organization

(a) One or more persons may organize a limited liability company by signing and delivering the Articles of Organization to the Office of the Secretary/Treasurer for filing. The organizer(s) need not be Owners of the LLC at the time of organization or thereafter.

(b) A limited liability company shall have one or more Owners.

(c) The Articles of Organization shall contain all of and only the following information:

(1) A statement that the LLC is organized under this Code.

(2) A name for the LLC that satisfies the provisions of this Code.

(3) The street address of the registered office and the name of the registered agent at that office. For all LLC's formed pursuant to this Code and for all foreign LLC's operating within the Reservation, such office and agent shall be located within the exterior boundaries of the Reservation.

(4) If management of the LLC is vested in one or more managers, a statement to that effect.

(5) The name and address of each person organizing the LLC.

(6) Whether the LLC is Tribally-owned.

(7) If Tribally-owned, whether the LLC is to enjoy Tribal sovereign immunity and the scope of any waiver of that immunity.

(d) The Office of the Secretary-Treasurer shall assign each Articles of Organization an identification number.

(e) Amendment. An LLC may amend its Articles of Organization at any time by delivering an amendment, with filing fee, for filing to the Office of the Secretary-Treasurer.

(f) Effect of Delivery or Filing.

(1) An LLC is formed when the Articles of Organization become effective under Section LLC.1.1.110(d).

(2) The Office of the Secretary-Treasurer's filing of the Articles of Organization is conclusive proof that the LLC is organized and formed under this Code.

LLC.1.2.020 Agency Power of Owners and Managers

(a) Except as provided in subsection 2, below:

(1) Each Owner is an agent of the LLC, but not of any the other Owners, for the purpose of its business.

(2) The act of any Owner, including the execution in the name of the LLC of any instrument for apparently carrying on in the ordinary course of business the business of the LLC, binds the LLC in the particular matter, unless the person with whom the Owner is dealing has knowledge that the Owner has no authority to act in this matter.

(3) If the Tribe is an Owner, the Tribe's authority shall be exercised pursuant to Section 941.

(b) If management of the LLC is vested in one or more managers:

(1) No Owner, solely by being an Owner, is an agent of the LLC or of the other Owners.

(2) Each manager is an agent of the LLC, but not for the other Owners, for the purpose of its business. The act of any manager, including the execution in the name of the LLC of any instrument for apparently carrying on the ordinary course of business of the LLC, binds the LLC unless the manager has, in fact, no authority to act for the LLC in the particular matter, and the person with whom the manager is dealing has knowledge that the manager has no authority to act in the matter.

(c) No act of an Owner or, if management of the LLC is vested in one or more managers, of a manager that is not apparently authorized for the carrying on in the ordinary course of

business the business of the LLC, shall bind the LLC unless in fact authorized at the time of the transaction or at any other time.

LLC.1.2.030 Admissions of Owners and Managers

(a) Except as provided in Section LLC.1.2.030(b)(2), an admission or representation made by any Owner concerning the business of an LLC within the scope of the Owner's actual authority may be used as evidence against the LLC in any legal proceeding.

(b) If management of the LLC is vested in one or more managers:

(1) An admission or representation made by a manager concerning the business of an LLC within the scope of the manager's authority may be used as evidence against the LLC in any legal proceeding.

(2) The admission or representation of any Owner, acting solely in the Owner's capacity as an Owner, is not evidence against the LLC in any legal proceeding.

LLC.1.2.040 Knowledge of or Notice to Owner or Manager

(a) Except as provided in Section LLC.1.2.040(b)(2), notice to any Owner of any matter relating to the business of an LLC, and the knowledge of an Owner acting in the particular matter, acquired while an Owner or known by the person at the time of becoming an Owner, and the knowledge of any Owner who reasonably could and should have communicated it to the acting Owner, operate as notice to or knowledge of the LLC.

(b) If management of the LLC is vested in one or more managers:

(1) Notice to any manager of any matter relating to the business of the LLC, and the knowledge of the manager acting in the particular matter acquired while a manager or known by the person at the time of becoming a manager and the knowledge of any other manager who reasonably could and should have communicated it to the acting manager, operate as notice to or knowledge of the LLC.

(2) Notice to or knowledge of any Owner while the Owner is acting solely in the capacity of an Owner is not notice to or knowledge of the LLC.

LLC.1.2.050 Liability of Owners to Third Parties

The debts, obligations, and liabilities of an LLC, whether arising in contract, tort, or otherwise, shall be solely the debts, obligations, and liabilities of the LLC. Except as otherwise specifically provided in this Code, an Owner or manager of an LLC is not

personally liable for any debt, obligation, or liability of an LLC, as defined in the Operating Agreement.

LLC.1.2.060 Parties to Action

An Owner of an LLC is not a proper party to a proceeding by or against an LLC solely by reason of being an Owner of the LLC, except if any of the following exist:

(a) The object of the proceeding is to enforce an Owner's right against or liability to the LLC.

(b) The action is brought by an Owner under Section LLC.1.2.070.

LLC.1.2.070 Authority to Sue

Unless otherwise provided in the Operating Agreement, an action on behalf of an LLC may be brought in the name of the LLC by:

(a) One or more Owners of the LLC, if authorized by a Majority in Interest of Owners, excluding the vote of any Owner who has an interest in the outcome of the action that is adverse to the interest of the LLC.

(b) One or more managers of an LLC if the management of the LLC is vested in one or more managers, or if the managers are authorized to sue by a Majority in Interest of Owners.

Nothing contained herein shall be construed as authorizing actions of any kind whatsoever against the Tribe as Owner unless otherwise provided in the Operating Agreement.

Subchapter LLC.1.3
Owners and Managers

LLC.1.3.010 Management ..... LLC.1.3-**Error! Bookmark not defined.**
LLC.1.3.020 Duties. Unless Otherwise Provided in the Operating Agreement: ....LLC.1.3-**Error! Bookmark not defined.**
LLC.1.3.030 Limitation of Liability and Indemnification. LLC.1.3-**Error! Bookmark not defined.**
LLC.1.3.040 Voting ..... LLC.1.3-**Error! Bookmark not defined.**
LLC.1.3.050 Records and Information..... LLC.1.3-**Error! Bookmark not defined.**
LLC.1.3.060 Admission of Owners ..... LLC.1.3-**Error! Bookmark not defined.**
LLC.1.3.070 Dissociation ..... LLC.1.3-**Error! Bookmark not defined.**

LLC.1.3.010 Management

(a) Unless the Articles of Organization vest management in one or more managers, management of the LLC shall be vested in the Owners subject to any provision in the Operating Agreement or this Code restricting or enlarging the management rights and duties of any Owner or group of Owners.

In an Owner-managed liability company, the following rules shall apply, subject to the provisions of the Operating Agreement or this Code:

(1) A difference arising among Owners as to a matter in the ordinary course of the activities of the LLC may be decided by a majority of the Owners.

(2) An act outside the ordinary course of activities of a limited liability company may be undertaken only with the consent of all the Owners.

(b) If the Articles of Organization vest management in one or more managers, management of the business or affairs of the LLC shall be invested in the manager or managers subject to any provisions in the Operating Agreement or this Code restricting or enlarging the management rights and duties of any manager or group of managers. Unless otherwise provided in the Operating Agreement, the manager or managers:

(1) Shall be designated, appointed, elected, removed, or replaced by a vote of a Majority in Interest of the Owners.

(2) Need not be Owners of the LLC nor individuals.

(3) Unless earlier removed or earlier resigned, shall hold office until a successor is elected and qualified.

LLC.1.3.020 Duties. Unless Otherwise Provided in the Operating Agreement:

(a) No Owner or manager shall act or fail to act in a manner that constitutes any of the following:

(1) A willful failure to deal fairly with the LLC or its Owners in connection with a matter in which the Owner or manager has a material conflict of interest.

(2) A violation of criminal law involving moral turpitude.

(3) A transaction from which the Owner or manager derived an improper personal profit.

(4) Willful misconduct.

(b) Every Owner and manager shall account to the LLC and hold as trustee for it any improper personal profit derived by that Owner or manager without the consent of a majority of the disinterested Owners or managers, or other persons participating in the management of the LLC, from any of the following:

(1) A transaction connected with the organization, conduct, or winding up of the LLC.

(2) A use by an Owner or manager of the property of an LLC, including confidential or proprietary information or other matters entrusted to the person as a result of the person's status as Owner or manager.

(3) Operating Agreement may impose duties on its Owners and managers that are in addition to, but not in abrogation of, those provided in Section LLC.1.3.020(a) above.

LLC.1.3.030 Limitation of Liability and Indemnification

(a) In this section, "expenses" mean expenses of defending a lawsuit, including attorney's fees, and any civil judgment or penalty, or settlement payment in lieu thereof, paid in connection with a lawsuit against an Owner or manager in such capacity.

(b) An LLC shall indemnify or allow expenses to each Owner and each manager for all reasonable expenses incurred with respect to a proceeding if that Owner or manager was a party to the proceeding in the capacity of an Owner or manager.

(c) The Operating Agreement may alter or provide additional rights to indemnification or allowance of expenses to Owners and managers.

(d) Notwithstanding subsections (2) and (3) above, an LLC may not indemnify an Owner or manager unless it is determined that the Owner or manager did not breach or fail to perform a duty to the LLC as provided in Section 302.

(e) Unless otherwise provided in Operating Agreement:

(1) An Owner or manager shall be conclusively presumed not to have breached or failed to perform a duty to the LLC to the extent that the Owner or manager has been successful on the merits or otherwise in the defense of the proceeding.

(2) In situations not described in paragraph (a), above, the determination of whether Owner or manager has breached or failed to perform a duty to the LLC shall be made by the vote of a Majority in Interest of the Owners, excluding any Owner who is a party to the same or related proceeding unless all Owners are parties.

LLC.1.3.040 Voting

(a) Unless otherwise provided in the Operating Agreement or this section, and subject to Section LLC.1.3.040(b) below, an affirmative vote, approval, or consent as follows shall be required to decide any matter connected with the business of a LLC.

(1) If management of an LLC is reserved to the Owners, an affirmative vote, approval, or consent by a Majority in Interest of Owners.

(2) If the management of an LLC is vested in one or more managers, the affirmative vote, consent, or approval of more than fifty percent (50%) of the managers.

(b) Unless otherwise provided in the Operating Agreement or this Code, the affirmative vote, approval, or consent of all Owners shall be required to do any of the following:

(1) Amend the Articles of Organization.

(2) Issue an interest in an LLC to any person.

(3) Adopt, amend, or revoke Operating Agreement.

(4) Allow an LLC to accept any additional contribution from an Owner.

(5) Allow a partial redemption of an interest in an LLC under Section LLC.1.5.030.

(6) Value contributions of Owners under Section LLC.1.4.010.

(7) Authorize a manager, Owner, or other person to do any act on behalf of the LLC that contravenes the Operating Agreement.

(c) Unless otherwise provided in the Operating Agreement, if any Owner is precluded from voting with respect to a given matter, the value of the contribution represented by the interest in the LLC with respect to which the Owner would otherwise have been entitled to vote shall be excluded from the total contributions made to the LLC for purposes of determining the fifty percent (50%) threshold under Section LLC.1.1.050(i) for that matter.

(d) Unless otherwise provided in Operating Agreement or this section, if all or part of an interest in the LLC is assigned under Section LLC.1.6.040, the assigning Owner shall be considered the owner of the assigned interest for purposes of determining the 50% threshold under Section LLC.1.1.050(i) until the assignee of the interest in the LLC becomes an Owner under Section LLC.1.6.060.

LLC.1.3.050 Records and Information

(a) An LLC shall keep at its principal place of business all of the following:

(1) A list, in alphabetical order, of each past and present Owner and, if applicable, manager.

(2) A copy of the Articles of Organization and all amendments to the articles, together with executed copies of any powers of attorney under which any articles were executed.

(3) A copy of the Operating Agreement and all amendments thereto.

(4) A record of all matters referred to in this Code as maintained in such records

which are not otherwise specified in the Operating Agreement.

(b) Upon reasonable request, an Owner may, at the Owner's own expense, inspect and copy during ordinary business hours any LLC record unless otherwise provided in the Operating Agreement.

(c) Owners or, if the management of the LLC is vested in one or more managers, managers shall provide true and full information of all things affecting the Owners to any Owner or to the legal representative of any Owner upon reasonable request of the Owner or the legal representative.

(d) Failure of an LLC to keep or maintain any of the records of information required under this section shall not be grounds for imposing liability on any person for the debts and obligations of the LLC.

LLC.1.3.060 Admission of Owners

(a) In connection with the formation of an LLC, a person acquiring an LLC interest is admitted as an Owner upon formation unless the Operating Agreement otherwise provides.

(b) After the formation of an LLC, a person acquiring an LLC interest is admitted as an Owner of the LLC as specified in the Operating Agreement or, if not so specified, by consent of all the other Owners, or, if the person is an assignee of another person's LLC interest, only pursuant to Section LLC.1.6.060.

LLC.1.3.070 Dissociation

(a) A person ceases to be an Owner of an LLC upon the simultaneous occurrence of and at the same time of any of the following events:

(1) The Owner withdraws by voluntary act.

(2) The Owner is removed as an Owner in accordance with the Operating Agreement or this Code.

(3) Unless otherwise provided in the Operating Agreement or by the written consent of all Owners at the time of the event, the Owner does any of the following:

(A) Makes an assignment for the benefit of the creditors.

(B) Files a petition in bankruptcy.

(C) Becomes the subject of an order for relief under the federal bankruptcy laws or state or tribal insolvency laws.

(D) Fails to gain dismissal of any federal bankruptcy or state or tribal insolvency proceeding within 120 days of commencement of an involuntary proceeding.

(4) Unless provided in the Operating Agreement or by the written consent of all Owners, if the Owner is an individual, either of the following occurs:

(A) The Owner's death.

(B) The entry of an order by a court of competent jurisdiction adjudicating the Owner incompetent to manage the Owner's person or estate.

(5) Unless otherwise provided in the Operating Agreement or by written agreement or by the written consent of all Owners at the time, if the Owner is a trust, corporation, partnership, or limited liability company upon liquidation, dissolution, or termination.

(b) The Owners may provide in the Operating Agreement for other events the occurrence of which result in a person ceasing to be an Owner of the LLC.

(c) Unless the Operating Agreement provides that an Owner does not have the power to withdraw by voluntary act from an LLC, the Owner may do so at any time by giving written notice to the other Owners or as provided in the Operating Agreement. If the Owner has the power to withdraw but the withdrawal is a breach of the Operating Agreement, the LLC may offset the damages against the amount otherwise distributable to the Owner, in addition to pursuing any remedies provided for in the Operating Agreement or otherwise available under applicable law.

Subchapter LLC.1.4
Finance

LLC.1.4.010 Contributions ..... LLC.1.4-**Error! Bookmark not defined.**
LLC.1.4.020 Liability for Contribution ..... LLC.1.4-**Error! Bookmark not defined.**
LLC.1.4.030 Allocation of Profits and Losses ..... LLC.1.4-**Error! Bookmark not defined.**

LLC.1.4.010 Contributions

(a) An Owner's contributions to an LLC may consist of cash, property, or services rendered, or promissory notes or other written obligations to provide cash or property or to perform services.

(b) The value of an Owner's contribution shall be determined in the manner provided in the Operating Agreement. If the Operating Agreement does not fix a value to a contribution, the value of a contribution shall be approved by a Majority in Interest of the Owners, shall be properly reflected in the records and information kept by the LLC under Section LLC.1.3.050(a). The value of contributions so determined shall be binding and conclusive on the LLC and its Owners.

LLC.1.4.020 Liability for Contribution

(a) An obligation of an Owner to provide cash or property or to perform services as a contribution to an LLC is not enforceable unless specified in a writing signed by the Owner.

(b) Unless otherwise provided in the Operating Agreement, an Owner is obligated to an LLC to perform any enforceable promise to provide cash or property or to perform services, even if the Owner is unable to perform because death, disability, or any other reason. If an Owner does not provide cash, property, or services as promised, the Owner is obligated at the option of the LLC to provide cash equal to that portion of the value of the stated contribution that has not been fulfilled.

(c) Unless otherwise provided in the Operating Agreement, an Owner's obligation to provide cash or property or perform services as a contribution to the LLC may be compromised only by the written consent of all of the Owners.

LLC.1.4.030 Allocation of Profits and Losses

The profits and losses of an LLC shall be allocated among the Owners in the manner provided in the Operating Agreement. If the Owners do not enter into an Operating

Agreement or the Operating Agreement does not provide otherwise, profits and losses shall be allocated on the basis of value of the contributions made by each Owner.

Subchapter LLC.1.5
Non-Liquidating Distributions

LLC.1.5.010 Interim Distributions ..... LLC.1.5-**Error! Bookmark not defined.**
LLC.1.5.020 Allocation of Distributions ..... LLC.1.5-**Error! Bookmark not defined.**
LLC.1.5.030 Distribution upon Partial Redemption ..... LLC.1.5-**Error! Bookmark not defined.**
LLC.1.5.040 Distribution upon Dissociation ..... LLC.1.5-**Error! Bookmark not defined.**
LLC.1.5.050 Distribution in Kind ..... LLC.1.5-**Error! Bookmark not defined.**
LLC.1.5.060 Right to Distribution. a ..... LLC.1.5-**Error! Bookmark not defined.**
LLC.1.5.070 Limitations of Distributions ..... LLC.1.5-**Error! Bookmark not defined.**
LLC.1.5.080 Liability for Wrongful Distribution ..... LLC.1.5-**Error! Bookmark not defined.**

LLC.1.5.010 Interim Distributions

Except as provided in this Part, an Owner is entitled to receive distributions from an LLC before the Owner's dissociation from the LLC and before its dissolution and winding up to the extent and at the times or upon the events specified in the Operating Agreement, or to the extent and at the times determined by the Owners or managers.

LLC.1.5.020 Allocation of Distributions

Distributions of cash or other assets of an LLC shall be allocated among the Owners as provided in Operating Agreement, or if the Operating Agreement does not so provide, on the basis of the value of the contributions made by each Owner.

LLC.1.5.030 Distribution upon Partial Redemption

Except as provided in this Part, upon the distribution in partial liquidation of an Owner's interest, the redeeming Owner is entitled to receive the amount to which the Owner is entitled under the Operating Agreement and, if not otherwise provided in the Operating Agreement, the fair value of the redeemed interest based on the Owner's right to share in distributions from the LLC.

LLC.1.5.040 Distribution upon Dissociation

Except as otherwise provided in this Part, upon an event of dissociation under Section LLC.1.3.070 that does not cause dissolution of the LLC, a dissociating Owner is entitled to receive any distribution to which Owner is entitled under the Operating Agreement and, if

not otherwise provided in the Operating Agreement, the fair market value of the Owner's interest in the LLC based on the Owner's rights to share in distributions from the LLC.

LLC.1.5.050 Distribution in Kind

Unless otherwise provided in the Operating Agreement:

(a) An Owner may not demand and receive any distribution from an LLC in any form other than cash.

(b) An Owner may not be compelled to accept a distribution of any asset in kind except for a liquidating distribution made proportionately.

LLC.1.5.060 Right to Distribution. a

t the time that an Owner becomes entitled to receive a distribution from an LLC, the Owner has the status of and is entitled to all remedies available to a creditor of the LLC with respect to the distribution; provided, however, that such right shall not in any way limit any other remedy available to such Owner under any other provision of applicable law or the Operating Agreement.

LLC.1.5.070 Limitations of Distributions

(a) An LLC may not declare or make a distribution to any of its Owners, if after giving effect to the distribution, any of the following would occur:

(1) The LLC would be unable to pay its debts as they become due in the usual course of business.

(2) The fair market value of the LLC's total assets would be less than the sum of its total liabilities plus, unless the Operating Agreement provides otherwise, the amount that would be needed for the preferential rights upon dissolution of Owners, if any.

(b) An LLC may base a determination that a distribution is not prohibited by Section LLC.1.5.070(a), above, on any of the following:

(1) Financial statements and other financial data prepared on the basis of accounting practices and principles that are reasonable under the circumstances.

(2) A fair market valuation or other method that is reasonable under the circumstances.

(c) An LLC's indebtedness to an Owner incurred by reason of a distribution made in accordance with this section is at parity with the LLC's indebtedness to its general unsecured creditors, except to the extent subordinated by written agreement. This section does not

affect the validity or priority of a security interest in an LLC's property that is created to secure the indebtedness to the Owner.

LLC.1.5.080 Liability for Wrongful Distribution

(a) Except as provided in Section LLC.1.5.080(b) below, an Owner (other than the Tribe or Tribal Entity) or manager who votes or assents to a distribution in violation of Section LLC.1.5.070 or of the Operating Agreement is personally liable to the LLC for the amount of the excess distribution, subject to contribution from all other managers or Owners participating in such action.

(b) An action to recover under this section may be brought in the Tribal Court; however, a proceeding under this section is barred unless it is brought within two (2) years after the date of the distribution.

(c) Nothing in this Code serves to waive any aspect of the Tribe's sovereign immunity, and any waiver thereof must be provided explicitly in the LLC's Operating Agreement.

Subchapter LLC.1.6
Ownership and Transfer of Property

LLC.1.6.010 Ownership of LLC Property..... LLC.1.6-**Error! Bookmark not defined.**
LLC.1.6.020 Transfer of Property..... LLC.1.6-**Error! Bookmark not defined.**
LLC.1.6.030 Nature of Interest ..... LLC.1.6-**Error! Bookmark not defined.**
LLC.1.6.040 Assignment of LLC Interest..... LLC.1.6-**Error! Bookmark not defined.**
LLC.1.6.050 Rights of Judgment Creditor..... LLC.1.6-**Error! Bookmark not defined.**
LLC.1.6.060 Right of Assignee to Become an Owner..... LLC.1.6-**Error! Bookmark not defined.**
LLC.1.6.070 Powers of Legal Representative ..... LLC.1.6-**Error! Bookmark not defined.**

LLC.1.6.010 Ownership of LLC Property

(a) All property originally transferred to or acquired by an LLC is property of the LLC and not the Owners individually.

(b) Property acquired with LLC funds is presumed to be LLC property.

(c) Property may be acquired, held, and conveyed in the name of the LLC.

LLC.1.6.020 Transfer of Property

The property of an LLC may be transferred by an instrument of transfer executed by any Owner in the name of the LLC, unless management is vested in managers, in which case the document of transfer shall be executed by a manager, subject to any limitation that may be imposed by the Operating Agreement.

LLC.1.6.030 Nature of Interest

An LLC interest is personal property.

LLC.1.6.040 Assignment of LLC Interest

(a) Unless otherwise provided in the Operating Agreement:

(1) An LLC interest is assignable in whole or in part.

(2) An assignment of an LLC interest entitles the assignee to receive only the distributions and to share in the allocations of profits and losses to which the assignee would be entitled with respect to the assigned interest.

(3) An assignment of an LLC interest does not dissolve the LLC.

(4) Unless and until the assignee becomes an Owner of the LLC under Section LLC.1.6.060,

the assignment of an LLC interest does not entitle the assignee to participate in the management or exercise rights of an Owner.

(5) Unless and until the assignee of an LLC interest becomes an Owner of the LLC under Section LLC.1.6.060, the assignor continues to be an Owner.

(6) The assignor of an LLC interest is not released from any personal liability arising under this Code as an Owner of the LLC solely as a result of the assignment.

(b) Unless otherwise provided in the Operating Agreement, the granting of a security interest, lien, or other encumbrance in or against any or all of an Owner's LLC interest is not assignable and shall not cause the Owner to cease to have the power to exercise any rights or powers of an Owner.

LLC.1.6.050 Rights of Judgment Creditor

Upon application to a court of competent jurisdiction, including a court other than the Tribal Court having valid jurisdiction over an Owner, by any judgment creditor of the Owner, the court may charge the LLC interest of any Owner (other than the Tribe) with payment of the unsatisfied amount of the judgment. To the extent so charged, the judgment creditor has only the rights of an assignee of the Owner's LLC interest in distributions made by the LLC to Owners and other assigned interest holders in the usual course of business. This section does not deprive any Owner of the benefit of any exemption laws applicable to the LLC interest. In no event shall the Tribe's interest be attachable in abrogation of its sovereign immunity.

LLC.1.6.060 Right of Assignee to Become an Owner

(a) Unless otherwise provided in the Operating Agreement, an assignee of an LLC interest may become an Owner only if the other Owners unanimously consent.

(b) An assignee of an LLC interest who becomes an Owner has, to the extent assigned, the rights and powers and is subject to the restrictions and liabilities of the assignor under the Operating Agreement and this Code.

(c) Unless otherwise provided in the Operating Agreement, an assignor of an LLC interest is not released from any liability to the LLC without the written consent of all the Owners, whether or not the assignee becomes an Owner.

LLC.1.6.070 Powers of Legal Representative

If an Owner who is an individual dies or a court of competent jurisdiction adjudges the Owner to be incompetent to manage his or her person or property, the Owner's personal representative, administrator, guardian, conservator, trustee, or other legal representative shall have all the rights of an assignee of the Owner's interest. If an Owner is a corporation, trust, partnership, limited liability company, or other entity and is dissolved or terminated, the powers of that Owner may be exercised by its legal representative or successor.

Subchapter LLC.1.7
Dissolution

LLC.1.7.010 Dissolution..... LLC.1.7-**Error! Bookmark not defined.**
LLC.1.7.020 Judicial Dissolution..... LLC.1.7-**Error! Bookmark not defined.**
LLC.1.7.030 Winding up ..... LLC.1.7-**Error! Bookmark not defined.**
LLC.1.7.040 Distribution of Assets..... LLC.1.7-**Error! Bookmark not defined.**
LLC.1.7.050 Articles of Dissolution ..... LLC.1.7-**Error! Bookmark not defined.**
LLC.1.7.060 Known Claims Against Dissolved LLC ..... LLC.1.7-**Error! Bookmark not defined.**
LLC.1.7.070 Unknown or Contingent Claims..... LLC.1.7-**Error! Bookmark not defined.**

LLC.1.7.010 Dissolution

A limited liability company is dissolved and its affairs shall be wound up upon the happening of the first of the following:

(a) The occurrence of events specified in the Operating Agreement.

(b) The written consent of all Owners.

(c) An event of dissociation of an Owner, unless otherwise provided in the Operating Agreement or continuation is consented to by all remaining Owners.

(d) Entry of a decree of judicial dissolution under Section LLC.1.7.020.

LLC.1.7.020 Judicial Dissolution

(a) In a proceeding by or for an Owner, the Tribal Court or court of competent jurisdiction may order dissolution of an LLC if any of the following is established:

(1) That it is not reasonably practicable to carry on the business of the LLC.

(2) That the LLC is not acting in conformity with its Operating Agreement.

(3) That one or more managers are acting or will act in a manner that is illegal,

oppressive, or fraudulent.

(4) That one or more Owners in control of the LLC are acting or will act in a manner that is illegal, oppressive, or fraudulent.

(5) That LLC assets are being misapplied or wasted.

(b) If the Tribe is an Owner of the LLC, any action under this section must be brought in the Tribal Court, unless explicitly otherwise provided in the Operating Agreement. Nothing in this section may be construed as a waiver of the Tribe's sovereign immunity from suit, and any waiver thereof must be provided explicitly in the LLC's Operating Agreement.

LLC.1.7.030 Winding up

(a) A dissolved LLC continues its legal existence but may not carry on any business except that which is appropriate to wind up and liquidate its business.

(b) Unless otherwise provided in its Operating Agreement:

(1) The business of the LLC may be wound up by any of the following:

(A) The Owners or managers who have authority to manage the LLC before dissolution.

(B) In a judicial dissolution, the person(s) designated by the Tribal Court or court of competent jurisdiction.

(2) The persons winding up the business of the LLC may do all of the following in the name of and on behalf of the LLC:

(A) Collect its assets.

(B) Prosecute and defend suits.

(C) Take any action necessary to settle and close the business of the LLC.

(D) Dispose of and transfer the property of the LLC.

(E) Discharge or make provision for discharging the liabilities of the LLC.

(F) Distribute to the Owners any remaining assets of the LLC.

(c) Dissolution of a LLC does not do any of the following:

(1) Transfer title to the LLC's property.

(2) Prevent transfer of all or part of an Owner's interest.

(3) Prevent commencement of a civil, criminal, administrative, or investigatory proceeding by or against the LLC.

(4) Abate or suspend a civil, criminal, administrative, or investigatory proceeding pending by or against the LLC at the time of dissolution.

(5) Terminate the authority of the registered agent of the LLC.

(6) Alter the limited liability of an Owner.

LLC.1.7.040 Distribution of Assets

Upon the winding up of an LLC, the assets shall be distributed in the following order:

(a) To creditors, including to the extent permitted by law, Owners, and former Owners in satisfaction of liabilities of the LLC.

(b) Unless otherwise provided in the Operating Agreement, to Owners and former Owners in satisfaction of liabilities for distributions under Section LLC.1.5.020, Section LLC.1.5.030 and Section LLC.1.5.040.

(c) Unless otherwise provided in the Operating Agreement, to Owners and former Owners first for the return of their contributions in proportion to their respective values and, thereafter, in proportion to their respective rights to share in distributions from the LLC before dissolution.

LLC.1.7.050 Articles of Dissolution

After the dissolution of an LLC under Section LLC.1.7.010, the LLC may file articles of dissolution with the Office of the Secretary/Treasurer that include the following:

(a) The name of the LLC.

(b) The date of filing of its Articles of Organization.

(c) The statutory grounds under Section LLC.1.7.010 for dissolution.

(d) The delayed effective date of the articles of dissolution under Section LLC.1.1.110(c), if applicable.

LLC.1.7.060 Known Claims Against Dissolved LLC

(a) A dissolved LLC may notify its known claimants in writing of the dissolution and specify a procedure for making claims.

(b) A claim against the LLC is barred if:

(1) A claimant who was given written notice under Section LLC.1.7.060(a) above, does not deliver the claim, in writing, to the LLC by the deadline specified in the notice; or

(2) A claimant whose claim is rejected by the LLC does not commence a proceeding to enforce the claim within ninety (90) days after receipt of the rejection notice.

LLC.1.7.070 Unknown or Contingent Claims

A claim not barred under Section LLC.1.7.060 may be enforced:

(a) Against the dissolved LLC, to the extent of its undistributed assets.

(b) If the dissolved LLC's assets have been distributed in liquidation, against an Owner of the LLC, other than the Tribe, to the extent of the Owner's proportionate share of the claim or of the assets of the LLC distributed to the Owner in liquidation, whichever is less, but an Owner's total liability for all claims under this section may not exceed the total value of assets at the time distributed to the Owner.

Subchapter LLC.1.8
Merger

LLC.1.8.010 Definitions ..... LLC.1.8-**Error! Bookmark not defined.**
LLC.1.8.020 Merger..... LLC.1.8-**Error! Bookmark not defined.**
LLC.1.8.030 Approval of Merger..... LLC.1.8-**Error! Bookmark not defined.**
LLC.1.8.040 Plan of Merger ..... LLC.1.8-**Error! Bookmark not defined.**
LLC.1.8.050 Articles of Merger ..... LLC.1.8-**Error! Bookmark not defined.**
LLC.1.8.060 Effects of Merger ..... LLC.1.8-**Error! Bookmark not defined.**
LLC.1.8.070 Right to Object..... LLC.1.8-**Error! Bookmark not defined.**

LLC.1.8.010 Definitions

(a) "Constituent Organization" in this Part means an organization, including a corporation, a limited liability company, an unincorporated cooperative or other tribally-formed entity, that is a party to a merger.

(b) Unless the context requires otherwise, in this Part "corporation" includes a domestic corporation and a foreign corporation.

(c) Unless the context requires otherwise, in this Part "LLC" includes a domestic LLC and a foreign LLC.

(d) "Organizational Documents" includes articles of organization, operating agreements, articles of incorporation, bylaws, partnership agreements, agreements of trust and declarations of trust, and any other basic records that create an entity's organization and determine its internal governance and relations among person that own it, have an interest in it, or are Owners of it.

LLC.1.8.020 Merger

(a) Unless otherwise provided in its Organizational Documents, one or more Constituent Organizations may merge with or into one or more LLC's or one or more other foreign LLC's as provided in the plan of merger.

(b) Interests or shares in a Constituent Organization that is a party to a merger may be exchanged for or converted into cash, property, obligations, or interest in the surviving LLC.

LLC.1.8.030 Approval of Merger

(a) Unless otherwise provided in the Operating Agreement, a domestic LLC that is a party to a proposed merger shall approve the plan of merger by an affirmative vote by all of the Owners.

(b) Unless otherwise provided in the Operating Agreement, the manager or managers of a domestic LLC may not approve a merger without also obtaining the approval of the LLC's Owners under Section LLC.1.8.030(a), above.

(c) All other Constituent Organizations shall approve the merger in the manner and by the vote required by the laws applicable to the Constituent Organizations and their respective Organizational Documents.

(d) Each Constituent Organization shall have any rights to abandon the merger as provided for in the plan of merger or in the laws applicable to the Constituent Organization or its Organizational Documents.

(e) Upon approval of a merger, the Constituent Organization shall notify its Owners, shareholders, and all others that have an ownership interest in it of the approval and of the effective date of the merger.

LLC.1.8.040 Plan of Merger

Each Constituent Organization shall enter into a written plan of merger to be approved under Section LLC.1.8.030.

LLC.1.8.050 Articles of Merger

(a) The surviving LLC shall deliver to the Office of the Secretary-Treasurer articles of merger, executed by each party to the plan of merger, that include all of the following:

(1) The name and state or jurisdiction of organization for each Constituent Organization.

(2) The plan of merger.

(3) The name of the surviving or resulting LLC.

(4) A statement as to whether the management of the surviving LLC will be reserved to its Owners or vested in one or more managers.

(5) The delayed effective date of the merger under Section LLC.1.1.110(d), if applicable.

(6) A statement as to whether the surviving LLC is Tribally-Owned.

(7) If Tribally-Owned, a statement as to whether the surviving LLC enjoys the Tribe's sovereign immunity.

(8) A statement that the plan of merger was approved in accordance with Section LLC.1.8.030.

(b) A merger takes effect upon the effective date of the articles of merger.

LLC.1.8.060 Effects of Merger

A merger has the following effects:

(a) The Constituent Organizations must become a single entity, which shall be the entity designated in the plan of merger as the surviving LLC.

(b) Each Constituent Organization, except the surviving LLC, ceases to exist.

(c) The surviving LLC possesses all of the rights, privileges, immunities, and powers of each merged Constituent Organization and is subject to all of the restrictions, disabilities, and duties of each merged Constituent Organization.

(d) All property and all debts, including contributions, and each interest belonging to or owed to each of the Constituent Organizations are vested in the surviving LLC without further act.

(e) Title to all real estate and any interest in real estate, vested in any Constituent Organization, does not revert and is not in any way impaired because of the merger.

(f) The surviving LLC has all the liabilities and obligations of each of the Constituent Organizations and any claim existing or action or proceedings pending by or against any merged Constituent Organization may be prosecuted as if the merger had not taken place, or the surviving LLC may be substituted in the action.

(g) The rights of creditors and any liens on the property of any Constituent Organization survive the merger.

(h) The interests in a Constituent Organization that are to be converted or exchanged into interest, cash, obligations, or other property under the terms of the plan of merger are converted and the former interest holders are entitled only to the rights provided in the plan of merger of the rights otherwise provided by law.

(i) The Articles of Organization of the surviving LLC is amended to the extent provided in the articles of merger.

LLC.1.8.070 Right to Object

Unless otherwise provided in the Operating Agreement, upon receipt of the notice required by Section LLC.1.8.030(e), an Owner who did not vote in favor of the merger may, within twenty (20) days after the date of the notice, voluntarily dissociate from the LLC under Section LLC.1.3.070(c) and receive fair value for the Owner's LLC interest under Section LLC.1.5.040.

Subchapter LLC.1.9
Limited Liability Companies Wholly-Owned by the Tribe

1 General Provisions for Tribally-Owned LLC's..... 1-**Error! Bookmark not defined.**
2 Special Formation Requirements for Tribally-Owned LLC's . 2-**Error! Bookmark not defined.**
3 Management of Tribally-Owned LLC's ..... 3-**Error! Bookmark not defined.**
4 Decisions and Voting for Tribally-Owned LLC's ..... 4-**Error! Bookmark not defined.**
5 Distributions for Tribally-Owned LLC's..... 5-**Error! Bookmark not defined.**
6 Additional Reports and Audits..... 6-**Error! Bookmark not defined.**
7 Actions Against Tribally-Owned LLC's ..... 7-**Error! Bookmark not defined.**

Part 1
General Provisions for Tribally-Owned LLC's

LLC.1.9.010 Tribally-Owned Companies ..... 1-**Error! Bookmark not defined.**
LLC.1.9.020 Tribally-Owned Subsidiary Companies..... 1-**Error! Bookmark not defined.**
LLC.1.9.030 Privileges and Immunities ..... 1-**Error! Bookmark not defined.**
LLC.1.9.040 Ownership ..... 1-**Error! Bookmark not defined.**
LLC.1.9.050 Project Companies with Non-Tribal Owners ..... 1-**Error! Bookmark not defined.**
LLC.1.9.060 Purpose of Tribally-Owned LLC's ..... 1-**Error! Bookmark not defined.**
LLC.1.9.070 Waiver of Sovereign Immunity ..... 1-**Error! Bookmark not defined.**

LLC.1.9.010 Tribally-Owned Companies

There are hereby authorized to be created limited liability companies wholly-owned by the Tribe, with the Tribe as the sole Owner. Tribally-owned limited liability companies shall be created by a duly adopted resolution of the Tribal Governing Board. The organizer shall file in accordance with Section LLC.1.1.110. When the organizer files the Articles of Organization and the Operating Agreement of a Tribally-owned LLC, a certified copy of the resolution authorizing the formation of the LLC and approving the articles shall be included. Tribally-owned LLC's shall be considered to be instrumentalities of the Tribe.

LLC.1.9.020 Tribally-Owned Subsidiary Companies

There are hereby authorized to be created by resolution of the Board of Directors of a Tribally-owned limited liability company or of a Tribal Corporation, or of a wholly-owned subsidiary of such a Tribally-owned LLC or Tribal Corporation, subsidiary LLC's to be wholly-owned by the parent Tribally-owned LLC or parent Tribal Corporation, which shall be instrumentalities of the Tribe. The organizer of such a Tribally-owned subsidiary LLC shall file in accordance with Section LLC.1.1.110. When the organizer files the Articles of Organization and the Operating Agreement of the Tribally-owned subsidiary LLC, a certified copy of a resolution of the Board of Directors of the parent Tribally-owned LLC or parent Tribal Corporation authorizing the formation of the subsidiary LLC and approving the articles shall be included.

LLC.1.9.030 Privileges and Immunities

The limited liability companies established under Section LLC.1.9.010 and 912 shall be considered to be instrumentalities of the Tribe, and their officers and employees considered officers and employees of the Tribe, created for the purpose of carrying out authorities and responsibilities of the Tribal Governing Board for economic development of the Tribe and the advancement of its tribal Owners. Such LLC's, their directors, officers and employees

shall, therefore, be entitled to all of the privileges and immunities enjoyed by the Tribe, including but not limited to immunities from suit in Federal, State and Tribal courts and may be exempt from Federal, State, and local taxation or regulation.

LLC.1.9.040 Ownership

(a) No Ownership interest in any LLC in which the Tribe is an Owner may be alienated unless approved by the Tribal Governing Board. Further, no Ownership interest in any Tribally-owned subsidiary LLC may be alienated unless approved by a duly adopted resolution of the Board of Directors of the parent Tribally-owned LLC or parent Tribal Corporation.

(b) All interests in any Tribally-owned LLC shall be held by and for a Tribe, or in the case of a wholly-owned subsidiary LLC, by the parent Tribally-owned LLC or parent Tribal Corporation. No individual member of the Tribe shall have any personal ownership interest in any LLC organized under this Part, whether by virtue of such person's status as a member of a Tribe, as an officer of a Tribe's Government, or otherwise.

LLC.1.9.050 Project Companies with Non-Tribal Owners

Any LLC created pursuant to this Part, including subsidiary LLC's, may form or own interests or shares in partnerships, corporations, or other limited liability companies with other governmental or non-governmental entities or persons under the laws of the Tribe or any other jurisdiction ("Project Companies"); provided, however, that the partial ownership interest in such Project Companies shall not diminish or affect the privileges and immunities of the Tribally-owned LLC's or Tribally-owned subsidiary LLC's created pursuant to this Part.

LLC.1.9.060 Purpose of Tribally-Owned LLC's

All Tribally-owned LLC's, whether directly or indirectly owned, shall state in their Operating Agreement the purpose of the LLC that relates to the overall needs, priorities, goals, and objectives of the Tribe's government, including how the LLC will contribute to tribal economic policy and further the goals of self-determination and economic self-sufficiency.

LLC.1.9.070 Waiver of Sovereign Immunity

The limited liability companies established under Section LLC.1.9.010 and 912 may only waive the privileges and immunities granted under Section LLC.1.9.030 in the following manner:

(a) The LLC may specifically grant limited waivers of its immunity from suit and consent to be sued in Tribal Court or another court of competent jurisdiction or consent to binding arbitration pursuant to the procedures and authorities set forth in the LLC's Operating Agreement; provided, however, that

(1) any such waiver or consent to suit granted pursuant to the LLC's Operating Agreement shall in no way extend to any action against the Tribe, nor shall it in any way be deemed a waiver of any of the rights, privileges and immunities of the Tribe;

(2) any recovery against the LLC shall be limited to the assets of the LLC (or such portion of the LLC's assets as further limited by the waiver or consent) and the Tribe shall not be liable for the payment or performance of any of the obligations of the LLC, and no recourse shall be had against any assets or revenues of the Tribe in order to satisfy the obligations of the LLC; including assets of the Tribe leased, loaned, or assigned to the LLC for its use, without transfer of title, and

(3) any waiver of the LLC's immunities granted pursuant to the LLC's Operating Agreement shall be further limited or conditioned by the terms of such waiver.

(b) The sovereign immunity of the LLC shall not extend to actions against the LLC by the Tribe acting as Owner, or, in the case of a subsidiary LLC created pursuant to this Part, by the parent LLC acting as Owner, pursuant to Section 991 of this Part.

(c) The LLC must follow the method mandated by Section 922.

Part 2
Special Formation Requirements for Tribally-Owned LLC's

LLC.1.9.080 Formation ..... 2-**Error! Bookmark not defined.**
LLC.1.9.090 Additional Requirements for the Articles of Organization. 2-**Error! Bookmark not defined.**

LLC.1.9.080 Formation

(a) Tribally-owned LLC's. The Chairman of the Tribal Governing Board shall be the organizer of any Tribally-owned limited liability company.

(b) Subsidiaries of Tribally-owned LLC's. A Board Member of the parent Tribally-owned LLC or parent Tribal Corporation shall be the organizer of any Tribally-owned subsidiary LLC. If practicable, such Board Member shall also be a member of the Tribe.

(c) Unless a delayed effective date is specified:

(1) The existence of a Tribally-owned LLC begins when the Articles of Organization have been approved by resolution of the Tribal Council in accordance with Section LLC.1.9.010 and have been filed with the Office of the Secretary/Treasurer in accordance with Section LLC.1.1.110.

(2) The existence of a subsidiary LLC owned by a Tribally-owned LLC or Tribal Corporation begins when the Articles of Organization have been approved by a resolution of the Directors of the parent Tribally-owned LLC or Tribal Corporation and have been filed with the Office of the Secretary-Treasurer in accordance with Section LLC.1.1.110.

(3) The Articles of Organization of any Tribally-owned LLC or subsidiary thereof, and any amendments thereto, shall be filed with the Office of the Secretary/Treasurer in accordance with Section LLC.1.1.110, and shall state at a minimum the items set forth in Section LLC.1.9.090 below.

LLC.1.9.090 Additional Requirements for the Articles of Organization

As set forth in Section LLC.1.9.070, Tribally-owned limited liability companies established under Section LLC.1.9.010 and Section LLC.1.9.020 may grant a limited waiver of sovereign immunity in order to promote economic development through commercial transactions for which such a waiver is necessary and beneficial to the Tribe. The method for granting a limited waiver of sovereign immunity through the above mentioned entities is as follows:

(a) The sovereign immunity of a Tribally-owned LLC may be waived only by:

(1) A resolution adopted by the Board of Directors of the Tribally-owned LLC for the specific purpose of granting a waiver, or in the case of Owner managed Tribally- owned subsidiary LLC, by the Owner's Board of Directors; and

(2) The language of the waiver must be explicit; and

(3) The waiver must be contained in a written contract or commercial document to which the LLC is a party.

(b) Waivers of sovereign immunity by resolution of the Tribal Council may be granted only when necessary to secure a substantial advantage or benefit to the Tribally-owned LLC. Waivers of sovereign immunity by resolution may not be general but must be specific and limited as to duration, grantee, transaction, property or funds of the Tribally-owned LLC subject to the waiver, court having jurisdiction and applicable law.

Part 3
Management of Tribally-Owned LLC's

LLC.1.9.100 Management ..... 3-**Error! Bookmark not defined.**
LLC.1.9.110 Qualifications of Board Members..... 3-**Error! Bookmark not defined.**

LLC.1.9.100 Management

(a) All Tribally-owned LLC's formed pursuant to Section LLC.1.9.010 of this Code shall be managed by a Board of Directors in the manner described in the Company's Operating Agreement. The number, terms and method for selecting and removing Directors of any Tribally- owned LLC shall be specified in the LLC's Operating Agreement.

(b) All Tribally-owned subsidiary LLC's formed pursuant to Section LLC.1.9.020 of this Code may be Owner managed or managed by a Board of Directors. If managed by a Board of Directors, the Company's Operating Agreement shall set forth the number, terms and method for selecting and removing the Directors. If Owner managed, the LLC shall have one or more persons exercising the functions of Chief Executive Officer.

LLC.1.9.110 Qualifications of Board Members

(a) Board Members of all Tribally-owned limited liability companies must be at least twenty- five (25) years of age, possess a high school diploma or a General Equivalency Diploma, and have no felony convictions.

(b) At all times, the majority of the Board Members in all Tribally-owned LLC's shall be enrolled members of the Tribe; provided, however, that this requirement shall not apply if a vacancy occurs resulting in the majority of the Board Members not being enrolled members of the Tribe so long as such vacancy is filled by an enrolled member of the Tribe within a timely manner. This requirement shall not apply to Tribally-owned subsidiary LLC's.

(c) Board Members who are not members of the Tribe shall have substantial business, financial or industry experience.

Part 4
Decisions and Voting for Tribally-Owned LLC's

LLC.1.9.120 Voting ..... 4-**Error! Bookmark not defined.**

LLC.1.9.120 Voting

(a) The Ownership interests in all Tribally-owned LLC's shall be voted in the accordance with the Tribal Council's procedures for voting and passing Tribal resolutions.

(b) The Ownership interests in a Tribally-owned subsidiary LLC shall be voted as provided in the Company's Operating Agreement.

Part 5
Distributions for Tribally-Owned LLC's

LLC.1.9.130 Distributions of Income..... 5-**Error! Bookmark not defined.**

LLC.1.9.130 Distributions of Income

(a) Subject to the Tribe's ultimate ownership right to all income generated by its Tribally-owned LLCs, a Tribally-owned LLC shall distribute the net income of the LLC to the Tribe as set forth in a dividend plan adopted in accordance with the Operating Agreement and duly approved by the Tribal Governing Board, except that a Tribally-owned LLC may retain reserves necessary to carry on the LLC's business in a reasonably prudent manner and as recommended by the Board of Directors, subject to further limitations set forth in Section LLC.1.5.070 and in the Operating Agreement.

(b) Subject to the parent Tribally-owned LLC's or parent Tribal Corporation's ultimate ownership right to all income generated by its subsidiary LLCs, a subsidiary LLC created pursuant to Section LLC.1.9.020 shall distribute the net income of the LLC to the parent Tribally- owned LLC or parent Tribal Corporation as set forth in a dividend plan adopted in accordance with the Operating Agreement and duly approved by its Board of Directors, except that a Tribally-owned LLC may retain reserves necessary to carry on the LLC's business in a reasonably prudent manner and as recommended by the Board of Directors, subject to further limitations set forth in Section LLC.1.5.070 and in the Operating Agreement.

Part 6
Additional Reports and Audits

LLC.1.9.140 Audit..... 6-**Error! Bookmark not defined.**
LLC.1.9.150 Financial, Business, and Budget Information ..... 6-**Error! Bookmark not defined.**

LLC.1.9.140 Audit

In addition to any Owner inspection rights provided in the Operating Agreement of a Tribally-owned LLC, the Tribal Governing Board reserves the right to conduct such at any time, by process in the manner required to be provided in the Operating Agreement, and may require that any LLC wholly-owned by the Tribe, whether directly or indirectly, or an LLC in which the Tribe owns the majority interest, be audited by an independent auditor hired by the Tribe who shall have the absolute right to require access to all of the LLC's records and documents necessary for such an audit.

LLC.1.9.150 Financial, Business, and Budget Information

In addition to any reports to the Owner required by the Operating Agreement, the Board of Directors of each Tribally-owned LLC, whether owned directly or indirectly, shall submit the following information to the Tribal Governing Board:

(a) Copies of any periodic financial statements (including monthly or quarterly balance sheets, profit and loss statements, and cash flow statements) as may be prepared in the ordinary course of business, promptly after such statements are furnished to the LLC's Board of Directors;

(b) A full report of the business activities of the corporation within 120 days after the close of each fiscal year; and

(c) A proposed annual budget for the following Tribal fiscal year, including any proposed funding from the Tribe or anticipated distributions to the Tribe, by May 15 of each year, and the final annual budget adopted by each Board of Directors by October 1 of each Tribal fiscal year.

Part 7
Actions Against Tribally-Owned LLC's

LLC.1.9.160 Court Actions by a Tribe Authorized ..... 7-**Error! Bookmark not defined.**
LLC.1.9.170 Tribal Approval Required..... 7-**Error! Bookmark not defined.**
LLC.1.9.180 Relief Available ..... 7-**Error! Bookmark not defined.**

LLC.1.9.160 Court Actions by a Tribe Authorized

The Tribe, as Owner of any Tribally-owned limited liability company organized pursuant to this Code, or in the case of a subsidiary LLC created pursuant to this Part, the parent Tribally-owned LLC or Tribal Corporation acting as Owner, may bring a civil action against the LLC, its Board of Directors or its officers in Tribal Court only pursuant to this Part to:

(a) Enjoin temporarily, or permanently, any action of the LLC that is an *ultra vire*s act outside the authority of the LLC and that is either:

(1) unlawful; or

(2) has or could cause material harm to the assets of the LLC or the Tribe if no immediate action is taken.

(3) require the distribution of the LLC's surplus net income, to the extent permitted by Section LLC.1.5.070.

(b) In accordance with Section LLC.1.9.030, the sovereign immunity of the LLC shall not extend to actions against the LLC by a Tribe acting as Owner, or, in the case of a subsidiary LLC created pursuant to this Part, by the parent LLC acting as Owner.

(c) Nothing contained herein shall be construed as authorizing actions of any kind whatsoever against the Tribe.

LLC.1.9.170 Tribal Approval Required

The filing of any court action against a Tribally-owned LLC pursuant to this Part must be authorized by the Tribal Governing Board resolution. The request for consideration of the proposed court action will be made by the Chairman on behalf of the Tribal Governing Board.

LLC.1.9.180 Relief Available

In any action brought under this Part, the Tribal Court may, based on clear and convincing evidence set forth in its findings of fact and conclusions of law:

(a) Issue a temporary restraining order, preliminary injunction, and permanent injunctive relief pursuant to the procedures and standards applicable in the Tribal Court, except that no bond need be posted for any preliminary injunctive relief; or

(b) Order that funds of the LLC be distributed to a Tribe to the extent permitted by the Operating Agreement and Section LLC.1.5.070 of this Code.

Title ITP
Information Technology Policy

ITP.1 Information and Technology Use and Security Policy..... ITP.1-**Error! Bookmark not defined.**

Chapter ITP.1
Information and Technology Use and Security Policy

ITP.1.1 Introduction .....ITP.1.1-**Error! Bookmark not defined.**
ITP.1.2 Definitions .....ITP.1.2-**Error! Bookmark not defined.**
ITP.1.3 Information Security .....ITP.1.3-**Error! Bookmark not defined.**
ITP.1.4 Acceptable Use .....ITP.1.4-**Error! Bookmark not defined.**
ITP.1.5 Backup and Recovery .....ITP.1.5-**Error! Bookmark not defined.**

Preamble

This ordinance is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians to provide for the decent, safe, and sanitary dwellings for the members 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, 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 Tribal Governing Board, for the purpose of providing social or economic benefits to the members of the Band or residents of the reservation." (Article V, § 1(l)). Pursuant to this inherent sovereign authority, the Tribal Governing Board hereby enacts this ordinance.

Subchapter ITP.1.1
Introduction

ITP.1.1.010 Title.....ITP.1.1-**Error! Bookmark not defined.**
ITP.1.1.020 Authority.....ITP.1.1-**Error! Bookmark not defined.**
ITP.1.1.030 Purpose.....ITP.1.1-**Error! Bookmark not defined.**
ITP.1.1.040 Effective Date.....ITP.1.1-**Error! Bookmark not defined.**
ITP.1.1.050 Interpretation.....ITP.1.1-**Error! Bookmark not defined.**
ITP.1.1.070 Relation to Other Laws .....ITP.1.1-**Error! Bookmark not defined.**
ITP.1.1.080 Severability and Non-Liability .....ITP.1.1-**Error! Bookmark not defined.**
ITP.1.1.090 Repeal of Inconsistent Tribal Ordinances ....ITP.1.1-**Error! Bookmark not defined.**

ITP.1.1.010 Title

This policy and procedure manual shall be known as the Lac Courte Oreilles Information and Technology Policy.

(Res. No. 2023-42)

ITP.1.1.020 Authority

This policy and procedure manual 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 empowered the Tribal Governing Board to establish a Children's Court Division of the Lac Courte Oreilles Tribal Court..."

(Res. No. 2023-42)

ITP.1.1.030 Purpose

The Tribe depends heavily on its information resources today and will become even more dependent on them in the future. Information is one of the Tribe's most important assets. Protection of information assets is necessary to establish and maintain trust between Tribal members, Tribal Departments and Entities, Tribal leadership, and third-party vendors . The security of the Tribe's systems and information is essential to its safety and to the privacy of Tribal financial information. The purpose of this policy is to establish general guidelines for maintaining a computing environment within the Tribe that is controlled, consistent and secure. The policy's primary objective is to enhance the productivity of users

by optimizing network performance, reducing wasted use of resources and the risk of legal liability caused by illegal or inappropriate use of the Network, and to provide for Network security and safety. The Tribe is establishing standards relating to administrative, technical, and physical safeguards for Tribal records and information. These safeguards are to ensure the security and confidentiality of Tribal records and information, protect against any anticipated threats or hazards to the security or integrity of these records, and protect against unauthorized access to or use of these records or information that would result in substantial harm or inconvenience to the Tribe or a Tribal member. Attacks frequently compromise personal and business data; it is critical for the Tribe to respond quickly and effectively when security breaches occur by implementing an Incident Response Program that responds to incidents in a consistent manner so that the appropriate actions are taken. These incident response measures help personnel to minimize loss or theft of information and disruption of services, including the ability to use information gained during the incident to better prepare for handling future incidents and to provide stronger protection for systems and data.

(Res. No. 2023-42)

ITP.1.1.040 Effective Date

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

(Res. No. 2023-42)

ITP.1.1.050 Interpretation

The provisions of this ordinance:

(a) Shall be interpreted and applied as minimum requirements applicable to the Information Technology 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.

(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 Court may use tribal law, federal law, or the State law for guidance.

(Res. No. 2023-42)

ITP.1.1.070 Relation to Other Laws

(a) Applicable Law. Unless affected or displaced by this ordinance, principles of law and equity common law of the Tribe and tribal customs and traditions are applicable, and the general principles of law of any other Tribe or any other state may be used as a guide to supplement and interpret this ordinance.

(b) Conflicts with Other Laws.

(1) Tribal Law. To the extent that this ordinance may conflict with tribal laws or ordinances which have been enacted to comply with statutes or regulations of any agency of the United States, such tribal laws or ordinances shall govern over the provisions of this Code if it has specific applicability, and it is clearly in conflict with the provisions of this Code.

(2) State Law. To the extent that the laws of any state may be applicable to the subject matter of this ordinance, such laws shall be read to be advisory and not directly binding and shall not govern the relations of the parties.

(Res. No. 2023-42)

ITP.1.1.080 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. 2023-42)

ITP.1.1.090 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. 2023-42)

Subchapter ITP.1.2
Definitions

ITP.1.2.010 General Definitions.....ITP.1.2-**Error! Bookmark not defined.**

ITP.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) **"Agent"** shall mean a person who is authorized to act on behalf of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians with respect to a specific transaction or transactions. For the purposes of this ordinance, agent shall include all individuals elected or appointed to serve on a board, committee, or commission of the Tribe.

(b) **"Employee"** shall mean any individual who is employed by the Tribe and is subject to the direction and control of the Tribe with respect to the material details of the work performed, or who has the status of an employee under the usual common law rules applicable to determining the employer-employee relationship. For the purposes of this ordinance, employee shall include individuals employed by a tribal entity or Tribally Chartered corporation.

(c) **"Network or Information Technology (IT)"** shall encompass desktop computers, laptops, network resources, internet, intranet, email, world wide web, telephone systems, social media, etc.

(d) **"Officer"** shall mean a person elected or appointed to serve on a board, committee, or commission of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(e) **"Personal electronic devices"** shall include, but shall not be limited to, employee-owned desktop, laptop, tablet, handheld or worn computing devices, whether wired or wireless, USB drives, cameras and smartphones/cellular telephones.

(f) **"Reservation or Reservation Lands"** shall mean 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.

(g) **"Tribal Entity"** shall mean a corporation or other organization which is wholly owned by the Lac Courte Oreilles Band of Lake Superior Chippewa Indians and is operated for governmental or commercial purposes.

(h) **"Tribe"** shall mean the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, and includes all departments, divisions, business units, and other subdivisions of the Tribe.

(i) **"Tribal Court"** shall mean the court of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(j) **"Tribal Governing Board"** shall mean the Tribal Governing Board of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(Res. No. 2023-42)

Subchapter ITP.1.3
Information Security

ITP.1.3.010 Responsibilities.....ITP.1.3-**Error! Bookmark not defined.**
ITP.1.3.020 Risk Assessment .....ITP.1.3-**Error! Bookmark not defined.**
ITP.1.3.030 Strategy.....ITP.1.3-**Error! Bookmark not defined.**
ITP.1.3.040 Controls Implementation.....ITP.1.3-**Error! Bookmark not defined.**
ITP.1.3.050 Security testing.....ITP.1.3-**Error! Bookmark not defined.**
ITP.1.3.060 Monitoring and updating.....ITP.1.3-**Error! Bookmark not defined.**
ITP.1.3.070 Reporting .....ITP.1.3-**Error! Bookmark not defined.**
ITP.1.3.080 Incident response program.....ITP.1.3-**Error! Bookmark not defined.**

ITP.1.3.010 Responsibilities

(a) The Tribal Governing Board hall oversee the Tribe's efforts to develop, implement, and maintain an effective Information Security Program. The Tribal Governing Board Counsel shall be responsible for approving this policy and the written report on the effectiveness of the Tribe's Information Security Program on an annual basis.

(b) The Tribe's IT Department shall assist with the enforcement and adherence to the standards and guidelines established within this policy.

(c) The Tribe's IT Department shall provide direction and control for information security at the Tribe.

(d) The Tribe shall exercise due diligence in selecting its service providers and require its service providers by contract to implement security measures that safeguard Tribal information.

(e) Employees shall know and understand their duties with respect to the Information Security Policy and comply with the terms of this policy.

(f) Security Objectives. The Tribe shall meet its business objectives by implementing business systems with due consideration of information technology (IT) related risks to the Tribe, business and trading partners, technology service providers, and customers. The Tribe shall meet this goal by striving to accomplish the following objectives:

(1) Availability, integrity and confidentiality of data or systems

(2) Accountability and assurance of processes and controls

(g) Security Process. The Tribe shall implement an ongoing security process and shall assign clear and appropriate roles and responsibilities to the Tribal Governing Board, management, and employees. The process shall be designed to identify, measure, manage and control the risks to system and data availability, integrity, and confidentiality, and ensure accountability for system actions.

(Res. No. 2023-42)

ITP.1.3.020 Risk Assessment

Information security risk assessment is the process to identify and understand risks to the confidentiality, integrity, and availability of information and information systems. The Tribe shall maintain an ongoing information security risk assessment program that effectively involves three phases:

(a) Information gathering. Gather data regarding the information and technology assets of the Tribe, threats to those assets, vulnerabilities, existing security controls and processes, and the current security standards and requirements;

(b) Analysis. Analyze the probability and impact associated with the known threats and vulnerabilities to its assets; and

(c) Prioritize responses. Rank the risks present due to threats and vulnerabilities to determine the appropriate level of training, controls, and testing necessary for effective mitigation.

(Res. No. 2023-42)

ITP.1.3.030 Strategy

The Tribe strives to mitigate risks while complying with legal, statutory, contractual, and internally developed requirements. In building this strategy, the Tribe shall define its control objectives and establish an implementation plan. The security strategy shall include:

(a) Cost comparisons of different strategic approaches appropriate to the Tribe's environment and complexity;

(b) Layered controls that establish multiple control points between threats and Tribe assets; and

(c) Educating officers and employees in implementing the information security program.

(Res. No. 2023-42)

ITP.1.3.040 Controls Implementation

The following security controls shall be implemented as available:

(a) Access rights admin. The Tribe shall have an effective process to administer access to system resources. The Tribe shall strive to identify and restrict access to any system resource to the minimum required for work to be performed. The process shall include the following controls:

(1) Assign end-users and system resources only the access required to perform their required functions;

(2) Update access rights based on personnel or system changes;

(3) Periodically review users' access rights based on the risk to the application or system; and

(4) Design appropriate acceptable-use and end-user policies.

(b) Authentication. The Tribe shall use effective authentication methods appropriate to the level of risk by:

(1) Selecting authentication mechanisms based on the risk associated with a particular application or service;

(2) Considering whether multiple forms of authentication are appropriate for each application, considering that multi-forms authentication is increasingly necessary for many forms of electronic communication and electronic payment activities; and

(3) Encrypting the transmission and storage of authenticators (e.g., passwords, PINs).

(c) Network access. The Tribe shall secure access to their computer networks through multiple layers of access controls to protect against unauthorized access. Access control measures shall include:

(1) Group network servers, applications, data, and users into security domains;

(2) Require use of unique user IDs and strong passwords;

(3) Establishing appropriate access requirements within and between each security domain; and

(4) Implementing appropriate controls to meet those access requirements consistently

(d) Operating System access. The Tribe shall secure access to the operating systems of all system components by:

(1) Securing access to system utilities;

(2) Restricting and monitoring privileged access;

(3) Logging and monitoring user or program access to sensitive resources;

(4) Updating the operating systems with security patches; and

(5) Securing the devices that can access the operating system through physical and logical means

(e) Application access. The Tribe shall control access to applications by:

(1) Using authentication and authorization controls appropriate for the risk of the application;

(2) Monitoring access rights to ensure they are the minimum required for the user's current business needs;

(3) Using time of day limitations on access as appropriate; and

(4) Logging access and security events

(f) Remote access. The Tribe shall secure remote access to and from their systems by:

(1) Controlling access through management approvals;

(2) Implementing controls over configuration to disallow potential malicious use;

(3) Monitoring remote access;

(4) Securing remote access devices; and

(5) Using strong authentication and encryption to secure communications.

(g) Physical Security. The Tribe shall implement appropriate preventative and detective controls to protect against the risk to physical security.

(h) Encryption. The Tribe shall employ encryption to mitigate the risk of disclosure or alteration of sensitive information and storage transit. Encryption implementations shall include:

(1) Encryption strength sufficient to protect the information while in transit between unsecure systems;

(2) Effective encryption key management practices; and

(3) Appropriate protection of the encrypted communication's endpoints.

(4) USB storage devices shall not be authorized for general use. If a USB storage device is needed to store sensitive or confidential information, then something like "bit locker" with encryption that requires a username and password shall be used.

(i) Malicious code. The Tribe shall protect against the risk of malicious code by:

(1) Using anti-virus products on clients and servers;

(2) Using an appropriate blocking strategy on the network perimeter;

(3) Filtering input to applications; and

(4) Educating staff in appropriate computing policies and procedures

(j) Systems development, acquisition, and maintenance. The Tribe shall ensure that systems are developed, acquired, and maintained with appropriate security controls. These steps shall include:

(1) Defining security requirements before developing or acquiring new systems;

(2) Incorporating recognized standards in developing security requirements;

(3) Incorporating appropriate security controls, audit trails, and logs for data entry and data processing;

(4) Implementing an effective change control process;

(5) Hardening systems before deployment;

(6) Establishing an effective patch process for new security vulnerabilities; and

(7) Overseeing vendors to protect the integrity and confidentiality of application source code.

(k) Personnel security. The Employee Handbook and Human Resources policies shall discuss risk mitigation posed by internal users

(l) Virtualization. The Virtual environment and the Virtualization of servers shall be the responsibility of the IT Department.

(m) Electronic and paper-based media handling. The Tribe shall control and protect access to paper, film, and computer-based media to avoid loss or damage. The Tribe shall:

(1) Establish and ensure compliance with policies for handling and storing information;

(2) Ensure safe and secure disposal of sensitive media and

(3) Secure media in transit or transmission to third parties.

(4) Employees are instructed to save data to "shared drives" or other network drives for security and backup purposes.

(n) Logging and data collection. The Tribe shall take reasonable steps to ensure that sufficient data is collected from secure log files to identify and respond to security incidents and to monitor and enforce policy compliance. The Tribe shall have appropriate logging controls to ensure that security personnel can review and analyze log data to identify unauthorized access attempts and security violations, provide support for personnel actions, and aid in reconstructing comprised systems.

(o) Service provider oversight. The Tribe shall review security responsibilities for outsourced operations through

(1) Appropriate due diligence in service provider research and selection;

(2) Contractual assurances regarding security responsibilities, controls, and reporting;

(3) Nondisclosure agreements regarding the Tribe's systems and data; and

(4) Third-party review of the service provider's security through appropriate audits and tests.

(p) Intrusion detection and response. The Tribe shall strive to detect and respond to an information system intrusion commensurate with risk. Risk mitigation practices shall include:

(1) Preparation. Analysis of data flows, decisions on the nature and scope of monitoring, consideration of legal factors, appropriate procedures governing detection and response; and

(2) Response to an intrusion. Containment and restoration of systems and appropriate reporting.

(q) Business continuity considerations. The Tribe shall develop a plan that includes:

(1) Identification and training of personnel with key security roles during continuity plan implementation; and

(2) Security needs for back-up sites and alternate communications.

(r) Insurance. The Tribe shall evaluate the extent and availability of coverage in relation to the specific risks they are seeking to mitigate.

(s) Equipment disposal/destruction. When equipment is retired from use, the hard drive shall be removed and stored or deleted and cleaned with software of a Department of Defense grade. Other equipment such as copiers, printers, and multi-function machines Shall have memory or other data storage devices deleted or destroyed. Equipment shall then be recycled, disposed of, or donated with no software or data.

(Res. No. 2023-42)

ITP.1.3.050 Security testing

The Tribe shall gain assurance of the adequacy of their risk mitigation strategy and implementation by:

(a) Basing their testing plan, test selection, and test frequency on the risk posed by potentially non-functioning controls;

(b) Establishing controls to mitigate the risks posed to systems from testing; and

(c) Using test results to evaluate whether security objectives are met.

(Res. No. 2023-42)

ITP.1.3.060 Monitoring and updating

(a) The Tribe shall continuously gather and analyze information regarding new threats and vulnerabilities, actual and potential attacks on the Tribe or others, and the effectiveness of the existing security controls.

(b) The information in par. (a) shall be used to update the risk assessment, strategy, and implemented controls.

(c) To complete the goals of (a) and (b) the Tribe shall utilize malware, antivirus, and other security programs.

(Res. No. 2023-42)

ITP.1.3.070 Reporting

Employees that become aware of any system misuse; potential threat, intrusion, or unexplained occurrence; or violations of this IT policy, shall inform a member of the IT Department immediately.

(Res. No. 2023-42)

ITP.1.3.080 Incident response program

(a) Incident Response Team. The Tribe shall establish an Incident Response Team that is available for anyone who discovers or suspects that an incident has occurred. One or more team members are responsible for handling the incident, analyzing the incident data, determining the impact of the incident, and acting appropriately to limit the damage and restore normal services.

(1) The primary Incident Response Team shall consist of:

(A) IT Director

(B) IT Department personnel

(2) More severe or extensive incidents can include:

(A) Office of Attorney General

(B) Tribal Law Enforcement

(C) Compliance/Audit Officer

(3) All Tribal employees shall be aware of the possibility of system or security incidents.

(4) Physical building incidents shall be directed to the Tribe's security officer.

(5) Computer security related incidents shall be directed to the IT or Operations Departments.

(6) Individuals shall work with the response team and executive management to execute an incident response.

(b) Phases of Incident Response

(1) Preparation. This initial phase involves establishing and training a response team and acquiring the necessary tools and resources. During preparation, the Tribe shall attempt to limit the number of incidents that will occur by selecting and implementing a set of controls based on the results of risk assessments. Other preparation items include:

(A) Risk Assessment

(i) Host Security

(ii) Network Security

(iii) Malware Prevention

(B) User Awareness and Training

(C) System Hardening Guidelines

(D) System Access Guidelines

(E) Facilities Security Guidelines

(F) Insurance Policies

(2) Detection and analysis. The process of monitoring and awareness. Training creates an awareness of what constitutes an incident and who to contact when it occurs. Log monitoring, with knowledge of baseline system activities, will create trigger points. Once detected, the Tribe may mitigate the impact of the incident by containing it and ultimately recovering from it.

(3) Containment, eradication, and recovery. The response to the Incident.

(4) Post incident activity. Once the incident is over, an overall assessment report of the incident shall be developed detailing the cause of the incident, steps to prevent future incidents, and steps to mitigate consequences of future incidents.

(5) **Unauthorized access to tribal information procedures**

(6) Audit. The Tribe shall utilize both internal and external audit procedures to provide independent assessments that evaluate the Tribe's:

(A) Quality of internal controls associated with the acquisition, development, implementation, and operational use of information technology.

(B) Exposure to risks throughout the Tribe and its service provider(s) in the areas of user and data center operations, client/server architecture, local and wide area networks, telecommunications, information security, electronic data interchange, systems development, and contingency planning, including risk management and mitigation techniques implemented by the Tribe; and

(C) Compliance with this and other related policies, procedures and processes concerning information technology related risks.

(Res. No. 2023-42)

Subchapter ITP.1.4
Acceptable Use

ITP.1.4.010 General principles .....ITP.1.4-**Error! Bookmark not defined.**
ITP.1.4.020 Conditions of use.....ITP.1.4-**Error! Bookmark not defined.**
ITP.1.4.030 Personal posts .....ITP.1.4-**Error! Bookmark not defined.**
ITP.1.4.040 Violations .....ITP.1.4-**Error! Bookmark not defined.**

Network access is deemed to be a business tool providing a source of information with the potential for benefiting all areas of the tribe and enhancing customer service, customer retention, and growth. The Information Technology department shall approve Network access as deemed appropriate and shall determine what components of the Network shall be available (email, internet, World Wide Web, etc.). All employees accessing the Network on tribal equipment, on tribal premises, or on a tribal Internet access account shall become proficient in its capabilities, practice proper network etiquette, and agree to the conditions and requirements of this agreement.

ITP.1.4.010 General principles

(a) Network, internet, and email privileges provided by the Tribe, shall be considered tribal resources, and shall be used for tribal business purposes. Network and Internet usage shall not be private. Usage shall be monitored for unusual or unacceptable activity and can be monitored at any time for any reason.

(b) Internet use includes, but is not limited to:

(1) email received and sent,

(2) websites visited,

(3) social media posts,

(4) uploads, and

(5) downloads

(c) The Tribe shall own the Network, messaging systems, and the information transmitted and stored within it.

(d) Employees shall have no expectation of privacy or confidentiality in any of their emails or network files. Employee email, web history and phone usage may be monitored

for policy, security, network and/or tribal management reasons from time to time and is subject to inspection at any time.

(e) Correspondence, internal or external, via email, or instant messaging (IM) shall not be private. Email shall not be guaranteed protection from other employees or from others outside the tribe.

(f) The distribution of any information through the Network, computer-based services, or email shall be subject to the scrutiny of tribal management and its auditors. The Tribe reserves the right to determine the suitability of this information.

(g) Employees shall be restricted in their usage of employee-owned personal electronic devices and media storage devices on the Tribal Network.

(h) Employees utilizing web sites and social media sites at work for personal use shall do so during break and lunch times in a professional manner as to not interfere with their job duties and responsibilities. Excessive use, as deemed by their supervisor and/or management, shall result in loss of privilege for the user and possibly other disciplinary action as outlined in this agreement.

(Res. No. 2023-42)

ITP.1.4.020 Conditions of use

(a) Users shall

(1) Comply with all current tribal policies

(2) Lock or log off computers when leaving them unattended for any length of time

(3) Use unique user IDs and strong passwords as indicated by tribal policy and maintain password credentials in a confidential manner

(4) Contact the IT and Department manager immediately upon discovering suspicious activity on the Network, Including a Tribal workstation, network resource, or email

(5) Immediately notify IT and management if a business-related mobile device is lost, stolen, exchanged, unusable, or no longer used

(6) The user shall be required to maintain and safeguard the equipment issued and return it to the Tribe if they leave the employment position from which it was issued. This includes when an employee transfers to a new department. If the employee is leaving the employment of the Tribe, they shall return all equipment before they receive their last paycheck.

(b) Users shall not

(1) Knowingly visit Internet sites that contain illegal, obscene, hateful, or other objectionable materials

(2) Knowingly access ads or other solicitations commonly seen in the margins of reputable website pages or that popup while on a site

(3) Knowingly open an attachment or access a link provided in an unsolicited, unfamiliar email. The IT Department shall review any suspicious email

(4) Send non-encrypted emails containing sensitive customer information.

(5) Send or receive any material, whether by IM, email, memoranda, or oral conversation, which is obscene, defamatory, harassing, intimidating, offensive, illegal, discriminatory, or which is intended to annoy, harass, or intimidate another person.

(6) Solicit non-tribal business for personal gain or profit

(7) Download any software or electronic files to a tribal workstation or the Network unless authorized by the IT department

(8) Represent personal opinions as those of the tribe or purport to represent the tribe when not authorized to do so.

(9) Upload, download, or otherwise transmit software or any copyrighted materials in violation of its copyright or license whether it belongs to parties outside of the tribal, or the tribe itself

(10) Reveal or publicize confidential or proprietary information which includes, but is not limited to: financial information, customer information, marketing strategies and plans, databases and any information contained therein, customer lists, computer software source codes, computer/network access codes, passwords/login information and business relationships.

(11) Intentionally interfere with the normal operation of the Network, including the propagation of computer viruses and sustained high volume network traffic, which substantially hinders others in their use of the network.

(12) Examine, change, or use another person's username, password, files, and output, for which they do not have explicit authorization.

(13) Perform any other uses identified by the tribe as inappropriate.

(14) Use tribal equipment or other resources for any purpose other than that authorized by tribal management and IT department.

(15) Use tribal email accounts (xxxxx@lco-nsn.gov) to open or maintain personal Internet accounts, such as social media, websites, blogs, etc.

(16) Use film cameras, digital cameras, digital camcorders, and personal devices with camera and/or video capabilities (i.e., a cellular phone including a camera capable of capturing and transmitting still or full motion images) in any way that violates Tribal policies, including illicit and illegal use. Photos showing tribal security measures, secure areas such as vaults, information on computer screens or any Network resources are strictly prohibited.

(17) And are prohibited from connecting personal electronic devices or media, including but not limited to smartphones, tablets, CD/DVD burners, special keyboards, mice, external hard drives, and USB "jump" drives, to Tribal workstations or Network resources; even for the purpose of charging the device unless authorized by the department manager and the IT department.

(18) And are prohibited from using portable media storage devices, including but not limited to USB drives and other external drives, to duplicate and/or distribute Tribal information, including confidential information copyrighted materials, music, video, movies, and software unless authorized by the department manager and the IT Department.

(19) Load a bootable, alternate operating system on any Tribal owned computer from any employee-owned source or media, including CD/DVD discs or USB devices ("jump" drives), without prior permission of the department manager and IT Department.

(20) Connect any employee-owned electronic device whether desktop, laptop, tablet, handheld, wearable or media storage device, through a wired connection to Tribal provided network or Internet access without the prior permission of the department manager and IT Department. Wireless internet access is provided at the main lobby and Peter Larson room for guest and employees to use with personal devices.

(Res. No. 2023-42)

ITP.1.4.030 Personal posts

The Tribe recognizes that employees may post personal information on the Internet through personal websites, social media, blogs and/or uploading content to websites and the like. The Tribe respects our employee's interest in participating in these forms of

personal expression on their own time. Employees should be aware; however, that problems can arise when personal postings identify or appear to be associated with the Tribe, or when a personal posting is used in ways that violate the Tribe's rights or the rights of other employees.

Each employee is legally responsible for content they post on the Internet, whether on a social network, website or otherwise. You can be held personally liable for defaming others, revealing trade secrets, confidential information or proprietary information, etc. Tribal policies apply to what you post on the Internet. For example, you may not use personal postings to harass or threaten other employees or reveal confidential tribal information. Embarrassing or unkind comments about tribal employees or members, customers, or competitors are also inappropriate. Posting anonymously or under a pseudonym, does not protect your real identity; it can be discovered relatively easily.

(Res. No. 2023-42)

ITP.1.4.040 Violations

Users who violate any of the guidelines set in this agreement may be subject to disciplinary action including written warnings, revocation of access privileges, and termination. Unacceptable use of personal electronic devices will result in the immediate confiscation of the involved device(s) or media as appropriate. Depending upon the nature and severity of the violation, the confiscated device(s) or media may be held as evidence indefinitely. The Tribe also retains the right to perform personal property searches in relation to any guideline violation and report any illegal violations to the appropriate authorities.

(Res. No. 2023-42)

Subchapter ITP.1.5
Backup and Recovery

ITP.1.5.010 Backup and Recovery .....ITP.1.5-**Error! Bookmark not defined.**

ITP.1.5.010 Backup and Recovery

(a) All tribal critical data that is stored locally on the domains file server shall be backed up daily and kept off site in the cloud.

(b) Backups shall be done on all critical information that is stored on the shared network.

(c) The backup shall be set up to run automatically after normal working hours and a log of the success shall be kept.

(1) These backups shall be based on an incremental or differential backup methodology

(2) Backup shall be performed in such a way that information can be restored from a time frame requested up to ninety (90) days incrementally from the past.

(d) Information shall be restored monthly at the discretion of the IT department to ensure backups are functioning properly and that the information shall be available if needed.

(e) Department Directors shall request IT to restore information from a backup by email or memo.

(1) Generally, the requested information shall be available to the department within twenty-four (24) hours of the request.

(2) If the data recovery is needed do to a minor or major system failure it may take longer to restore depending on the level of failure.

(f) The servers or equipment that are performing the backups shall be in a locked and restricted location. These servers or equipment shall also be on Uninterruptible Power Supply (UPS) to help mitigate problems resulting from power fluctuations or short power outages.

(Res. No. 2023-42)

Title TUC
Utility Code

TUC.1 Regulation of Utilities on the Lac Courte Oreilles Indian Reservation ..... TUC.1-**Error! Bookmark not defined.**
TUC.2 Regulation of Utilities ..... TUC.2-**Error! Bookmark not defined.**
TUC.3 Lac Courte Oreilles Tribal Utility Authority ..... TUC.3-**Error! Bookmark not defined.**

Chapter TUC.1
Regulation of Utilities on the Lac Courte Oreilles Indian Reservation

TUC.1.1 Introduction ..... TUC.1.1-**Error! Bookmark not defined.**

Preamble

This Code shall be known as the Utility Code of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians. This Code is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians to regulate activities on its Reservation and protect the well-being of its membership.

The purpose of this Code is to (1) establish the Lac Courte Oreilles Band of Lake Superior Chippewa Utility Commission and to set forth the terms governing the activities of the LCO Utility Commission, (2) recognize and assert the authority of the Tribe to provide a regulatory framework for all Utilities located, operating, or providing services within the Reservation, (3) to provide all retail consumers of Utilities with adequate and reliable services at reasonable rates that are consistent with the financial and economic requirements of such Utilities, (4) and to promote self-determination, encourage economic development and self-sufficiency, and facilitate and control the use of the Tribe's resources on the Tribe's Reservation.

Subchapter TUC.1.1
Introduction

TUC.1.1.010 Effective Date ..... TUC.1.1-**Error! Bookmark not defined.**
TUC.1.1.020 Interpretation ..... TUC.1.1-**Error! Bookmark not defined.**
TUC.1.1.030 Severability and Non-Liability ..... TUC.1.1-**Error! Bookmark not defined.**
TUC.1.1.040 Repeal of Inconsistent Tribal Codes ..... TUC.1.1-**Error! Bookmark not defined.**
TUC.1.1.050 General Definitions ..... TUC.1.1-**Error! Bookmark not defined.**

TUC.1.1.010 Effective Date

The provisions of this Code shall be effective on the date adopted by the Governing Board.

(Res. No. 2024-38)

TUC.1.1.020 Interpretation

The provisions of this Code:

(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. 2024-38)

TUC.1.1.030 Severability and Non-Liability

If any section, provision or portion of this Code is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Code 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 Code.

(Res. No. 2024-38)

TUC.1.1.040 Repeal of Inconsistent Tribal Codes

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

(Res. No. 2024-38)

TUC.1.1.050 General Definitions

(a) **"Certificate of Public Convenience and Necessity"** means the Certificate required under Subchapter 2.6 of this title.

(b) **"Commission"** means the Lac Courte Oreilles Band of Lake Superior Indians ("LCO") Utility Commission established pursuant to this Code.

(c) **"Commissioner"** means one of the duly appointed persons comprising the LCO Utility Commission.

(d) **"Cooperative Association"** means an organization that qualifies as a Utility under this Code but only authorized by its governing documents and/or by applicable law to provide Utility Service to its members.

(e) **"Director"** means the Director of the Lac Courte Oreille Band Utility Authority.

(f) **"Electric Energy Conversion Facility"** means a plant, addition, or combination of plant and addition, designed for or capable of: (1) Generation by wind energy conversion exceeding one-half megawatt of electricity; or (2) Generation by any means other than wind energy conversion exceeding fifty megawatts of electricity.

(g) **"Electric Transmission Facility"** means an electric transmission line and associated facilities with a design in excess of one hundred fifteen kilovolts. "Electric Transmission Facility" does not include:

(1) A temporary electric transmission line loop that is: (i) connected and adjacent to an existing Electric Transmission Facility that was sited under this Subchapter; (ii) within the Corridor of the sited Facility and does not cross known exclusion areas; and (iii) In place for less than one year; or

(2) An electric transmission line that is less than one mile [1.61 kilometers] long.

(h) **"Electric Facility"** means an Electric Energy Conversion Facility, Electric Transmission Facility, or the combination of facilities under the ownership or control of a single Person or its affiliates which, in the cumulative, is capable of generating or transmitting electricity above the minimum thresholds to qualify as an Electric Energy Conversation Facility or Electric Transmission Facility under this Title.

(i) **"Electric Utility Service"** means the delivery of electric energy or power generated on the Reservation to an agreed-upon point of delivery. This includes all activities incident to the delivery of electric energy, including, but not limited to, development of infrastructure, asset acquisition, construction, and/or the operation of electricity service infrastructure

(e.g., generation, transmission, distribution and control area services) as may be required to effectuate delivery of electricity generated to the end user.

(j) **"Energy Utility Service"** means the transmission, delivery, or furnishing of natural gas, heat, light, or power.

(k) **"Governing Board"** means the Lac Court Oreilles Band of Lake Superior Chippewa Indians authorized under the Constitution of the Lac Court Oreilles Band of Lake Superior Chippewa Indians to approve and implement this Code.

(l) **"Person"** means any individual, group of individuals, corporation, partnership, association, state, municipality, commission, political subdivision of a state, interstate body, the federal government or any federal agency or any other entity.

(m) **"Power Emergency"** means an electric transmission line and associated facilities that have been damaged or destroyed by natural or manmade causes resulting in a loss of power supply to consumers of the power.

(n) **"Public Utility"** means any Person that owns, operates, manages or controls any part of a plant or equipment, within the Reservation, for the production, transmission, delivery or furnishing of heat, light, water or power either directly or indirectly to or for the public. "Public Utility" does not include Cooperative Associations as defined in this Code.

(o) **"Rates"** means the charges established in rate schedule(s) for Utility Services provided to a customer.

(p) **"Reservation"** means all those lands on and within the exterior boundaries of the Lac Courte Oreilles Reservation.

(q) **"Site"** means the location of an Electric Energy Conversion Facility.

(r) **"Telecommunications Service"** means the offering for sale of the conveyance of voice communication, including the sale of service for collection, storage, forwarding, switching, and delivery incidental to such communication, regardless of the technology or mode used to make such offering. "Telecommunications service" includes Switched Access Service but does not include cable service or broadcast service.

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

(t) **"Utility"** means any Person owning Utility Personal Property or providing any Utility Service to retail or wholesale customers on the Reservation.

(u) **"Utility Personal Property"** - means (i) any of the following that are used to provide a Utility Service and which are permanently or temporarily affixed to land on the

Reservation: infrastructure, equipment, poles, wires, transformers, circuit breakers, switches, electrical busses, concrete pads, pipelines, compression stations, pumps, conduits, communication towers, or other facilities and (ii) any gas, water, power communication data or similar commodities or products passing through or being delivered within the Reservation.

(v) **"Utility Service"** means the production, transmission, delivery or furnishing of heat, light, water or power to one or more customers.

(Res. No. 2024-38)

Chapter TUC.2
Regulation of Utilities

TUC.2.1 Tribal Utility Commission ..... TUC.2.1-**Error! Bookmark not defined.**
TUC.2.2 Powers and Duties of the Commission ..... TUC.2.2-**Error! Bookmark not defined.**
TUC.2.3 Commission Procedures ..... TUC.2.3-**Error! Bookmark not defined.**
TUC.2.4 General Duties of Utilities ..... TUC.2.4-**Error! Bookmark not defined.**
TUC.2.5 Utility Tariffs ..... TUC.2.5-**Error! Bookmark not defined.**
TUC.2.6 Certificate of Public Convenience and Necessity for Electric Facilities . TUC.2.6-**Error! Bookmark not defined.**

Subchapter TUC.2.1
Tribal Utility Commission

TUC.2.1.010 Establishment of Tribal Utility Commission ..... TUC.2.1-**Error! Bookmark not defined.**
TUC.2.1.020 Mission of the Commission ..... TUC.2.1-**Error! Bookmark not defined.**
TUC.2.1.030 Commission Organization ..... TUC.2.1-**Error! Bookmark not defined.**
TUC.2.1.040 Terms of Office, Vacancies, Resignation, Removal. TUC.2.1-**Error! Bookmark not defined.**
TUC.2.1.050 Compensation ..... TUC.2.1-**Error! Bookmark not defined.**
TUC.2.1.060 Commission Meetings..... TUC.2.1-**Error! Bookmark not defined.**

TUC.2.1.010 Establishment of Tribal Utility Commission

The Lac Courte Oreille Band of Lake Superior Chippewa Indians Utility Commission ("Commission") is hereby established. The Governing Board shall appoint the Commission Members and the Commission shall be operated and governed in accordance with the provisions of this Code, the Tribe's Constitution as well as any subsequent amendments to this Code.

(Res. No. 2024-38)

TUC.2.1.020 Mission of the Commission

The Commission's mission is to regulate Utilities located, operating, or providing services within the Reservation for the benefit of the Tribe and its members, and in furtherance of promoting the general welfare of the Tribe and its members.

(Res. No. 2024-38)

TUC.2.1.030 Commission Organization

(a) The Commission shall comprise five (5) voting members appointed by the Governing Board. At Least three (3) Commissioners shall be members of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(b) Commissioners shall be appointed on the basis of merit in consideration of factors including, but not limited to:

(1) Ability to exercise sound judgment and knowledge and understanding of management, business administration, public administration, regulated industries and similar or related areas of importance to the operations of the Commission;

(2) Expertise, experience or knowledge of public utility systems of the types under the regulatory authority of the Commission; Qualities of integrity, judgment, and sensitivity unique to Indian cultural, economic and social conditions and the goals of the Tribe and the Commission;

(3) Knowledge of the organization and entities, governmental and private, that may be involved and provide assistance to the Commission.

(c) The Commission shall elect from among its members a Chairperson, Vice-Chairperson, and a Secretary- Treasurer. The Chairperson, or in the Chairman's absence, the Vice-Chairperson, shall preside over all Commission meetings and hearings.

(Res. No. 2024-38)

TUC.2.1.040 Terms of Office, Vacancies, Resignation, Removal

(a) Commissioners shall serve three (3) year terms and shall hold office until their successors have been appointed and have qualified: Provided however, the first LCO Utility Commission appointed shall serve a term of three (3) years. One (1) Commissioner appointed to the first LCO Utility Commission shall serve a term of two (2) years. The remaining Commissioner appointed to the first LCO Utility Commission shall serve a term of one (1) year.

(b) If any Commissioner shall die, resign, be removed or, for any reason, be unable to serve as a Commissioner, the Governing Board shall declare his/her position vacant and shall appoint another person to fill the position. Terms of office of all persons appointed to replace the initial Commissioners shall be for the balance of any unexpired term for each such position.

(c) Any Commissioner may resign by delivering a written resignation to the Governing Board. Such resignation shall be effective upon receipt, unless otherwise provided by the terms thereof. A Commissioner's resignation or removal under this Section shall also terminate that Commissioner's status, if applicable, as a presiding officer of the Commission.

(d) A Commissioner may be removed by the Governing Board for serious inefficiency or neglect of duty, or for malfeasance, misfeasance, or nonfeasance or for misconduct in office, as determined solely by Governing Board.

(Res. No. 2024-38)

TUC.2.1.050 Compensation

Compensation of Commissioners, if any, shall be determined by the Governing Board and shall be paid from the Tribe's General Fund. All fees received or charged by the Commission for any act or service rendered by the Commission in its official capacity, shall

be accounted for and paid monthly to the Tribe and shall be credited to the Tribe's General Fund.

(Res. No. 2024-38)

TUC.2.1.060 Commission Meetings

(a) The regularly scheduled meetings of the Commission shall be established for each fiscal year in advance. The Commission shall meet at least once during each quarter of the fiscal year on such dates, times and places as the Members shall determine. In addition to the quarterly meetings, additional regularly scheduled meetings shall be held at such times as shall from time to time be fixed by the Chairperson. Special meetings of the Commission for any purpose or purposes may be called at any time by the Commission, the Chairperson, or by a majority of Members then in office.

(b) Commissioners may participate in a meeting through the use of a conference telephone, electronic video screen communication, or other communications equipment, so long as all Commission Members participating in such meeting can hear one another and arrangements are made for public participation at regularly scheduled meetings and, where time permits, any special meetings.

(c) Participation in a meeting pursuant to this paragraph constitutes presence in person at that meeting if all of the following apply:

(1) Each Commission Member participating in the meeting can communicate with all of the other Commission Members.

(2) Each Commission Member is provided with the means of participating in all matters before the Commission, including the capacity to propose, or to interpose an objection to, a specific action to be taken by the Commission.

(3) The Commission adopts and implements some means of verifying both of the following: (i) A person representing himself or herself to be a Commission Member communicating by telephone, electronic video screen, or other communications equipment is a Commission Member entitled to participate in such meeting; and (ii) All votes were made by such Commission Member and not by another person.

(4) Notice of regularly scheduled and special meetings shall be given to the Commission Members not less than six (6) days prior to the meeting if delivered by first-class mail or not less than four (4) days prior to the meeting if the notice is delivered personally, by telephone, by facsimile or by electronic mail; provided, however, that notice of special meetings shall not be sent solely by electronic mail. If mailed, such notice shall be deemed given when deposited in the United States mail, with first-class postage thereon prepaid, addressed to the Commission Member. The notice

requirements contained in this Section may be waived in writing by any Commission Member with respect to that Commission Member, either before or after the meeting. The attendance of any Commission meeting without, as soon as reasonably practicable, protesting the lack of notice of such meeting shall constitute a waiver of notice by him or her. All waivers shall be made part of the minutes of the meetings. Waivers of notice for meetings shall be governed by the provisions described herein.

(5) A quorum for any Commission Meeting shall be three (3) of the Commission Members then in office. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of a Commission Member, provided that any action taken is approved by the required number of Commission Members, as specified in this Governing Code. A majority of the Commission Members then present, whether or not constituting a quorum, may adjourn any meeting to another time and place.

(6) In the case of an emergency situation involving matters upon which prompt action is necessary and in which it is not practicable to convene a regular or special meeting of the Commission, the Chairperson, or a majority of Commission Members then in office may call an emergency meeting or special executive session of the Commission. During a meeting prior to the emergency meeting, or at the beginning of the emergency meeting, the Commission shall determine if an emergency exists under those standards.

(7) Notice of an emergency meeting or special executive session shall be given to the Commission Members as soon as practicable and before the meeting is to be held. Such notice shall be delivered personally or by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, by facsimile, by electronic mail or by other electronic means and shall be deemed given at the time. The notice requirements of this Section may be waived in writing by any Commission Member with respect to that Commission Member, either before or after the meeting. The attendance of any Commission Member at an emergency meeting without, as soon as reasonably practicable, protesting the lack of notice of such emergency meeting shall constitute a waiver of notice by him or her. All waivers shall be made part of the minutes of the emergency meeting.

(Res. No. 2024-38)

Subchapter TUC.2.2
Powers and Duties of the Commission

TUC.2.2.010 Jurisdiction and Powers of the LCO Utility Commission. ..... TUC.2.2-**Error! Bookmark not defined.**
TUC.2.2.020 Supervision of Utility Rates and Tariffs .... TUC.2.2-**Error! Bookmark not defined.**
TUC.2.2.030 Power of Commission to Regulate Services ..... TUC.2.2-**Error! Bookmark not defined.**
TUC.2.2.040 Accounting Systems ..... TUC.2.2-**Error! Bookmark not defined.**
TUC.2.2.050 Annual Reports ..... TUC.2.2-**Error! Bookmark not defined.**
TUC.2.2.060 Right of Entrance and Inspection..... TUC.2.2-**Error! Bookmark not defined.**
TUC.2.2.070 Production of Records..... TUC.2.2-**Error! Bookmark not defined.**
TUC.2.2.080 Investigation ..... TUC.2.2-**Error! Bookmark not defined.**
TUC.2.2.090 Standards; Classifications ..... TUC.2.2-**Error! Bookmark not defined.**
TUC.2.2.100 Records of the Tribal Utility Commission. TUC.2.2-**Error! Bookmark not defined.**
TUC.2.2.110 Oversight and Directives of the Governing Board .. TUC.2.2-**Error! Bookmark not defined.**
TUC.2.2.120 Standard of Care. ..... TUC.2.2-**Error! Bookmark not defined.**

TUC.2.2.010 Jurisdiction and Powers of the LCO Utility Commission.

(a) Subject to applicable laws, regulations, and the Tribe's Constitution and solely in furtherance of the mission set forth in this Code, the Commission's jurisdiction and powers include the following:

(1) Investigate methods and practices of Utilities subject to the provisions of this Title.

(2) Initiate and preside over hearings involving the conduct of Utilities and as otherwise set forth in this Chapter.

(3) Issue orders of mandamus to enforce duly issued orders of the Commission.

(4) Promulgate rules, regulations, and by-laws not inconsistent with this Code to carry out its duties and responsibilities.

(5) Maintain copies of reports, rates, classifications, schedules and timetables in effect and used by such Utilities and all other information desired by the Commission relating to such investigations and requirements to be filed with the Commission.

(6) Adopt a schedule of fees and charges for services rendered relating to transcripts and the furnishing or certifying of copies of proceedings, files, and records.

(7) Exercise all other authority delegated to it by the Governing Board that is not inconsistent with this Code.

(Res. No. 2024-38)

TUC.2.2.020 Supervision of Utility Rates and Tariffs

The Commission shall supervise all rates, tariffs, and charges of all Utilities located or operating within the Reservation. It shall have the power, after notice and hearing as set forth herein, to establish, modify, adjust, promulgate, and enforce all rates (including rates associated with depreciation), tariffs, and charges of all Utilities. Whenever the Commission, after hearing, shall find any existing Rates, tariffs, charges, or schedule unjust, unreasonable, insufficient, unjustly discriminatory, or otherwise in violation of any of the provisions of this Title, the Commission by order shall fix reasonable Rates, joint Rates, wheeling Rates, charges, or schedules to be followed in the future in lieu of those found to be unjust, unreasonable, insufficient, unjustly discriminatory, or otherwise in violation of any provision of law.

(Res. No. 2024-38)

TUC.2.2.030 Power of Commission to Regulate Services

Whenever the Commission shall find, after hearing that the rules and regulations, practices, facilities or services of any Utility or the methods of manufacture, distribution, transmission, storage, or supply employed by it are unjust, unreasonable, unsafe, improper, inadequate, or insufficient, the Commission shall determine the just, reasonable, safe, proper, adequate, or sufficient rules or regulations, services or methods to be observed, enforced or employed and, after hearing, shall fix the same by its orders, rule or regulation. On demand, such utility shall furnish such commodity and render such service within the time and upon the conditions provided in such rules and regulations.

(Res. No. 2024-38)

TUC.2.2.040 Accounting Systems

The Commission shall establish a system of accounts to be kept by Utilities subject to its jurisdiction. A Utility which maintains its accounts in accordance with the system of accounts prescribed by a federal agency or authority shall be deemed to be in compliance with the system of accounts prescribed by the Commission. Where optional accounting is prescribed by a federal agency or authority, the Commission may prescribe which option is to be followed. Every Utility engaged directly or indirectly in any other business than that of the production, transmission or furnishing of natural gas or electrical service shall, if required by the Commission, keep and render separately to the Commission in like manner

and form the accounts of all the other business, in which case all provisions of this Title shall apply to the books, accounts, papers, and records of the other business. Every Utility is required to keep and render its books, accounts, papers, and records accurately and faithfully in the manner and form prescribed by the Commission and to comply with all directions of the Commission relating to these books, accounts, papers, and records.

(Res. No. 2024-38)

TUC.2.2.050 Annual Reports

The Commission may require any Utility to file annual reports in such form and content as the Commission may require, and special reports concerning any matter about which the Commission is authorized to inquire or to keep itself informed. The Commission may require the reports to be verified. The basic financial statements in the annual report of a Utility may, at the direction of the Commission, be examined by an independent certified public accountant and the opinion thereof included in the annual report filed with the Commission. The Commission may require the examination and audit of all accounts, and all items shall be allocated to the accounts in the manner prescribed by the Commission.

(Res. No. 2024-38)

TUC.2.2.060 Right of Entrance and Inspection

The Commissioners and duly authorized agents, officers, and employees of the Commission, during regular business hours, may enter upon any premises of a Utility for the purpose of making examinations and tests and to inspect the accounts, books, papers, and documents, of any Utility for the purpose of exercising any power or duty provided for in this Code, and may set up and use on the premises any apparatus necessary therefore.

(Res. No. 2024-38)

TUC.2.2.070 Production of Records

The Commission may require, by Order, any Utility to produce at a reasonable time and place as the Commission designates, the records, accounts, books or papers of the Utility relating to its business or affairs within the Reservation, pertinent to any lawful inquiry regardless of whether the records are kept within or outside of the Reservation.

(Res. No. 2024-38)

TUC.2.2.080 Investigation

The Commission, upon complaint or its own initiative and whenever it may deem necessary in the performance of its duties or exercise of its authority, may investigate and examine the condition and operation of any Utility. In conducting the investigation, the

Commission may proceed with or without a hearing, but it shall make no order without affording the affected parties notice and an opportunity for a hearing.

(Res. No. 2024-38)

TUC.2.2.090 Standards; Classifications

The Commission may ascertain and fix just and reasonable standards, classifications, rules or practices to be observed and followed by any or all public Utilities with respect to the service to be furnished; ascertain and fix adequate and reasonable standards for the measurement of the quantity, quality pressure, initial voltage, or other condition pertaining to the supply of the service; prescribe reasonable rules for the examination and testing of the service and for the measurement thereof; establish or approve reasonable rules, specifications, and standards to secure the accuracy of all meters, instruments and equipment used for the measurement of any service of any Utility. Any standards, classifications, rules, or practices now or hereafter observed or followed by any Utility may be followed by it with the Commission, and the same shall continue in force until amended by the Utility or until changed by the Commission as herein provided.

(Res. No. 2024-38)

TUC.2.2.100 Records of the Tribal Utility Commission

(a) The books, records and property of the Commission, including current financial and operating statements, shall be kept on file in the main office of the Commission and shall be available for inspection at all reasonable times by authorized representatives of the Commission, the Governing Board, and such others authorized by the Commission or the Governing Board.

(b) Information regarding the Commission and its operations must be kept confidential, including information received by the Commission that is subject to a confidentiality obligation. Information considered by the Commission as non-confidential shall be publicly available at requesting recipient's expense. With the exception of records relating to the business of a named particular Utility, any records of the Commission are public records of the Tribe. For reasonable business purposes only, such records shall be available for public inspection and copying during the Commission's regular business hours. Copies may be obtained by payment of such copying costs as may be established by rule of the Commission. However, the names and other identification of any Utility appearing in such records shall be redacted prior to release of such copies unless this Title otherwise allows release of such information.

(c) Financial Statements & Annual Reports shall be prepared as soon as reasonably practicable after the close of the fiscal year. Such financial statements shall be accompanied by any report thereon of independent accountants, or, if there is no such report, the certificate of an authorized officer of the Commission that such statements were prepared

without audit, under generally accepted accounting principles, from the books and records of the Commission. Financial Statements, books, records, and property of the Commission shall be available for inspection at all reasonable times by authorized representatives of the Commission and the Governing Board.

(d) The Commission shall keep or cause to be kept a minute book that shall be available for public inspection during the Commission's normal business hours and shall contain the record of all meetings of the Commission, including:

(1) The date, place, those attending the proceedings thereof (other than members of the public).

(2) A copy of the notice of the meeting and when and how given.

(3) Waivers of notice of meeting.

(4) Written consents to hold meeting.

(5) Written approvals of minutes of meeting.

(6) All meeting Minutes, including Minutes of committee meetings of the Commission.

(e) Every Commissioner shall have the right at any reasonable time to inspect and copy all books, records, and documents, and to inspect the physical properties of the Commission. No Commission Member shall use or disseminate any non-public information obtained as a result of any such inspection, or otherwise in his or her capacity as a Commission Member, for his or her own personal gain, to the detriment of the Commission or to the detriment of any competitors of any entity with which the Commission Member is affiliated except in connection with the enforcement of a tariff, contract or applicable law and consistent with the Commission policy regarding confidential information.

(Res. No. 2024-38)

TUC.2.2.110 Oversight and Directives of the Governing Board

The Commission shall serve under the Governing Board and shall comply with all directives of the Governing Board not inconsistent with this Code.

(Res. No. 2024-38)

TUC.2.2.120 Standard of Care.

(a) Commissioners shall perform the duties of the Board of Commissioners, including duties as a Commissioner of any committee of the Board of Commissioners on which the Commissioner may serve, in good faith, in a manner that such Commissioner believes to be

in the best interest of the Tribe and its members and with such care, including reasonable inquiry, as an ordinarily prudent person in a like situation would use under similar circumstances.

(b) A person who performs the duties of a Commissioner shall have no liability to the Tribe, any other Commissioner or any other person based upon any failure or alleged failure to discharge that person's obligations as a Commissioner, including, without limiting the generality of the foregoing, any actions or omissions that exceed or defeat a public or charitable purpose to which the Authority, or assets held by it, are dedicated. Nothing herein shall be construed to limit the liability of any Commissioner acting outside the scope of his or her duties and responsibilities as a Commissioner.

(c) Commissioners must avoid conflicts of interest and shall exercise reasonable prudence and diligence in identifying actual or possible conflicts of interest. A Commissioner shall recuse his or herself in any matter or decision in which one or more of the Commissioners or their employers has a material financial interest, a familial interest, or any other interest that creating a reasonably foreseeable conflict preventing the Commissioner from exercising sound and objective judgment over the matter in question.

(Res. No. 2024-38)

Subchapter TUC.2.3
Commission Procedures

TUC.2.3.010 Complaints..... TUC.2.3-**Error! Bookmark not defined.**
TUC.2.3.020 Witnesses and Subpoenas..... TUC.2.3-**Error! Bookmark not defined.**
TUC.2.3.030 Enforcement..... TUC.2.3-**Error! Bookmark not defined.**
TUC.2.3.040 Oaths..... TUC.2.3-**Error! Bookmark not defined.**
TUC.2.3.050 Orders and Findings in Writing..... TUC.2.3-**Error! Bookmark not defined.**
TUC.2.3.060 Orders on Lawful Rates; Adequate Service ..... TUC.2.3-**Error! Bookmark not defined.**
TUC.2.3.070 Excessive or Discriminatory Charges; Reparation .. TUC.2.3-**Error! Bookmark not defined.**
TUC.2.3.080 Rescission or Amendment..... TUC.2.3-**Error! Bookmark not defined.**
TUC.2.3.090 Effective Date of Orders and Decisions.... TUC.2.3-**Error! Bookmark not defined.**
TUC.2.3.100 Rehearings Before Commission..... TUC.2.3-**Error! Bookmark not defined.**
TUC.2.3.110 Public Records ..... TUC.2.3-**Error! Bookmark not defined.**
TUC.2.3.120 Transcription to be Kept..... TUC.2.3-**Error! Bookmark not defined.**
TUC.2.3.130 Appeal ..... TUC.2.3-**Error! Bookmark not defined.**
TUC.2.3.140 Judicial Review..... TUC.2.3-**Error! Bookmark not defined.**
TUC.2.3.150 Stay on Judicial Review; Bond ..... TUC.2.3-**Error! Bookmark not defined.**
TUC.2.3.160 Step-in Rights and Other Remedies Under Tribal Law.. TUC.2.3-**Error! Bookmark not defined.**

TUC.2.3.010 Complaints

(a) An action to enforce the provisions of this Code may be initiated by the Commission *sua* sponte or by any Person with a concrete and immediate interest that will be adversely impacted by an alleged violation of this Code. A Utility shall not have standing to initiate an action for declaratory judgment or other forms of relief arising from or in relation to this Code.

(b) An action under this Section shall be initiated by the filing of a Complaint in a form prescribed by the Commission. The Complaint shall name the defendant, cite the alleged violation of this Code, all pertinent facts supporting the allegation(s), and the nature of the relief requested, and sufficient facts showing the Commission has jurisdiction over the matter in dispute.

(c) Within ten (10) business days after receipt of a Complaint, the Commission shall make a preliminary determination on whether it possesses jurisdiction to preside over the

dispute in question pursuant to this Code. If the Commission determines that it does not possess jurisdiction over the dispute in question, the Commission shall issue a dismissal notice to the Complainant, in a form prescribed by the Commission, explaining the basis for this determination. The dismissal notice shall constitute a final Commission order that may be appealed to the Tribal Court as set forth in this Chapter. A Commission's preliminary determination that it possesses jurisdiction shall not preclude the defendant from challenging the jurisdiction of the Commission during the course of the proceedings against it.

(d) If the Commission determines that it possesses jurisdiction over the dispute in question, the Commission shall set a hearing date on the Complaint. The Commission shall serve upon all parties, by personal delivery or U.S. Mail at the last known address, the Complaint, a Notice of Hearing, and copies of any Commission rules or procedures applicable to the hearing.

(e) The Commission shall give the Utility and the Complainant at least fourteen (14) days' notice of time and place when and where the hearing will be held and such matters to be considered and determined. Both the Utility and complainant shall be entitled to be heard and to be represented by legal counsel.

(Res. No. 2024-38)

TUC.2.3.020 Witnesses and Subpoenas

The Commission may issue subpoenas and all necessary process in proceedings pending before the Commission; and each process shall extend to all parts of the Reservation and may be served by any person authorized to serve a summons and complaint pursuant to the Lac Courte Oreille Band Rules of Civil Procedure. The Commission may adopt procedural rules not inconsistent with the provisions of this Code governing the requests for and service of subpoenas for the production of documents or testimony at a hearing or deposition setting.

(Res. No. 2024-38)

TUC.2.3.030 Enforcement

In case of failure on the part of any Person to comply with any subpoena, or in the case of the refusal of any witness to testify concerning any matter on which a witness may be interrogated lawfully, the Tribal Court, on application of the Commission, may compel obedience by proceedings for contempt as in the case of disobedience to the requirements of a subpoena issued from the Tribal Court or a refusal to testify therein.

(Res. No. 2024-38)

TUC.2.3.040 Oaths

The Commission or Commissioners may administer oaths and examine witnesses in proceedings pending before the Commission.

(Res. No. 2024-38)

TUC.2.3.050 Orders and Findings in Writing

Every order, finding, authorization, or certificate issued or approved by the Commission under any provisions of this Title shall be in writing and filed with the Commission. A Certificate under seal of the Commission that any order, finding, authorization or certificate has not been modified, stayed, suspended or revoked, shall be received as evidence in any proceeding as to the facts therein stated.

(Res. No. 2024-38)

TUC.2.3.060 Orders on Lawful Rates; Adequate Service

(a) Whenever, upon an investigation made under the provisions of this Title, the Commission shall find Rates, tolls, charges, schedules or joint Rates to be unjust, unreasonable, insufficient, preferential or unjustly discriminatory or otherwise unreasonable or unlawful, the Commission shall determine and by order fix reasonable Rates, tolls, charges, schedules or joint Rates to be imposed and observed in the future in lieu of those found to be unreasonable or unlawful.

(b) Whenever the Commission shall find any regulations, measurements, practices, acts or service to be unjust, unreasonable, insufficient, preferential, unjustly discriminatory or otherwise unreasonable or unlawful, or shall find any service which can be reasonably demanded cannot be obtained, the Commission shall determine and by order fix reasonable measurements, regulations, acts, practices or service to be furnished, imposed, observed and followed in the future in lieu of those found to be unreasonable, inadequate or otherwise unlawful, and shall make any other order respecting measurements, regulations, acts, practices or services as shall be just and reasonable.

(Res. No. 2024-38)

TUC.2.3.070 Excessive or Discriminatory Charges; Reparation

When a complaint has been made to the Commission concerning any Rate or charge for any product or commodity furnished or service performed by any Utility, and the Commission has found, after notice and a hearing has been given as required by this Title, that the Utility has charged an excessive or discriminatory amount for such product or service, in excess of the schedules, Rates and tariffs on file with the Commission, or that the Utility has discriminated under such schedules against the complainant, the Commission

may order that Utility make due reparation to the complainant therefore, with interest from the date of collection, if no discrimination will result for such reparation.

(Res. No. 2024-38)

TUC.2.3.080 Rescission or Amendment

The Commission may, at any time, on its own motion or upon motion of an interested party, and upon notice to the Utility after opportunity to be heard, rescind, alter or amend any order or decision made by the Commission and may reopen any case following the issuance of an order or decision therein, or the taking of further evidence or for any other purpose. Any order rescinding, altering, amending, or reopening a prior decision shall have the same effect as an original order or decision.

(Res. No. 2024-38)

TUC.2.3.090 Effective Date of Orders and Decisions

Every decision made by the Commission constituting an order or decision shall be effective and enforced fourteen (14) days after it has been filed and has been served by personal delivery or by mailing a copy thereof to all parties to the proceeding in which the decision was made or to their attorneys, unless the Commission specifies a different date upon which the order or decision shall be effective.

(Res. No. 2024-38)

TUC.2.3.100 Rehearings Before Commission

(a) Within fourteen (14) days after service by the Commission of any decision constituting an order or decision, any party to the proceeding and any other Person aggrieved by the decision and directly affected thereby, may apply to the Commission for a rehearing in respect to any matters determined in the decision. The Commission may grant a rehearing on any or all matters raised in the request for rehearing, if in its discretion sufficient reason exists.

(b) Applications for rehearing shall be governed by general rules which the Commission may establish. If, after rehearing, it shall appear that the original order or decision is in any respect unlawful or unreasonable, the Commission may reverse, change, modify or suspend the original action accordingly. No order of the Commission shall become effective until the time for filing an application for rehearing expires or while a rehearing is pending and until ten (10) days after any such application for a rehearing is either denied, or the Commission has announced its final determination on rehearing, whichever first occurs.

(c) The grant or denial of a rehearing shall be discretionary with the Commission. A request for rehearing shall not be deemed a condition precedent to judicial review of a final administrative order or decision.

(Res. No. 2024-38)

TUC.2.3.110 Public Records

All decisions, transcripts, and orders of the Commission shall be public records.

(Res. No. 2024-38)

TUC.2.3.120 Transcription to be Kept

A full and complete record shall be kept of all proceedings at any formal hearing of the Commission and all testimony shall be taken down by a reporter appointed by the Commission. A copy of the transcript shall be furnished on demand to any party to the proceedings upon payment of reasonable costs of reproduction.

(Res. No. 2024-38)

TUC.2.3.130 Appeal

Any party to any proceedings heard by the Commission who is aggrieved by the decision or by the entry of any final order or decision of the Commission therein may seek judicial review in the Tribal Court. The rules of civil procedure and the civil provisions of this Code shall be fully applicable to any such judicial review.

(Res. No. 2024-38)

TUC.2.3.140 Judicial Review

(a) Any party to any proceeding heard by the Commission who is aggrieved by the decision or by the entry of any final order or decision of the Commission is entitled to judicial review in the Tribal Court within thirty (30) days of the Commission's final order or decision. A preliminary, procedural, or intermediate Commission action is not subject to review.

(b) An action in the Tribal Court seeking relief other than damages, attorneys' fees or costs against the Commission or an officer or employee thereof shall not be dismissed nor relief be denied on the grounds that it is against the Tribe or that the Tribe is an indispensable party and, for the limited purposes of this Title, the Tribe hereby waives the sovereign immunity of the Director, the Commission, and its members for the limited purpose of Tribal Court review of decisions of the Director and the Commission. Such waiver of immunity is further limited to prospective, equitable relief, including declaratory and injunctive relief, and does not include money damages of any kind.

(c) Nothing herein either affects other limitations on judicial review or the power or duty of the Tribal Court to dismiss any action or deny relief on any other appropriate legal or equitable grounds; or confers authority to grant relief if any other tribal law that grants consent to suit expressly or impliedly forbids the relief which is sought.

(d) When the Commission finds that justice so requires, it may postpone the effective date of action taken by it, pending judicial review. On such conditions as may be required, and to the extent necessary to prevent irreparable injury, the Tribal Court may issue all necessary and appropriate process to postpone the effective date of a commission action or to preserve the status quo or rights pending conclusion of the review proceeding.

(e) To the extent necessary, the Tribal Court shall decide all relevant questions of law, interpret constitutional provisions and all other tribal law, and determine the meaning or applicability of the terms of the Commission's action. The Tribal Court may change the final order of the Commission only upon a finding that:

(1) The Commission action unlawfully withheld or unreasonably delayed the rights of the parties involved

(2) The findings and conclusions of the Commission are found to be, by clear and convincing evidence:

(A) Arbitrary and capricious or an abuse of discretion;

(B) Contrary to any right, power, privilege, or immunity accorded by the Tribal Constitution or the Indian Civil Rights Act, 25 U.S.C. § 1301, et. seq., as amended;

(C) In excess of jurisdiction, authority, or limitations granted by tribal law;

(D) In making the foregoing determinations, the Tribal Court shall review the whole record before the Commission or those parts of it cited by a party. In order to facilitate such review, the administrative record shall be kept in complete form by the Commission.

(Res. No. 2024-38)

TUC.2.3.150 Stay on Judicial Review; Bond

In case the order or decision of the Commission is stayed or suspended by order of the Tribal Court, the order of the Tribal Court shall not become effective until a bond first shall have been executed and filed with and approved by the Tribal Court, payable to the Commission, and sufficient in amount and security to insure the prompt payment by the party appealing of all damages assessed by the Commission's decision, as well as all costs and expenses related to or caused by the delay in the enforcement of the order or decision of the Commission and of all monies which any Person may be compelled to pay pending

appeal or review, for transportation, transmission, product, commodity, or service including attorney's fees and costs, as well as damages, in excess of the charges fixed by the order or decision of the Commission, in case such order or decision is sustained. The Tribal Court, in case it stays or suspends the order or decision of the Commission in any matter affecting Rates, also by order shall direct the Utility affected to pay into the Court, from time to time, there to be impounded until the final decision of the case, under such conditions as the Tribal Court may prescribe, all sums of money which may collect from any Person in excess of the sum which such Person would have been compelled to pay if the order or decision of the Commission had not been stayed or suspended. Upon a final determination of the Tribal Court, the Court shall make an appropriate order disposing of the impounded funds in accordance with such determination. In the event the Utility fails to comply with the conditions of the stay bond, the Commission may sue thereon for the use and benefit of the patrons or others who have suffered damage by reason of the stay.

(Res. No. 2024-38)

TUC.2.3.160 Step-in Rights and Other Remedies Under Tribal Law

Nothing in this Title shall be construed to limit or supersede any remedies available under any Tribal law or the jurisdiction of the Tribe over property and conduct on the Reservation. In the event the Tribe assumes ownership or control over any Utility Personal Property in accordance with Tribal law, it shall be unlawful for any Person to interfere with the Tribe's or any agent of the Tribe's access to or operation of said Utility Personal Property.

(Res. No. 2024-38)

Subchapter TUC.2.4
General Duties of Utilities

TUC.2.4.010 Adequate Service and Reasonable Rates . TUC.2.4-**Error! Bookmark not defined.**
TUC.2.4.020 Maintenance of Utility Personal Property TUC.2.4-**Error! Bookmark not defined.**
TUC.2.4.030 Duty of Non-Discrimination..... TUC.2.4-**Error! Bookmark not defined.**
TUC.2.4.040 Access to Land ..... TUC.2.4-**Error! Bookmark not defined.**
TUC.2.4.050 Restrictions on Winter Shutoffs ..... TUC.2.4-**Error! Bookmark not defined.**

TUC.2.4.010 Adequate Service and Reasonable Rates

All Public Utilities shall furnish reasonably adequate service and facilities. The charge made by any Public Utility for any heat, light, water, telecommunications service or power produced, transmitted, delivered or furnished or for any service rendered or to be rendered in connection therewith shall be reasonable and just, and every unjust or unreasonable charge for such service is prohibited and declared unlawful. In the case of a public utility furnishing water, the commission shall include, in the determination of water rates, the cost of fluoridating the water in the area served by the public utility furnishing water if the governing body of the city, village or town which owns or is served by the public utility furnishing water authorizes the fluoridation of water by the public utility furnishing water.

(Res. No. 2024-38)

TUC.2.4.020 Maintenance of Utility Personal Property

All Utilities shall maintain Utility Personal Property under its ownership or control in a manner that minimizes danger to the public and adverse environmental impacts while upholding all requirements under Section TUC.2.4.010 that may apply.

(Res. No. 2024-38)

TUC.2.4.030 Duty of Non-Discrimination

It shall be unlawful for any Utility to deny service, set rates, or develop plans for the improvement, development, or expansion of infrastructure, or engage in any preferential treatment of customers or prospective customers on the basis of race, gender, age, sexual orientation, disability, political affiliation, political classification, or tribal membership. Notwithstanding anything to the contrary under this title, the Tribal Court shall have original jurisdiction over any claim alleging violation of this Section.

(Res. No. 2024-38)

TUC.2.4.040 Access to Land

Nothing in this Title shall be construed as a grant of a right of access to Tribal or restricted Indian land. Access, use, and occupation of Tribal or restricted Indian land shall be governed by federal and tribal law governing easements, rights-of-way, and leases on said lands.

(Res. No. 2024-38)

TUC.2.4.050 Restrictions on Winter Shutoffs

(a) "Winter Period" under this Section shall mean November 1st through March 31st or any other point in time in which there is reasonably foreseeable likelihood that the average temperature on the Reservation could have life-threatening effects in the absence of a reliable energy source.

(b) A Utility that supplies Energy Utility Service on the Reservation is forbidden from disconnecting or ceasing Energy Utility Service to any household or facility where the Utility knows or has reason to know:

(1) The household income is less than 185% of the federal poverty level;

(2) One or more residents is bedridden or is otherwise suffering the effects of a serious, life-threatening disease; or

(3) The disconnection of Energy Utility Service would have other serious life-threatening effects.

(c) Any customer who pays the Utility at least 10% of the customer's income or the full amount of the Utility bill, whichever is less, during a Winter Period cannot be disconnected during that month; provided that for the purpose of this Section, the term "customer income" means the actual monthly income of the customer except for a customer who is normally employed only on a seasonal basis and whose annual income is over 135% of the federal poverty level, in which case the customer's income shall be the average monthly income of the customer computed on an annual calendar year basis. The 10% figure in cited in this Subparagraph (c) must be prorated between Energy Utilities proportionate to each provider's share of the customer's total energy costs whenever the customer receives service from more than one provider.

(d) If the Commission receives a Complaint alleging violation of this Section, the Commission shall issue an Interim Order within two (2) business days after receipt of the Complaint, in which the Commission shall determine whether the Utility must continue to provide Energy Service pending the outcome of the Complaint. The Commission shall set a

forthwith hearing on the Complaint for no more than fourteen (14) days after the Complaint is received by the Commission.

(Res. No. 2024-38)

Subchapter TUC.2.5
Utility Tariffs

TUC.2.5.010 Filing Tariffs ..... TUC.2.5-**Error! Bookmark not defined.**
TUC.2.5.020 Time to File Tariffs ..... TUC.2.5-**Error! Bookmark not defined.**
TUC.2.5.030 Publication of Tariffs ..... TUC.2.5-**Error! Bookmark not defined.**
TUC.2.5.040 Procedures to Amend Tariffs for Public Utilities .... TUC.2.5-**Error! Bookmark not defined.**
TUC.2.5.050 Cooperative Associations ..... TUC.2.5-**Error! Bookmark not defined.**

TUC.2.5.010 Filing Tariffs

Every Utility operating or conducting business on the Reservation shall keep on file with the commission a tariff for each Utility Service provided on the Reservation, containing all the rules, rates and classifications used by it in the provision of its Utility Services. Tariffs shall provide notice of any limitations on liability claimed by the Utility.

(Res. No. 2024-38)

TUC.2.5.020 Time to File Tariffs

Tariffs shall be filed with the Commission within sixty (60) days after the appointment of the Commission pursuant to the provisions of this Title. Upon appointment, the Commission or its duly delegated agent or representative shall publish a notice of commencement of the 60-day period to submit tariffs. Failure to file tariffs within the prescribed time period shall result in a late fee of $250 per day for fourteen (14) days, and $500 per day each day thereafter.

(Res. No. 2024-38)

TUC.2.5.030 Publication of Tariffs

The Commission shall publish all Utility tariffs through one or more physical or digital media that is freely accessible to the public.

(Res. No. 2024-38)

TUC.2.5.040 Procedures to Amend Tariffs for Public Utilities

Public Utilities may not establish or implement any Tariff Alteration unless and until all procedures set forth in this Section have been completed to the satisfaction of the Commission. For the purposes of this Section, a "tariff alteration" shall mean (i) an amendment to existing tariffs or any portion or provision thereof, or (ii) a change in or

establishment of any rate, toll, or classification associated with the Utility Service in a manner that deviates from the terms of procedures established under existing tariff.

(a) Any Public Utility that wishes to establish a Tariff Alteration shall file a Petition for Tariff Alteration with the Commission. The Petition shall be on a form prescribed by the Commission and shall contain, at a minimum:

(1) The nature of the requested Tariff Alteration;

(2) The basis for the requested Tariff Alteration with supporting documentation as necessary and appropriate;

(3) Impacts to Customers under the proposed Tariff Alteration and under alternative actions to address the basis for the requested Tariff Alteration, including a no-action alternative.

(4) A certificate, on a form prescribed by the Commission, showing to the satisfaction of the Commission that the Utility has provided adequate notice of the Petition for Tariff Alteration to its customers receiving Utility Service on the Reservation.

(5) Within fourteen (14) days after receipt of a Petition for Tariff Alteration, the Commission shall publish a Notice of Comment Period providing notice to the public of its right to submit public comments on the proposed Tariff Alteration. The Commission shall set rules and procedures associated with the form and system for filing public comments. The Commission may determine the length of the public comment period based on, inter alia, the complexity of the proposed Tariff Alteration or the nature of the impacts on Customers. However, public comment periods shall be for no less than thirty (30) days and no more than one hundred twenty (120) days.

(6) At the conclusion of the public comment period, the Commission may, at its discretion or at the direction of the Governing Board, set a public hearing on the proposed Tariff Alteration. The Commission may set procedural rules and rules of conduct governing public hearings on proposed Tariff Alterations. Public hearings shall be open to all Persons residing or conducting business on the Reservation.

(7) Within sixty (60) days after the conclusion of the public comment period, or within sixty (60) days after the public hearing if such public hearing takes place, the Commission shall issue an order approving or denying the proposed Tariff Alteration. The proposed Tariff Alteration shall be deemed approved if the Commission fails to issue an order within the applicable time period, provided that the Commission may extend its timeline to issue a decision upon approval by the Governing Board and notice to the petitioning Utility.

(8) Notwithstanding anything in this Section to the contrary, the Commission may deny a requested Tariff Alteration without underdoing the public notice and comment procedures set forth in this Section upon finding that the requested Tariff Alteration would constitute a *prima facie* violation of this Code.

(Res. No. 2024-38)

TUC.2.5.050 Cooperative Associations

Tariff Alterations by Cooperative Associations shall not be subject to the procedures under Section TUC.2.5.040; *provided* that Cooperative Association tariffs maintained on file with the Commission contain procedures to ensure a Cooperative Association's membership receives adequate notice and a reasonable opportunity to be heard in relation to a proposed Tariff Alteration. If a Cooperative Association fails to include procedures that meet these minimum requirements in its publicly filed tariffs, the Cooperative Association shall be required to undergo the procedures set forth in Section TUC.2.5.040 prior to establishing or implementing any Tariff Alteration.

(Res. No. 2024-38)

Subchapter TUC.2.6
Certificate of Public Convenience and Necessity for Electric Facilities

TUC.2.6.010 Certificate of Public Convenience and Necessity Required..... TUC.2.6-**Error! Bookmark not defined.**
TUC.2.6.020 Application for a Certificate of Public Convenience and Necessity TUC.2.6-**Error! Bookmark not defined.**
TUC.2.6.030 Factors to be Considered in Evaluating Applications.... TUC.2.6-**Error! Bookmark not defined.**
TUC.2.6.040 Selection Criteria ..... TUC.2.6-**Error! Bookmark not defined.**
TUC.2.6.050 Policy Criteria..... TUC.2.6-**Error! Bookmark not defined.**
TUC.2.6.060 Effect of Issuance of Certificate..... TUC.2.6-**Error! Bookmark not defined.**
TUC.2.6.070 Rules and Regulations..... TUC.2.6-**Error! Bookmark not defined.**
TUC.2.6.080 Complaint and Hearing ..... TUC.2.6-**Error! Bookmark not defined.**
TUC.2.6.090 Revocation or Suspension of Certificate .. TUC.2.6-**Error! Bookmark not defined.**
TUC.2.6.100 Penalties..... TUC.2.6-**Error! Bookmark not defined.**
TUC.2.6.110 Approval for Temporary Operation or Variance .... TUC.2.6-**Error! Bookmark not defined.**
TUC.2.6.120 Use by One Utility of the Facilities of Another Utility... TUC.2.6-**Error! Bookmark not defined.**

TUC.2.6.010 Certificate of Public Convenience and Necessity Required

A Utility may not begin construction of an Electric Facility within the Reservation, without first having obtained a Certificate of Public Convenience and Necessity from the Commission pursuant to this Subhapter. The Electric Facility must be constructed, operated, and maintained in conformity with the Certificate and any terms, conditions, or modifications of the Certificate. A Certificate may be transferred, subject to the prior approval of the Commission, to any person who agrees to comply with its terms, conditions, and modifications. Certificates shall have a term prescribed by the Commission. The Commission may renew a Certificate in accordance with the Commission's duly adopted rules and regulations.

(Res. No. 2024-38)

TUC.2.6.020 Application for a Certificate of Public Convenience and Necessity

(a) An application for a Certificate must contain the following information:

(1) A description of:

(A) The type of Facility proposed;

(B) The gross design capacity;

(C) The net design capacity;

(D) The estimated thermal efficiency of the energy conversion process and the assumptions upon which the estimate is based;

(E) The number of acres that the proposed Facility will occupy; and

(F) The anticipated timeline and schedule for:

(i) Acquisition of all permits and/or land use rights necessary to complete the proposed construction.

(ii) Starting construction;

(iii) Completing construction;

(iv) Testing operations;

(v) Commencing commercial production; and

(vi) Beginning any planned expansions or additions.

(2) Copies of any evaluative studies or assessments of the environmental impact of the proposed Facility submitted to any federal, regional, state, or local agency.

(3) An analysis of the need for the proposed Facility based on present and projected demand for the product or products to be produced by the proposed Facility, including the most recent system studies supporting the analysis of the need.

(4) A description of any feasible alternative methods of serving the need.

(5) A discussion of the Utility's policies and commitments to limit the environmental impact of its facilities, including copies of board resolutions and management directives.

(6) A map identifying the criteria that provides the basis for the specific location of the proposed Facility within the study area.

(7) A discussion of the criteria evaluated within the study area, including exclusion areas, selection criteria, policy criteria, design and construction limitations, and economic considerations.

(8) A discussion of the mitigative measures that the applicant will take to minimize adverse impacts which result from the location, construction, and operation of the proposed Facility.

(9) The qualifications of each person involved in the Facility Site location study.

(10) A map of the study area showing the location of the proposed Facility and the criteria evaluated.

(b) After determining that the application is complete, the Commission shall publish a Notice of Application for Certificate of Public Convenience of Necessity containing (1) an executive summary of the proposed Certificate, (2) instructions and timelines for filing public comments, and (3) Commission contact information to obtain a copy of the complete Application. The following are hereby declared adequate means of publishing of the Notice of Application hereunder:

(1) Posting the Notice on the official government website of the Tribe;

(2) Publishing the Notice in a newspaper of general circulation on the Reservation.

(c) The public comment period for the Application shall be set by the Commission; provided that the public comment period shall not be for less than thirty (30) days and not be for greater than one hundred twenty (120) days.

(d) At the conclusion of the public comment period, the Commission may, at its discretion or at the direction of the Governing Board, set a public hearing on the proposed Certificate. The Commission may set procedural rules and rules of conduct governing public hearings on Certificate Applications. Public hearings shall be open to all Persons residing or conducting business on the Reservation.

(e) Within ninety (90) days after the conclusion of the public comment period, or within ninety (90) days after the public hearing if such public hearing takes place, the Commission shall issue an order approving or denying the proposed Certificate of Public Convenience and Necessity. The proposed Certificate shall be deemed approved if the Commission fails to issue an order within the applicable time period, provided that the Commission may extend its timeline to issue a decision upon approval by the Governing Board and notice to the petitioning Utility.

(f) The Commission may, at its discretion, allow an applicant to amend its application at any time during the pendency of an application.

(g) When a Certificate is denied and the Commission specifies a modification that would make it acceptable, the applicant may reapply. In a reapplication:

(1) The Utility shall indicate its acceptance or rejection of the suggested modification.

(2) If a suggested modification is rejected by the applicant, it shall propose an alternative modification.

(3) Reapplication must be made within six (6) months of the order denying an application.

(Res. No. 2024-38)

TUC.2.6.030 Factors to be Considered in Evaluating Applications

The Commission shall grant a Certificate of Public Convenience and Necessity only when it determines that the construction and operation of the proposed facility is reasonably tailored to satisfying the public need for generation and/or delivery of electric power, that the public need satisfied will outweigh adverse impacts on the human environment, tribal natural resources, and public safety, and that there are no physically, economically, or legally feasible alternatives that would more effectively satisfy the public need. The Commission shall be guided by, but is not limited to, the following considerations, where applicable, to aid in its evaluation of applications for a Certificate or Recertification:

(a) Available research and investigations relating to the effects of the location, construction, and operation of the proposed Facility on public health and welfare, natural resources, and the environment.

(b) The effects of new electric energy conversion and electric transmission technologies and systems designed to minimize adverse environmental effects.

(c) The potential for beneficial uses of waste energy from a proposed Electric Energy Conversion Facility.

(d) Adverse direct and indirect environmental effects and mitigation measures.

(e) Alternatives to the proposed action.

(f) Irreversible and irretrievable commitments of natural resources.

(g) The direct and indirect economic impacts of the proposed Facility.

(h) Existing plans for other developments or conservation measures at or in the vicinity of the proposed action.

(i) The effect of the proposed action on existing scenic areas, historic and cultural sites and structures, and paleontological or archaeological sites.

(j) The effect of the proposed action on areas unique because of biological wealth or because the areas are habitats for rare and endangered species.

(k) The adequacy of the Utilities protocols and procedures in the event of a Power Emergency.

(l) Any input from other Tribal agencies and departments.

(Res. No. 2024-38)

TUC.2.6.040 Selection Criteria

An Application may be approved in an area only when it is demonstrated to the Commission by the applicant that any significant adverse effects resulting from the location, construction, and operation of the Facility in that area as they relate to the following, will be at an acceptable minimum, or that those effects will be managed and maintained at an acceptable minimum. The effects to be considered include:

(a) With respect to wind energy conversion facilities:

(1) The impact of sound levels within one hundred feet of an inhabited residence or a community building exceeding fifty (50) dBA, unless waived in writing by the owner of the occupied residence or the community building.

(2) The impact of shadow flicker at any inhabited residence or a community building exceeding thirty (30) hours per year, unless waived in writing by the owner of the occupied residence or the community building.

(b) The impact upon agriculture:

(1) Agricultural production.

(2) Family farms and ranches.

(3) Land which the owner demonstrates has soil, topography, drainage, and an available water supply that cause the land to be economically suitable for irrigation.

(4) Surface drainage patterns and ground water flow patterns.

(5) The agricultural quality of the cropland.

(c) The impact upon the availability and adequacy of:

(1) Law enforcement.

(2) School systems and education programs.

(3) Governmental services and facilities.

(4) General and mental health care facilities.

(5) Recreational programs and facilities.

(6) Transportation facilities and networks.

(7) Retail service facilities.

(8) Utility services.

(d) The impact upon:

(1) Local institutions.

(2) Noise-sensitive land uses.

(3) Light-sensitive land uses.

(4) Rural residences and businesses.

(5) Aquifers.

(6) Human health and safety.

(7) Animal health and safety.

(8) Plant life.

(9) Areas critical to the life stages of threatened or endangered animal or plant species.

(10) Temporary and permanent housing.

(11) Temporary and permanent skilled and unskilled labor.

(e) The cumulative effects of the location of the Facility in relation to existing and planned facilities and other industrial development.

(f) The impact upon military installations, assets, and operations.

(Res. No. 2024-38)

TUC.2.6.050 Policy Criteria.

The Commission may give preference to an applicant that will maximize benefits that result from the adoption of the following policies and practices, and in a proper case may require the adoption of such policies and practices. The Commission may also give preference to an applicant that will maximize interstate benefits. The benefits to be considered include:

(a) Less intrusion into and impact on human, animal, and plant life and habitat.

(b) Energy conservation through location, process, and design.

(c) Training and utilization of available employees and contractors from the Reservation for the general and specialized skills required.

(d) Use of a primary energy source or raw material located within the region.

(e) Avoidance of adverse impacts to residents' homes or the need to relocate residents.

(f) The dedication of an area adjacent to the Facility to land uses such as recreation, agriculture, or wildlife management.

(g) Economies of construction and operation.

(h) Secondary uses of appropriate associated facilities for recreation and the enhancement of wildlife.

(i) The extent of outreach to and use of feedback from residents of the Reservation.

(j) A commitment of a portion of the energy produced for use on the Reservation.

(k) Strength of the Utility's labor relations track record.

(Res. No. 2024-38)

TUC.2.6.060 Effect of Issuance of Certificate

The issuance of a Certificate or a Permit shall be the sole approval required to be obtained from the Commission prior to commencing construction of an Electric Facility on the Reservation. A Utility's receipt of a Certificate shall not establish an easement or other property right on or across Tribal trust lands or restricted Indian lands subject to Title 25, Part 169 of the United States Code of Federal Regulations. Utilities that have acquired a valid Certificate under this Chapter and any other required permits or land use rights, may proceed to construct or improve the site covered under the Certificate for the purposes set forth therein; provided, that if such construction and improvement commences more than four (4) years after a Certificate has been issued, then the Utility must certify to the

Commission that such site and associated proposed Facilit(ies) continue to meet the conditions upon which the Certificate was issued.

(Res. No. 2024-38)

TUC.2.6.070 Rules and Regulations

The Commission may adopt rules and regulations in conformity with the provisions of this Subchapter and prescribe methods and procedures required therewith.

(Res. No. 2024-38)

TUC.2.6.080 Complaint and Hearing

Any Person aggrieved by the proposed issuance of a Certificate of Public Necessity and Convenience, a proposed Certificate transfer, or a proposed Recertification of an existing Certificate pursuant to this Subchapter may file a Complaint with the Commission within thirty (30) days after publication of the Application notice or Recertification notice. A Person's right to challenge a proposed Certificate or Recertification shall be deemed waived; provided, that the Commission may accept a late filing at its discretion for good cause shown. Unless otherwise provided in this Section, the Commission shall conduct a hearing on the Complaint pursuant to the procedures set forth herein and in the duly adopted rules and regulations of the Commission. Applicable timelines associated with the Certificate, transfer, or Recertification application shall be held in abeyance pending the outcome of the hearing process as set forth in this Section.

(Res. No. 2024-38)

TUC.2.6.090 Revocation or Suspension of Certificate

A Certificate of Public Convenience and Necessity may be revoked or suspended for:

(a) Discovery of any material false statement in the application or in accompanying statements or studies required of the applicant.

(b) Failure to comply with the Certificate or any terms, conditions, or modifications contained therein.

(c) Violation of the provisions of this Subchapter or rules or regulations issued pursuant to this Subchapter by the Commission.

(d) A determination by the Tribal Court.

(Res. No. 2024-38)

TUC.2.6.100 Penalties

(a) Any person who willfully engages in any of the following conduct is subject to a civil penalty in an administrative action brought by the Commission not to exceed Ten Thousand Dollars ($10,000) for each such violation for each day the violations persist, plus any other remedy available under appliable Tribal law:

(1) Begins construction of an Electric Energy Conversion Facility or an Electric Transmission Facility without having been issued a Certificate pursuant to this Subchapter.

(2) Constructs, operates, or maintains an Electric Energy Conversion Facility or an Electric Transmission Facility other than in compliance with the Certificate or Permit and any terms, conditions, or modifications contained therein.

(3) Violates any provision of this Subchapter or any rule adopted by the Commission pursuant to this Subchapter

(4) Falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained pursuant to a Certificate issued pursuant to this Subchapter.

(Res. No. 2024-38)

TUC.2.6.110 Approval for Temporary Operation or Variance

(a) The commission may approve temporary operation of facilities or a temporary variance from approved construction, operation, or maintenance of facilities upon a showing of good cause and receipt of a utility certification that the activities will have no adverse impacts upon the welfare of the Tribe or the environment.

(b) The Commission may issue a temporary approval or variance without the necessity of notice, publication, or hearing with any additional terms, conditions, or modifications deemed necessary to minimize impacts.

(Res. No. 2024-38)

TUC.2.6.120 Use by One Utility of the Facilities of Another Utility

Whenever upon hearing, after due notice, the Commission has found that the public convenience and necessity requires the use by one Electric Utility of the conduits, wires, poles, pipes or other equipment or any part thereof on, over or under any street highway and belonging to another Electric Utility, and that such use will not result in irreparable injury to the owner or other users of such equipment, nor any substantial detriment to the service, and that such Electric utilities have failed to agree upon such use or terms and conditions or compensation for the same, the Commission, by order, may direct that such use be permitted, and prescribe reasonable compensation and reasonable terms and

conditions for such joint use. If such use is directed, the Electric Utility to which the use is permitted shall be liable to the owner or other users of such equipment for such damages as may result therefrom to the property of such owner or other users thereof.

(Res. No. 2024-38)

Chapter TUC.3
Lac Courte Oreilles Tribal Utility Authority

TUC.3.1 Utility Authority Established ..... TUC.3.1-**Error! Bookmark not defined.**
TUC.3.2 Utility Authority Personnel ..... TUC.3.2-**Error! Bookmark not defined.**
TUC.3.3 Utility Authority Operations..... TUC.3.3-**Error! Bookmark not defined.**

Subchapter TUC.3.1
Utility Authority Established

TUC.3.1.010 Establishment of the Lac Courte Oreilles Tribal Utility Authority .. TUC.3.1-**Error! Bookmark not defined.**
TUC.3.1.020 Constitutional Authority..... TUC.3.1-**Error! Bookmark not defined.**
TUC.3.1.030 Sovereign Immunity..... TUC.3.1-**Error! Bookmark not defined.**
TUC.3.1.040 Mission of the Authority ..... TUC.3.1-**Error! Bookmark not defined.**

TUC.3.1.010 Establishment of the Lac Courte Oreilles Tribal Utility Authority

The Lac Courte Oreille Tribal Utility Authority ("Authority") is hereby established. The actions, responsibilities, and limitations of the Authority are established under the terms of this Code, as the same may be amended in the future. The Authority is established as an incorporated enterprise of the Tribal Government. It is the intent of the Tribe that the Authority shall at all times be an instrumentality of the Tribal Government and shall serve under the direction of the Governing Board.

(Res. No. 2024-38)

TUC.3.1.020 Constitutional Authority

The Authority is established pursuant to Article V, Section 1(l) of the Constitution and By Laws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin, which authorizes the Tribe's 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 Tribe or residents of the reservation."

(Res. No. 2024-38)

TUC.3.1.030 Sovereign Immunity

As an instrumentality of the Tribe, the inherent sovereign immunity of the Tribe is extended to the Authority pursuant to Section TCT.1.3.020 of the Sovereign Immunity Code of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians and the laws of the United States ("Sovereign Immunity Code"). The Authority may waive its sovereign immunity from suit only in accordance with the processes set forth in Section TCT.1.2.030 of the Sovereign Immunity Code. Except as otherwise expressly authorized by the Governing Board, any waiver of the Authority's immunity of suit shall be limited to the Authority and shall not extend to any other department, agency, or instrumentality of the Tribe, and such waiver shall further be limited to judgments effecting the assets and/or revenue streams of the Authority. Notwithstanding anything herein to the contrary, the sovereign immunity of

the Authority shall not apply to actions commenced against the Authority under the provisions of this Code.

(Res. No. 2024-38)

TUC.3.1.040 Mission of the Authority

The Authority's mission is to provide and manage Utility Services, as defined herein, to customers within and around the Reservation in furtherance of Tribal self-determination, the economic growth of the Tribe and its members, and promoting reliable access to Utility Services on the Reservation, and to furnish, provide, and maintain such service, instrumentalities, equipment, and facilities to promote the safety, health, comfort, and convenience of its customers, employees, and the public, and as shall be in all respects adequate, convenient, just, and reasonable, and without any unjust discrimination or preference.

(Res. No. 2024-38)

Subchapter TUC.3.2
Utility Authority Personnel

TUC.3.2.010 Authority Director..... TUC.3.2-**Error! Bookmark not defined.**
TUC.3.2.020 Other Authority Employees..... TUC.3.2-**Error! Bookmark not defined.**

TUC.3.2.010 Authority Director

The Governing Board shall hire an employee to serve as Director of the Authority. The Director shall be the operating official of the Authority and shall have direction of all parts of the actual operations. The Director's responsibilities shall include:

(a) Development, implementation, and monitoring of the Authority Implementation Plan;

(b) Management and oversight of all Authority activities;

(c) Delegation of management duties to Authority employees, if any, to the extent that are not specifically designated by this Code, the Governing Board, or the Authority Implementation Plan as duties to be performed exclusively by the Director.

(d) Supervision of all employees of the Authority, excluding the Board of Commissioners, including supervision of the performance of staff in respect to all matters such as conformance to approved budgets, standards, program inspection, cost control, employee relations and in-service training.

(e) Interfacing with employees, contractors, and customers of the Authority.

(f) Ensuring compliance with approved budgets and policies and procedures approved by the Board of Commissioners relating to standards, programs inspection, cost control, employee relations and service training.

(g) Rendering regular reports to the Governing Board in accordance with this Code, the Authority Implementation Plan, or as otherwise requested by the Governing Board.

(h) Performing all duties incident to the position of Director and such other duties as from time to time may be assigned by the Governing Board.

(Res. No. 2024-38)

TUC.3.2.020 Other Authority Employees

Nothing in this Code shall be construed to restrict the authority of the Governing Board to hire employees to a position not specifically identified herein to assist in carrying out the functions and mission of the Authority.

(Res. No. 2024-38)

Subchapter TUC.3.3
Utility Authority Operations

TUC.3.3.010 Powers of the Authority ..... TUC.3.3-**Error! Bookmark not defined.**
TUC.3.3.020 Records ..... TUC.3.3-**Error! Bookmark not defined.**
TUC.3.3.030 Reports to the Governing Board ..... TUC.3.3-**Error! Bookmark not defined.**
TUC.3.3.040 Authority Implementation Plan ..... TUC.3.3-**Error! Bookmark not defined.**
TUC.3.3.050 Revenue Allocation Plan ..... TUC.3.3-**Error! Bookmark not defined.**
TUC.3.3.060 Annual Budget ..... TUC.3.3-**Error! Bookmark not defined.**

TUC.3.3.010 Powers of the Authority

(a) Subject to applicable laws, regulations, the Constitution and By-Laws of the Tribe and any duly enacted and approved policies and procedures of the Authority; and solely in furtherance of the mission set forth in this Code, the Authority's powers include the following:

(1) To operate and administer Utility Services;

(2) To establish Utility rates and tariffs, including procedures governing changes in rates and tariffs applicable to customers of the Authority;

(3) To enter into contracts with any governmental agency, federal, state or local, or any person, partnership, corporation or Indian tribe;

(4) To retain independent contractors as consultants or technical and/or maintenance personnel;

(5) To own property and assets in its separate and distinct capacity as an enterprise of the Tribal Government, including Utility Personal Property as defined in this Code;

(6) To sue and be sued in its separate and distinct capacity as an enterprise of the Tribal Government;

(7) To borrow money, to issue temporary or long-term evidence of indebtedness, and to repay the same.

(8) To pledge the assets and receipts of the Authority as security for debts; and to acquire, sell, lease, exchange, transfer or assign personal property or interests therein.

(9) To purchase land or interests in land or take the same by gift; to lease land or interests in land to the extent provided by law.

(10) To purchase insurance in any stock or mutual company for any property or against any risks or hazards.

(11) To adopt such policies, procedures, and bylaws necessary and appropriate, consistent with this Code.

(Res. No. 2024-38)

TUC.3.3.020 Records

(a) The books, records and property of the Authority, including current financial and operating statements, shall be kept on file in the main office of the Authority and shall be available for inspection at all reasonable times by the Director, then-serving members of the Governing Board.

(b) Information regarding the Authority and its operations must be kept confidential, including information received by the Authority that is subject to a confidentiality obligation. Information considered by the Authority as non-confidential shall be publicly available at requesting recipient's expense.

(c) Financial Statements and Annual Reports shall be prepared as soon as reasonably practicable after the close of the fiscal year. Such financial statements shall be accompanied by any report thereon of independent accountants, or, if there is no such report, the certificate of an authorized officer of the Authority that such statements were prepared without audit, under generally accepted accounting principles, from the books and records of the Authority. Financial Statements, books, records, and property of the Authority shall be available for inspection at all reasonable times by the Governing Board and any other persons authorized by the Governing Board.

(d) Every Commissioner shall have the right at any reasonable time to inspect and copy all books, records, and documents, and to inspect the physical properties of the Authority. No Commissioner shall use or disseminate any non-public information obtained as a result of any such inspection, or otherwise in his or her capacity as a Commissioner, for his or her own personal gain, to the detriment of the Authority or to the detriment of any competitors of any entity with which the Commissioner is affiliated except in connection with the enforcement of a tariff, contract or applicable law and consistent with the Authority policy regarding confidential information.

(Res. No. 2024-38)

TUC.3.3.030 Reports to the Governing Board

The Director shall prepare and submit a report to the Governing Board on a quarterly basis. The report shall include, but not be limited to:

(a) Authority financial conditions, including cashflow statements;

(b) Authority customer list;

(c) Any rate changes or planned rate changes;

(d) Any proposed amendments to the Authority Implementation Plan;

(e) Procurement, sale, or material change in any Utility Personal Property.

(f) Any other information requested by the Governing Board;

(Res. No. 2024-38)

TUC.3.3.040 Authority Implementation Plan

(a) Prior to engaging in Utility Services, the Director shall prepare and present to the Governing Board for its approval an Authority Implementation Plan for the provision of Electric Utility Services. The Implementation Plan may be modified from time to time by the Authority upon final approval of the Governing Board. The Director or his/her delegee shall maintain a current version on file available for inspection by the Governing Board and any other person authorized by the Governing Board.

(b) The Authority Implementation Plan shall establish the overall operational framework governing the operations of the Authority and shall include, without limitation, the following components:

(1) Authority Operations Plan, including:

(A) Plan for resources use and energy efficiency

(B) Accounting system

(C) Standards of Service designated to ensure sage, adequate, efficient and timely provision of Electric Utility Services

(D) Customer outreach

(2) Start-Up Funding and Staffing Plan, including:

(A) Staffing needs and requirements

(B) Capital requirements

(C) Start-up activities and cost summary

(D) Estimated infrastructure costs

(E) Estimated third party contractor costs

(3) Policy on rate setting and customer rights and responsibilities, including:

(A) Initial rate schedule

(B) Procedure for setting and changing rates and tariffs, including procedures for noticing the public of changes to rates and tariffs

(Res. No. 2024-38)

TUC.3.3.050 Revenue Allocation Plan

All revenue generated from the activities of the Authority shall be allocated in accordance with an Allocation Plan approved by the Governing Board.

(Res. No. 2024-38)

TUC.3.3.060 Annual Budget

(a) The Authority shall establish an annual budget enumerating the necessary costs of the Authority including operation, maintenance, administration of capital improvements, debt service, personnel, liability and other insurance, replacement, a reserve for major repairs and replacements, and lease payments for use of Tribal community resources and facilities.

(b) A proposed Annual Budget shall be developed by the Director and shall be presented to the Governing Board for its approval prior to the commencement of the Tribe's fiscal year.

(Res. No. 2024-38)

Title PAP
Policies and Procedures

PAP.1 Governmental Personnel Policies and Procedures of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians ..... PAP.1-**Error! Bookmark not defined.**
PAP.2 Property and Procurement Policies and Procedures of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians ..... PAP.2-**Error! Bookmark not defined.**
PAP.3 Travel Policies and Procedures of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians ..... PAP.3-**Error! Bookmark not defined.**
PAP.4 Housing Authority Personnel Policies and Procedures of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians ..... PAP.4-**Error! Bookmark not defined.**
PAP.5 LCO Community Health Center Personnel Policies and Procedures of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians..... PAP.5-**Error! Bookmark not defined.**
PAP.7 LCO Ojibwe School - Waadookodaading Personnel Policies and Procedures of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians PAP.7-**Error! Bookmark not defined.**
PAP.9 Gaming Enterprises Personnel Policies and Procedures of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians ..... PAP.9-**Error! Bookmark not defined.**
PAP.10 Governmental Fiscal Policies and Procedures of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians ..... PAP.10-**Error! Bookmark not defined.**
PAP.11 Grant Management ..... PAP.11-**Error! Bookmark not defined.**
PAP.14 LCO Development Corporation Personnel Policies and Procedures of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians..... PAP.14-**Error! Bookmark not defined.**
PAP.15 Kinship Care and Long-Term Kinship Care Program Policies and Procedures.... PAP.15-**Error! Bookmark not defined.**
PAP.17 Big Fish Golf Corporation Personnel Policies and Procedures PAP.17-**Error! Bookmark not defined.**
PAP.18 Police Policies and Procedures of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians ..... PAP.18-**Error! Bookmark not defined.**
PAP.22 LCO Day Care - Genawendaawasong Personnel Policies and Procedures of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians ..... PAP.22-**Error! Bookmark not defined.**

Chapter PAP.1
Governmental Personnel Policies and Procedures of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians

PAP.1.1 General Provisions ..... PAP.1.1-**Error! Bookmark not defined.**
PAP.1.2 Definitions ..... PAP.1.2-**Error! Bookmark not defined.**
PAP.1.3 Governance ..... PAP.1.3-**Error! Bookmark not defined.**
PAP.1.4 Hiring Process ..... PAP.1.4-**Error! Bookmark not defined.**
PAP.1.5 Employment ..... PAP.1.5-**Error! Bookmark not defined.**
PAP.1.6 Wages ..... PAP.1.6-**Error! Bookmark not defined.**
PAP.1.7 Available Benefits ..... PAP.1.7-**Error! Bookmark not defined.**
PAP.1.8 Conduct ..... PAP.1.8-**Error! Bookmark not defined.**
PAP.1.9 Workplace Safety ..... PAP.1.9-**Error! Bookmark not defined.**
PAP.1.10 Vehicle Driver Certification ..... PAP.1.10-**Error! Bookmark not defined.**
PAP.1.11 Problem Solving ..... PAP.1.11-**Error! Bookmark not defined.**
PAP.1.12 Disciplinary Action and Appeal ..... PAP.1.12-**Error! Bookmark not defined.**

Preamble

This personnel policy and procedural manual is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians in the implementation of Title XII, Chapter 3 of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians Tribal Code of Law (LCOTCL) – Employment Code. This personnel policy and procedural manual, outlines the general policies, rules and practices in effect for the Lac Courte Oreilles Tribal Government and is intended to be a helpful reference during your employment with the Tribe. The information contained herein is general information, and its contents do not create or constitute a contract between the Tribe and any employee. The Tribal Governing Board acting in its sovereign capacity may in its sole discretion amend this personnel policy and procedural manual from time to time. The Human Resource Director, or designee, will distribute approved revisions to all employees.

Subchapter PAP.1.1
General Provisions

PAP.1.1.010 Title ..... PAP.1.1-**Error! Bookmark not defined.**
PAP.1.1.020 Authority ..... PAP.1.1-**Error! Bookmark not defined.**
PAP.1.1.030 Purpose ..... PAP.1.1-**Error! Bookmark not defined.**
PAP.1.1.040 Mission Statement ..... PAP.1.1-**Error! Bookmark not defined.**
PAP.1.1.050 Effective Date ..... PAP.1.1-**Error! Bookmark not defined.**
PAP.1.1.060 Interpretation ..... PAP.1.1-**Error! Bookmark not defined.**
PAP.1.1.070 Severability and Non-Liability ..... PAP.1.1-**Error! Bookmark not defined.**
PAP.1.1.080 Repeal of Inconsistent Governmental Manual(s) ... PAP.1.1-**Error! Bookmark not defined.**

PAP.1.1.010 Title

This personnel policies and procedures manual shall be known as the Governmental Personnel Policies and Procedures of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.1.010 was formerly codified as XIV LCOTCL §1.101

PAP.1.1.020 Authority

This personnel policy and procedural manual is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians in the implementation of Title XII, Chapter 3 of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians Tribal Code of Law (LCOTCL) – Employment Code.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.1.020 was formerly codified as XIV LCOTCL §1.102

PAP.1.1.030 Purpose

It is the purpose of this personnel policy and procedural manual to provide the general policies, rules and practices in effect at Tribe. This personnel policy and procedural manual is intended to be a helpful reference during your employment with the Tribe. The information contained herein is general information, and its contents do not create or constitute a

contract between the Tribe and any employee. The Tribal Governing Board acting in its sovereign capacity on behalf of the Tribe may in its sole discretion amend this personnel policy and procedural manual from time to time. The Tribal Human Resource Director, or designee, will distribute approved revisions to all employees.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.1.030 was formerly codified as XIV LCOTCL §1.103

PAP.1.1.040 Mission Statement

We the people of Odaawaa Zaaga'iganing, the Lac Courte Oreilles Band of Lake Superior Chippewa, will sustain our heritage, preserve our past, strengthen our present, and embrace our future. We will defend our inherent sovereignty and safeguard our Mother Earth and provide for the education, health, social welfare, and economic stability of the present and future generations. We will provide for the spiritual, cultural, intellectual, physical, emotional and social wellbeing of all employees and will assist employees to grow and develop as members of the Tribe's workforce to share in the success and prosperity of the Tribe.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.1.040 was formerly codified as XIV LCOTCL §1.104

PAP.1.1.050 Effective Date

Except as otherwise provided in specific sections, the provisions of this personnel policy and procedural manual shall be effective on the date adopted by the Tribal Governing Board.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.1.050 was formerly codified as XIV LCOTCL §1.105

PAP.1.1.060 Interpretation

The provisions of this personnel policy and procedural manual:

(a) Shall be interpreted and applied as minimum requirements applicable to the employment related activities of the Tribe;

(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. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.1.060 was formerly codified as XIV LCOTCL §1.106

PAP.1.1.070 Severability and Non-Liability

If any section, provision or portion of this personnel policy and procedural manual is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this personnel policy and procedural manual 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 personnel policy and procedural manual.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.1.070 was formerly codified as XIV LCOTCL §1.107

PAP.1.1.080 Repeal of Inconsistent Governmental Manual(s)

All previous personnel policy and procedural manual(s) of the Tribe inconsistent with this manual are hereby repealed and the provisions of this manual shall govern the employment related activities of the Tribe.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.1.080 was formerly codified as XIV LCOTCL §1.108

Subchapter PAP.1.2
Definitions

PAP.1.2.010 General Definitions ..... PAP.1.2-**Error! Bookmark not defined.**

PAP.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) **"Compensatory time" and "compensatory time off"** means paid time off, which is not counted as hours worked during the applicable workweek, or other work period for purposes of overtime compensation, and for which the non-exempt employee is compensated at the non-exempt employee's regular rate.

(b) **"Contracted Employee"** means an employee who has entered into a written contract, which has been properly authorized and signed by a signatory of the Tribe and the employee which defines the employment relationship. The contract will be for a specified period, and will outline benefits, pay and other conditions of employment. The terms and conditions of employment for Contracted employees may differ from the terms in this personnel policy and procedural manual, and this manual may be incorporated by reference in the Contracted Employee's written contract.

(c) **"Employee"** means an employee of the Tribe including: Exempt Employee, Non-exempt Employee, Full-time Employee, Part-time Employee, Seasonal Employee, or Temporary Employee.

(d) **"Executive Director"** means the individual employed by the Tribal Governing Board to manage the affairs of the Lac Courte Oreilles Tribal Government as provided for in this manual, the Employment Ordinance, and other relevant documents.

(e) **"Exempt Employee"** means an employee who the Human Resources Director, or designee, categorizes as being exempt from accruing compensatory time, and includes executive, administrative, and professional employees who are compensated on a salary basis.

(f) **"Extreme Circumstance"** means an unscheduled or unplanned circumstance exceeding an ordinary, usual, or expected event.

(g) **"Full-time Employee"** means an employee regularly scheduled to work thirty-two to forty (32-40) hours per week who has completed the ninety (90) day probationary period. Full-time employees are eligible for employee benefits subject to the limitations of the applicable benefit plans.

(h) **"Fringe Benefit"** means an extra benefit supplementing an employee's salary, such as: health insurance, Worker's compensation, 401(k) benefits, short-term and long-term disability.

(i) **"Immediate family member"** means Husband, Wife, Son, Daughter, Mother, Father, Brother, Sister, Grandparent, Grandchild, Niece, Nephew, Aunt and Uncle (including great-grandparents, in-laws, and step-relationship etc.). Immediate family member may also include a partner who has been in a relationship for a period of time or in relationship under Ojibwe tradition and practices.

(j) **"Independent contractor"** means an individual who is not an employee of the Tribe, but rather has entered into a contract with the Tribe, which defines the scope of services. Independent contractors are not employees, do not receive benefits, are not subject to this personnel policy and procedural manual and are governed by a written or verbal contract.

(k) **"LCOCHC"** means the Community Health Center of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(l) **"Management"** means the Executive Director, Department Director(s), and any employee who is assigned permanent or temporary supervisory or decision making authority.

(m) **"Non-Exempt Employee"** means an employee who the Human Resource Director, or designee, categorizes as being non-exempt from accruing compensatory time.

(n) **"Part-time Employee"** means an employee regularly scheduled to work less than thirty-two (32) hours per week. Part-time employees are not eligible for employee benefits or leave.

(o) **"Positive Test Result"** means a Blood Alcohol Concentration determined to be under the influence as established in Section PAP.1.2.010(w) andSection PAP.1.8.080(c).

(p) **"Probationary Employee"** means an employee who has not successfully completed their required probationary period.

(q) **"Seasonal Employee"** means an employee hired for an established period usually during peak workloads or seasonal demands. Seasonal workers may not be eligible for all employee benefits.

(r) **"Serious Health Condition"** means a condition which requires inpatient care at a hospital, hospice, or residential medical care facility, or a condition which requires continuing care by a licensed health care provider. This policy covers illnesses of a serious and long-term nature, resulting in recurring or lengthy absences. Generally, a chronic or long term health condition which, if left untreated, would result in a period of incapacity of more than three (3) days would be considered a serious health condition.

(s) **"Temporary Employee"** means an employee hired for a period of ninety (90) days or less. Temporary employees may work a full-time or part-time schedule and are not eligible for employee benefits and paid leave.

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

(u) **"Tribal Court"** means the Court of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(v) **"Tribal Governing Board"** means the Tribal Governing Board of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(w) **"Under the Influence of Alcohol**, **Illegal Drugs or Controlled Substances"** means the following: a Blood Alcohol Concentration that indicates a positive test result as established in Section PAP.1.8.080(c); or are results that confirm the presence of illegal substance; or are results that confirm the presence of a controlled substances that an employee does not have a valid prescription for or the levels exceed the prescribed dosage.

(x) **"Valid Prescription"** means a prescription that is current and issued for a medical purpose in the usual course of professional practice by a practitioner or a covering practitioner who has conducted at least 1 in-person medical evaluation of the patient.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.2.010 was formerly codified as XIV LCOTCL §1.201

Subchapter PAP.1.3
Governance

PAP.1.3.010 General ..... PAP.1.3-**Error! Bookmark not defined.**
PAP.1.3.020 Sovereignty ..... PAP.1.3-**Error! Bookmark not defined.**
PAP.1.3.030 Employment Laws ..... PAP.1.3-**Error! Bookmark not defined.**

PAP.1.3.010 General

The Tribal Governing Board is the governing body of the Tribe. Pursuant to the Amended Constitution and Bylaws of the Tribe, ultimate legal and fiscal responsibility of the Tribe is with the Tribal Governing Board, as the elected representatives of the members of the Tribe. The Tribal Governing Board possesses the inherent sovereign authority to delegate oversight and management responsibilities to program directors for the planning and daily operations of Tribal programs and entities. The Tribal Court interprets and enforces, in accordance with and subject to applicable law, as well as these policies and procedures established by the Tribal Governing Board.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.3.010 was formerly codified as XIV LCOTCL §1.301

PAP.1.3.020 Sovereignty

The Tribe is a sovereign nation, with inherent reserved rights recognized through federal treaties; as such the tribe exists within the geographical boundaries of the United States. Immunity from private lawsuits is one aspect of inherent tribal sovereignty. Immunity from suit means that no private lawsuit can be maintained against the Tribe, unless the Tribe consents to the action. Nothing in this manual, including without limitation the provisions of Subchapter PAP.1.12, constitutes a waiver of the Tribe's inherent sovereign immunity.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.3.020 was formerly codified as XIV LCOTCL §1.302

PAP.1.3.030 Employment Laws

It is the general policy of the Tribe to extend to its employees, where possible, the rights and benefits provided by employers regulated by the laws of the United States. However, the Tribe looks to federal employment laws as guidelines only, and nothing in this personnel

policy and procedural manual shall be construed as the Tribe's consent to application of such laws. Another aspect of the Tribe's inherent sovereignty is that Wisconsin Statutes are not applicable on Tribal operations without the express written permission of the Tribal Governing Board. The Tribe reserves the right to create and modify its employment laws and policies without regard to such laws or interpretations thereof.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.3.030 was formerly codified as XIV LCOTCL §1.303

Subchapter PAP.1.4
Hiring Process

PAP.1.4.010 Equal Employment Opportunity ..... PAP.1.4-**Error! Bookmark not defined.**
PAP.1.4.020 Indian Preference..... PAP.1.4-**Error! Bookmark not defined.**
PAP.1.4.030 Hiring Preferences..... PAP.1.4-**Error! Bookmark not defined.**
PAP.1.4.040 Employment of Relatives..... PAP.1.4-**Error! Bookmark not defined.**
PAP.1.4.050 Employment of Minors..... PAP.1.4-**Error! Bookmark not defined.**
PAP.1.4.060 Disclosure and Background Check ..... PAP.1.4-**Error! Bookmark not defined.**
PAP.1.4.070 Funding and Approval ..... PAP.1.4-**Error! Bookmark not defined.**
PAP.1.4.080 Posting..... PAP.1.4-**Error! Bookmark not defined.**
PAP.1.4.090 Job Application..... PAP.1.4-**Error! Bookmark not defined.**
PAP.1.4.100 Screening and Selection Process..... PAP.1.4-**Error! Bookmark not defined.**
PAP.1.4.110 Tribal Governing Board Notification ..... PAP.1.4-**Error! Bookmark not defined.**
PAP.1.4.120 Orientation ..... PAP.1.4-**Error! Bookmark not defined.**
PAP.1.4.130 Position Description ..... PAP.1.4-**Error! Bookmark not defined.**
PAP.1.4.140 Probationary Period ..... PAP.1.4-**Error! Bookmark not defined.**
PAP.1.4.150 Classifications ..... PAP.1.4-**Error! Bookmark not defined.**
PAP.1.4.160 Employment At-Will..... PAP.1.4-**Error! Bookmark not defined.**

PAP.1.4.010 Equal Employment Opportunity

The Tribe reaffirms its commitment to equal employment opportunity and advancement toward all applicants and employees regardless of race, color, creed, national origin, gender, sexual orientation, marital status, veteran status, religion, status with regard to public assistance, membership or activity in a local commission, disability, age or any other status protected by law.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.4.010 was formerly codified as XIV LCOTCL §1.401

PAP.1.4.020 Indian Preference

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000 *et. seq.* prohibits various forms of discrimination, including racial, color, gender-based, religion or national origin within the employment context. However, similar to the United States government, Indian tribes are expressly exempted from the definition of a covered "employer." Consistent with this

exemption, the Tribe grants Indian preference in employment, and will apply preference in the following order when there are two or more candidates that meet the job qualifications:

(a) Members of the Lac Courte Oreilles Tribe,

(b) Members of other Federally Recognized Tribes with a dependent or dependents who are members of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians,

(c) Members of other Federally Recognized Tribes,

(d) Non-members with a dependent or dependents who are members of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians,

(e) All Others.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.4.020 was formerly codified as XIV LCOTCL §1.402

PAP.1.4.030 Hiring Preferences

The Tribe will utilize the following preference ranking when considering an applicant for employment. It is the responsibility of the applicant to provide the necessary documents listed below for the purpose of obtaining preferences:

(a) Indian preference as described in Section PAP.1.4.020 of this manual (Applicant must provide a signed official document from a federally recognized Tribe acknowledging enrollment);

(b) Veteran preference (Applicant must provide a Veterans Administration form DD214);

(c) Former employees of the Tribe whom left in "good standing" and whose separation was not as a result of disciplinary action or an agreement in lieu of disciplinary action which would have otherwise resulted in termination.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.4.030 was formerly codified as XIV LCOTCL §1.403

PAP.1.4.040 Employment of Relatives

The Tribe encourages relatives of Lac Courte Oreilles Tribal members to seek employment with the Tribe. However, the Tribe also seeks to avoid potential problems arising from family members directly supervising one another. A waiver of this provision

may be granted by the Executive Director when the services of the employee cannot be obtained from any other available person with the same or equivalent qualifications.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.4.040 was formerly codified as XIV LCOTCL §1.404

PAP.1.4.050 Employment of Minors

The Tribe will utilize, solely as a guideline, federal laws pertaining to the employment of minors.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.4.050 was formerly codified as XIV LCOTCL §1.405

PAP.1.4.060 Disclosure and Background Check

(a) All applicants who are being considered for employment with the Tribe must provide the information as described in Section PAP.1.4.090 of this manual. Incomplete applications and application which fail to provide consent for background checks will not be considered. For all applicants considering employment with the Tribe, the Tribe reserves the right to:

(1) conduct background checks on all Governmental employees.

(b) While employed with the Tribe, every employee must notify his or her department head or director in writing of any pending criminal charge or conviction, which may result in disciplinary action pursuant to Subchapter PAP.1.12 of this manual. The Tribe reserves the right to:

(1) issue disciplinary action depending upon the severity of the charge or conviction.

(2) conduct a criminal background check or personnel background check of current Governmental employees with reasonable suspicion of policy violations as detailed in this manual.

(c) Failure to pass a background check to the satisfaction of the Tribe or to disclose a criminal charge or conviction may result in revocation of a conditional offer of hire or disciplinary action, up to and including termination.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.4.060 was formerly codified as XIV LCOTCL §1.406

PAP.1.4.070Funding and Approval

Prior to posting or filing a position, the department head or director must ensure there are sufficient funds to pay for salary, fringe benefits and all other costs of the position. If the job is for a shorter period and only limited funds are available or if the position is contingent upon receiving funding, this constraint will be explicitly specified at the time of advertisement. The Human Resource Director or designee shall ensure that all positions submitted for posting have all required approvals.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.4.070 was formerly codified as XIV LCOTCL §1.407

PAP.1.4.080Posting

Only the Human Resources Director, or designee, is authorized to post a position, provided an existing position shall only be posted with the prior approval of the Executive Director and a new position shall only be posted with the prior approval of the Tribal Governing Board. All positions shall be posted for at least ten (10) working days, provided temporary positions may be exempt from this section that are of a 14 (fourteen) day duration or less. The Human Resource Director, or designee, will advertise all job postings locally at various locations and other places as appropriate including electronic posting.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.4.080 was formerly codified as XIV LCOTCL §1.408

PAP.1.4.090Job Application

(a) Application Form. Applicants for employment are required to submit an application form, which will include without limitation:

(1) Signature for permission to perform a background and reference check.

(2) Driving record and insurance information (if applicable).

(3) Pre-employment drug testing consent and authorization form.

(4) Letter of interest

(5) Resume

(6) Proof of any stated qualifications

(7) Three (3) letters of recommendation

(8) Documentation of hiring preferences pursuant to Section PAP.1.4.030 of this manual.

(b) Background Investigations. The Human Resource Director, or designee, shall ensure that background investigations are performed prior to applicant screening pursuant to Section PAP.1.4.060 of this manual.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.4.090 was formerly codified as XIV LCOTCL §1.409

PAP.1.4.100 Screening and Selection Process

As an employer, the Tribe seeks to employ individuals who possess the qualifications, skills, abilities and background to meet the employment needs of the Tribe. It is also the intent of the Tribe to treat all applicants with respect and fairness along with ensuring the provisions of Section PAP.1.4.010 of this manual, are adhered to. Pursuant to the Privacy Act of 1974, 5 U.S.C. § 552a, all applications shall be treated as privileged information and shall be made available only to those directly involved in the hiring process.

(a) Applicant Screening.

(1) Upon receipt, all applications will be date stamped and kept in the hiring file until the deadline date and time has expired. After the deadline, all applications received, within the required time lines, will be reviewed by the Human Resources Director for completeness and minimum qualifications. In addition, the Human Resources Director will conduct a background and reference check to determine any issues that might prohibit an individual from being employed by the Tribe.

(2) Applicants that are deemed to meet these minimum qualifications will be notified in writing, emailed (if applicable) and/or telephonically of an offer to be interviewed. Any applications deemed to not be complete, not meet the minimum qualifications or have a background check that contains information that is detrimental to the Tribe will be notified in writing that they were not selected to be interviewed.

(3) The decision to not offer an interview will not be subject to any grievance, complaint or appeal provisions of the Tribe.

(4) In the event the Human Resources Director determines that there is no qualified or insufficient applicants the position may be reposted.

(5) Reference and background checks made by the Human Resources Director should be properly documented and retained for a period no longer than the probationary period of the position being considered.

(b) Applicant Interview.

(1) All eligible applicants will be interviewed by a committee which shall be facilitated by the Human Resources Director and composed of the following:

(A) Human Resource Director,

(B) Executive Director,

(C) Department Head or Director,

(D) Immediate Supervisor for the position being interviewed,

(E) Other as the department head or director deems appropriate.

(c) Interviewing Principles.

(1) The committee will interview each eligible applicant and shall make the selection based upon all relevant factors, including but not limited to:

(A) Preferences defined in Section PAP.1.4.030 of this manual,

(B) Education/Training,

(C) Personal and professional references,

(D) Experience relevant to position,

(E) Interview.

(2) The committee may utilize a ranking system that factors all of the areas established in Section PAP.1.4.100(c)(1) above, that will ensure a fair and equitable process for determining the best qualified candidate, and if applicable an alternate, to fill the position being interviewed. Such system may utilize points or other forms of ranking that is deemed relevant for the position in consideration.

(3) The Human Resource Director or designee shall notify the successful and unsuccessful applicants in writing within five (5) working days. If the selected individual does not accept the position or an employee does not successfully complete the probationary period, the Human Resource Director shall offer the position to the alternate selection, if applicable. If there was no alternate selected then the Human Resource Director or designee may repost the position.

(4) All relevant documents related to a hiring will be retained by the Human Resources Director for a period not longer than the probationary period for the position

being considered. Pursuant to the Privacy Act of 1974, 5 U.S.C. § 552a, all such information shall be treated as privileged information and shall be made available only to those directly involved in the hiring process.

(5) If an employee does not complete the probationary period, the Human Resource Director shall offer the position to the alternate selection. If there was no alternate selected then the Human Resource Director or designee may repost the position.

(6) The decision to not hire an interviewee will not be subject to any grievance, complaint or appeal provisions of the Tribe.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.4.100 was formerly codified as XIV LCOTCL §1.410

PAP.1.4.110 Tribal Governing Board Notification

The Executive Director will notify the TGB who was hired for what position(s) and/or if a position(s) was reposted.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.4.110 was formerly codified as XIV LCOTCL §1.411

PAP.1.4.120 Orientation

(a) All new employees will be provided an orientation within the first day of employment, and will be provided this personnel policy and procedural manual, all required forms for employment, benefits, a copy of Chapter CMP.6 – Worker's Compensation Code, and day-to-day procedures. The Human Resource Director, or designee, will also answer any questions which may arise throughout the course of employment. Supervisors will provide further direction relevant to the operation of their department.

(b) Orientation for department head or directors will include additional training with the Contracts Office, the Accounting Department and other required areas to familiarize the employee with grants management responsibilities, accounting codes and procedures, and other applicable functions.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.4.120 was formerly codified as XIV LCOTCL §1.412

PAP.1.4.130Position Description

The Human Resource Director, or designee, will provide every employee with a copy of his or her current and or amended position description. The position description is intended to provide a general overview of the duties of the position. From time to time, however, employees will perform duties and handle duties and responsibilities that are not a part of the original position description. Position descriptions contain a general description of a position and do not create any employment rights or entitlements.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.4.130 was formerly codified as XIV LCOTCL §1.413

PAP.1.4.140Probationary Period

(a) All newly-hired employee's will be placed on a ninety (90) calendar day probationary period. with the exception of positions identified by the department head or director as needing an extended period in order to adequately assess the employees capabilities to perform the job duties. During an employee's probationary period they will get to know fellow employees, Management and the duties involved for the position. The Tribe will work closely with employees during the probationary period to assist in understanding the needs and processes of the job. The probationary period may be waived by the Executive Director for short term or seasonal employment.

(b) The probationary period is a trial time for both the employee and the Tribe. During this probationary period, the Tribe will evaluate the employee's suitability for employment. At any time during the probationary period, an employee may resign without any detriment to the employee's record. In addition, if during this period an employee's work habits, attitude, attendance, or performance do not measure up to the Tribe's standards, the Tribe may extend the probationary period for up to ninety (90) calendar days or terminate the employee's employment without the ability of the employee to appeal the decision.

(c) Probationary employees are eligible for holiday leave and funeral leave. Probationary employees accrue Personal Time Off. Such employees cannot use Personal Time Off until the completion of their probationary period, unless authorized by their immediate supervisor with concurrence from the Executive Director and only for medical reasons or extreme circumstances. If an employee does not complete the probationary period for any reason, the employee forfeits all accrued but unused benefits.

(d) At the end of the probationary period, the Tribe will prepare a written performance evaluation and discuss overall job performance with the employee. During the course of the discussion, the employee is encouraged to present his or her comments and ideas as well.

(e) The probationary period ends only when a written evaluation of the employee is filed by the supervisor indicating the employee has passed probation, with no exceptions.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.4.140 was formerly codified as XIV LCOTCL §1.414

PAP.1.4.150Classifications

Upon hire, the Tribe will inform every employee of his or her employment classification, whether exempt or non-exempt, full-time, part-time, seasonal or temporary. This is important because employment classification has an effect on employee rights and benefits under this personnel policy and procedural manual (See Subchapter PAP.1.2 – Definitions for the various classifications).

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.4.150 was formerly codified as XIV LCOTCL §1.415

PAP.1.4.160Employment At-Will

Employees, with the exception of certain contracted employees, are hired for an indefinite and unspecified duration and are not guaranteed employment for any specified length of time. As such, either the Tribe or an employee can terminate the employment relationship at-will, at any time. In addition, the Tribe can modify, amend, supplement or delete terms and conditions of employment relationship at-will, at any time, with or without cause or advance notice. No individual or governmental body, other than the Tribal Governing Board, or its authorized designee, has the power or legal authority to alter the at-will nature of the employment relationship.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.4.160 was formerly codified as XIV LCOTCL §1.416

Subchapter PAP.1.5
Employment

PAP.1.5.010 Work Site Accommodations ..... PAP.1.5-**Error! Bookmark not defined.**
PAP.1.5.020 Personnel Files ..... PAP.1.5-**Error! Bookmark not defined.**
PAP.1.5.030 Medical Documentation ..... PAP.1.5-**Error! Bookmark not defined.**
PAP.1.5.040 Hours of Work ..... PAP.1.5-**Error! Bookmark not defined.**
PAP.1.5.050 Pay Period ..... PAP.1.5-**Error! Bookmark not defined.**
PAP.1.5.060 Reclassification ..... PAP.1.5-**Error! Bookmark not defined.**
PAP.1.5.070 Evaluations ..... PAP.1.5-**Error! Bookmark not defined.**
PAP.1.5.080 Resignations ..... PAP.1.5-**Error! Bookmark not defined.**
PAP.1.5.090 Transfers ..... PAP.1.5-**Error! Bookmark not defined.**
PAP.1.5.100 Promotions ..... PAP.1.5-**Error! Bookmark not defined.**
PAP.1.5.110 Attendance ..... PAP.1.5-**Error! Bookmark not defined.**
PAP.1.5.120 Lunch ..... PAP.1.5-**Error! Bookmark not defined.**
PAP.1.5.130 Break Periods ..... PAP.1.5-**Error! Bookmark not defined.**
PAP.1.5.140 Inclement Weather ..... PAP.1.5-**Error! Bookmark not defined.**

PAP.1.5.010 Work Site Accommodations

The Tribe is exempted from the federal and state offered definition of an employer as provided by the American's with Disabilities Act, 42 USC § 12111 (5) (B). However, as a matter of its own internal policies the Tribe discourages discrimination against persons with disabilities and when possible seeks to accommodate persons with disabilities on the job. When possible, the Tribe will make reasonable efforts to provide reasonable accommodations to all employees and applicants, including work site accessibility. Employees must notify their department head or director or the Human Resource Director, or designee, in writing of any requested reasonable accommodation within a reasonable period of time after the employee learns of the need for such accommodation.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.5.010 was formerly codified as XIV LCOTCL §1.501

PAP.1.5.020 Personnel Files

(a) The Tribe will create and maintain a personnel file for each employee beginning at the time of employment. These files are the sole property of the Tribe and are deemed confidential. All employee files, past and present, will be secured in a locked location at all

times. Access will be limited to the Human Resource Director, or designee, a department head or director, the executive director, an employee or his or her representative if designated in writing which states the purpose of the disclosure. An employee may inspect his or her personnel file in the Human Resources department by contacting the Human Resource Director, or designee, to make an appointment. Files will be reviewed in a secure location under the supervision of the Human Resource Director, or designee. A personnel file may contain the following types of information:

(1) Original employment application,

(2) Letters of reference,

(3) Notice of hire,

(4) New hire forms,

(5) Current position description,

(6) Records of all disciplinary actions,

(7) Performance evaluations,

(8) Starting pay scale and subsequent increases,

(9) Change of employment status,

(10) Applicable skills test results,

(11) Training and career development records,

(12) Copy of certification or licenses as required,

(13) Copy of separation notice or letter of resignation,

(14) Exit interview and inventory checklist,

(15) Other documents relied upon by the Tribe to make decisions concerning the employee's employment.

(b) The Accounting Department will maintain time, attendance, and payroll and leave records for each employee in a separate file.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.5.020 was formerly codified as XIV LCOTCL §1.502

PAP.1.5.030 Medical Documentation

The Tribe will maintain employee documentation as it relates to Doctor's excuse for longer than the allowable three day absence, return to work statements or any limitations on type of work to be performed by the employee. This information shall be maintained alongside an employee's personnel file, but shall be maintained in a separate file. Access will be limited to the Human Resource Director, or designee. All personal medical related information is subject to the provisions of the Health Insurance Portability and Accountability Act of 1996, 110 Stat. 1936.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.5.030 was formerly codified as XIV LCOTCL §1.503

PAP.1.5.040 Hours of Work

(a) The standard work hours are from 8:00 a.m. to 4:30 p.m. Employee hours may be changed at the discretion of the department head or director, and each department may establish its own work schedule, subject to the approval of the Executive Director. A written approval shall be maintained in an employee's personnel file.

(b) Each Employee must accurately record, sign and in addition have their respective Supervisor attest to the hours being paid by signing an approved timesheet or timecard. Each timesheet or timecard shall accurately reflect the actual hours being paid during the pay period and distributed by the correct payroll and account/department coding for each employee. The timesheet or timecard is a legal record of hours worked and may not be altered without consent of both the employee and his or her department head or director. Each employee and their Supervisor are responsible for the accuracy of their timesheet or timecard. The department head or director must initial all timecards recorded by the use of a time clock. Timecards are the property of the Tribe and must remain in the timecard rack. No employee shall knowingly punch the timecard of another employee or allow another employee to punch his or her timecard.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.5.040 was formerly codified as XIV LCOTCL §1.504

PAP.1.5.050Pay Period

The Tribe's pay period is from Monday through Sunday and all hours worked during this period are to be recorded as defined in Section PAP.1.5.040 of this manual.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.5.050 was formerly codified as XIV LCOTCL §1.505

PAP.1.5.060Reclassification

The Tribe may reclassify an employee (full-time, part-time, exempt, nonexempt, etc.) if the duties or need for the employee has changed. The reclassification of an employee may result in a change in the terms and conditions of employment including without limitation eligibility for benefits, and leave. Any supervisor who seeks to reclassify an employee shall obtain proper authorization in collaboration with the Executive Director.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.5.060 was formerly codified as XIV LCOTCL §1.506

PAP.1.5.070Evaluations

(a) Each employee will receive an annual written performance evaluation from their supervisor. The evaluation will highlight the employee's strengths and weaknesses, and ways to improve or enhance job performance. The employee and the department head or director must sign the evaluation. The employee's signature does not necessarily indicate concurrence, but does record acknowledgement and delivery of the document. Employees should not expect that evaluations will automatically result in a change in pay. However, the Tribe will rely on evaluations, in addition to all other relevant information, to make decisions about an employee's terms and conditions of employment.

(b) Failure of the department head or director to complete an evaluation for their employees may result in disciplinary action.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.5.070 was formerly codified as XIV LCOTCL §1.507

PAP.1.5.080Resignations

Each employee must provide his or her supervisor with at least two (2) weeks prior written notice of resignation. Failure to provide notice will result in a negative

recommendation for future employment and may result in forfeiture of accrued but unused leave.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.5.080 was formerly codified as XIV LCOTCL §1.508

PAP.1.5.090Transfers

An employee may be granted an internal transfer upon agreement of the supervisors of both of the applicable departments or programs involved, subject to the prior approval of the Executive Director. The transferred employee must accept all provisions of the other position (i.e. benefits, rate of pay, duties, hours of work, etc.). The provisions of Subchapter PAP.1.4 of this manual shall not apply to transfers with the exception of Section PAP.1.4.040, Section PAP.1.4.070, Section PAP.1.4.130, Section PAP.1.4.150, and Section PAP.1.4.160. In addition, the provisions of Section PAP.1.4.140, may not apply upon approval of the new supervisor, with concurrence from the Executive Director.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.5.090 was formerly codified as XIV LCOTCL §1.509

PAP.1.5.100Promotions

A department head or director may recommend an employee for a promotion based upon job performance and the needs of the Tribe, subject to the prior approval of the Executive Director. The promoted employee must accept all provisions of the new position (i.e. benefits, rate of pay, duties, hours of work, etc.). The provisions of Subchapter PAP.1.4 of this manual shall not apply to transfers with the exception of Section PAP.1.4.040, Section PAP.1.4.070, Section PAP.1.4.130, Section PAP.1.4.150, and Section PAP.1.4.160. In addition, the provisions of Section PAP.1.4.140, may not apply upon approval of the new department head or director, with concurrence from the Executive Director. The Executive Director shall provide the Tribal Governing Board with written notice of all promotions.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.5.100 was formerly codified as XIV LCOTCL §1.510

PAP.1.5.110Attendance

Punctuality and regular attendance are essential to the effective operation of the Tribe. Employees must report to work on time. Any employee who will be absent from work must notify his or her immediate supervisor no later than their respective scheduled start time.

Any employee who wants to leave early for any reason must have prior approval from his or her immediate supervisor, sign out and sign in upon return. Failure to report to work, without notice, for three consecutive working days will be considered job abandonment and the employee will be considered to have resigned from the Tribe. Job abandonment will not be subject to any appeal provisions and shall be subject to the provisions of Section PAP.1.5.080 of this manual.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.5.110 was formerly codified as XIV LCOTCL §1.511

PAP.1.5.120Lunch

Employees are allowed one (1) hour leave for lunch. Employees must take their lunch at the usual time, between 12:00 – 1:00, unless mutually changed by the employee and supervisor.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.5.120 was formerly codified as XIV LCOTCL §1.512

PAP.1.5.130Break Periods

Employees are allowed one fifteen (15) minute break between the hours of 8:00 a.m. and noon and another fifteen (15) minute break between 1:00 p.m. and 4:30 p.m. Employees should be mindful and courteous of workload requirements and the need to make certain that break periods should not be abused.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.5.130 was formerly codified as XIV LCOTCL §1.513

PAP.1.5.140Inclement Weather

(a) In the event of inclement weather conditions, the Tribal Governing Board and Administrative staff will gather information on existing and anticipated weather and road conditions from the Transportation Directors and local TV broadcasts.

(b) Administrative Staff will contact Tribal Governing Board members to determine if Tribal Government offices will open as usual, will be closed, or will have a later opening time.

(c) By 6:30 am, Administrative Staff will contact local radio stations (WOJB, WRLS, WHSM) if the Tribal Government offices will be closed or opening later than normal. If there are no announcements on the local radio stations, then the Tribal Government offices will be open as usual.

(d) When Tribal Government offices are open, employees that would prefer to not drive during inclement weather conditions must contact their supervisor to obtain the approval to utilize accrued PTO. However, employees are to make every reasonable effort to come to work, especially employees with meetings or appointments scheduled.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.5.140 was formerly codified as XIV LCOTCL §1.514

Subchapter PAP.1.6
Wages

PAP.1.6.010 Wage Classifications..... PAP.1.6-**Error! Bookmark not defined.**
PAP.1.6.020 Wage Increases..... PAP.1.6-**Error! Bookmark not defined.**
PAP.1.6.030 On Call Staff ..... PAP.1.6-**Error! Bookmark not defined.**
PAP.1.6.040 Compensatory Time..... PAP.1.6-**Error! Bookmark not defined.**
PAP.1.6.050 Temporary Increases..... PAP.1.6-**Error! Bookmark not defined.**
PAP.1.6.060 Employer Payroll Deductions..... PAP.1.6-**Error! Bookmark not defined.**
PAP.1.6.070 Bank Deposits or Payroll Deductions ..... PAP.1.6-**Error! Bookmark not defined.**
PAP.1.6.080 Workers' Compensation..... PAP.1.6-**Error! Bookmark not defined.**

PAP.1.6.010 Wage Classifications

The Tribe establishes wage and salary classifications for each position based on many factors, including, but not limited to position category, education, experience, knowledge, ability and level of responsibility.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.6.010 was formerly codified as XIV LCOTCL §1.601

PAP.1.6.020 Wage Increases

The Tribe will consider cost of living, merit and wage increases on an annual basis. All such increases are contingent upon many factors, including funding availability and performance evaluation. Any increase is at the discretion of the Tribal Governing Board.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.6.020 was formerly codified as XIV LCOTCL §1.602

PAP.1.6.030 On Call Staff

Personnel that are designated to be a weekly "on-call" worker will be provided an additional stipend above their normal pay to compensate them for their services. Such compensation will be in lieu of compensatory time accrual.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.6.030 was formerly codified as XIV LCOTCL §1.603

PAP.1.6.040 Compensatory Time

(a) The Human Resource Director, or designee, will classify and consistently review the classification of employees as either Exempt or Non-exempt. Exempt employees are compensated on a salary basis and will not accrue compensatory time for hours worked in excess of forty (40) hours in a workweek. Non-exempt employees will accrue, in lieu of overtime compensation, compensatory time for authorized hours worked in excess of forty (40) hours in a workweek.

(b) A Non-exempt employee shall not work over forty (40) hours in a workweek without the prior written authorization of the department head or director. A department head or director may adjust any employee's work schedule to avoid accumulation of compensatory time.

(c) The Tribe will permit a Non-exempt employee to use accrued compensatory time off with their supervisor's approval as long as the use of the compensatory time will not unduly disrupt the operations of the Tribe.

(d) A Non-exempt employee must use compensatory time during the fiscal year in which it was accrued, and all such unused time shall be forfeited at the end of the fiscal year, provided a maximum of forty (40) hours may be carried over into any new fiscal year. The Tribe may enforce this provision any time it becomes aware an employee carried over too much compensatory time from one fiscal year to the next.

(e) A Non-exempt employee who has accrued compensatory time off shall be paid for up to forty (40) hours of unused compensatory time at employee's ending rate of pay upon the resignation of employment. Employees that have been terminated pursuant to Subchapter PAP.1.12 of this manual shall forfeit all remaining uncompensated accrued

compensatory time. At no other time may an employee cash out accrued compensatory time.

(Res. No. 2022-48; Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.6.040 was formerly codified as XIV LCOTCL §1.604

PAP.1.6.050 Temporary Increases

A department head or director who obtains prior authorization of the Executive Director may temporarily increase the pay rate of an employee during the time that the employee is temporarily performing the duties of a position with a higher salary range. Any increase will cease upon removal of the conditions that warranted the increase.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.6.050 was formerly codified as XIV LCOTCL §1.605

PAP.1.6.060 Employer Payroll Deductions

Various payroll deductions are made each payday to comply with applicable laws, including but not limited to federal and state income tax withholding and social security. At the end of each calendar year, the Tribe will provide each employee with a Wage and Tax Statement (W-2) form. This statement summarizes employee income and deductions for the year.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.6.060 was formerly codified as XIV LCOTCL §1.606

PAP.1.6.070 Bank Deposits or Payroll Deductions

The Tribe may automatically deposit Employees' paychecks at financial institutions and may provide for payroll deductions, subject to applicable, charges, procedures and limitations. In addition, the Tribe may make deductions from Employees' paychecks in accordance with orders issued by a court of competent jurisdiction. Employees should contact the Accounting Department with any questions.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.6.070 was formerly codified as XIV LCOTCL §1.607

PAP.1.6.080Workers' Compensation

The Tribe carries insurance to cover the cost of work-incurred injury or illness. Benefits help pay for employees' medical treatment and a portion of any income lost while recovering. An employee must report any work-related injury or illness to his or her department head or director by completing the "First Report of Injury or Illness Form," which must be completed within the timelines as stated in the Chapter CMP.6 – Worker's Compensation Code**.** Refer to the Chapter CMP.6 – Worker's Compensation Code for additional guidelines.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.6.080 was formerly codified as XIV LCOTCL §1.608

Subchapter PAP.1.7
Available Benefits

PAP.1.7.010 Available Benefits..... PAP.1.7-**Error! Bookmark not defined.**
PAP.1.7.020 Eligibility ..... PAP.1.7-**Error! Bookmark not defined.**
PAP.1.7.030 Group Health Insurance / Cobra..... PAP.1.7-**Error! Bookmark not defined.**
PAP.1.7.040 Holiday Leave..... PAP.1.7-**Error! Bookmark not defined.**
PAP.1.7.050 Personal Time off..... PAP.1.7-**Error! Bookmark not defined.**
PAP.1.7.060 Sharing of Personal Time Off..... PAP.1.7-**Error! Bookmark not defined.**
PAP.1.7.070 Additional Paid Leave..... PAP.1.7-**Error! Bookmark not defined.**
PAP.1.7.080 Unpaid Leave ..... PAP.1.7-**Error! Bookmark not defined.**
PAP.1.7.090 Family and Medical Leave ..... PAP.1.7-**Error! Bookmark not defined.**
PAP.1.7.100 Life Insurance, Disability Insurance and Retirement Plan.....PAP.1.7-**Error! Bookmark not defined.**
PAP.1.7.110 Employee Assistance Program..... PAP.1.7-**Error! Bookmark not defined.**
PAP.1.7.120 Christmas Bonus ..... PAP.1.7-**Error! Bookmark not defined.**
PAP.1.7.130 Employee Recognition – Years of Service PAP.1.7-**Error! Bookmark not defined.**

PAP.1.7.010 Available Benefits

(a) The following is a brief list of benefits available to eligible employees;

(1) Group Health Insurance/COBRA

(2) Holiday

(3) Personal Time Off (PTO)

(4) Additional Paid Leave

(5) Unpaid Leave

(6) Family and Medical Leave

(7) Life Insurance, Disability Insurance and Retirement Plan

(8) Employee Assistance Program

(9) Christmas Bonus

(10) Employee Recognition – Years of Service

(b) The Tribe reserves the right, at its sole and absolute discretion, to rescind or amend benefits, to change insurance carriers, or to require employees to contribute towards premium costs. The Tribe may make these changes at any time, except as provided by law. The Human Resource Director or Benefits Administrator, or their designee, will notify employees of changes. While the Tribe intends to continue offering sponsored benefits, there is no guarantee that such benefits will always be available.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.7.010 was formerly codified as XIV LCOTCL §1.701

PAP.1.7.020 Eligibility

The following employee classifications and eligibility for Fringe Benefits are as follows;

(a) Full Time Employee. Full time Employees, as defined in Section PAP.1.2.010(h) of this manual, are eligible for all Fringe Benefits after satisfactorily completing their probationary period, unless otherwise provided for in an Employment Contract with the Tribe or mandated by law.

(b) Part Time Employee. Part Time Employees, as defined in Section PAP.1.2.010(p) of this manual, are not eligible for any fringe benefits offered by the Tribe, unless otherwise mandated by law.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.7.020 was formerly codified as XIV LCOTCL §1.702

PAP.1.7.030 Group Health Insurance / Cobra

(a) Group Health Insurance is through the Federal Employee Health Benefits; FEHB. An eligible employee may select an insurance provider that best meets their individual needs through FEHB. FEHB is offered for both single, single plus one, and family coverage. Employees considered to be full time status will be required to pay 21%, or as amended from time to time by official action of the Tribal Governing Board, of the premium for the plan selected. Employee's portion of payment will be made through payroll deductions done weekly.

(b) Employees who are covered by the group health plan may have the right to choose continuation of health coverage if coverage is lost due to a reduction in hours of employment or termination of employment. Continuation coverage is provided pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985, and later amendments,

otherwise known as "COBRA". Employees should contact the Human Resource Director for additional information regarding qualifying events or other requirements of COBRA.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.7.030 was formerly codified as XIV LCOTCL §1.703

PAP.1.7.040 Holiday Leave

The Tribe grants eligible employees paid holiday leave. The Tribal Governing Board will approve the holiday schedule at least one (1) month prior to the beginning of a new calendar year. Eligible employees will receive the following paid holidays:

(a) New Year's Eve Day and New Year's Day (2 Days)

(b) Martin Luther King Jr. Day

(c) Treaty Day

(d) President's Day

(e) Good Friday

(f) Easter Monday

(g) American Indian Day

(h) Memorial Day

(i) Independence Day

(j) Honor the Earth Powwow (Friday prior to or the Monday after)

(k) Labor Day

(l) Indigenous Day

(m) Veterans Day

(n) Thanksgiving (2 Days)

(o) Christmas Eve Day and Christmas Day (2 Days)

(p) Other official holidays as established by the Tribal Governing Board

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.7.040 was formerly codified as XIV LCOTCL §1.704

PAP.1.7.050Personal Time off

(a) Employees will accrue paid Personal Time Off (PTO) at the following rates:

(1) If employed up to three (0 to 3) years, 16 hours per month for a total of 192 hours per year.

(2) If employed three years to ten years (3 to 10), 20 hours per month for a total of 240 hours per year.

(3) If employed more than ten (10+) years, 24 hours per month for a total of 288 hours per year.

(4) Employees who work 32-39 hours per week shall receive a prorated annual leave at 75% of the above.

(b) In no circumstance will employees accrue any amounts over the maximum designated accumulations stated above. If an employee is on any leave without pay the employee will not accrue any PTO until the employee returns to a full time status. An employee who quits his or her employment without providing at least a two (2) week notice will forfeit any accrued PTO unless otherwise approved by his or her department head or director in collaboration with the Executive Director. An employee who provides the requisite notice will be paid up to one hundred twenty (120) hours of accrued PTO.

(c) For purposes of calculating length of service it will be the responsibility of the employee to provide the Human Resources Director with a statement from other Lac Courte Oreilles Tribally controlled entities stating the start and end dates. The length of service will only be calculated utilizing the certifiable time for an employee that left a position in good standing (i.e. not termination).

(d) Prior to the utilization of accrued PTO, Employees must schedule and have the use of accrued PTO time approved so it will not interfere with job responsibilities, except as otherwise provided by law. If an employee is on PTO and there is early release or closure of the employee's worksite, the employee shall be credited any such leave during the period of early release or closure. If requesting more than three (3) days of PTO time employees shall obtain prior authorization at least five (5) working days in advance of the leave date. The department head or director may or may not approve such request depending on a variety of factors, including project deadlines and schedules. In extreme emergency situations the

Executive Director, in consultation with the employees Supervisor, may waive the five (5) day notification provision, if requested by the employee in writing citing the reason.

(e) To utilize PTO for unscheduled absences employees must notify the Tribe and their immediate supervisor prior to their designated start time. If an Employee is absent from work for 3 days or longer, which is related to an illness or other medical related issues, a Physicians excuse must be provided that substantiates their absence.

(f) Probationary employees will not be able to use PTO during their 90 day probationary period unless it is for extreme circumstances with approval of their department head or director and concurrence of the Executive Director.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.7.050 was formerly codified as XIV LCOTCL §1.705

PAP.1.7.060 Sharing of Personal Time Off

Employees are permitted to share PTO within the same Employer Tax ID. Under no circumstances are probationary employees entitled to participate in the sharing of Personal Time Off. Employees may cash-out PTO with Tribal Governing Board approval.

(Res. No. 2023-46 Section 2; Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.7.060 was formerly codified as XIV LCOTCL §1.706

PAP.1.7.070 Additional Paid Leave

The Tribe grants employees additional paid leave in certain situations, including the following:

(a) Civil Leave. The Tribe grants eligible employees paid civil leave during the required absence when any employee appears as a witness for the federal, state or Tribal Government, in obedience to a subpoena. An employee must promptly notify his or her department head or director upon receipt of any subpoena. If an employee receives any stipend for such civil leave, he or she must use PTO during any work absence for such service. No employee shall take both compensated time and stipend pay during the required absence for civil leave.

(b) Jury Duty Leave. The Tribe grants eligible employees paid leave during the required absence for jury service. An employee must promptly notify his or her department head or director upon receipt of any notice to appear. If an employee receives any stipend for such jury duty leave, he or she must use PTO during any work absence for such service. No

employee shall take both compensated time and stipend pay during the required absence for jury service.

(c) Funeral Leave.

(1) All full-time employees will be given a five (5) day leave without loss of pay for funeral services for immediate family. Immediate family includes the following:

(A) Husband, Wife, Son, Daughter, Mother, Father, Brother, Sister, Grandparent, Grandchild, Niece, Nephew, Aunt and Uncle (including great-grandparents, in-laws, and step-relationship, etc.), including a partner who has been in a relationship for a period of time or in relationship under Ojibwe tradition and practices.

(2) Up to three (3) day leave for other persons will be given only if the full-time employee is assisting the family during their immediate time of loss, subject to prior approval of employee's supervisor.

(3) All other funeral leave will be limited to no more than one (1) day with pay to attend the funeral services, subject to the notification and approval of employee's immediate supervisor.

(d) Committee or Board Leave. The Tribe grants eligible full-time employees paid leave to serve on committees or boards of the Tribal Governing Board and may approve leave to participate in other outside boards or committees. An employee must receive prior approval from his or her department head or director prior to accepting an appointment or volunteering to sit on any committee or board. An employee may receive a stipend for such committee or board service, he or she shall not need to use PTO during any work absence for such service. Attendance at any meetings related to such appointment must be preapproved by the employees immediate Supervisor and such appointment/meetings shall not interfere with an employees work performance and duties.

(e) Maternity Leave. The Tribe grants eligible full-time female employees up to eight (8) weeks, a maximum of three hundred and twenty (320) hours paid leave, for time to deliver and care for a newborn child. If an employee has medical problems prior to delivery, she may utilize paid maternity leave, subject to the maximum limit, with written verification from her doctor. An employee must request and obtain the prior approval of his or her department head or director to utilize this leave. The paid leave under this section is included in the maximum leave provided for in Section PAP.1.7.090 of this manual.

(f) Paternity Leave. The Tribe grants eligible full-time employees up to two (2) weeks, maximum of eighty (80) hours, paid leave to care for a newborn child. An employee must request and obtain the prior approval of their department head or director to utilize this

leave. The paid leave under this section is included in the maximum leave provided for in Section PAP.1.7.090 of this manual.

(g) Parental Leave. The Tribe grants eligible full-time employees up to two (2) weeks, maximum of eighty (80) hours, paid leave for adoption, customary adoption, guardianship, protective placement, or an emergency safety plan of a pre-school (0-5 years of age) child. Leave may be granted prior to the legal proceedings having been completed. An employee must request the leave as early as possible and obtain approval of his or her department head or director to utilize leave. The paid leave under this section is included in the maximum leave provided for in Section PAP.1.7.090 of this manual.

(h) Military Leave. The Tribe grants eligible full-time employees up to ten (10) days, maximum of eighty (80) hours, paid leave upon presentment of official orders requiring attendance for training or to perform other duties as a member of the United States Armed Forces. An employee serving on military leave with pay will be paid only the difference between compensation fees received for such duties and his or her normal salary. An employee must notify his or her department head or director prior to such leave. The Tribe will look to the provisions of the Uniformed Services Employment and Reemployment Rights Act (USERRA) 38 U.S.C. § 4301 *et. seq.* solely as a guideline in determining reemployment of employees who take extended military leave.

(i) Voting Leave. The Tribe will grant eligible employees two (2) hours paid leave to exercise the right to vote subject to the voting verification requirements established by the Tribal Governing Board. An employee must request and obtain the prior approval of his or her department head or director to utilize this leave.

(j) Birthday Leave. The Tribe will grant eligible employees eight (8) hours of paid leave for the employee's birthday, provided the employee must take such leave within five (5) calendar days, either before or after, the date of the birthday.

(k) In-House Medical Appointments. The Tribe may grant employees paid release time to attend medical appointments at the Lac Courte Oreilles Community Health Center.

(l) Education Leave. The Tribe may grant employees paid release time to attend job-related or degree seeking courses. An employee must consult with his or her department head or director prior to registering to ensure the course is acceptable and must request and obtain the prior written approval of his or her Department head or Director with concurrence from the Executive Director to utilize this benefit. An employee must also have an approved Professional Development Plan on file with the Human Resource office. An employee must promptly provide his or her Department head or Director and the Human Resource Director, or designee, with written proof of course completion. A failure to successfully complete a course may jeopardize an employee's ability to obtain approval of subsequent paid release time hereunder. The Tribe may pay the tuition, books and

associated fees of an employee attending an accredited institution of higher learning. The employee must be attending for the purpose of obtaining a degree or enrolling in courses in a field of study that is related to their position of employment with the Tribe. An employee desiring to have the Tribe pay these expenses must have an approved Professional Development Plan on file which is approved by their immediate Supervisor and agree to the terms and conditions of an Educational Expense Reimbursement Agreement and is subject to program availability of funding pursuant to Section PAP.1.4.070 of this manual.

(m) Conferences and Meetings. The Tribe may grant employees time to attend job-related conferences and professional meetings. An employee must consult with his or her department head or director prior to registering to ensure the conference or professional meeting is acceptable. An employee must request and obtain the prior written approval of his or her department head or director to utilize this benefit.

(Res. No. 2023-119; Res. No. 2023-11 Section 4; Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.7.070 was formerly codified as XIV LCOTCL §1.707

PAP.1.7.080 Unpaid Leave

(a) Disciplinary Leave. The Tribe may take disciplinary action, up to and including termination or suspension without pay, against employees who violate the provisions of this personnel policy and procedural manual.

(b) 30-Day Leave of Absence. The Tribe may grant eligible employees up to thirty (30) days unpaid leave, without loss of employment status. The Tribe may grant such leave only when the resulting leave will not adversely affect the operations of the Tribe. An employee must request and obtain the prior written approval of his or her department head or director with written concurrence from the Executive Director to utilize this leave.

(c) Religious Leave. The Tribe may grant eligible employees up to an additional fifteen (15) days of unpaid religious leave. An employee must request and obtain the prior approval of his or her department head or director to utilize this leave.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.7.080 was formerly codified as XIV LCOTCL §1.708

PAP.1.7.090 Family and Medical Leave

Employees may be eligible for up to twelve (12) weeks of family and medical leave during any twelve (12) month period. The leave may be paid, unpaid, or a combination of

paid and unpaid, depending on the circumstances. This policy sets forth the Tribe's policies and procedures for requesting family and medical leave.

(a) Eligibility for Leave. To be eligible for family and medical leave under this policy all of the following conditions must be met:

(1) An employee must have been employed by the Tribe for at least twelve (12) months or fifty-two (52) weeks.

(2) An employee must have worked at least one thousand two hundred fifty (1250) hours during the twelve (12) months immediately preceding the request for leave.

(b) Reasons for Requesting and Types of Leave. Employees who are eligible for leave under this policy may request up to twelve (12) workweeks of unpaid leave during any twelve (12) month period for the following reasons:

(1) To care for a child following the child's birth or placement for adoption or foster care (this may be taken only within twelve (12) months of the birth or placement).

(2) To care for an immediate family member who has a serious health condition as defined in Section PAP.1.2.010(r) of this manual.

(3) Because the employee has a serious health condition as defined in Section PAP.1.2.010(r) of this manual, which prevents the employee from performing the functions of the position.

(c) If an employee takes PTO for a condition that progresses into a serious health condition and the employee requests unpaid leave as provided under this policy, the Tribe may designate all or some portion of related leave taken as leave under this policy, to the extent that the earlier leave meets the necessary qualifications.

(d) If both parents work for the Tribe, and each wishes to take leave for the birth of a child, adoption or acceptance of a child in foster care, or to care for an immediate family member with a serious health condition, the employees may only take a combined total of twelve (12) weeks of unpaid leave.

(e) Employees can take up to twelve (12) weeks of leave under this policy during any twelve (12) month period. The Tribe will measure the twelve (12) month period as a rolling twelve (12) month period measured backward from the date an employee uses any leave under this policy. Each time an employee takes a leave, the Tribe will compute the amount of leave you have taken under this policy and subtract it from the twelve (12) weeks of available leave, and the balance remaining is the amount an employee is entitled to take at that time. An employee's family or medical leave taken may run concurrently with other

types of leave including workers' compensation and other leaves, such as short-term or long-term disability, etc.

(f) Intermittent or Reduced Work Schedule Leave. Leaves may be taken all at once or on an intermittent or reduced work schedule basis. Intermittent or reduced work schedules may be used only in the following circumstances:

(1) In situations where leave is requested due to the birth, adoption or acceptance of a child in foster care, intermittent or reduced work schedules will be granted at the Tribe's sole discretion and if granted must be taken within one (1) year of the birth or placement of the child.

(2) In situations where leave is requested in order to care for an immediate family member who suffers from a serious health condition or because of an employee's own serious health condition, intermittent or reduced work schedules will be granted only when an employee can prove the leave is medically necessary.

(3) In situations where an intermittent or reduced work schedule is permitted, the Tribe may require an employee to transfer to an alternative position with equivalent pay and benefits in order to accommodate the recurring periods of absence.

(g) Use of Paid and Unpaid Leave. Employees who have accrued PTO must use paid leave first and take the remainder of the twelve (12) weeks as unpaid leave.

(1) Employees who take a leave because of their own serious health condition or the serious health condition of a family member must use all accumulated PTO prior to being eligible for unpaid leave.

(2) Employees who take leave for the birth of a child must use paid PTO for physical recovery following childbirth, except where such leave is compensated as paid maternity leave under this personnel policy and procedural manual or as paid short-term or long-term disability leave. These employees must then use all paid PTO, and then will be eligible for unpaid leave for the remainder of the twelve (12) weeks. Employees who take leave for the adoption or acceptance of a child in foster care must use all paid PTO prior to being eligible for unpaid leave.

(h) Procedure for Requesting Leave. In situations where leave is foreseeable, employees must provide written notice to the department head or director at least thirty (30) days prior to the date on which the leave is scheduled to begin. If the leave is foreseeable due to a planned medical treatment, employees must make reasonable efforts to schedule the treatment(s) to minimize disruptions to governmental operations. If circumstances occur, in which it is not practicable to provide thirty (30) days' notice, employees must provide written notice as far in advance as is practicable. If an employee fails to provide thirty (30)

days advance written notice of a requested leave and have no reasonable excuse, the leave may at the Executive Director's discretion be delayed for up to thirty (30) days from the date of written notice.

(i) Medical Certification Requirement. When leave is requested because of a serious health condition affecting an employee or his or her immediate family member, the Tribe requires the employee to obtain certification of the health condition from the pertinent doctor or health care provider. This certification must be provided to the department head or director within fifteen (15) days after the leave is requested or, when the need for leave was unforeseeable, within fifteen (15) days after the leave has commenced unless it is not practicable to do because of the nature of the health condition.

(1) If an employee seeking leave due to a serious health condition fails to provide the required medical certification, the leave will be denied until the certification is provided. If the leave request was not foreseeable, such as in a medical emergency, the failure to provide the required medical certification within a reasonable time may result in the denial of continuation of leave. Medical certification provided in justification of a request for leave must include the following information:

(A) The date on which the serious health condition started and its expected duration,

(B) The diagnosis concerning the condition,

(C) A brief description of the treatment prescribed for the condition,

(D) A statement of whether in-patient hospitalization is required, or

(E) A statement that the employee is needed to care for his or her immediate family member afflicted with a serious health condition or, if the employee has the serious health condition, a statement that he or she is unable due to the health condition to perform the essential functions of the position or work of any kind.

(2) The Tribe, if it doubts the certification, at its expense, may require an employee seeking leave due to a serious medical condition to obtain a second opinion from a doctor or other health care professional designated by the Tribe. If the second opinion conflicts with the certification provided by the employee, the Tribe may, at its sole discretion and at its expense, require a third opinion from a doctor or other health care professional designated jointly by the Tribe and the employee. Such a third opinion will be final and binding.

(3) If an employee plans to take intermittent leave or work a reduced schedule, the certification must also include dates and the duration of treatment and a statement of medical necessity for taking intermittent leave or working a reduced schedule. During a

leave taken under this section, employees may be required to provide, periodically, written notice to the Executive Director concerning his or her status and intention to return to work.

(j) Return from Leave. Upon completion of leave due to an employee's own serious health condition, the employee must provide the Tribe with medical certification from his or her doctor or other health care professional that the employee is now able to return to work. If an employee fails to provide this certification, he or she will not be permitted to return to work until such certification is provided. An employee who takes leave under this policy will be able to return to the same job or a job with equivalent status, pay, benefits and other employment terms. The Tribe may choose to exempt certain highly compensated employees from this requirement and not return them to the same or similar position.

(k) Health Benefits during Leave.

(1) During a leave taken pursuant to this policy, an employee's health benefits under any existing Tribal sponsored health plan will be continued as if the employee had continued in employment continuously for the duration of the leave. If, however, an employee fails to return at the end of a leave taken under this policy, except if this is due to the continuation, recurrence or onset of a serious health condition or something else beyond the employee's control, then the Tribe may recover from the employee all of the health care premiums paid to maintain health coverage during the leave.

(2) If under the Tribe's current policy, an employee pays a portion of the health care premium, while on paid leave, the Tribe will continue to make payroll deductions to collect the employee's share of the premium. While on unpaid leave, the employee must continue to make this payment, either in person or by mail. The payment must be received by the first day of each month. If the payment is more than thirty (30) days late, the employee's health care coverage may be dropped for the duration of the leave.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.7.090 was formerly codified as XIV LCOTCL §1.709

PAP.1.7.100Life Insurance, Disability Insurance and Retirement Plan

If requested by the Employee, the Tribe provides eligible employees Life and Disability insurances along with a Retirement Plan. An Employee wanting these types of benefits should consult with the Tribe's Benefit's Administrator for further information.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.7.100 was formerly codified as XIV LCOTCL §1.710

PAP.1.7.110Employee Assistance Program

The Tribe recognizes that individual employees may develop personal problems which could have negative effects on job performance. The Tribe offers an Employee Assistance Program (EAP) for all employees, the purpose of which is to encourage the early diagnosis and treatment of personal, psychological, and medical problems. Employees are encouraged to contact the Human Resource Director, or designee, for information regarding the EAP. Employees are responsible for submission of all documents and paperwork to pay the costs incurred for services rendered in connection with the EAP. Employees may utilize their health insurance plan as coverage is available; otherwise the service will be self-pay. Employees may attend a scheduled EAP appointment with the LCO-CHC during work hours. If the EAP appointment is at another facility the employee may use permitted paid or unpaid leave for EAP absences. EAP appointments (that the employee is required to attend by the Employer) will be coordinated with the employee's supervisor so customer service does not get interrupted.

(a) Self-Referral. An employee may request assistance from their supervisor for personal, psychological, or medical reasons at any time during their employment. Strict confidentiality will be maintained throughout this process.

(1) Procedure: A department head or director shall provide the employee and the Human Resource Director, or designee, with written notice using the LCOCHC – Behavior Health Clinic intake form and a signed consent form to release and or share information between departments of any referral. The Human Resource Director will set up the EAP Process with the LCOCHC – Behavioral Health Director. The Behavioral Health Director will report to the Human Resource Director on the status of the referral within five (5) working days after receipt of the referral. Regardless of any EAP referral, employees must maintain an acceptable level of job performance. Documentation of completion or non-completion of the EAP will be on file in the employee's personnel file located in the Human Resource Department.

(A) A leave of absence to attend inpatient treatment shall be granted to employees requesting assistance through self-disclosure. The leave of absence may not exceed 12 weeks pursuant to Section PAP.1.7.090 of this manual.

(B) Employees placed on a leave of absence from self-disclosure shall:

(i) Be allowed to return to the position, shift, and level of seniority that was held by the employee prior to the leave being granted.

(ii) Be allowed to maintain tribally sponsored Health; Life and short-term disability Insurance Benefits during the leave. The employee will be responsible for their portion of insurance premiums.

(iii) Be allowed to utilize any accrued Paid Time Off hours earned prior to the leave.

(iv) Any accrual of Paid Time Off hours shall be in accordance with the Tribe's policies on family and medical leave pursuant to Section PAP.1.7.090 of this manual.

(C) An employee returning to duty following a leave of absence from self-disclosure will be required to undergo testing for illegal drugs and prescribed medication for which they do not have a valid prescription as a condition of returning to work. If the applicant is suspected to be under the influence of alcohol at the time of return to drug screen, a PBT may be requested. Employees who refuse to take a test is thereby insubordinate will be considered to have produced a positive test result and shall be terminated. Upon receipt of a positive test result as defined in Section PAP.1.2.010(o), the employee shall be subject to disciplinary action, up to and including termination pursuant to Section PAP.1.8.080(f) of this manual and the positive test sample will be sent for a confirmation test result pursuant to Section PAP.1.8.080(a) of this manual.

(D) Utilization of this self-disclosure provision does not negate any disciplinary action for which an employee is subject to pursuant to Section PAP.1.8.080(f) of this manual, or any other tribal law or policy.

(b) Employer Referral. An employee's department head or director shall refer an employee to the Human Resource Director, or designee, when an employee's conduct mandates as such.

(1) Procedure: A department head or director shall provide the employee and the Human Resource Director, or designee, with written notice using the LCOCHC – Behavior Health Clinic intake form and a signed consent form to release and or share information between departments of any referral. The Human Resource Director will set up the EAP

Process with the LCOCHC – Behavioral Health Director. The Behavioral Health Director will report to the Human Resource Director on the status of the referral within five (5) working days after receipt of the referral. Employees shall comply with the referral to the EAP and follow subsequent recommendations for referral and treatment. Failure to show-up for required scheduled EAP appointment will result in further disciplinary action up to and including termination of employment. Regardless of any EAP referral, employees must maintain an acceptable level of job performance. Documentation of completion or non-completion of the EAP will be on file in the employee's personnel file located in the Human Resource Department.

(A) A leave of absence to attend inpatient treatment shall be granted to employees when required by an approved LCOCHC- Behavioral Health EAP treatment plan. The leave of absence may not exceed 12 weeks pursuant to Section PAP.1.7.090 of this manual.

(B) Employees placed on a leave of absence when required by an approved LCOCHC- Behavioral Health EAP treatment plan shall:

(i) Be allowed to return to the position, shift, and level of seniority that was held by the employee prior to the leave being granted.

(ii) Be allowed to maintain tribally sponsored Health; Life and short-term disability Insurance Benefits during the leave. The employee will be responsible for their portion of insurance premiums.

(iii) Be allowed to utilize any accrued Paid Time Off hours earned prior to the leave.

(iv) Any accrual of Paid Time Off hours shall be in accordance with the Tribe's policies on family and medical leave pursuant to Section PAP.1.7.090 of this manual.

(C) An employee returning to duty following a leave of absence from a referral of the employer will be required to undergo testing for illegal drugs and prescribed medication for which they do not have a valid prescription as a condition of returning to work. If the applicant is suspected to be under the influence of alcohol at the time of return to drug screen, a PBT may be requested. Employees who refuse to take a test is thereby insubordinate will be considered to have produced a positive test result and shall be terminated. Upon receipt of a positive test result as defined in Section PAP.1.2.010(o), the employee shall be subject to disciplinary action, up to and including termination pursuant to Section PAP.1.8.080(f) of this manual and the positive test sample will be sent for a confirmation test result pursuant to Section PAP.1.8.080(a) of this manual.

(D) Participation in an approved LCOCHC- Behavioral Health EAP treatment plan does not negate any disciplinary action for which an employee is subject to pursuant to Section PAP.1.8.080(f) of this manual, or any other tribal law or policy.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.7.110 was formerly codified as XIV LCOTCL §1.711

PAP.1.7.120Christmas Bonus

Christmas bonuses may be paid to employees as determined by the Tribal Governing Board, which will be subject to any funding or other limitations.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.7.120 was formerly codified as XIV LCOTCL §1.712

PAP.1.7.130Employee Recognition – Years of Service

(a) Employees that have worked for the Tribe for fifteen (15) years shall receive a gift equal to one week's pay.

(b) Employees that have worked for the Tribe for twenty (20) years shall receive a gift equal to two week's pay.

(c) Employees that have worked for the Tribe for twenty five (25) years shall receive a gift equal to two week's pay, a gift and plaque.

(d) Upon retirement (25 years or more), an employee shall receive one hundred dollars for each year of service to the Tribe.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.7.130 was formerly codified as XIV LCOTCL §1.713

Subchapter PAP.1.8
Conduct

PAP.1.8.010 General Statement of Conduct ..... PAP.1.8-**Error! Bookmark not defined.**
PAP.1.8.020 Conflict of Interest ..... PAP.1.8-**Error! Bookmark not defined.**
PAP.1.8.030 Outside Employment ..... PAP.1.8-**Error! Bookmark not defined.**
PAP.1.8.040 Political Activity..... PAP.1.8-**Error! Bookmark not defined.**
PAP.1.8.050 Harassment..... PAP.1.8-**Error! Bookmark not defined.**
PAP.1.8.060 Alcohol and Drugs ..... PAP.1.8-**Error! Bookmark not defined.**
PAP.1.8.070 Drug Free Workplace Act Compliance ..... PAP.1.8-**Error! Bookmark not defined.**
PAP.1.8.080 Drug and Alcohol Testing Procedures ..... PAP.1.8-**Error! Bookmark not defined.**
PAP.1.8.090 Inspection and Search ..... PAP.1.8-**Error! Bookmark not defined.**
PAP.1.8.100 Confidentiality ..... PAP.1.8-**Error! Bookmark not defined.**
PAP.1.8.110 Media Inquiries..... PAP.1.8-**Error! Bookmark not defined.**
PAP.1.8.120 Security Measures / Limited Access Control Areas. PAP.1.8-**Error! Bookmark not defined.**
PAP.1.8.130 Dress and Appearance ..... PAP.1.8-**Error! Bookmark not defined.**
PAP.1.8.140 Smoking..... PAP.1.8-**Error! Bookmark not defined.**
PAP.1.8.150 Internet and Telephones ..... PAP.1.8-**Error! Bookmark not defined.**
PAP.1.8.160 Solicitation and Distribution ..... PAP.1.8-**Error! Bookmark not defined.**
PAP.1.8.170 Workplace Violence ..... PAP.1.8-**Error! Bookmark not defined.**
PAP.1.8.180 Off-Duty Misconduct..... PAP.1.8-**Error! Bookmark not defined.**
PAP.1.8.190 Children in the Workplace..... PAP.1.8-**Error! Bookmark not defined.**
PAP.1.8.200 Policy Regarding Use of Social Media by Employees.....PAP.1.8-**Error! Bookmark not defined.**

PAP.1.8.010General Statement of Conduct

All Employees must conduct themselves in a manner, which is kind, courteous, ethical and respectful to all members of the public, including fellow employees. In all instances, employees must exercise good judgment and conduct themselves with the highest degree of professionalism. A failure to follow any conduct policies or other provisions of this personnel policy and procedure manual may result in disciplinary action, up to and including termination.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.8.010 was formerly codified as XIV LCOTCL §1.801

PAP.1.8.020Conflict of Interest

Employees are not permitted to engage in nepotism, favoritism, and any outside business transactions, or other activities, which are detrimental to the best interests of the Tribe. This includes activities that, directly or indirectly, divert business opportunities from the Tribe or confer an unfair advantage upon or benefit to a family member. It also includes activities that negatively reflect upon the Tribe's image or are contrary to the mission of the Tribe, except for activities specifically protected by law. The Tribe respects the right of employees to engage in activities outside their employment that are of a private nature and unrelated to their job or the Tribe. However, employees must fully disclose to their department head or director or the Human Resource Director, or designee, all business and personal activities that represent such a conflict of interest with the Tribe. If an employee is unsure whether a conflict of interest exists, the employee is encouraged to seek the advice of the Human Resource Director, or designee.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.8.020 was formerly codified as XIV LCOTCL §1.802

PAP.1.8.030Outside Employment

Employees may not accept simultaneous employment with another tribal agency or another employer without the express permission of the Executive Director. Permission may be denied if the other employer is a competitor or supplier of the Tribe. The request may be denied with employment of another tribal agency if the total hours worked in a given week violates tribal policy or interferes with the work expectations of the Tribe. The Tribe considers all full time employees' work with the Tribe to be their primary employment responsibility. As such, outside employment will not be considered an excuse for poor performance, absenteeism, tardiness or refusal/inability to work overtime.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.8.030 was formerly codified as XIV LCOTCL §1.803

PAP.1.8.040Political Activity

Employees shall not directly or indirectly use their authority, influence or political aspirations to compel individuals to participate or not participate in Tribal political activity and/or election processes. Campaign buttons, posters, or apparel related to tribal political activity is prohibited at the workplace, and distributing literature, emailing, and circulating petitions related thereto during work time or in work areas is strictly prohibited. In addition,

employees shall not use Tribal property and services to influence individuals to participate or not participate in the Tribal election process.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.8.040 was formerly codified as XIV LCOTCL §1.804

PAP.1.8.050 Harassment

(a) The Tribe has a "zero-tolerance" policy with respect to employee harassment. Any form of unlawful employee harassment based on race, color, religion, sex, national (including Tribal) origin, age, disability or status in any protected group is prohibited. The Tribe will not tolerate interference with the ability of employees to perform their expected job duties. Harassment of employees or members of the public by employees will result in disciplinary action, up to and including termination.

(1) Sexual Harassment. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal, visual or physical conduct of a sexual nature. No supervisor, manager or any other employee shall threaten or insinuate, either explicitly or implicitly that another employee's refusal to submit to sexual advances will adversely affect that person's employment, wages, advancement, assigned duties, or any other condition of employment or career development. Similarly, no supervisor, manager or employee shall promise, imply or grant any preferential treatment in connection with another employee engaging in sexual conduct.

(A) Sexual harassment also includes unwelcome sexual flirtations, advances or propositions, verbal abuse of a sexual nature, subtle pressure or requests for sexual activities, unnecessary touching of an individual, graphic or verbal commentaries about an individual's body, sexually degrading words used to describe an individual, a display in the workplace of sexually suggestive objects or pictures, sexually explicit or offensive jokes, or physical assault.

(2) Racial and National (including Tribal) Origin Harassment. Racial and national origin harassment is verbal or physical conduct that denigrates, belittles or shows hostility or aversion towards an individual because of his or her race or national (including tribal) origin and has the purpose or effect of creating an intimidating, hostile, or offensive working environment, or has the purpose or effect of unreasonably interfering with an individual's work performance or otherwise adversely affects an individual's employment opportunities. This includes, but is not limited to, epithets, slurs, intimidating or hostile acts that relate to race, or national (including tribal) origin, written or graphic material that denigrates, belittles or shows hostility or aversion toward an individual because of his or her race, or national (including tribal) origin and

that is placed on walls, bulletin boards or elsewhere on our premises or circulated in facilities.

(3) General. Harassment under this policy may also include words or conduct committed by customers or suppliers of the Tribe. In the event that any harassing or offensive language or conduct occurs, employees must report it to the Human Resource Director, or designee, immediately so the matter can be addressed promptly.

(4) Enforcement. Each member of Management is responsible for creating an atmosphere free of harassment, sexual, racial or otherwise. Further, employees are responsible for respecting the rights of their coworkers.

(b) If an employee experiences any job-related harassment based on sex, race, national (including tribal) origin, disability, or another factor, or believes that he or she has been treated in an unlawful, discriminatory manner, the employee must promptly report the incident to his or her department head or director or Human Resource Director, or designee, who will investigate the matter and take appropriate action. All employee complaints will be kept confidential to the maximum extent possible.

(c) The Tribe prohibits any form of retaliation against any employee for filing a bona fide complaint under this policy or for assisting in a complaint investigation. However, if, after investigating any complaint of harassment or unlawful discrimination, the Tribe determines that the complaint is not bona fide and was not made in good faith or that an employee has provided false information regarding the complaint, disciplinary action may be taken against the individual who filed the complaint.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.8.050 was formerly codified as XIV LCOTCL §1.805

PAP.1.8.060Alcohol and Drugs

(a) All employees of the Tribe are subject to the drug testing procedures as provided in Section PAP.1.8.080 of this manual.

(b) Employees are expected to come to work with a clear mind, unimpaired by drugs or alcohol. No employee under the influence of alcohol, illegal drugs or controlled substances as established in Section PAP.1.2.010(w) shall be permitted to come to or remain at work.

(c) Employees, while on the Tribe's property or on duty, shall not be under the influence of alcohol or illegal drugs; possess or consume alcoholic beverages; possess or consume prescription drugs in the absence of a valid prescription; or use, sell, possess, transfer or purchase illegal drugs or controlled substances. Prescription drugs shall be used only in the

manner, combination, and quantity prescribed by a licensed medical practitioner while on the Tribe's property or while on duty. As a condition of continued employment with the Tribe, all employees must notify the Tribe of any criminal drug statute conviction or charges against them no later than five (5) days after receiving such conviction or charges.

(d) Drug means any substance other than alcohol capable of altering an individual's mood, perception, pain level or judgment. A prescribed drug is any substance prescribed for individual consumption by a licensed medical practitioner. An illegal drug is any drug or controlled substance, the sale or consumption of which is illegal.

(e) The legal use of controlled substances prescribed by a licensed medical provider is not prohibited, but all employees are required to make such use known to the appropriate supervisor within five (5) days they are prescribed the controlled substance. Failure to make the legal use of a controlled substance as prescribed by a licensed medical provider to the appropriate supervisor shall result in disciplinary action up to and including termination.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.8.060 was formerly codified as XIV LCOTCL §1.806

PAP.1.8.070 Drug Free Workplace Act Compliance

(a) The Tribe hereby establishes a policy providing for a drug-free workplace as required by the Drug Free Workplace Act of 1988, 41 U.S.C. 701 *et. seq.* As such, as required by the Act, the Tribe hereby publishes a statement notifying employees that the Tribe prohibits the unlawful manufacture, illegal distribution, dispensation, possession or use of a controlled substance in the workplace. All employees who violate this policy shall be subject to disciplinary action, up to and including termination. As a condition of continued employment with the Tribe, all employees must notify the Tribe of any criminal drug statute conviction or charges no later than five (5) days after receiving such conviction or charges.

(b) General Provisions.

(1) Consent. No alcohol test may be administered, urine sample obtained, or any drug test conducted without the consent of the person being tested. An employee gives consent to participate in any and all forms of testing as a condition of continued employment with the Tribe.

(2) Record Keeping. It is essential that all necessary documentation from each form of testing is maintained in the Human Resources Department in applicable employee files for no less than 5 years. Employee violations will never expire.

(3) Notice of Conviction or Charges.

(A) An employee will be responsible for notifying his/her immediate supervisors in writing within five (5) day of any criminal drug statute conviction or charges for violation. The employee's department head or director shall notify the Human Resource Director who will notify the Office of the Attorney General.

(B) As required by law, the Office of the Attorney General will be responsible for notifying the applicable funding agency of the employee's department within ten days after receiving notice from the human resource director, or designee of an employee's criminal drug statute conviction or charges occurring in the workplace or while on duty.

(4) Illegal Distribution or Illegal Dispensing of Controlled Substance on Tribal property. Any employee who manufactures, illegally distributes, or illegally dispenses a controlled substance on Tribal property or while on duty will be terminated. Such termination shall not be subject to appeal.

(c) Rehabilitation and Rehiring. Any employee who has been dismissed for violation of the Tribe's Drug-Free Workplace Policy may be eligible for re-employment after 90-days with the Tribe upon proof of rehabilitation provided by an accredited treatment facility that the person has been to treatment or has successfully completed appropriate treatment and is in recovery.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.8.070 was formerly codified as XIV LCOTCL §1.807

PAP.1.8.080 Drug and Alcohol Testing Procedures

All employees and applicants for employment are subject to drug and alcohol testing, including reasonable suspicion, pre-employment, and return-to-duty; with the exception of TANF, WIOA & WIOA youth workers. Drug tests require laboratory testing as provided by the Mandatory guidelines for Federal Workplace Drug Testing Programs pursuant to 94 FR 28101, May 15, 2015 as amended, as minimum standards for the following classes of drug and correlative cutoff concentrations: Cocaine; Opiates including opium and codeine derivatives such as Oxycodone, Oxymorphone, Hydrocodone, Hydromorphone; Amphetamines and Methamphetamines including Methylenedioxyamphetamine (MDA) and Methylenedioxyethylamphetamine (MDEA); Phencyclidine (PCP). Nothing precludes the Human Resource Director, or designee, in testing for substances which are not included on this list, should the Tribal Governing Board, or designee, determine it is in the best interests of the Tribe to include substances which are not listed above to ensure a drug free workplace. Employees are encouraged to contact the Human Resource Director, or designee, with any questions regarding drug and alcohol testing. Failure or refusal to

participate in an employer-directed drug test is considered insubordination and the employee will be terminated for insubordination.

(a) General Drug and Alcohol Testing Procedures. In cases where an employee is required to undergo testing for the presence of alcohol or drugs including reasonable suspicion, pre-employment, and return-to-duty, the following procedures shall apply:

(1) LCO-CHC using a licensed laboratory of the LCO-CHC choice that conducts substance abuse testing that is deemed appropriate by the Tribal Governing Board for business purposes; i.e., screening and confirmatory testing, will take a sufficient sample to assure that confirmation testing can occur in the event of an initial positive test result. The initial cost for this testing will be incurred by the Tribe.

(2) The laboratory evaluation of the samples will be carried out by a laboratory that is contracted with the LCO-CHC and is certified by either the College of American Pathologists or the National Institute on Drug Abuse.

(3) In the event of a positive test result, a confirmation test will be performed by a laboratory specified in Section PAP.1.8.080(a)(2) above, using the original sample (not a new sample). The confirmation test will be based on a different analytical method of higher analytical certainty.

(4) The employee within two (2) working days of the results must request any further confirmation testing (using the original sample) by a laboratory specified in subs. 1(a) above, in writing. Costs of confirmation testing incurred will be paid by the employee.

(5) The results of any drug or alcohol tests shall be kept confidential, except information shall be shared between departments as deemed necessary. All policies regarding employee personnel records shall be strictly adhered to and followed in accordance with the provisions of this Manual.

(6) A portable breath test (PBT) conducted by a Class 1 PBT Certified person of the LCO-CHC choice that is deemed appropriate by the Tribal Governing Board for business purposes shall be utilized for alcohol testing.

(b) Pre-Employment Testing Procedures.

(1) An applicant for employment will be required to undergo testing for illegal drugs and prescribed medication for which they do not have a valid prescription as a condition of employment. If the applicant is suspected to be under the influence of alcohol at the time of their pre-employment drug screen, a PBT may be requested.

(2) Applicants who test positive for alcohol, illegal drugs, and/or prescribed medication for which they do not have a valid prescription, shall be denied employment.

(3) An applicant who initially declines a drug test will be denied employment and not eligible for employment for 90 days.

(c) Probable Cause Testing Procedures.

(1) Upon a finding by an employee's department head or director that there is probable cause that the employee is either under the influence of alcohol (under the influence shall mean a blood alcohol concentration of 0.02 grams of alcohol per 100 milliliters of a person's blood or while the person has 0.02 grams of alcohol per 210 liters of a person's breath) or drug abuse that is impairing the employee's ability to carry out job-related activities, the employee shall be required to be tested for the presence of drugs or alcohol pursuant to Section PAP.1.8.080(c)(3), below. A finding of probable cause and directive requiring the employee to submit to testing for drugs or alcohol must be in writing signed by the employee's department head or director. The probable cause finding must be supported by evidence of specific, personal observations concerning job performance, appearance, behavior, speech, or bodily odors of the employee. If hearsay information is received, such information must be corroborated by personal observations, or observations and evaluation by the Executive Director, or designee.

(2) Once an employee's department head or director has determined that probable cause pursuant to Section PAP.1.8.080(c)(1), above exists, the employee's department head or director shall immediately contact the Human Resource Director, or designee and convey that one of his or her employees is under the influence of alcohol or a controlled substance and that such influence is impairing that employee's ability to carry out his or her job related duties.

(3) Upon receiving contact from an employee's department head or director, the Human Resource Director, or designee shall have the employee drug tested and if alcohol related have the employee submit to a portable breath test (PBT) conducted by a Class 1 PBT Certified person as specified in Section PAP.1.8.080(a)(6), above. If the employee refuses to take a test (including but not limited to a drug test, drug urine test, or PBT test) after being required to do so, the employee is thereby insubordinate and considered to be in violation of the Drug Testing Policy and shall be terminated.

(4) Upon receipt of a positive test result, the employee shall be immediately relieved of their duty station and will be subject to disciplinary action, Section PAP.1.8.080(f) below, and the positive test sample will be sent for a confirmation test result pursuant to Section PAP.1.8.080(a) above. In all cases, an employee may face legal consequences for his/her actions. Upon receipt of a positive confirmation test

result pursuant to Section PAP.1.8.080(a) above, the employee shall be referred by the Human Resource Director, or designee to participate in the Employee Assistance Program pursuant to Section PAP.1.7.110(a) of this manual. Failure to comply and successfully complete an approved LCOCHC- Behavioral Health EAP treatment plan within the timeframe established in the treatment plan will result in termination.

(d) [Open.]

(e) Return to Duty Procedures. An employee returning to duty following a chemical dependency related leave of absence must receive a release by a licensed physician stating that the reasons for the employee being placed on leave have been resolved.

(f) Discipline for Drug Testing Violation. In all cases, an employee may face legal consequences for his/her actions.

(1) Any employee who uses (or is under the influence of) alcohol and/or drugs, possesses alcohol and/or drugs or intoxicants on Tribal property or while on duty will be subject to disciplinary action, up to and including termination as follows:

(A) First Offense: The employee will be informed of a first offense in writing and will be suspended three (3) days without pay.

(B) Second Offense: If a second offense occurs, the employee will be suspended five (5) days without pay. During the suspension, the employee must have a conference with the LCO-CHC's alcohol and drug counselor and undergo an assessment. If it is determined that the violation reflects a drug or alcohol abuse problem that is affecting the employee's job performance, then a plan of action will be developed by a licensed counselor and the employee. The licensed counselor will put the plan in writing and the plan will be approved for employment purposes by the employee's department head or director with final approval by the executive director. Failure to comply and successfully complete any approved LCO-CHC Behavioral Health EAP treatment plan will result in termination. Such termination shall not be subject to appeal.

(C) Third Offense: If a third offense occurs, the employee shall be terminated. Such termination shall not be subject to appeal.

(2) Any employee who refuses to take a test as established in Section PAP.1.8.080(a) will be considered insubordinate and will be terminated for insubordination. Such termination shall not be subject to appeal.

(3) Rehabilitation and Rehiring. Any employee who has been dismissed for violation of the Tribe's Drug Testing Policy may be eligible for re-employment after 90-days with the Tribe upon proof of rehabilitation provided by an accredited treatment facility that

the person has been to treatment or has successfully completed appropriate treatment and is in recovery.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.8.080 was formerly codified as XIV LCOTCL §1.808

PAP.1.8.090 Inspection and Search

(a) The Tribe has the authority to inspect or search the entire work-place, including, but not limited to any office or desk when there are reasonable grounds for suspecting that the search will turn-up evidence that an employee violated any provision of this manual or otherwise engaged in work-related misconduct.

(b) The Tribe has the authority to inspect or search, when the inspection or search is necessary for non-investigatory work-related purpose, including locating and retrieving any information from a location within the work place.

(c) The Tribe has the authority to inspect or search any employee's personal possessions located within the work place when there are reasonable grounds for suspecting that the search will turn-up evidence that the employee violated any provision of this manual or otherwise engaged in work-related misconduct.

(d) If an employee is found to be in possession of any item or substance prohibited by this manual or fail to comply with any inspection or search conducted in accordance with this manual, the employee will be subject to appropriate disciplinary action, up to and including termination. Any illegal substances that are found, in the course of an inspection or search, will be turned over to law enforcement.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.8.090 was formerly codified as XIV LCOTCL §1.809

PAP.1.8.100 Confidentiality

(a) In the course of performing duties for the Tribe, employees may obtain or become aware of confidential information, such as personnel, financial and legal information of the Tribe, its programs, operations, enterprises and employees, including but not limited to information encompassed in any reports, investigations, research or development work, mailing lists, bid lists, directories, listings, plans, specifications, proposals, marketing plans, financial projections, cost sheets, bid estimates, bid spreadsheets, vendor or subcontractor quotes, financial data and any and all concepts or ideas, materials or information related to

the business, products, or services of the Tribe or its customers and vendors ("Confidential Information").

(b) Employees must hold all Confidential Information in strict confidence and shall not directly or indirectly disclose Confidential Information or permit the release thereof to any outside person or entity except as necessary to perform employment duties or as otherwise required by law. If any question arises about whether information must be treated as confidential, employees must treat such information as confidential until confirmed otherwise by their department head or director, in consultation with the Office of the Attorney General.

(c) Employees also must not use or release, directly or indirectly, any proprietary information or trade secrets of the Tribe without prior authorization from their department head or director, in consultation with the Office of the Attorney General. Trade secrets include any formula, pattern or devise of compilation of information which is used in the Tribe's business or operations.

(d) Violations of confidentiality, including the disclosure of confidential information (verbal, written or documents) as defined under this section shall be subject to discipline, up to and including termination. The Tribe reserves the right to prosecute any violations to fullest extent allowed under tribal, state or federal law.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.8.100 was formerly codified as XIV LCOTCL §1.810

PAP.1.8.110 Media Inquiries

The Tribe generates public interest and persons often seek newsworthy information. Therefore, it is our policy to allow only authorized representatives to make contact with or provide information or comments to reporters and news agencies regarding the Tribe. Any employee who is contacted by a reporter regarding the Tribe must inform his or her department head or director of the request for information. Prior written authorization by the Tribal Governing Board Chairman or his/her designee is required prior to any media release of information.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.8.110 was formerly codified as XIV LCOTCL §1.811

PAP.1.8.120Security Measures / Limited Access Control Areas

Maintaining security and limiting access to certain areas of the Tribe's facilities is important to the continued success and is required by law in some instances. Employees shall not permit unauthorized persons, which may include Tribal employees, to enter secure and limited access controlled areas or to access confidential or protected information.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.8.120 was formerly codified as XIV LCOTCL §1.812

PAP.1.8.130Dress and Appearance

Employees must dress and groom themselves in accordance with appropriate social and business standards. An employee's department head or director or the Executive Director retain the right to request any employee to change his or her mode of dress or grooming if deemed provocative or otherwise inappropriate. In addition, employees must maintain good personal hygiene.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.8.130 was formerly codified as XIV LCOTCL §1.813

PAP.1.8.140Smoking

(a) Employees shall smoke only in designated areas, notwithstanding subd. (3) below.

(b) Smoking is prohibited in the following areas, notwithstanding subd. (3) below:

(1) In any Tribal owned or leased vehicle;

(2) In any Governmental building designated as a workplace.

Violators of this section are subject to disciplinary action, up to and including termination.

(c) Nothing in this policy shall be deemed to limit or interfere with the use of tobacco at traditional ceremonies and cultural functions.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.8.140 was formerly codified as XIV LCOTCL §1.814

PAP.1.8.150 Internet and Telephones

(a) All electronic and telephonic communication systems and all communications and information transmitted by, received from, or stored in these systems are the property of the Tribe and as such are to be used solely for job-related purposes. The use of any software and business equipment, including, but not limited to, e-mail, internet access, facsimile machines, computers, telephones (land lines and cellular phones) and copy machines for private purposes is prohibited.

(b) No employee may not use a pass code or voice-mail access code that has not been issued to that employee or that is unknown to the Tribe. Moreover, improper use of the e-mail system (*e.g.*, distributing offensive jokes or remarks) will not be tolerated.

(c) Employees shall not use the Tribe's internet, voice mail and e-mail resources, phones and other systems in a prohibited manner, including:

(1) To transmit, view, retrieve, or store any communications of a discriminatory or harassing nature or materials that are considered obscene or pornographic;

(2) To access pornographic internet sites, display or print any associated materials, pictures and cartoons;

(3) To harass or transmit messages with derogatory or inflammatory remarks about an individual's race, sex (including pregnancy), age, disability, religion, national origin or physical attributes or transmit abusive, profane or offensive language;

(4) For non-business, personal or private use, including but not limited to game playing and personal communication not associated with business;

(5) To disclose any confidential or proprietary information except where such disclosure is authorized or permitted in this personnel policy and procedural manual.

(d) Employees shall not use the Tribe's internet, voice mail and e-mail resources and other systems and equipment, including but not limited to computer hardware, software, copier, fax machine and postage machine in a manner that is contrary to the provisions of any purchase or lease contract, such as unlawful copying of computer software.

(e) Notwithstanding the Tribe's right to retrieve and read any voice or electronic mail messages, such messages should be treated as confidential by other employees and accessed only by the intended recipient. Employees are not authorized to retrieve or read any voice or e-mail messages that are not sent to them. Any exception to this policy must receive prior written approval by Management.

(f) The Tribe may monitor, record and listen to all internet, e-mail and voice mail usage, to assure compliance with its policies, for cost analysis and for legitimate business purposes. Thus, the Tribe may listen to, access and disclose any information in the electronic communication and telephone systems, even such information or communication protected by an employee's personal password, at any time, with or without notice to the employee. Employees have no expectation of privacy in connection with the use of these systems, or the transmission, receipt or storage of information in such systems.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.8.150 was formerly codified as XIV LCOTCL §1.815

PAP.1.8.160Solicitation and Distribution

(a) In the interest of good housekeeping and safety, employees shall not distribute non-work literature such as leaflets, pamphlets, etc., at all times in working areas. It is the responsibility of each employee of the Tribe to keep all facilities clean and orderly.

(b) Non-employees, other than customers and vendors, are not permitted on Tribal property for the purpose of solicitations or any other reason without the express authorization of the Tribal Governing Board.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.8.160 was formerly codified as XIV LCOTCL §1.816

PAP.1.8.170Workplace Violence

(a) The Tribe is concerned about the increased violence in society, which has also filtered into many workplaces, and has taken steps to help prevent incidents of violence from occurring at its facilities. It is our policy to expressly prohibit any acts or threats of violence against any employee in or about our facilities or elsewhere at any time. We will not condone any acts or threats of violence against our employees, customers, or visitors on the Tribe's property at any time or while they are engaged in business with or on behalf of the Tribe, on or off our premises.

(b) In keeping with the spirit and intent of this policy, and to ensure the objectives in this regard are attained, the Tribe is committed to the following:

(1) To provide a safe and healthful work environment;

(2) To take prompt remedial action, up to and including immediate termination, against any employee who engages in any threatening behavior or acts of violence or who uses any obscene, abusive, or threatening language or gestures;

(3) To take appropriate action when dealing with customers, former employees, or visitors to our property who engage in such behavior. Such action may include notifying the police or other law enforcement personnel and prosecuting violators of this policy to the maximum extent of the law;

(4) To establish viable security measures to ensure that the Tribe's facilities are safe and secure to the maximum extent possible and to properly handle access to the Tribe's facilities by the public, off-duty employees, and former employees.

(c) Employees, former employees, customers and visitors shall not bring or possess unauthorized firearms or other weapons onto the Tribe's premises. Any employee who displays a tendency to engage in violent, abusive, or threatening behavior or who otherwise engages in behavior that the Tribe, in its sole discretion, deems offensive or inappropriate, or who possesses a firearm or weapon in violation of this policy will be subject to disciplinary action, up to and including termination.

(d) Employees have a "duty to warn" Tribal Management of any suspicious workplace activity or situations or incidents that they observe or that they are aware of that involve other employees, former employees, customers, or visitors and that appear problematic. This includes, for example, threats or acts of violence, aggressive behavior, offensive acts, threatening or offensive comments or remarks, and the like. Employee reports made pursuant to this policy will be held in confidence to the maximum possible extent. The Tribe will not condone any form of retaliation against any employee for making a report under this policy.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.8.170 was formerly codified as XIV LCOTCL §1.817

PAP.1.8.180 Off-Duty Misconduct

Employees shall not engage in off-duty misconduct which is deemed detrimental to the Tribe. While it is impossible to predict every detrimental situation, the Tribe may determine that off-duty misconduct is adverse to the Tribe, because it is serious in nature; is at odds with an employee's job duties; or is notorious and has the potential to discredit the Tribe. Any arrest shall be reported to the employee supervisor and the Human Resource department within 72 hours. Any arrest shall be subject to review by the department director, and may include discipline including a suspension or termination depending on the

determination and severity of the allegations leading to an arrest. An arrest and conviction related to misconduct shall be subject to discipline which may include termination.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.8.180 was formerly codified as XIV LCOTCL §1.818

PAP.1.8.190 Children in the Workplace

The presence of children in the workplace is discouraged because it can be disruptive to other employees. However, the Tribe recognizes that there may be circumstances when it is necessary for an employee to have a child at the workplace for a short period. A supervisor has the authority to prohibit an employee from having a child at the workplace if the supervisor determines that the employee is abusing this policy or the workplace is being disturbed.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.8.190 was formerly codified as XIV LCOTCL §1.819

PAP.1.8.200 Policy Regarding Use of Social Media by Employees

(a) While the Tribe encourages its employees to enjoy and make good use of their off-duty time, certain activities on the part of employees may become a concern if they have the effect of impairing the work of any employee; harassing, demeaning, or creating a hostile working environment for any employee; disrupting the smooth and orderly flow of work within the office; or harming the goodwill and reputation of the Tribe. In the area of social media (print, broadcast, digital, and online services such as Facebook, LinkedIn, MySpace, Plaxo, and Twitter, among others), employees may use such media in any way they choose as long as such use does not produce the adverse consequences noted above. For this reason, the following provisions apply regarding an employee's use of social media, both on and off duty:

(1) An employee shall be subject to disciplinary action, up to and including termination of employment, depending upon the severity and repeat nature of the offense, if an employee publishes any personal information about the employee, another employee of the Tribe, the Tribe and its officials, or a tribal member in any public medium (print, broadcast, digital, or online) that:

(A) has the potential or effect of involving the employee, their coworkers, tribal members or the Tribe in any kind of dispute or conflict with other employees or third parties;

(B) interferes with the work of any employee;

(C) creates a harassing, demeaning, or hostile working environment for any employee;

(D) disrupts the smooth and orderly flow of work within the office, or the delivery of services to tribal members;

(E) harms the goodwill and reputation of the Tribe in the community at large; or

(F) tends to place in doubt the reliability, trustworthiness, or sound judgment of the person who is the subject of the information.

(2) No employee may use the Tribe's equipment or facilities for furtherance of non-work-related social media related activities or relationships without the express advance permission of their program Director.

(3) Employees who conduct themselves in such a way that their social media related actions toward and relationships with each other interfere with or damage work relationships, disrupt the flow of work or tribal member relations, or cause unfavorable publicity in the community, should be concerned that their conduct may be inconsistent with one or more of the provisions of this policy. In such a situation, the employees involved should request guidance from their program Director or the Executive Director to discuss the possibility of a resolution that would avoid such problems. Depending upon the circumstances, failure to seek such guidance may be considered evidence of intent to conceal a violation of the policy and to hinder an investigation into the matter.

(4) Use of social media that involves any kind of criminal activity or harms the rights of others may result in criminal prosecution or civil liability to those harmed, or both.

(5) Social media access and use involving Tribal equipment and resources are subject to the Tribe's computer and internet policy at all times.

(6) The provisions in this policy are not intended to restrict communications regarding the terms and conditions of the workplace.

(b) How an employee uses social media is not a matter of concern as long as it is consistent with the aforementioned provisions on this policy. Employees may address any questions on this policy to the Lac Courte Oreilles Legal Department.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.8.200 was formerly codified as XIV LCOTCL §1.820

Subchapter PAP.1.9
Workplace Safety

PAP.1.9.010 General Rules..... PAP.1.9-**Error! Bookmark not defined.**
PAP.1.9.020 Accidents or Injuries..... PAP.1.9-**Error! Bookmark not defined.**
PAP.1.9.030 Protective Equipment ..... PAP.1.9-**Error! Bookmark not defined.**
PAP.1.9.040 Hazardous Materials ..... PAP.1.9-**Error! Bookmark not defined.**
PAP.1.9.050 Personal Responsibility ..... PAP.1.9-**Error! Bookmark not defined.**

PAP.1.9.010 General Rules

(a) The safety of employees is important to the Tribe. Fire extinguishers, exits and first-aid kits are available in marked locations around Tribal facilities. Employees must strictly adhere to all applicable safety regulations and comply with the following general rules:

(1) Employees must report immediately all accidents or injuries to a supervisor without exception;

(2) Employees may smoke only in designated areas;

(3) Employees must be careful and take necessary precautions when operating, cleaning or repairing any machinery;

(4) Employees must be present prior to starting any operation or task which calls for more than one employee;

(5) Employee must not attempt to operate equipment without authorization or proper training or certification;

(6) The Tribe will not tolerate horseplay or practical jokes. Accidents or injuries resulting from such horseplay or conduct shall not be considered work related.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.9.010 was formerly codified as XIV LCOTCL §1.901

PAP.1.9.020 Accidents or Injuries

If an accident or injury occurs, until medical help arrives employees should try to provide aid and comfort to the injured person. Employees should try to keep the

circumstances of any accident or injury fresh in their minds so that the incident can be reported accurately and to provide information that may prevent a repeated incident.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.9.020 was formerly codified as XIV LCOTCL §1.902

PAP.1.9.030Protective Equipment

The Tribe will furnish required safety equipment to employees, if the work requires such equipment. Safety equipment includes safety glasses, gloves, safety shoes, noise protection devices, special protective devices for handling hazardous chemicals and waste, etc. Employees must follow all rules concerning the wearing of safety equipment at all times and must not remove safety equipment from any machinery, such as machine guards.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.9.030 was formerly codified as XIV LCOTCL §1.903

PAP.1.9.040Hazardous Materials

The Tribe complies with all applicable "Right to Know" laws, which means employees will be made aware of any chemical hazards at the workplace. Employees will also receive special training concerning the labeling, handling and disposal of hazardous substances, and what steps should be taken in the event of a spill or release.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.9.040 was formerly codified as XIV LCOTCL §1.904

PAP.1.9.050Personal Responsibility

All employees shall take personal responsibility in the performance of all workplace related activities. If at any time an employee reasonably determines that a workplace related activity is unsafe or warrants protective equipment, the employee shall make all reasonable efforts to remedy the situation.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.9.050 was formerly codified as XIV LCOTCL §1.905

Subchapter PAP.1.10
Vehicle Driver Certification

PAP.1.10.010 Purpose..... PAP.1.10-**Error! Bookmark not defined.**
PAP.1.10.020 Scope ..... PAP.1.10-**Error! Bookmark not defined.**
PAP.1.10.030 Policy ..... PAP.1.10-**Error! Bookmark not defined.**
PAP.1.10.040 Procedures..... PAP.1.10-**Error! Bookmark not defined.**
PAP.1.10.050 Minimum Certification Requirements.. PAP.1.10-**Error! Bookmark not defined.**
PAP.1.10.060 Recordkeeping ..... PAP.1.10-**Error! Bookmark not defined.**
PAP.1.10.070 Supervisors Responsibility..... PAP.1.10-**Error! Bookmark not defined.**

PAP.1.10.010 Purpose

The purpose of this subchapter is to certify employees who may operate a vehicle or travel on tribal business and to minimize Tribal exposure to liability claims resulting from vehicle accidents.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.10.010 was formerly codified as XIV LCOTCL §1.1001

PAP.1.10.020 Scope

Any person driving on Tribal business including all employees and volunteers shall comply with this subchapter. Tribal business does not include an employee's regular commute to and from the work place.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.10.020 was formerly codified as XIV LCOTCL §1.1002

PAP.1.10.030 Policy

Drivers of Tribal, personal, or rental vehicles may be authorized to drive on Tribal business if they are 18 years of age and certification criteria contained in this subchapter are satisfied.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.10.030 was formerly codified as XIV LCOTCL §1.1003

PAP.1.10.040 Procedures

Drivers must achieve certification to drive on tribal business by meeting the requirements listed in Section PAP.1.10.050 of this manual.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

- §PAP.1.10.040 was formerly codified as XIV LCOTCL §1.1004

PAP.1.10.050 Minimum Certification Requirements

(a) Tribal Vehicle Certification.

(1) Current Wisconsin Driver's License

(2) Commercial Driver's License if required by Federal law or other contractual obligations

(3) License requirements listed in the employee's current job description.

(4) Completed Driving Record Authorization Form in employee's personnel file.

(5) None of the following driving violation convictions within the last year:

(A) Operating without valid driver's license

(B) Obstruction in regard to driver violation

(C) Reckless driving

(D) Violation of Occupational License

(E) Causing great bodily harm with vehicle

(F) Negligent homicide by use of motor vehicle

(G) Operating while license suspended

(H) Vehicle usage resulting in felony conviction

(I) Operating a school bus without a school bus license

(b) Personal Vehicle Certification.

(1) Current Wisconsin Driver's License

(2) Evidence of current minimum insurance coverage as follows, verified by an insurance policy with copy supplied to the Human Resource Director at every policy renewal:

(A) $100,000 per Person

(B) $300,000 per Accident for Bodily Injury

(C) $25,000 Property Damage

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.10.050 was formerly codified as XIV LCOTCL §1.1005

PAP.1.10.060 Recordkeeping

(a) The Human Resource Department will maintain a current list of all certified drivers.

(1) Lists will be supplied to the Travel Clerk.

(b) Tribal Vehicle Drivers must notify the Human Resource Department within five (5) working days of any conviction affecting their certification eligibility. Failure to do so may be considered "employee misconduct" and subject to disciplinary action.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.10.060 was formerly codified as XIV LCOTCL §1.1006

PAP.1.10.070 Supervisors Responsibility

(a) Supervisors shall ensure that no uncertified employees drive on Tribal business.

(1) Departments, where appropriate, shall create Standard Operating Procedures which minimize drivers risk exposure.

(b) Supervisors shall take action when employees or the Human Resource Department report violations. Actions may be, but are not limited to:

(1) Reassigning the uncertified employee to a position which does not require driving.

(2) Removing the driving requirement from the employee's job description.

(3) Place the employee on unpaid leave until they become recertified.

(4) Termination of employment because of a valid driver's license is a required qualification on the job description.

(c) If all fines, suspensions, revocations, and any other penalties or conditions imposed on the driver due to the driving violation conviction(s) are satisfied, the Supervisor may decide to re-certify the driver if all other certification requirements are satisfied.

(d) If a supervisor has reason to question an employee's mental or physical health as it relates to the employee's ability to drive on Tribal business, the supervisor shall refer the employee to the Employee Assistance Program (EAP) for an assessment.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.10.070 was formerly codified as XIV LCOTCL §1.1007

Subchapter PAP.1.11
Problem Solving

PAP.1.11.010 Scope ..... PAP.1.11-**Error! Bookmark not defined.**

PAP.1.11.010 Scope

(a) Problem Solving Process. When people work closely together it is only natural that problems, questions or conflict may sometimes arise. It is in the best interest of the Tribe and all employees that these issues be resolved as quickly and fairly as possible; therefore, the Tribe supports an "open-communication policy" to encourage addressing these issues. The following "Problem Solving Process" has been designed to provide guidelines for resolution of questions, problems or conflicts:

(1) If you have a work related or personal problem that you think the Tribe can help you resolve, you are encouraged to discuss it with your supervisor. Your supervisor is usually in the best position to help you.

(2) If you do not get an answer, or you are not satisfied with the answer, the issue should be written down and presented to the Human Resources Director. The Human Resources Director will facilitate a meeting to assist with mutually resolving the issue.

(3) In the unlikely situation that these steps have not resolved the issue, you may take your problem to the Executive Director.

(b) Chain of Command. All employees are required to follow the chain of command, with no exceptions. The chain of command consists of and is limited to the following:

(1) Your Supervisor

(2) Human Resources Director

(3) Executive Director

(c) Open Communication Policy. The Tribe supports open lines of communication between employees, which assures all employees concerns will be heard and considered. It is the belief and commitment of the Tribe to maintain direct lines of communication and good working relationships with all employees. Problems arise in all work places and this process is designated to identify and correct those problems and issues in a fair, equitable and timely manner. It should be noted that not all problems or issues will have an outcome

that all parties agree with but in no circumstances will insubordinate behavior or communications be tolerated.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.11.010 was formerly codified as XIV LCOTCL §1.1101

Subchapter PAP.1.12
Disciplinary Action and Appeal

PAP.1.12.010 Consent..... PAP.1.12-**Error! Bookmark not defined.**
PAP.1.12.020 Grounds for Disciplinary Action ..... PAP.1.12-**Error! Bookmark not defined.**
PAP.1.12.030 Types of Disciplinary Actions ..... PAP.1.12-**Error! Bookmark not defined.**
PAP.1.12.040 Disciplinary Action Appeal Procedure.. PAP.1.12-**Error! Bookmark not defined.**

PAP.1.12.010 Consent

Each employee shall agree to, by signing, a Consent to Appeal Procedure as a condition of continued employment. The Appeals Procedure constitutes a contract between the Tribe and the employee and establishes the framework under which employees may appeal disciplinary action imposed under this subchapter or employment claims, provided no employee can appeal any disciplinary action based on activity that results in an arrest and conviction. In addition, regarding employment claims, it is important to note that nothing in this personnel policy and procedural manual shall be construed as the Tribe consenting to application of any law or waiving applicable defenses, including the defense that the subject law does not apply to the Tribe.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.12.010 was formerly codified as XIV LCOTCL §1.1201

PAP.1.12.020 Grounds for Disciplinary Action

(a) Employees must perform assigned duties at or above satisfactory levels; they must follow standards of workplace behavior contained in this manual and comply strictly with all applicable laws, rules and regulations. A system of progressive discipline will be utilized, when appropriate, to afford employees an opportunity to correct behavior. Therefore, verbal and written warnings are utilized as a corrective action tool and will not be subject to the appeal procedures identified in Section PAP.1.12.040.

(b) An employee may be suspended for any conduct which results in an arrest, pending the determination of the Executive Director of the seriousness of the offense. Conduct by an employee which results in a felony arrest and/or felony conviction as defined under state and federal law will result in termination.

(c) The Tribe reserves the right to impose discipline for any of the actions listed in this section; such action may include suspension and /or termination:

(1) Incompetence;

(2) Neglect of duty;

(3) Insubordination;

(4) Refusal to work;

(5) Willful misconduct;

(6) Political activity as defined in Section PAP.1.8.040 of this manual;

(7) False representation in conjunction with job performance;

(8) Intoxication or use of intoxicants during working hours;

(9) Conviction of any felony either in performance of job duties, or in private affairs;

(10) Negligence or willful damage to tribal property;

(11) Discourteous treatment of the public or fellow employees during working hours;

(12) Loss of driver's license if required for the job;

(13) Job performance which results in serious harm to the employee's program;

(14) Failure to properly report to work on time;

(15) Unauthorized disclosure of confidential information;

(16) Conflict of interest;

(17) Theft;

(18) Falsification of timecards;

(19) Willful violation of any Tribal law, rule, regulations or any deliberate action that is detrimental to the Tribe;

(20) Willful violation of security or safety rules;

(21) Negligence or any careless action which endangers the life or safety of another person;

(22) Unauthorized possession of dangerous or illegal firearms, weapons, or explosives on the Tribe's property or while on duty;

(23) Engaging in criminal conduct or acts of violence, or making threats of violence toward anyone on the Tribe's premises or when representing the Tribe;

(24) Provoking a fight on Tribal property;

(25) Refusing to obey instructions properly issued by Management;

(26) Refusing to help out on a special assignment;

(27) Threatening, intimidating, or coercing fellow employees on or off the premises – at any time, for any purpose;

(28) Dishonesty; willful falsification or misrepresentation on the application for employment or other work records; falsifying other data requested by the Tribe;

(29) Giving confidential or proprietary Tribal information to competitors, other organizations, the general public, or to unauthorized employees; working for a competing business while still employed by the Tribe, breach of confidentiality of personnel information;

(30) Malicious gossip and/or spreading rumors; engaging in behavior designed to create discord and lack of harmony; interfering with another employee on the job;

(31) Poor work performance;

(32) Leaving work before the end of a workday or not being ready to work at the start of a workday without approval of Management; stopping work before time specified for such purposes, unless authorized by law.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.12.020 was formerly codified as XIV LCOTCL §1.1202

PAP.1.12.030 Types of Disciplinary Actions

(a) Employees must perform assigned duties at or above satisfactory levels, follow standards of workplace behavior contained in this personnel policy and procedural manual and comply strictly with all applicable laws, rules and regulations. A system of progressive discipline will be utilized, when appropriate, to afford employees an opportunity to correct behavior, however some personnel infractions are severe enough to impose any of the below-mentioned disciplinary actions, up to and including termination. Disciplinary actions

may be handled in any manner deemed appropriate by the Tribe. This may include, but is not limited to, the following:

(1) Employee Warning.

(A) An employee may receive a verbal or written warning from their supervisor to rectify behavior which requires disciplinary action. Neither a verbal or written warning is appealable pursuant to Section PAP.1.12.040 of this manual.

(B) The department head or director will discuss with the employee the seriousness of the problem and the possible consequences of a failure to correct the problem. The department head or director will review applicable policies and will document the meeting through signature of both the department head or director and the employee.

(C) The Human Resource Director, or designee, will maintain all employee warnings in an employee's personnel file in the event that further progressive discipline is necessary.

(2) Suspension.

(A) An employee may be recommended for suspension by their supervisor when the employee's behavior warrants such disciplinary action. The recommendation must be written in a manner that clearly states the justifiable reason and forwarded to the Human Resources Director. The Human Resources Director will consult with the Supervisor to ensure the reason is justified and clearly stated. If the Human Resources Director is satisfied that all the information is contained in the documentation and there is clear substantiated reason for the suspension, the same will be forwarded to the Executive Director for final approval or denial. All suspensions are without pay. Suspensions are appealable pursuant to Section PAP.1.12.040 of this manual.

(B) Upon return from suspension, the department head or director will meet with an employee regarding the nature of the problem. A corrective action plan will be developed with the employee including specific timelines for completion.

(C) The Human Resource Director, or designee, shall document all suspensions and maintain all corrective action plans in the employee's personnel file in the event that further progressive discipline is necessary.

(3) Probationary Period in lieu of Termination.

(A) In lieu of termination an employee may be placed on a probationary period for a serious violation of this personnel policy and procedural manual, as

recommended by a Supervisor and agreed to and evidenced by the signature of the employee on a "Waiver of Appeal Process" form. The Supervisor must follow the same procedures as outlined in Section PAP.1.12.030(a)(2). During this probationary period, the Tribe will evaluate the employee's continued suitability for employment. If during this period an employee has not shown improvement or adequately addressed the issues surrounding the probationary period in lieu of termination the Supervisor may recommend the termination of the employee's employment, without the ability of the employee to appeal the decision, subject to the approval of the Executive Director.

(B) Employees placed on a probationary period pursuant to this section are eligible for holiday leave and funeral leave. Probationary employees pursuant to this section shall accrue Personal Time Off. Such employees cannot use Personal Time Off until the completion of their probationary period, unless authorized by their immediate supervisor with concurrence from the Executive Director and only for medical reasons or extreme circumstances.

(C) At the end of the probationary period pursuant to this section, the Tribe will prepare a written performance evaluation and discuss with the employee the curative conduct of the employee pertaining to the problem causing the probationary period as well as the employee's overall job performance.

(D) The Human Resource Director, or designee, shall document all probationary periods pursuant to this section and maintain all written performance evaluations pertaining to this section in the employee's personnel file in the event that further progressive discipline is necessary.

(4) Termination.

(A) An employee may be recommended for termination from employment by their supervisor at any time, depending upon the severity of the offense. The recommendation must be written in a manner that clearly states the justifiable reason and forwarded to the Human Resources Director. The Human Resources Director will consult with the Supervisor to ensure the reason is justified and clearly stated. If the Human Resources Director is satisfied that all the information is contained in the documentation and there is clear substantiated reason for the termination, the same will be forwarded to the Executive Director for final approval or denial. All terminations are appealable pursuant to Section PAP.1.12.040 of this manual.

(B) The department head or director shall document all terminations and provide a copy of all documentation to the Human Resource Director, or designee.

(b) The Tribe retains the sole discretion to determine what behavior warrants disciplinary action and what type of disciplinary action will be imposed. The Tribe reserves the right to terminate employees at any time for any reason that does not violate applicable law with or without notice and with or without prior resort to other means of discipline.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.12.030 was formerly codified as XIV LCOTCL §1.1203

PAP.1.12.040 Disciplinary Action Appeal Procedure

(a) Appeal Policy.

(1) It is the policy of the Tribe to ensure fair and equitable treatment for all employees. Therefore, the Tribe hereby issues a waiver of its sovereign immunity pursuant to Section TCT.1.3.010 to all non-contracted employees for the limited purpose of appealing in Tribal Court as detailed in this section, any suspension or termination received by an employee pursuant Section PAP.1.12.020 of this manual. Verbal and written warnings are corrective action tools and thus are not subject to appeal.

(2) Any additional claims asserted by an employee against the Tribe, must be filled pursuant to Section TCT.2.9.010. The Tribe has not waived its sovereign immunity with regard to any claims filed pursuant to Section TCT.2.9.010.

(b) Appeal Procedures. A formal appeal will be filed and processed in the manner described below, except that time limits may be waived or extended by written mutual consent of the parties involved.

(1) Appeal. The Employee will submit a written statement detailing the issue being appealed within three (3) working days of receiving a suspension or termination pursuant to Section PAP.1.12.020 of this manual. An Employee's failure to file an appeal within the specified time period will be considered a waiver of the formal appeal procedure and the disciplinary action will be final.

(2) If at any time during the process the Employee and the Employee's Supervisor are able to agree on a solution to the appeal filed, they may submit a joint statement outlining the acceptable terms to the Executive Director. If the terms are approved by the Executive Director, then the matter is settled with copies provided to the Employee and the Supervisor with a copy retained by the Human Resource Director. The Executive Director decision will be final.

(c) Hearings.

(1) Scheduling of Hearings.

(A) Upon timely receipt of all appeal documentation, the Human Resource Director, or designee, will file the employment appeal with the Tribal Court and request an initial hearing.

(B) The Tribal Court shall notify the employee of the initial hearing date of their employment appeal by personal delivery or certified mail at least five (5) days prior to the scheduled hearing date.

(C) The Lac Courte Oreilles Office of the Attorney General shall be notified of all appeals by the Tribal Court in the same manner as provided in Section PAP.1.12.040(c)(1)(B), above. The Human Resource Director, or designee, shall provide the Lac Courte Oreilles Office of the Attorney General with the entire record of the grievance and all information submitted in connection to the appeal.

(D) All employees requested to testify at an employment appeal hearing, must attend the hearing when directed by the Human Resource Director, or designee. Failure to appear may result in a monetary fine or disciplinary action or both. The Tribe recognizes that some employees possess official immunity and may not be compelled to testify.

(2) Tribal Court Hearings. The Tribal Court will conduct an employment appeal hearing pursuant to the provisions of this section. Any reliance by the Tribal Court upon the provisions of Chapter TCT.2 of the LCOTCL – Court and Civil Procedure Code shall be secondary to the provisions of this ordinance.

(A) The Tribal Court shall schedule an initial appearance within thirty (30) days of the filing, at which time the Tribe shall enter its initial plea, the Tribal Court shall set forth a scheduling order pursuant to Section TCT.2.9.050 and shall schedule a trial date pursuant to Section TCT.2.10.010. The initial trial date shall be scheduled within sixty (60) days of the filing.

(B) the Trial shall be conducted pursuant to Subchapter TCT.2.10.

(C) The Tribal Court shall determine, by a preponderance of the evidence, whether the Tribe reasonably believed that the employee committed any of the policy violation(s) upon which the discipline was based and whether the employer followed the appropriate procedural steps established in Section PAP.1.12.020 of this manual.

(i) The Tribal Court is required to defer to interpretations of this ordinance as made by the Tribe [pursuant to the Chevron Doctrine], unless such

interpretations are unreasonable. An action determined to be unreasonable shall be established by clear and convincing evidence.

(D) If the Tribal Court determines that the employer had a reasonable basis to believe that it met the burden of proof regarding any of the violations and the appropriate procedural steps established in Section PAP.1.12.020 of this manual were followed, it shall uphold the decision of the employer; and shall uphold all disciplinary measures taken without substituting its judgment for that of the employer.

(E) If the Tribal Court determines that the employer did not have a reasonable basis to believe that it met the burden of proof regarding any of the violations and procedural steps established in Section PAP.1.12.020 of this manual, it shall overturn the decision of the employer and order that the employee's personnel file reflect such decision conditioned on the following:

(i) Any award of back wages or other benefits that may have been withheld from the employee shall be limited to ninety (90) days;

(ii) No attorney's fees may be awarded as established in Section TCT.2.11.060.

(iii) Any award of back wages shall be reduced by all amounts earned through other employment or unemployment insurance during the time between the employee's separation and the conclusion of this action;

(iv) The employee has a duty to mitigate any award of back wages by attempting to retain other employment. In order to provide proof of mitigation, the employee must provide evidence to the Tribal Court that the employee has applied for at least one (1) equivalent positions per week.

(v) The employee is not guaranteed restoration to his or her previous position. Such reinstatement shall occur at the discretion of the Tribe. If the Tribe restores the employee to his or her previous position, the Human Resource Director shall meet with the employee and the department head or director and develop a work reinstatement plan including specific timelines and tasks for reintroduction into the workforce.

(F) The Tribal Court may issue its decision orally immediately. In all cases it shall issue a written decision within forty-five (45) days as established by Section TCT.2.11.040 and shall provide the parties with notice thereof. If the Tribal Court does not issue a written decision within forty-five (45) days, it is presumed that the Tribal Court has determined that the employer had a reasonable basis to believe

that it met the burden of proof and as a result the action of the employer shall be upheld. The written decision shall include findings of fact, a conclusion regarding each violation, and any money judgments as conditioned in Section PAP.1.12.040(c)(2)(E), above. The decision shall be provided to each party by first-class mail to the person's last known address; electronic mail to the party and to the party's attorney or lay advocate who has filed a notice of appearance in the action; or by delivery to such person, the person's home, or the person's office.

(G) If either party disagrees with the decision of the Tribal Court, that party may appeal the decision to the Court of Appeals by filing a notice of appeal within ten (10) working days of the party's receipt of the decision pursuant to Section PAP.1.12.040(c)(2)(F) above. The filing of an appeal by the employer shall stay any action under Section PAP.1.12.040(c)(2)(E) above, pending resolution of the appeal by the Court of Appeals. Failure to abide by the timeline stated in this section shall be deemed a waiver of the disciplinary appeal and the Tribal Court's decision shall be deemed as final. A Clerk of Court shall submit to the Court of Appeals the record of the employment appeal hearing within five (5) working days of receiving a copy of the notice of appeal. The Lac Courte Oreilles Office of the Attorney General shall be notified of all appeals of a Tribal Court decision pursuant to the methods established in Section PAP.1.12.040(c)(2)(F) above.

(3) Court of Appeals Hearings. Either party may request a review of the Tribal Court's decision by the Lac Courte Oreilles Court of Appeals. The Court of Appeals review will be limited to the information presented to the Tribal Court and the limited review is to determine whether the Tribal Court committed a clear error. If the Court of Appeals finds any clear errors in the decision of the Tribal Court, it shall overturn the decision and may remand the matter back the Tribal Court for further review consistent with the Court of Appeals findings.

(A) The Court of Appeals shall have the discretion to decide whether to schedule an oral argument pertaining to an employment appeal.

(B) The Court of Appeals may issue a decision without an oral argument after reviewing the decision of the Tribal Court and the evidence submitted during the grievance and appeal processes.

(C) In all cases, the Court of Appeals shall review the findings of fact and conclusions of law solely to determine whether the Tribal Court committed a clear error. A "clear error" occurs when a decision is not reasonably supported by the facts, law, standard of review, or evidentiary standards.

(D) If the Court of Appeals determines that the Tribal Court committed a clear error, regarding any of the violations and procedural steps established in Section

PAP.1.12.020 of this manual, it shall overturn the decision of the Tribal Court and may remand the matter back the Tribal Court for further review consistent with the Court of Appeals findings

(E) If the Court of Appeals determines that the Tribal Court did not commit a clear error(s) regarding any of the violations and the procedural steps established in Section PAP.1.12.020 of this manual, it shall uphold the decision of the Tribal Court.

PERSONNEL POLICIES AND PROCEDURES MANUAL

RECEIPT AND ACKNOWLEDGEMENT

I hereby acknowledge receipt of a copy of the Governmental Personnel Policies and Procedures of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians. This personnel policy and procedural manual contains the policies and rules that apply to me. I agree to read the manual and follow it during my employment with the Tribe. I further understand the Tribe may amend this personnel policy and procedural manual at any time and that such changes will be communicated to me in writing.

Employee Signature Date

Employee Name (Printed)

Please keep a copy of this acknowledgement for your records.

CONSENT TO APPEAL PROCESS

I hereby consent, as a condition of my employment, to the exclusive jurisdiction of the Tribe's Disciplinary Action and Appeal procedures as set forth in Subchapter 1.12 of this manual, and the jurisdiction of the Tribal Court for all disputes in connection with my employment with the Tribe. I acknowledge that my failure to comply with time limitations for resolving a complaint or filing an appeal will preclude further consideration of any matter. I hereby waive any right I may have to litigate in another court of law, any and all claims arising out of my employment, and hereby waive any right I may have to a jury trial, and agree instead to submit any and all disciplinary action claims to the Disciplinary Action and Appeal procedures as set forth in Subchapter 1.12 of this manual. I hereby consent to the application of Tribal law, both substantive and procedural, regarding all proceedings, matters and things relating to my employment relationship with the Tribe.

Employee Signature Date

Employee Name (Printed)

Please keep a copy of this consent for your records.

WAIVER OF APPEAL PROCESS

I hereby consent, as a condition of my employment, to participate in a Probationary Period in lieu of Termination pursuant to Section PAP.1.12.030(a)(3) of this manual. I hereby waive any right I may have to the Appeal procedures as set forth in this section of this manual through my participation in this Probationary Period in lieu of Termination. I hereby acknowledge that as a condition of my employment that I have consented to the application of Tribal law, both substantive and procedural, regarding all proceedings, matters and things relating to my employment relationship with the Tribe.

Employee Signature Date

Employee Name (Printed)

Please keep a copy of this consent for your records.

(Res. No. 19-73; Res. No. 19-27; Res. No. 18-57; Res. No. 18-43; Res. No. 17-128; Res. No. 17-12; Res. No. 16-106; Res. No. 16-82)

Prior Codifications

* §PAP.1.12.040 was formerly codified as XIV LCOTCL §1.1204

Chapter PAP.2
Property and Procurement Policies and Procedures of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians

PAP.2.1 General Provisions ..... PAP.2.1-**Error! Bookmark not defined.**
PAP.2.2 Definitions ..... PAP.2.2-**Error! Bookmark not defined.**
PAP.2.3 Authority and Administrations ..... PAP.2.3-**Error! Bookmark not defined.**
PAP.2.4 General Requirements ..... PAP.2.4-**Error! Bookmark not defined.**
PAP.2.5 Small Purchase Procedures ..... PAP.2.5-**Error! Bookmark not defined.**
PAP.2.6 Sealed Bids ..... PAP.2.6-**Error! Bookmark not defined.**
PAP.2.7 Cost and Price Analysis..... PAP.2.7-**Error! Bookmark not defined.**
PAP.2.8 Cancellation of Solicitations ..... PAP.2.8-**Error! Bookmark not defined.**
PAP.2.9 Cooperative Purchasing ..... PAP.2.9-**Error! Bookmark not defined.**
PAP.2.10 Contracts, Clauses, and Solicitation..... PAP.2.10-**Error! Bookmark not defined.**
PAP.2.11 Appeals and Remedies ..... PAP.2.11-**Error! Bookmark not defined.**
PAP.2.12 Ethics in Procurement..... PAP.2.12-**Error! Bookmark not defined.**
PAP.2.13 Property and Equipment Inventory ..... PAP.2.13-**Error! Bookmark not defined.**

Preamble

This ordinance is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians to negotiate, make and perform contracts and agreements of every description 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(c) of the Amended Constitution and By-laws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians empowers the Tribal Governing Board to "negotiate, make and perform contracts and agreements of every description, not inconsistent with law or with any provisions of this Constitution, with any person, association, or corporation, with any county, or with the State of Wisconsin or the United States." It is the purpose of this ordinance to: (1) Provide for the fair and equitable treatment of all persons or firms involved in purchasing by the Tribe; (2) Provide a means to assure that supplies, services, and construction are procured efficiently, effectively, and at the most favorable prices available to the Tribe; (3) Provide a means to assure competition in contracting; (4) Provide safeguards for maintaining a procurement system of quality and integrity; and (5) Provide a means to assure that Tribe's purchasing actions are in full compliance with applicable federal standards and regulations along with any applicable state and local laws.

Subchapter PAP.2.1
General Provisions

PAP.2.1.010 Title ..... PAP.2.1-**Error! Bookmark not defined.**
PAP.2.1.020 Authority ..... PAP.2.1-**Error! Bookmark not defined.**
PAP.2.1.030 Purpose ..... PAP.2.1-**Error! Bookmark not defined.**
PAP.2.1.040 Application..... PAP.2.1-**Error! Bookmark not defined.**
PAP.2.1.050 Effective Date ..... PAP.2.1-**Error! Bookmark not defined.**
PAP.2.1.060 Interpretation ..... PAP.2.1-**Error! Bookmark not defined.**
PAP.2.1.070 Severability and Non-Liability..... PAP.2.1-**Error! Bookmark not defined.**
PAP.2.1.080 Consistency with Good Business Practices..... PAP.2.1-**Error! Bookmark not defined.**
PAP.2.1.090 Public Access to Procurement Information..... PAP.2.1-**Error! Bookmark not defined.**
PAP.2.1.100 Regulations and Law Requirements..... PAP.2.1-**Error! Bookmark not defined.**

PAP.2.1.010 Title

This ordinance shall be known as the Property and Procurement Policies and Procedures of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(Res. No. 16-30)

Prior Codifications

- §PAP.2.1.010 was formerly codified as XIV LCOTCL §2.101

PAP.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(c) of the Amended Constitution and By-laws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians empowers the Tribal Governing Board to "negotiate, make and perform contracts and agreements of every description, not inconsistent with law or with any provisions of this Constitution, with any person, association, or corporation, with any county, or with the State of Wisconsin or the United States."

(Res. No. 16-30)

Prior Codifications

- §PAP.2.1.020 was formerly codified as XIV LCOTCL §2.102

PAP.2.1.030Purpose

It is the purpose of this ordinance to:

(a) Provide for the fair and equitable treatment of all persons or firms involved in purchasing by the Tribe;

(b) Provide a means to assure that supplies, services, and construction are procured efficiently, effectively, and at the most favorable prices available to the Tribe;

(c) Provide a means to assure competition in contracting;

(d) Provide safeguards for maintaining a procurement system of quality and integrity; and

(e) Provide a means to assure that Tribe's purchasing actions are in full compliance with applicable federal standards and regulations along with any applicable state and local laws.

(Res. No. 16-30)

Prior Codifications

- §PAP.2.1.030 was formerly codified as XIV LCOTCL §2.103

PAP.2.1.040Application

This ordinance shall govern all contracts and grants for the procurement of supplies, services, and construction entered into by the Tribe. It shall apply to purchasing, irrespective of the source of funds, including contracts, which do not involve an obligation of funds (such as concession contracts); however, nothing in this ordinance shall prevent the Tribe from complying with the terms and conditions of any grant, contract, gift, or bequest that is otherwise consistent with law.

When both federal and non-federal funds are used for a project, the work to be accomplished with the funds should be separately identified. The term "*procurement*," as used in this ordinance includes both contracts and modifications (including change orders) for construction or services, as well as purchase, lease, or rental of supplies and equipment.

(Res. No. 16-30)

Prior Codifications

- §PAP.2.1.040 was formerly codified as XIV LCOTCL §2.104

PAP.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. 16-30)

Prior Codifications

* §PAP.2.1.050 was formerly codified as XIV LCOTCL §2.105

PAP.2.1.060 Interpretation

The provisions of this ordinance:

(a) Shall be interpreted and applied as minimum requirements applicable to all contracts and grants for the procurement of supplies, services, and construction 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. 16-30)

Prior Codifications

* §PAP.2.1.060 was formerly codified as XIV LCOTCL §2.106

PAP.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. 16-30)

Prior Codifications

* §PAP.2.1.070 was formerly codified as XIV LCOTCL §2.107

PAP.2.1.080 Consistency with Good Business Practices

The fundamental goal of the Tribe's procurement system is to satisfy end users in terms of cost, quality, and timeliness of the delivered product or service while complying with applicable laws, rules, and the Tribe's own policies. Further, those involved in the procurement function should exercise personal initiative and sound business judgment in providing best value product or services in meeting the tribe's needs. Consistent with that goal, the CPO may assume that, if a specific strategy, practice, policy or product is in the best interests of the Tribe and is not addressed in this ordinance, nor prohibited by tribal

law, federal law, or other directive including this procurement ordinance, the strategy, practice, policy or procedure may be a permissible exercise of authority. The CPO is advised to seek advice whenever doubts arise about an intended strategy, practice, policy or procedure.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.1.080 was formerly codified as XIV LCOTCL §2.108

PAP.2.1.090 Public Access to Procurement Information

Certain information about the Tribe's procurements are normally considered public (e.g. name of the winner contractor and total contract price) and may be released to the public in accordance with this procurement ordinance as well as applicable tribal laws and regulations governing information.

Other information related to procurement is often protected from disclosure (e.g., proprietary business information such as technical methods or processes, detailed pricing information, personal information, or other information). The Tribe must exercise caution to ensure that protected information is not made public. Contracting personnel should consult the Tribe's Legal Department whenever there is any question regarding the release of information.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.1.090 was formerly codified as XIV LCOTCL §2.109

PAP.2.1.100 Regulations and Law Requirements

(a) The Tribe shall make efforts to ensure that qualified Indians, Indian Organizations, and Indian-Owned economic enterprises are used when possible. Such efforts shall include, but shall not be limited to:

(1) Placing qualified Indians, Indian Organizations, and Indian-Owned economic enterprises on solicitation lists;

(2) Assuring that qualified Indians, Indian Organizations, and Indian-Owned economic enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by qualified Indians, Indian Organizations, and Indian-Owned economic enterprises;

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by qualified Indians, Indian Organizations, and Indian-Owned economic enterprises;

(5) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and

(6) Including in contracts a clause requiring contractors, to the greatest extent feasible, to provide opportunities for training and employment for qualified Indians, Indian Organizations, and Indian-Owned economic enterprises and to award subcontracts for work in connection with the project to qualified Indians, Indian Organizations, and Indian-Owned economic enterprises which are located in, or owned in substantial part by persons residing in the area of the project.

(7) Requiring prime contractors, when subcontracting is anticipated, to take the steps listed above.

(b) Regulations and Law References:

(1) Administrative Procurement Requirements for Indian Tribal Governments: 24 CFR 85.36

(2) HUD Procurement Handbook: HUD Handbook

(3) Indian Self Determination Act : Public Law 93-638; 25 CFR Part 900

(4) Indian Health Services Manual: Chapter 11

(5) OMB Circular A-87: OMB Circular A-87

(6) Tribal Preferences requirements: 24 CFR 1000.48

(7) Wage and Labor Standards: 25 U.S.C. §450e

(8) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards: 2 C.F.R. Part 200

(Res. No. 16-30)

Prior Codifications

* §PAP.2.1.100 was formerly codified as XIV LCOTCL §2.110

Subchapter PAP.2.2
Definitions

PAP.2.2.010 General Definitions ..... PAP.2.2-**Error! Bookmark not defined.**
PAP.2.2.020 General Acronyms..... PAP.2.2-**Error! Bookmark not defined.**

PAP.2.2.010General 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) **"Acceptance"** means the act of an authorized representative of the Tribe acknowledging that the supplies or services delivered to or received by the Tribe conform to contract requirements.

(b) **"Amendment"** means the written revision or clarification made to a solicitation.

(c) **"Anti-competitive Practices"** means the actions by potential contractors that improperly reduce or eliminate competitors to restrain trade, such as submitting collusive bids or proposals, rotating low bids, follow-the-leader pricing, or sharing of the business. Competitions may also be wrongfully discouraged by illicit business actions that have the effect of restraining trade, such as controlling the resale price of products or an improper collective refusal to bid.

(d) **"Architect/Engineer"** means the person (or company) usually responsible for developing the plans and specifications of a building or development and, in some cases, supervision of the construction effort.

(e) **"Bid"** means the price submitted by a bidder in the sealed bidding method of procurement.

(f) **"Bidder's List"** means the general list of persons or firms who may be interested in contracting opportunities with the Tribe, and in submitting bids in response to an Invitation for Bid.

(g) **"Change Order"** means a unilateral modification made to the contract by the Contracting Officer under the authority of the contract's Changes clause. Only the specific changes permitted by the particular Changes, clause may be made under a change order (e.g. modify the drawings, design, specification, method of shipping or packaging, place of

inspection, delivery, acceptance, or other such contractual requirement). All change orders must be within the scope of the contract.

(h) **"Changed Conditions"** means the construction site or repair conditions that differ significantly from those indicated in the contract or from those ordinarily encountered in the performance of the specific type of work required by the contract.

(i) **"Competitive Proposals"** means the use of an adequate method of evaluating technical proposals and/or when there is an adequate number of qualified sources identified to be solicited.

(j) **"Contract"** means a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the Tribe to pay for them. It includes all type of commitments that obligate the Tribe to an expenditure of funds, except as otherwise authorized in writing. In addition to bilateral instruments, contracts include: Contract awards and notices of awards; job orders or task letters issued under basic ordering agreements, requirement contracts, definite- or indefinite- quantity contracts; letter contracts; and orders, such as purchases ordered, under which the contract modification and various cooperative and interagency agreements (as described elsewhere in this ordinance). Contracts do not include grants covered under a different federal agency.

(k) **"Chief Procurement Officer" or "CPO"** means the official authorized by the Tribe to enter into and/or administer contracts and make related determination and findings on behalf of the Tribe as well as establish and maintain an inventory of all property and equipment. For the purpose of this ordinance, the term includes any Tribal employee designated and authorized to perform the duties of the CPO.

(l) **"Contract Administration"** means all actions taken with regard to a contract after its award. Administration includes monitoring the contractor's performance to ensure compliance with the contract requirements, and terms and conditions.

(m) **"Contract Modification"** means any written alteration to a contract executed by an authorized contracting officer.

(n) **"Contractor"** – means an offeror who is awarded a contract.

(o) **"Custodian"** means an employee that has been entrusted with keeping and maintaining property or equipment of the Tribe.

(p) **"Director" or "Department Director"** means an employee responsible for managing a department of the Tribal Government Operations.

(q) **"Tribal Governing Board" or "TGB" –** means the Tribal Governing Board as established by the Lac Courte Oreilles Constitution and Bylaws dated November 2, 1966.

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

(Res. No. 16-30)

Prior Codifications

* §PAP.2.2.010 was formerly codified as XIV LCOTCL §2.201

PAP.2.2.020 General Acronyms

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

(a) **A/E –** Architect/Engineer

(b) **ABA** – American Bar Association

(c) **CFR** – Code of Federal Regulations

(d) **CPO** – Chief Procurement Officer

(e) **CSS** – Community Supportive Services

(f) **DOE** – Department of Energy

(g) **DOL** – Department of Labor

(h) HUD – U.S. Department of Housing and Urban Development

(i) **ICE** – Independent Cost Estimate

(j) **HIS** – Indian Health Services

(k) **LCO** – Lac Courte Oreilles Band of Chippewa Indians

(l) **LS** – Legal Services

(m) **MBDC** – Minority Business Development Center

(n) **MOC** – Minority Owned Corporation

(o) **PHA** – Public Housing Agency

(p) Pub. L. – Public Law

(q) **RFP** – Request for Proposals

(r) **SBDC** – Small Business Development Center

(s) **TGB** – Tribal Governing Board

(t) U.S.C. – United States Code

(u) **WBC** – Women's Business Centers

(v) **WBE** – Woman's Business Enterprise

(Res. No. 16-30)

Prior Codifications

* §PAP.2.2.020 was formerly codified as XIV LCOTCL §2.202

Subchapter PAP.2.3
Authority and Administrations

PAP.2.3.010 General ..... PAP.2.3-**Error! Bookmark not defined.**
PAP.2.3.020 Delegation of Authority..... PAP.2.3-**Error! Bookmark not defined.**
PAP.2.3.030 Responsibility of the Chief Procurement Officer .... PAP.2.3-**Error! Bookmark not defined.**
PAP.2.3.040 Chief Procurement Officer Signature/Obligation of Funds .....PAP.2.3-**Error! Bookmark not defined.**
PAP.2.3.050 Staffing and Training ..... PAP.2.3-**Error! Bookmark not defined.**

PAP.2.3.010General

This chapter discusses the authority for procurement activity and delegation of the administration of the procurement function.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.3.010 was formerly codified as XIV LCOTCL §2.301

PAP.2.3.020Delegation of Authority

(a) Generally, this procurement ordinance delegates responsibility for procurement functions to the Tribal Governing Board (hereinafter "TGB"). As established in Article V(1)(c) of the Lac Courte Oreilles Constitution and Bylaws dated November 2, 1966, the TGB has the power to exercise or limit any procedures, agreements, or contracts including this procurement ordinance. Furthermore, projects developed with the use of federal monies are also subject to the Chief Financial Officers Act of 1990; OMB Circular A-87; and Section 7(b) and (c) of the Indian Self Determination and Education Assistance Act (25 U.S.C. §450e(c)).

(b) The TGB hereby appoints and delegates procurement authority and the administration of this ordinance to the Chief Procurement Officer (hereinafter "CPO") when s/he performs that function, regardless of any other job, position or title s/he may have. The CPO shall issue operational procedures, including procedures for the processing of purchase orders, to implement this ordinance. Violation of this ordinance, including the

ethical standards, shall constitute insubordination and shall be subject to disciplinary action (which may include suspension and/or termination) by the TGB.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.3.020 was formerly codified as XIV LCOTCL §2.302

PAP.2.3.030 Responsibility of the Chief Procurement Officer

Pursuant to the delegated authority established in this ordinance, it is the responsibility of the CPO or his/her designee to:

(a) Use sound judgment in accomplishing the procurement activities for the Tribe;

(b) Ensure that bidders and contractors receive fair, impartial, and equitable treatment;

(c) Ensure that contract actions comply with all applicable Tribal and Federal laws and rules and with this procurement ordinance; and

(d) Seek the best value and greatest overall benefit for the Tribe in response to the needs desired.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.3.030 was formerly codified as XIV LCOTCL §2.303

PAP.2.3.040 Chief Procurement Officer Signature/Obligation of Funds

Each contract or purchase action (e.g., new contract, modification, interagency agreement, purchase order, etc.) that obligates the Tribe to pay a contractor or vendor must be approved by the TGB or otherwise authorized by an individual to whom the Tribe has expressly delegated the authority to make such an obligation.

The approval of the TGB on contracts is a legal commitment and requires continuing performance by the Tribe under the terms and conditions of the contact. Performance includes such duties as monitoring contractor performance and for the acceptance or rejection of contractors' requests for changes in performance, specification, or price.

Caution: Only the TGB is authorized to bind the Tribe by making an implied contract such as making a promise or stating an intent to purchase, either orally or in writing. Under the laws of the Tribe, the Tribe may be liable for, or bound by, an action of the CPO, or his/her designee only if the offeror has been given authority by the TGB. Therefore, all unapproved actions that could be misinterpreted as committing the TGB to purchase should

be clarified with a statement such as, "this request for price quotation is not an offer to buy and should not be assumed as such."

(Res. No. 16-30)

Prior Codifications

* §PAP.2.3.040 was formerly codified as XIV LCOTCL §2.304

PAP.2.3.050 Staffing and Training

The Tribe should ensure that procurement employees have training and experience commensurate with the requirements of their duties. The Tribe should develop training and experience standards for their procurement positions and periodically review their procurement operations to ensure that procurement personnel meet those standards. The TGB should consider any changes in the procurement environment (e.g., new laws, regulations, market conditions, or buying needs and practices of the Tribe) when assessing the qualifications for personnel and the need for additional training.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.3.050 was formerly codified as XIV LCOTCL §2.305

Subchapter PAP.2.4
General Requirements

PAP.2.4.010 Procurement Planning..... PAP.2.4-**Error! Bookmark not defined.**
PAP.2.4.020 Independent Cost Estimate (Ice) ..... PAP.2.4-**Error! Bookmark not defined.**
PAP.2.4.030 Documentation ..... PAP.2.4-**Error! Bookmark not defined.**
PAP.2.4.040 Funding and Payment ..... PAP.2.4-**Error! Bookmark not defined.**

PAP.2.4.010Procurement Planning

(a) General. Planning is essential to managing the procurement function properly; however the type and extent of planning will depend on, among other factors, the method and size of the procurement, with larger and more complex procurements requiring more planning.

(1) Careful advance planning provides the Tribe with adequate time to accomplish its procurement actions. Advance planning helps to: maximize competitive pricing among contracts and decrease the Tribe's procurement costs; without any need for re-procurement, e.g., resolving bid protest; and minimize errors that occur when there is inadequate lead-time. Contractors that develop or draft specifications, requirements, statements of work, and invitations for bids or requests for proposals must be excluded from competing for such procurements.

(2) The Tribe should periodically review their record of prior purchases, as well as future needs to find patterns of procurement actions that could be performed more efficiently or economically. Items purchased repetitively might be obtained more economically through various master contracts. However, consideration should be given to storage, security, and handling requirements when planning these types of purchasing actions. For example, it may not be economical or prudent to buy truckloads of a product at deep discounts if there is no appropriate storage space for the product or if the cost of handling the product would exceed the savings price.

(b) Individual Procurement Plans (IPPs). For larger, more complex procurements, such as major computer purchases or construction projects, the CPO should establish IPPs. IPPs establish deadlines or milestones for completion of the steps necessary to assure timely delivery or performance by the CPO.

(c) Equipment Lease or Purchase. Based on a case-by-case evaluation of costs and other factors, the Tribe should consider the leasing of equipment. Those factors would include length of period the equipment is to be used and the extent of use within that period;

financial and operating advantages of alternative types and makes of equipment; cumulative rental payments for the estimated period of use; net purchase price; transportation and installation; maintenance and other service costs; potential obsolescence of the equipment because of imminent technological improvements; availability of the purchase items; trade-in or salvage value; imputed interest; and availability of servicing capability (for example, whether the equipment can be serviced by Tribal staff).

(Res. No. 16-30)

Prior Codifications

- §PAP.2.4.010 was formerly codified as XIV LCOTCL §2.401

PAP.2.4.020 Independent Cost Estimate (Ice)

(a) The ICE is an estimate of the cost of the goods or services to be acquired under a contract or a modification. It serves as the Tribe's standard for evaluating the reasonableness of the contractor's proposed cost or prices.

(b) The ICE helps the CPO determine the contracting method to be used.

(c) While the CPO is responsible for the preparation of the ICE, other personnel (e.g., the end user, or budget and finance) are usually involved and may actually do most of the preparation. The Tribe may develop the ICE using its own employees, outside parties (e.g., consultants), or a combination of the two. If any outside party (whether compensated or not) assists in developing the ICE, the Tribe must take the appropriate action to ensure that organizational conflicts of interest are avoided and that the outside party does not obtain any competitive advantage from its advance knowledge of the Tribe's cost estimate.

(d) The CPO shall prepare, or have prepared an ICE commensurate with the purchase requirement. The level of detail will depend upon the dollar value of the proposed contract and the nature of the goods or services to be acquired. The ICE must be prepared prior to the solicitation of offers. The requirements for ICEs are:

(1) For Purchases Less Than $3,000. The CPO generally does not need to prepare an ICE. Price reasonableness normally will be based on a comparison with historical prices paid for the item, commercial catalog prices, or other offers.

(2) For Purchases Above $3,000. For Purchases above $3,000 but less than the Tribe's small purchase threshold ($150,000), documentation should be kept to a minimum. The ICE may be based on prior purchases, commercial catalogs, or detailed analyses (e.g., purchases for services).

(3) For Purchases Above the Tribe's Small Purchase Threshold. The level of detail will vary but should be commensurate with the size (i.e. dollar value), complexity, and

commercial nature of the requirement. ICEs are normally broken out into major categories of cost (e.g., labor, materials, and other direct costs such as travel, overhead, and profit). Commercially available products and services may require less detail as the marketplace tends to provide current reliable pricing information for commercially available products; a CPO may also not need to break out components. Non-commercial type requirements, and work designed specifically for the tribe will require much more extensive estimation and detailed ICE.

(e) The ICE serves as the primary in-house gauge of cost and price reasonableness, but it should not be relied upon to the exclusion of other sources of pricing information. Market conditions may fluctuate between the time the ICE is prepared and the receipt of offers. For example, materials or labor cost may have increased or decreased. If a significant period of time has elapsed, or the CPO knows that certain market conditions have changed, the CPO should request that an updated ICE be prepared to use in evaluating offers.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.4.020 was formerly codified as XIV LCOTCL §2.402

PAP.2.4.030 Documentation

(a) General. The CPO must maintain records sufficient to detail the significant history of each procurement action. Such documentation is particularly important in the event a protest is lodged against the Tribe. It will also facilitate future purchases of similar supplies or services since it will not be necessary to recreate solicitation documents. Supporting documentation shall be manually or electronically written and placed in the manual or electronic procurement file. These records shall include, but shall not necessarily be limited to the following:

(1) Rationale for the method of procurement selected. For example, the contract file would not need to state why the CPO chose small purchase procedures to order a desk but would want to note why a non-competitive proposals was used for a roofing contract;

(2) The solicitation;

(3) Selection of contract pricing arrangement, but only if not apparent. For example, the contract file would not need to document why a firm fixed-price was used to obtain building materials;

(4) Information regarding contractor selection or rejection, including, where applicable, the negotiation memo, the source selection panel, evaluation report, cost and price analysis, email correspondence (including offers, selections, pertinent pre- and post-award discussions and negotiations, etc.);

(5) Basis for the contract price); and

(6) Contract administration issues/actions.

The level of documentation should be commensurate with the value of the procurement.

(b) Retention of Procurement Records. The Tribe shall retain all significant and material documentation and records concerning all procurements they conduct. These records must be retained for a period of three (3) years after final payment and until all matters pertaining to the contact are closed. If any claims or litigation are involved, the records shall be retained until all issues are satisfactorily resolved. A separate file for each procurement activity shall be maintained for quick reference and/or review.

(c) Audits. The TGB or its designated representative, has the right to audit all books, documents, papers, and records that are pertinent to the functionality of this ordinance. The performance of periodical audits and management reviews help determine whether the procurement actions meet the requirements set forth in this ordinance.

(Res. No. 16-30)

Prior Codifications

- §PAP.2.4.030 was formerly codified as XIV LCOTCL §2.403

PAP.2.4.040Funding and Payment

(a) The CPO must make sure that funds are available for any purchases made and that there is an orderly process to pay contractors promptly.

(1) The CPO must receive approval from the TGB or Finance Department that funds are, indeed, available before making the purchase.

(b) To maintain good relations with contractors, the CPO should ensure that work performed is inspected in a timely manner and that contractor invoices for work accepted by the CPO are paid promptly. Unnecessary delays in either inspection or payment can discourage contractors from participating in future Tribal procurements or cause them to increase their bid price to account for expected delays in payment.

(Res. No. 16-30)

Prior Codifications

- §PAP.2.4.040 was formerly codified as XIV LCOTCL §2.404

Subchapter PAP.2.5
Small Purchase Procedures

PAP.2.5.010 Small Purchase Dollar Limits..... PAP.2.5-**Error! Bookmark not defined.**
PAP.2.5.020 Selection Method..... PAP.2.5-**Error! Bookmark not defined.**
PAP.2.5.030 Method Specifications..... PAP.2.5-**Error! Bookmark not defined.**
PAP.2.5.040 Preparation of the Work Order ..... PAP.2.5-**Error! Bookmark not defined.**
PAP.2.5.050 Preparation of a Purchase Order ..... PAP.2.5-**Error! Bookmark not defined.**
PAP.2.5.060 Personnel Duties and Responsibilities ..... PAP.2.5-**Error! Bookmark not defined.**
PAP.2.5.070 Special Circumstances..... PAP.2.5-**Error! Bookmark not defined.**
PAP.2.5.080 Final Distribution..... PAP.2.5-**Error! Bookmark not defined.**

Small purchase procedures are a simplified method for acquiring supplies, materials, and services (including professional and construction) that do not exceed the Tribe's small purchase threshold. These procedures are the simplest method of procurement and will be used for the vast majority of Tribal purchases.

PAP.2.5.010 Small Purchase Dollar Limits

(a) The TGB hereby establishes that the threshold for individual small purchases shall not exceed the Federal small purchase threshold which is currently $150,000, or any lower dollar value set by the Tribe. In no case may the Tribe adopt an approved threshold that exceeds $150,000.

(b) The Tribe may establish a separate Purchase threshold of up to $5,000 per purchase.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.5.010 was formerly codified as XIV LCOTCL §2.501

PAP.2.5.020 Selection Method

(a) The Tribe shall choose the appropriate procurement method to purchase goods and services based on the dollar amount of the purchase and the available vendors.

(b) Indian Preference: To the greatest extend permissible and feasible; the Tribe shall give preference in the award to qualified Indians, Indian Organizations, and Indian-Owned economic enterprises. See Appendix A for Indian Preference guidelines.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.5.020 was formerly codified as XIV LCOTCL §2.502

PAP.2.5.030 Method Specifications

(a) Purchases that are Less than $3,000:

(1) For purchase of less than three thousand dollars ($3,000), the TGB shall set the guideline allowing the tribe the ability to purchase without soliciting competitive quotations if the CPO or designee considers the price to be reasonable.

(2) A Requisition Request must be used for all purchases less than three thousand dollars ($3,000). The CPO or designee must determine reasonableness based on prior purchase of a similar nature or other source of information. When the purchase order is signed, it signifies that the cost has been determined to be reasonable.

(3) For purchase of less than three thousand dollars ($3,000), only one bid is required, provided it is determined to be reasonable. Estimates may be based upon recent purchases of similar items, obtained from catalogs, the internet, emails, fax or verbally but must be documented. If the purchase is made for reasons other than price, the file must clearly describe the reason for the purchase. Under no circumstances will a purchase be broken down into more than one action in order to meet the less than three thousand dollars ($3,000) purchase threshold. The purchase must be documented by the CPO or designee.

(b) Requisition Purchase:

(1) Requisition Purchase Procurement: For purchases of three thousand and one dollars ($3,001) but less than one hundred and fifty thousand ($150,000) dollars, also known as Requisition Purchases, supporting documentation documenting at least three price quotations is required. Under no circumstance may a purchase be broken down into more than one action in order to meet the Requisition Purchase threshold. The Requisition Purchase must be documented by an authorized Requisition Form. During the Requisition sign off review the CPO may request additional quotes. The CPO at their discretion may audit any purchase by requesting additional quotes.

(2) Purchases utilizing the Requisition Request form shall be restricted to staff designated by the CPO or his/her designee.

(A) All purchases/acquisitions exceeding $3,000 must utilize the Requisition Request form which shall be reviewed by the Tribal Legal Department upon the discretion of the CPO or CPO Representative.

(B) Procurement activities for HUD housing projects should be coordinated with the performance objectives described in the Tribe's Indian Housing Plan (IHP) to assure efficient and economical purchasing.

(C) Contracts and modifications shall be in writing, clearly specifying the desired supplies, services, or construction, and are supported by sufficient documentation regarding the history of the procurement, including, at a minimum, the method of procurement chosen, the selection of the contract type, the rationale for selecting or rejecting offers, and the basis for the contract price.

(D) For procurement other than small purchases, a minimum of thirty (30) days for major construction contracts and fifteen (15) days for other contract types are provided for the preparation and submission of bids or proposals.

(E) Solicitation procedures are conducted in full compliance with federal standards including the Indian preference requirements.

(F) An independent cost estimate is prepared before solicitation issuance and is appropriately safeguarded for each procurement above the small purchase limitation; and a cost or price analysis shall be conducted for each of the responses received for all procurement.

(G) A Contract award shall be made to the responsive and responsible bidder offering the lowest price, consistent with Indian preference requirements; or contract award is made to the offeror whose proposal offers the greatest value to the Tribe, considering price, technical qualifications, and other factors as specified in the solicitation, including Indian preference; unsuccessful firms are notified within ten days after contract award.

(H) There are sufficient unencumbered funds available to cover the anticipated cost of each procurement before contract award or modification (including change orders); work is inspected before payment; and payment is made promptly for contract work performed and accepted.

(I) Effective contract administration is performed.

(J) Effective monitoring of contractor's performance is conducted.

(c) Purchase Order:

(1) Any Purchase Procurement valued at three thousand and one dollars ($3,001) up to the small purchase threshold may be conducted in accordance with the Purchase Order purchase procedures authorized in this section. Contract requirements shall not be artificially divided so as to constitute a purchase order under this section.

(A) Obtaining Quotes. The Department wishing to make the procurement shall solicit price quotations by phone, letter or other informal procedures that allows participants by reasonable number of competitive sources. When soliciting

quotations the Department shall inform the sources solicited of the specific item being procured, the time by which quotations must be submitted, and the information required to be submitted with each quotation. The Department shall obtain written quotation such as a letter or email; however the written quotation may be a confirmation of a previous oral quotation only if it is submitted within ten (10) days of the oral quotation or by the date for submitting quotation. The names, addresses, and/or telephone numbers of the offerors and person contacted, and the date and amount of each quotation shall be recorded and maintained as a public record.

(B) Competition. The Department wishing to make the procurement shall attempt to obtain quotations from a minimum of three qualified sources and document the procurement file with a justification whenever it has been unable to obtain at least three quotations. Solicitation of fewer than three sources is acceptable only if the Department has attempted but has been unable to obtain a sufficient number of quotations. The sole quotation received may be accepted only in unusual circumstances (such as an emergency, threatening public health and safety) and must be certified and documented as such by the CPO

(C) Award.

(i) Award based on price. For purchases awarded based on price and fixed specifications (i.e., not subject to negotiation) the Tribe shall make an award to the qualified Indian, Indian Organization or Indian-Owned economic enterprise when the quotation received is within 15% of the lowest responsive quotation from any qualified source, then award shall be made to the source with the lowest responsive quotation from any qualified source, then award shall be made to the source with the lowest quotation.

(ii) Award based on Factors other than price. For purchases to be awarded based on factors other than price, formal solicitation (request for proposals or request for quotations) shall be issued, including evaluation factors and a rating system to evaluate each proposal or quotation. The solicitation shall identify all evaluation factors, including cost or price. The solicitation shall reserve 15% of the total evaluation points for providing Indian preference. Award shall be made to the best proposal or quotation in accordance with the state rating system.

(D) Soliciting Proposals. For the purpose of soliciting written proposals for small purchases under the $150,000 threshold, one or more of the following methods may be used:

(i) Advertisement placed in a newspaper and/or newsletter of general circulation;

(ii) A written notice to potential vendors by CPO and/or TGB;

(iii) Telephone or fax contact; or

(iv) E-mail and/or Internet postings**.**

(2) All purchase order procurement shall be processed in accordance with procedures issued by the CPO pursuant to Section PAP.2.1.020.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.5.030 was formerly codified as XIV LCOTCL §2.503

PAP.2.5.040Preparation of the Work Order

Work Orders will be prepared in accordance with the policies and procedures of the Tribe. They are to be typed or neatly hand-written. Purchase Orders may be written against the approved Work Order and shall reference the Project Number assigned.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.5.040 was formerly codified as XIV LCOTCL §2.504

PAP.2.5.050Preparation of a Purchase Order

(a) Purchase Orders may only be used at vendors that have an established account with Tribe or an "Open Purchase Order". Purchase Orders shall be used by authorized staff for those supplies, materials, tools or equipment that are not available through the Tribe.

(b) A Requisition Request form may initiate Purchase Orders. Requisition Requests will be typed, computer generated or neatly hand-written. Requisition Requests missing any of the information requested below will be returned to the department initiating the request and will not be filled until such time that all items have been included on the form. All Requisition Request forms must be signed by the Program Director. This document will list in detail:

(1) The items to be purchased;

(2) The quantity of items to be purchased;

(3) The location to where the items are to be delivered;

(4) The time frame in which the materials are needed;

(5) The correct project number or to which program year the material is to be charged;

(6) The name and signature of the program director authorizing the requisition request.

(c) Only designated personnel shall be authorized to purchase goods. Such designation shall be in writing, by the CPO, and the authorized staff member shall be forwarded a copy of such designation. All Purchase Orders must be signed by the CPO or his/her designee;

(d) A list of authorized personnel shall be distributed to all vendors where such purchasing shall take place. Vendors shall be notified that should they accept and process a Purchase Order from any unauthorized personnel, the purchase order shall be considered invalid;

(e) Purchases for three thousand dollars (**$**3,000) or less may be executed by CPO or a representative designated by the CPO;

(f) Purchases in excess of three thousand and one dollars ($3,001) but less than one hundred and fifty thousand (**$**150,000) dollars shall be reviewed by the Tribe's Legal Department upon the discretion of the CPO or CPO Representative.

(g) Purchases in excess of one hundred and fifty thousand ($150,000) dollars shall be approved by the TGB upon review by the Tribe's Legal Department;

(Note: The table below is the $ amounts of purchases and whom are authorized to approve the purchases.)

Amount of Purchase	Authorized by CPO Designee	Authorized by CPO	Authorized by LCO TGB
$1 - $3,000	X	X	
$3,001 - $150,000		X	
$150,000			X

(h) The purchase order is used as the primary contract document for contracts, single material and supply purchases of one hundred and fifty thousand ($150,000) dollars or less. At all times the procedures for Informal Solicitations shall be followed. For all purchases in excess of one hundred and fifty thousand ($150,000) dollars, a Purchase Order shall be assigned to the contract. Note the following exceptions:

(1) Procurements that are expected to exceed five thousand dollars ($5,000) and include labor shall be prepared utilizing a Request for Contract document and shall be administered by the Chief Procurement Officer (CPO);

(2) Procurements that are expected to exceed three thousand ($3,000) dollars but not exceed one hundred and fifty thousand ($150,000) dollars and do not include labor shall be prepared utilizing the Tribes informal solicitations Invitation For Bids (IFB) or Request For Proposals (RFP) format or the Requisition Request and shall be coordinated through the CPO;

(3) For the procurement of professional services (i.e. consultant, design professional, etc.) the primary contract document shall be a professional services contract executed between the professional and the TGB or delegated TGB Representative.

(A) For all other contracts for services a Legal Department template shall be used for any term < 12 months and is valued < $3k, however prior to execution the contract for services shall be reviewed by the Tribe's Legal Department.

(i) Regardless of the dollar amount, single purchases for which an emergency or a sole source exception is made, the Purchaser shall obtain the signed approval of the CPO or designee on the Purchase Order. The Procurement Department shall prepare a memorandum, which documents the emergency or special circumstances. The memo shall be signed by the CPO and attached to the Purchase Order. If the contract is federally funded, the vendor must comply with payroll reporting requirements when labor is involved (as described below). Therefore, the Procurement Department must obtain the required documentation from the contractor before payment is made for the goods or services.

(j) The Purchase Order will be computer generated from the centralized accounting program sequentially pre-numbered and properly labeled with the Tribal billing information. Copies of the Purchase Order with supporting documentation shall be distributed as follows:

(1) Vendor File

(2) Program Director

(k) The Purchase Order shall identify the account code and/or Project Number that has been assigned by the Tribal Finance Department.

(l) The Purchase Order form shall have blocks that identify the following:

(1) Date of Purchase;

(2) Program name;

(3) Vendor name;

(4) Vendor e-address or postal mailing address;

(5) Quantity of item(s) being purchased under this Purchase Order;

(6) Description of item(s) being purchased;

(7) Unit price of item(s) being purchased;

(8) Item SKU number if in use;

(9) Appropriate coding;

(10) Any special instructions, such as delivery address, date and or time delivery is expected (if necessary);

(11) Signature and date blocks for:

(A) Authorized personnel;

(B) TGB where required;

(C) CPO (when required); and

(D) Cash Management Director (when required)

(m) Procedures:

(1) Purchase Orders: Less than $3,000

(A) Authorized Personnel. CPO or CPO designee should ensure that all procurement is in compliance with these procedures:

(i) The Purchase Order will be filled out legibly by hand, typewritten, or computer generated;

(ii) All information pertinent to the purchase shall be identified on the Purchase Order;

(iii) All purchase descriptions shall fully detail what is being purchased;

(iv) All individual prices shall be noted and all prices shall be extended and totaled;

(v) Proper coding shall be noted;

(vi) The original, shall be given to the vendor, all other copies forwarded as described above or on the Purchase Order; and

(vii) If there are any attachments to the Purchase Order, ensure copies of the attachment accompany all copies of the Purchase Order.

(B) Procedures Performed by the Finance Department. Purchase Orders, numbered sequentially, shall be stored in a safe and secure location until assigned.

(C) The Procurement Department shall maintain a Purchase Order Log identifying which numbered Purchase Orders are given to whom;

(D) The receiving or responsible Department shall verify receipt of a purchase. It will be the responsibility of each dept. to maintain a sub-log of the Purchase Orders received and to whom they are assigned or to which vendors they have been issued.

(E) If the purchase is for non-expendable, capitalized equipment with a value greater than five thousand ($5,000) dollars the Receiving Clerk shall identify the capital equipment on both the original and the copy of the receiving document. The CPO shall ensure a pre-numbered Tribal decal or barcode label is issued to the recipient of the item. It shall be the responsibility of the recipient to ensure the decal is affixed to the piece of equipment in such a manner as to prohibit removal by unauthorized personnel.

(F) Upon receipt of the Finance copy of the Purchase Order and the vendor's original receipt, the Finance office shall ensure that the items are correctly charged against the specific account or ID No. for which they were purchased. ALL purchases shall be encumbered against the proper account(s). Items purchased for re-stocking inventory shall be charged to the general ledger account for such purchases.

(2) Purchase Order: Greater than $3,000

(A) Authorized Personnel. The CPO or their designee ensures that all procurement is in compliance with procedures found later in this document.

(B) The Purchase Order will be filled out legibly by hand, typewritten, or computer generated;

(C) All information pertinent to the purchase shall be identified on the Purchase Order;

(D) All purchase descriptions fully detail what is being purchased;

(E) All individual prices are noted and all prices are extended and totaled;

(F) Proper coding has been noted;

(G) The Purchase Order shall be forwarded to the Tribe's Legal Department for review upon the discretion of the CPO or CPO Representative.

(H) Upon review of the Purchase Order by the Tribe's Legal Department, the Purchase Order must be signed by the CPO and then processed;

(I) Ensure the original Purchase Order is given to the vendor and upon receipt of the goods, all other copies forwarded to the appropriate department as described above for processing.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.5.050 was formerly codified as XIV LCOTCL §2.505

PAP.2.5.060 Personnel Duties and Responsibilities

(a) **Chief Procurement Officer Responsibilities**

(1) Review all Purchase Orders greater than $3,000 for completeness;

(2) Ensure that the bids acquired are properly documented;

(3) Review account code, coding and/or Project Number recorded by the requestor or, as applicable, indicate the account code which should be charged for the purchase;

(4) When applicable, ensure that the Tribe's Legal Department has reviewed the document;

(5) When applicable, ensure that the TGB has signed the documents to signify approval and that the document has been reviewed;

(6) Return to the CPO Designee to finalize the purchase;

(7) Ensure the document is properly filed; and

(8) Debarment. The Tribe shall not hire, contract with, or otherwise do business, either directly or indirectly, with contractors or individuals, which have been debarred, suspended, or subjected to a Limited Denial of Participation (LPD) by the U.S. Government. Prior to contract award (i.e. the preparation of the Notice to Proceed), the Chief Procurement Officer or designee shall verify that the contractor has not been debarred, suspended or (LPD) by reviewing the company listing on the sam.gov website. This list can be obtained at: http://www.sam.gov. The CPO or designee must document the review and place in the manual or electronic vendor file.

(b) **Finance Department Responsibilities**

(1) **Purchases over $3,000**

(A) If the purchase is for non-expendable, capitalized equipment, the Finance clerk shall identify the capital equipment on both the original and the copy of the receiving document using a highlighter. The Finance clerk or shall ensure a pre-numbered Tribal decal or barcode label is issued to the recipient of the item.

(B) It shall be the responsibility of the recipient/Program Director to ensure the decal is affixed to the piece of equipment in such a manner as to prohibit removal by unauthorized personnel.

(C) Upon receipt of the Finance copy of the Purchase Order and the vendor's Packing Slip / Bill of Lading , the Finance office shall ensure that the items are correctly charged against the specific account or Project Number for which they were purchased. Items purchased for re-stocking the inventory at the warehouse shall be charged to the general ledger account for such purchases.

(D) Upon receipt of the invoice, the Accounts Payable clerk (or designee) will attach the invoice to the copy of the purchase order. The A/P clerk will then match the invoice to the purchase order and the vendor's delivery receipt. If the purchase order, invoice, and vendor's delivery receipt match, the A/P clerk shall prepare a check in accordance with current vendor terms. An invoice should not be paid without a matching vendor's delivery receipt and purchase order.

(c) **The Compliance Officer Responsibilities**

(1) Check the Departmental budget and year-to-date expenditures to verify that funds are available to pay for the purchase by reviewing all outstanding Requisition Requests and expenditures and comparing the purchase amount to the remaining budgeted funds;

(2) Verify or assign program and general ledger code;

(3) Once reviewed, return the Requisition Request to the CPO or designee for processing and authorization;

(4) If the purchase price exceeds the available budget, return the Requisition Request to the Program Director. Note on the Requisition Request that funds are not available in the budget to process a Purchase Order. Inform the Cash Management Director of the action taken.

(5) If the purchase is for non-expendable, capitalized equipment, the Finance clerk (or designee) shall identify the capital equipment on both the original and the copy of the receiving document using a highlighter. The Finance clerk (or designee) shall ensure a pre-numbered Tribal decal or barcode label is issued to the recipient of the item.

(6) It shall be the responsibility of the recipient to ensure the decal is affixed to the piece of equipment in such a manner as to prohibit removal by unauthorized personnel.

(7) Upon receipt of the Finance copy of the Purchase Order and the vendor's original invoice, the Finance office shall ensure that the items are correctly charged against the specific account or Project Number for which they were purchased. Purchases shall be expensed against the proper account(s). Items purchased for re-stocking inventory shall be charged to the general ledger account for such purchases.

(d) **The Receiver's Responsibilities**

(1) Upon receipt of the goods, the receiver shall sign and date the vendor's delivery receipt only after verifying quantity and condition of goods received. Upon preparation, the receiver should forward the original and the signed copy of the vendor's delivery receipt (if applicable) to the Finance office. A duplicate copy of the vendor's delivery receipt should be attached to the Purchase Order and filed by the requester in the filled order's file.

(2) Over Order Quantity. If the shipment contains more products than was specified in the Purchase Order, the over shipment will be returned to the vendor at the vendor's expense.

(3) Partial Shipments. In the event of a partial shipment, the Purchase Order will be marked with the received quantity and the date by line item. A copy of the Purchase Order will be made, marked as a "*Partial Shipment*," and forwarded to the Finance office. The vendor's delivery receipt will then be re-filed with the Purchase Order. This process will continue until all goods are received or the order is canceled. If the order is canceled, the original request should be forwarded to the Finance office.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.5.060 was formerly codified as XIV LCOTCL §2.506

PAP.2.5.070 Special Circumstances

Contracts with Labor Costs - For federally funded labor contracts, a release from the CPO or designee is required to pay for a contractor billing. If progress payments are made

to the vendor, then retainage shall be withheld in accordance with the procedures for federally funded labor contracts as required.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.5.070 was formerly codified as XIV LCOTCL §2.507

PAP.2.5.080 Final Distribution

(a) These documents shall be filed alphabetically by vendor name in the Finance Office:

(1) payment voucher, which consists of the invoice;

(A) requisition request;

(B) purchase order; and

(C) vendor's delivery receipt and check copy.

(b) The originating department in its vendor files shall file a copy of the requisition request and vendor's delivery receipt.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.5.080 was formerly codified as XIV LCOTCL §2.508

Subchapter PAP.2.6
Sealed Bids

PAP.2.6.010 Formal Advertising or Formal Solicitations ..... PAP.2.6-**Error! Bookmark not defined.**
PAP.2.6.020 Bid Documents..... PAP.2.6-**Error! Bookmark not defined.**
PAP.2.6.030 Solicitation for Bids ..... PAP.2.6-**Error! Bookmark not defined.**
PAP.2.6.040 Bid Opening and Evaluation ..... PAP.2.6-**Error! Bookmark not defined.**
PAP.2.6.050 Contract Award..... PAP.2.6-**Error! Bookmark not defined.**
PAP.2.6.060 Competitive Proposals ..... PAP.2.6-**Error! Bookmark not defined.**
PAP.2.6.070 Determination of Need ..... PAP.2.6-**Error! Bookmark not defined.**
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PAP.2.6.010 Formal Advertising or Formal Solicitations

(a) Construction contracts exceeding the small purchase limitation shall be awarded based on competitive sealed bidding if the following conditions are present: a complete, adequate, and realistic specification or purchase description is available; two or more responsible bidders are willing and able to compete effectively for the work; the procurement lends itself to a firm fixed price contract; and the selection of the successful bidder can be made principally on the basis of price. Sealed bidding is the preferred method for construction procurement for all construction contracts exceeding the small purchase limitation. For professional services contracts, sealed bidding should not be used.

(Res. No. 16-30)

Prior Codifications

- §PAP.2.6.010 was formerly codified as XIV LCOTCL §2.601

PAP.2.6.020 Bid Documents

(a) Specifications and Estimates. The CPO must coordinate work plan specifications and estimates of the cost of the contract. The amount of detail of the cost estimate and the degree of analysis will depend on the particular complexity of the contract. The specifications shall serve as evaluative criteria at the completion of the contract, and the estimates serve as a reference for proper evaluation of the solicited bids. See "*Cost and Price Analysis*" section for further detail.

(b) Budget Approval. The CPO or designee shall assign a Contract Number and forward to the Compliance Officer. The Compliance Officer will approve or reject this request based on fund availability, program and account coding, and the estimated amount of contract. If

funding is available, the Compliance Officer shall provide a project number to the CPO and open a file for the proposed contract. The form should then be forwarded to the Chief Financial Officer for review and approval.

(c) Wage Requirements. The CPO shall complete the request for wage rate determination form based on the specifications for labor determined above or use the adopted Tribally Determined Wage Rates.

(d) Wage Determination. If applicable, the CPO shall obtain Davis-Bacon wage-rates as determined by the Department of Labor using the request for wage rate determination form at least forty-five (45) days prior to the initial solicitation. This determination must be provided to the bidder at the time the quote is requested. For HUD related projects, the CPO must confirm the wage rates with HUD, at least ten (10) days before award of the contract (Reference 24 CFR 85.36(i)(5) and 24 CFR 1000.16).

(e) Invitation for Bids. The invitation for bids shall be prepared in the form prescribed by the Tribe. The invitations should define the goods or services for bidder to properly respond and include any specifications and pertinent attachments. The bid acceptance period shall be specified, and the bidders shall be informed that the Tribe reserves the right to reject any or all bids received.

(f) Instructions to Bidders for Contracts. The bid package shall contain the "*Instructions to Bidders for Contracts*" form. The CPO shall mark all places required within the instructions. The "*Instructions to Bidders for Contracts*" shall be used to inform interested bidders of the general bidding requirements, the responsibilities of each party, and the factors to be considered in determining the successful bidder.

(g) "Representations, Certifications, and Other Statements of Bidders" Form. For all construction contracts over $5,000, the bidder shall be required to submit a "*Representations, Certifications, and Other Statements of Bidders*" form with the bid. The CPO shall mark the form highlighting all required statements. If a form is not submitted with the bid, the bid may be considered incomplete and non-responsive. No contract award shall be made without a properly executed "*Representations, Certifications, and Other Statements of Bidders*" form.

(h) General Conditions. Provisions of the general conditions reflect federal statutes, executive orders and/or established Tribal ordinances. The Statement of General Conditions shall be included in the solicitation.

(i) Project Manual. The CPO or designee should ensure that bound construction specifications and working drawings or other description of supplies and/or services are signed by the preparer.

(j) Bid Form. Two (2) of the actual bid forms will be required to be submitted in compliance with the invitation for bids. The bidder shall be required to quote prices and specify completion or delivery date.

(k) Non-Collusive Affidavit. For all construction and equipment contracts over $50,000, the bidder shall be required to submit a "*Non-Collusive Affidavit*" with the bid. If the affidavit is not submitted with the bid by the low bidder, the CPO shall require submission within three (3) working days. If the affidavit is submitted after that date, the bid shall be considered non-responsive and incomplete. The contract may then be awarded to the second low bidder. No contract award shall be made without a properly executed non-collusive affidavit.

(l) Equal Opportunity for Business and Lower Income Persons. For all construction contracts over $150,000, the contractor is required to comply with the requirements that, to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in the area or to businesses owned in substantial part by persons residing in the area of the project.

(m) Statement for Indian Preference. All IFB's shall contain the Tribal Indian Preference Statement which delineates the Bidders responsibility toward ensuring the project, and that the contractor and all sub-contractors meet the requirements of the Indian Preference regulations.

(n) Contract Form. The contract shall be prepared by the CPO or designee, reviewed by the Tribe's Legal Department and approved by the TGB. Signature by the Tribal Chairman or designee shall signify approval by the TGB.

(o) Insurance Requirements. Before the notice to proceed is authorized, the contractor and each subcontractor shall furnish the CPO with certificates of insurance, which demonstrate that the insurance requirements are in force and will insure all operations under the contract. Insurance requirements must be in accordance with the "*General Conditions*" document and the contract. All insurance shall be carried with companies, which are financially responsible and authorized to do business in the Tribes service area. The Chief Finance Officer shall verify the insurance company is acceptable to the TGB. The CPO shall notify the contractor to stop work if the required insurance coverage is not in force at the time the work begins or if the coverage expires before the work is accepted. The CPO shall also notify the contractor that any such work stoppage is an infraction of the contract and that the contractor is liable for any losses or delays.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.6.020 was formerly codified as XIV LCOTCL §2.602

PAP.2.6.030 Solicitation for Bids

(a) General. Once the bid documents and/or specifications have been approved, the Procurement Department shall prepare a copy of the invitation to bid, with a request for publication, along with the bid packages to be disbursed. The Procurement Department shall number sequentially each copy of the bid package for control purposes.

(b) Restricting Solicitations. The invitation may be restricted to qualified Indian-owned economic enterprises and Indian organizations if the Tribe has reasonable expectation of receiving the required minimum number of responsive bids. The Tribe shall solicit bids from non-Indian as well as Indian-owned economic enterprises and Indian organizations if: (1) the TGB decides not to restrict the solicitation; (2) an insufficient number of qualified Indian-owned economic enterprises or organizations submit responsive bids in response to the solicitation; or (3) a single bid is not acceptable.

(c) Pre-bid Conference. The Chief Procurement Officer (CPO) may hold pre-bid conferences to inform the bidders about the requirements of the scope of work and also give a walk-through of the project. Attendance to the pre-bid conference may be made mandatory.

(d) Publication. The Chief Procurement Officer (CPO) shall give full opportunity for open and competitive bidding by publishing the invitation for bids at least twice for two (2) consecutive weeks in local newspapers, trade publications, the tribal newsletter, or on the tribal website. The CPO shall also extend an invitation to known potential vendors.

(e) Bid Period. Emergencies as certified by the CPO or designee are not required to be advertised and are considered non-competitive procurements. The invitation for bids shall be first published not less than ten (10) days prior to the date specified for public bid opening. However, if an addendum is issued, the CPO shall consider the magnitude of change and allow at least five (5) working days as an extension to the date specified for public opening.

(f) Methods for Soliciting Bids. For the purpose of soliciting bids, the following methods may be used:

(1) Advertisement placed in a newspaper of general circulation, in the project area. The advertisement shall run in the legal section for a period, at minimum, of twice for two consecutive weeks, thus allowing firms adequate time for preparation of bids;

(2) Advertisement placed in the tribal newsletter;

(3) Advertisement posted on the tribal website; and

(4) Advertisement at designated plans review centers.

(g) Plans Fee. The Finance Office may require a plan fee for each bid package in an amount that is determined by the CFO and is based on local practice. The fee should at least be sufficient to offset the cost of reproducing the bid package. A fee is not required for bid packages issued to plan centers. All checks or drafts shall be made payable to the Tribe and may be nonrefundable.

(h) Alternate Bids. The Procurement Department may request alternate bids (e.g., two different structural systems) or specify the most expensive system as the base bid and list additive or deductive alternates in priority order. In the event that the bids are higher than the cost estimates (i.e. which may result in a budget overrun), the Tribe may choose an alternate bid which is equal to or less than the available funds.

(i) Addendum to Bid Package. The Procurement Department shall issue changes to the standard bid package in the form of an addendum. The CPO shall not interpret the meaning of bid documents except by addendum. Each addendum shall be numbered sequentially by the Purchasing Department who will provide a copy to each bidder of record to each place where bidding documents are on file and, if necessary, to the funding agency (when the CPO is required to submit construction and bid documents before advertisement). The addendum also shall specify, if applicable, the revised deadline date for submission of bids. If the Addenda is issued within five (5) working days of the date of the bid submission date, the bid closing date shall be moved at least five (5) days from the date of the issued Addenda.

(j) Control Record. The CPO shall maintain a record of all bidding documents. This record shall identify the following for each individual or firm that requested a bid package: the bid package control number; the name of the company; the address and telephone number of the company; the contact person; the date and time of bid package receipt; the number of any addendum sent to the company and the date sent; the amount and date of any deposits received; and the date the bidder (i.e. contact person) was notified as to the successful low bidder.

(Res. No. 16-30)

Prior Codifications

- §PAP.2.6.030 was formerly codified as XIV LCOTCL §2.603

PAP.2.6.040 Bid Opening and Evaluation

(a) Restricted Solicitations. If the solicitation is restricted to Indian-owned economic enterprises and organizations, and two or more (or a greater number determined by the CPO and stated in the invitation) qualified Indian-owned economic enterprises or organizations submit responsive bids, award shall be made to the qualified enterprise or organization with the lowest responsive bid. If equal low bids are received, drawing lots or similar random method shall make award, unless otherwise provided by Tribal law. If fewer

than the minimum number of qualified Indian-owned economic enterprises or organizations submit responsive bids, all bids shall be rejected, and the Tribe shall cancel the solicitation and re-solicit, inviting bids from non-Indian as well as Indian-owned economic enterprises and organizations. The Tribe may accept a single bid received from a responsible bidder, in unusual circumstances (i.e. the Tribe determines that the delays caused by re-solicitation would result in higher construction costs and the bid is considered fair and reasonable based on the cost or price analysis prepared by the Tribe.

(b) Unrestricted Solicitations. If the solicitation is not restricted to Indian owned economic enterprises and organizations, award shall be made to the qualified Indian owned economic enterprise or organization with the lowest responsive bid, if that bid is within the maximum total contract price established for the specific project or activity being solicited and the bid is within the range specified in the policy statement. If equal low bids are received from qualified Indian owned economic enterprises or organizations, award shall be made by drawing lots or similar random method, unless otherwise provided in Tribal law. If no responsive bid by a qualified Indian owned economic enterprise or organization is within this range, award shall be made to the lowest responsive bidder after applying any additional Indian Preference requirements or procedures described in this ordinance.

(c) Bid Opening. Upon receipt of each bid, the Procurement Department shall mark the date and time on the envelope and keep it unopened in a secure place. At the date and time specified in the invitation for bids, the bids shall be opened in public and read aloud by the CPO with an additional TGB representative present. The CPO or designee shall record all bids on a spreadsheet, copies of which will be forwarded to the Executive Director and the Finance Department along with the bids.

(d) Securing Certified Checks. The Finance Department will secure all certified or cashier's checks in the safe. The use of a facsimile machine to communicate the bids to the Tribe is not considered acceptable when sealed bids are requested.

(e) Late Bids. Any bids received after the date and time specified in the invitation for bids shall be returned unopened to the bidder with a letter indicating that the bid was not received by the deadline.

(f) Bid Rejection or Withdrawal. After the public opening, the CPO may allow a bidder to withdraw a bid only if it is apparent that the bidder has made a mistake.

(g) Withdrawal. If a bidder seeks to withdraw a bid before the end of the bid acceptance period or the execution date of the contract, whichever is earlier, the CPO shall secure the following before approving or disapproving the withdrawal request: A notarized statement from the bidder indicating that an error was made with an explanation of how it occurred; and a copy of the bidder's cost estimating worksheets or other evidence provided by the

bidder in support of the withdrawal request. The CPO shall inform the Tribe's legal department of the withdrawal decision.

(h) Rejection. The CPO shall reject any bid that is incomplete (i.e. the bid bond is not submitted with the bid or the bid fails to conform to the essential items of the invitation for bids). If the Tribe proposes to reject the lowest bidder for reasons other than an incomplete bid, the Tribe shall give the bidder an opportunity, within a time specified in the bid documents, to delete objectionable conditions from a bid only if the conditions do not concern the substance of the bid (such-as the price, quantity, quality, or delivery of items offered). After a specified time, the Tribe shall make a final decision on whether or not to reject the offer.

(i) Bidder Notification. The CPO shall notify the bidder, no later than the specified bid holding period, as to whether the withdrawal request has been approved or disapproved or whether the bid has been rejected. If appropriate, the CPO also shall return the bid bond to the bidder.

(j) Rejection of All Bids. The CPO may decide to reject all bids. Possible reasons may include the following: the bids received were higher than the funds available to procure the contract or none of the bids received met the bid requirements (i.e. technically).

(k) Reasons for Rejection. The TGB, and the Chief Procurement Officer shall review the bids received to determine the reason that the contract cannot be awarded. The purpose of this review is to ascertain that:

(1) The bid amount exceeds the approved budget amount;

(2) The bids are unreasonably high due to unusual circumstances affecting construction in the applicable market area;

(3) The project is over-designed; or

(4) The award cannot be made for other identified causes. If only one responsive bid is received from a responsible bidder, award shall not be made unless a cost or price analysis verifies the reasonableness of the price.

(l) Over-design. If it is determined that the high bids are due to project over-design, the CPO and the architect shall identify design modifications that would likely result in lower bids. The architect shall be held responsible for making any design modifications under the terms of the architect's contract.

(m) Invitation for Bids. Upon the approval of the revised construction documents, the CPO shall be authorized to issue a subsequent invitation for bids.

(n) Re-Solicitations. May be re-bid for a shorter period of time, but no less than twenty-one (21) days.

(o) Bid Protests. See Appeals & Remedies section of this ordinance.

(p) Award. The Chief Procurement Officer (CPO) shall provide the Chief Financial Officer (CFO) with a bid spreadsheet and the file containing the documentation for the bid that the CPO proposes to accept. A checklist should contain a list of required documents to award the contract.

(q) General Requirements. After bid opening, the CPO shall perform the following procedures:

(1) When prior funding agency review and approval are required before contract award, submit the following documents to the funding agency:

(A) The bid spreadsheet, certified to completeness by the CPO and identifying the following for each bid received:

(i) The name and address of the bidder;

(ii) The amount of the bid;

(iii) The amounts of any alternates; and

(iv) The amount and type of bid bond.

(B) The bid documents for the proposed award, including a copy of the bid bond and the non-collusive affidavit.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.6.040 was formerly codified as XIV LCOTCL §2.604

PAP.2.6.050Contract Award

(a) Notice of Award. The Chief Procurement Officer or designee shall prepare a notice of award letter and forward it to the Tribal Chairman or designated representative. If acceptable, the Tribal Chairman or designated representative shall sign the notice of award letter and return it to the CPO for processing. The CPO must request that the contractor provide the assurance of completion (bonding) in the amount identified in the bid (and as specified in the general conditions of the contract). Before executing the contract, the CPO shall ensure that the assurance of completion meets the requirements of the TGB.

(b) Distribution of Executed Documents. The Finance Office shall retain one (**1**) original copy of the performance and payment bond (or other assurance), the power of attorney, and a signed set of the contract documents for its files. The CPO shall retain the contractor's copy for attachment to the Tribe's notice to proceed.

(c) Pre-construction Conference Minutes. If a pre-construction meeting is held, the minutes of the meeting and a list of attendees shall be prepared and kept in the Vendor file. The CPO should review the minutes.

(d) Notice to Proceed. The CPO shall prepare two (2) original copies of the notice to proceed to be issued to the contractor together with the contractor's set of the executed contract documents. The notice to proceed is the official Tribal order directing the contractor to start work. For all federally assisted labor contracts, work is not allowed to begin until the notice to proceed has been issued and signed by all required parties. The date of completion is counted from the date of the notice to proceed. The contractor shall be requested to sign the notice to proceed, designating receipt and acceptance, and return the signed original to the TGB. The signed original is to be kept in the Vendor file. A copy shall be sent to the Department of Labor for all federally funded contracts involving labor over five thousand dollars ($5,000).

(e) Assurance of Completion. For construction contracts more than one hundred and fifty thousand ($150,000) dollars, each contractor shall be required to provide bid guarantees and adequate assurance of performance and payment acceptable to the Tribe. The following methods may be used to provide performance and payment assurance:

(1) A bid guarantee from each bidder equivalent to five percent of the bid price. The "*bid guarantee*" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) A performance bond on the part of the contractor for one hundred percent (100%) of the contract price. A "*performance bond*" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(3) A payment bond on the part of the contractor for one hundred percent (100%) of the contract price. A "*payment bond*" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

(f) Use of a Surety. If the contractor uses a surety company, the surety must be a guarantee or surety company acceptable to the government. U.S. Treasury Circular No.570, entitled *Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds*

and as Acceptable Reinsuring Companies, is published annually in the *Federal Register*. This circular lists companies approved to act as a surety on bonds securing government contracts. It also provides the maximum underwriting limits on each contract bonded, and the states in which each company is licensed to do business. The Tribe must refer to this circular when a surety is used. The circular can be obtained by contacting the Surety Bond Branch of the Financial Management Service (Department of the Treasury).

(g) For all Construction contracts, the Tribe's Legal Department will ensure the contract contains the following provisions:

(1) Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of $10,000)

(2) Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). (All contracts and subgrants for construction or repair)

(3) Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts in excess of $5000 awarded by grantees and subgrantees when required by Federal grant program legislation)

(Res. No. 16-30)

Prior Codifications

* §PAP.2.6.050 was formerly codified as XIV LCOTCL §2.605

PAP.2.6.060Competitive Proposals

(a) Competitive Proposals. Competitive proposals (including turnkey proposals for development) may be used if there is an adequate method of evaluating technical proposals and an adequate number of qualified sources to be solicited; and when the Tribe determines that conditions are not appropriate to use the sealed bidding procurement process (i.e. there is not a complete, adequate, and realistic specification or purchase description available and selection of the successful bidder cannot be made principally on the basis of price).

(b) Architect/Engineer Services. Architect/engineering services may be obtained by either the competitive proposal process or qualifications-based selection procedures. Sealed bidding, however, shall not be used to obtain architect/engineer services. Under qualifications-based selection procedures, a competitor's qualifications are evaluated and the most qualified competitor is selected, subject to the negotiation of a fair and reasonable contract amount. Price is not used as a selection factor under this method.

(c) Qualifications. Qualifications based selection procedures shall not be used to purchase other types of services (even though architect-engineer firms are potential sources).

(d) Procedures. Procedures for management improvement contracts and other professional services utilizing competitive proposals.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.6.060 was formerly codified as XIV LCOTCL §2.606

PAP.2.6.070 Determination of Need

The CPO working in cooperation with the TGB shall determine the need for management improvements and other professional services.

(a) Solicitation. The Tribe shall prepare a request for proposal (RFP), which clearly identifies the relative importance of price and other evaluation factors and sub factors on the award decision (i.e. the weight given to each technical factor and sub factor). A mechanism for fairly and thoroughly evaluating the technical and price proposals shall be established by the Tribe before the solicitation is issued. Proposals shall be handled so as to prevent disclosure of the number of offers, identity of the offers, and the contents of the proposals. The proposals shall be evaluated only on the criteria stated in the RFP solicitation.

(b) Evaluation Factors.

(1) The RFP for the procurement of management improvement contracts and other professional services shall include evaluation factors that clearly identify the criteria that are going to be used in the award decision. The proposals shall be evaluated only on the criteria stated in the request for proposal. Such determining factors may include Indian Ownership, Indian training and employment opportunities, availability of materials, ability to meet the delivery schedule, shipping methods, price, etc. When this method is used, prior to the issuance of the solicitation, scoring criteria shall be developed, as part of the solicitation packet, which outlines the criteria and their respective weights that will be used to determine contract award.

(2) The scoring criteria shall be made an integral part of the RFP packet that is distributed to an adequate number of possible respondents.

(c) Restrictions.

(1) The request for proposal (RFP) may be restricted to qualified Indian-owned economic enterprises and Indian organizations if the Tribe has a reasonable expectation of receiving offers from two (or a greater number stated in the RFP) such entities.

(2) The Tribe shall solicit proposals for non-Indian as well as Indian-owned economic enterprises and Indian organizations if:

(A) The TGB prefers not to restrict the RFP;

(B) There are an insufficient number of qualified Indian-owned economic enterprises or Indian organizations to be able to satisfactorily respond to a restricted RFP; or

(C) A single proposal is received but not accepted.

(d) Preparation of Request for Proposal.

(1) The Procurement Department of the Tribe shall prepare the RFP. The RFP shall at least contain the following information:

(A) A brief description of the Tribe and the project contemplated;

(B) The specific professional services required;

(C) The time frame for provision of the services;

(D) The evaluation factors and their relative importance in the award of the contract;

(E) The submission deadline; and

(F) The name of Tribe's contact person.

(2) The RFP shall request that the respondent provide a proposal that:

(A) Demonstrates an understanding of the required services needed and the firm's or individual's ability to perform the services in a timely and effective manner (including a profile of the firm's principles, staff and facilities);

(B) Provides a cost estimate to perform the work; and

(C) Includes any forms required by the Tribe.

(e) Advertisement of RFP. The Procurement Department shall advertise the RFP through public announcement in local newspapers, trade publications, the Tribal newsletter,

the tribe's website, or direct requests to qualified respondents in the Tribe's files which the Tribe or other authorities have previously retained, and/or direct requests to local associations of minority respondents. The advertisement shall run for a period of 2 weeks thus allowing firms adequate time for preparation of bids or proposals. The CPO shall furnish all interested parties with a copy of the RFP.

(f) Pre-Proposal Conference. The CPO may hold pre-proposal conferences to inform the proposers about the requirements of the scope of work and also give a walkthrough of the proposed project, if applicable.

(g) Addendum to RFP. The Procurement Department shall issue changes to the standard RFP package in the form of an addendum. The CPO shall not interpret the meaning of RFP documents except by addendum. Each addendum shall be numbered sequentially by the Procurement Department who will provide a copy to each proposer of record to each place where RFP documents are on file. The addendum also shall specify, if applicable, the revised deadline date for submission of proposals. If the Addenda are issued within 5 working days of the date of the RFP submission date, the RFP closing date shall be moved at least 5 days or as otherwise determined by the Tribe from the date of the issued Addenda.

(h) RFP Submission Date.

(1) Upon receipt of each proposal, the Procurement Department shall mark the date and time on the envelope and keep it unopened in a secure place. At the date and time specified in the Request For Proposals, it shall be noted that the time for submission has occurred and a list of firms submitting proposals shall be compiled for the public record, copies of which will be forwarded to the CPO and the Finance Department along with the proposals.

(2) Any RFP's submitted after the date and time specified in the Request for Proposals shall be date and time stamped and returned, unopened, to the Proposer with a letter indicating that the proposal was not received by the deadline.

(i) Review of Proposals Received.

(1) After the request period has ended, the CPO or designee will perform a completeness review of all proposals received utilizing a checklist made up of items listed under the "*Minimum Submission Requirement*" section of the RFP. Dependent on the necessity of the document requested, to the RFP, any omissions may render the proposal incomplete and therefore non-responsive. Once the review has been completed, the CPO or designee shall notify the TGB and the Tribes Legal Department of the results, select the review committee and schedule the pre-review conference to discuss the technical review process, the evaluation factors and the objective of the resultant contract award.

(2) The review committee shall independently review all proposals in accordance with the Evaluation Factors for the RFP. Each reviewer shall score each proposal in accordance with the rating points established for each evaluation factor and sub factor. Once all members of the review committee have completed the review of all proposals, the committee will meet to review and discuss the results of the scoring. Based on final discussion, the proposals shall be ranked with the firm receiving the most points as the "*Top Ranked Firm*" for that RFP.

(j) Negotiations.

(1) Unless there is no need for negotiations with any of the offers, negotiations shall be conducted by the Procurement Department with offertory who submit proposals determined to have a reasonable chance of being selected for award, based on an evaluation against the technical and price factors as specified in the RFP. Such offers shall be accorded fair and equal treatment with respect to any opportunity for negotiation and revision of proposals. The purpose of the negotiations shall be to seek clarification of TGB questions and, if considered appropriate, advise the offeror of deficiencies in both the technical and price aspects of their proposals that may impact the offertory full understanding of; and conformance to, the solicitation requirements. No offeror shall be provided information about any other offeror's proposal, and no offeror shall be assisted in bringing its proposal up to the level of any other proposal. Offertory shall not be directed to reduce their proposed prices to a specific amount in order to be considered for award.

(2) A common deadline shall be established for receipt of proposal revisions during the negotiations. The Contracting Department shall determine if all required forms and/or documents are included in the submitted proposals.

(k) Award.

(1) After evaluation of the proposals (and any revisions), the contract shall be awarded to the responsible firm whose qualifications, price, and other factors considered are the most advantageous to the Tribe. The Tribe shall not order or agree to any changes in the contract work when prior funding agency approval is required. Contract changes shall include a description of the proposed change in work, the fixed cost (credit, debit or no change) of the change, and an estimate of any additional time required to complete the work.

(2) For solicitations restricted to qualified Indian-owned economic enterprises and Indian organizations, if two (or a greater number stated in the RFP) such entities submit acceptable proposals, award shall be made to the qualified Indian-owned economic enterprise or Indian organization with the best proposal, provided that the price is within the maximum total price established for the specific project or activity.

(3) If fewer then the number of Indian-owned economic enterprises or Indian organizations submits acceptable proposals, the Tribe should consider re-soliciting the RFP without restriction to qualified Indian-owned economic enterprises and Indian organizations. The Tribe may accept the sole proposal received, subject to HUD approval regarding HUD projects, in unusual circumstances (such-as when the Tribe determines that the delays caused by re-soliciting the RFP would cause higher costs or when the Tribe determines that the proposal has a fair and reasonable price.

(l) Contract Review and Approval.

(1) Once the Procurement Department has reviewed and approved the RFP process and award, it will prepare a contract which contains the following:

(A) A clear statement of the specific services and tasks to be performed;

(B) A description of the methodology to be used in carrying out the services;

(C) An identification of the type and frequency of written reports to be provided to the Tribe;

(D) A time frame for completion of all services;

(E) A payment schedule that is related to the successful completion of specific tasks; and

(F) The total cost of the project.

(m) Abandonment or Termination.

(1) In the event of abandonment of the project or termination of the contract for any cause, under the respective sections of the contract, the terms of any settlement between the Tribe and the service provider shall be subject to approval by the TGB or designee.

(2) The Tribe shall not disburse any monies to the service provider after the notice of abandonment or termination has been issued and the funding agency (if required) have approved the settlement agreement.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.6.070 was formerly codified as XIV LCOTCL §2.607

PAP.2.6.080 Non-Competitive Procurement Proposals

(a) Conditions for Use. Procurements shall be conducted competitively to the maximum extent possible. However, procurement by noncompetitive proposal may be used when the award of a contract is not feasible using small purchase procedures, sealed bids, or competitive proposals, and one of the following applies:

(1) The item is available only from a single source based on a good faith review of available sources;

(2) An emergency exists that seriously threatens the public health, welfare, or safety, or endangers property, or would otherwise cause serious injury to the Tribe, as may arise by reason of a flood, earthquake, epidemic, riot, equipment failure, or similar event. In such cases, there must be an immediate and serious need for supplies, services or construction such that the need cannot be met through any other procurement methods. Note: The emergency procurement shall be limited to those supplies, services, or construction necessary to meet the emergency. In cases where labor is involved, Davis-Bacon wage or Tribally determined wage rates will apply and a determination has to be acquired if the amount of the work is over the $5,000 threshold;

(3) HUD authorizes the use of noncompetitive proposals for HUD funded projects; or

(4) After solicitation of a number of sources, competition is determined inadequate.

(b) Justification. Each procurement based on noncompetitive proposal shall be supported by a written justification for using such procedures. The justification shall be documented in writing by the Chief Procurement Officer and reviewed by the Tribe's Legal Department prior to processing by the CPO.

(c) Price Reasonableness. The reasonableness of the price for all procurements based on noncompetitive proposals shall be determined by performing a cost analysis, as described under the "*Cost and Price Analysis*" chapter below.

(Res. No. 16-30)

Prior Codifications

- §PAP.2.6.080 was formerly codified as XIV LCOTCL §2.608

Subchapter PAP.2.7
Cost and Price Analysis

PAP.2.7.010 Cost or Price Analysis ..... PAP.2.7-**Error! Bookmark not defined.**

PAP.2.7.010Cost or Price Analysis

(a) A cost or price analysis shall be performed for all procurement actions (including contract modifications). The degree of analysis shall depend on the facts surrounding each procurement. The method of analysis shall be determined based on the criteria listed below.

(1) Submission of Cost or Pricing Information.

(A) A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

(B) The CPO or designee will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(C) Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles. Grantees may reference their own cost principles that comply with the applicable Federal cost principles.

(2) The cost-plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

(3) A comparison of prices shall be used in all cases other than those described in cost analysis above.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.7.010 was formerly codified as XIV LCOTCL §2.701

Subchapter PAP.2.8
Cancellation of Solicitations

PAP.2.8.010 Cancellation ..... PAP.2.8-**Error! Bookmark not defined.**

PAP.2.8.010Cancellation

(a) An invitation for bids, request for proposals, or other solicitation may be canceled before offers are due if:

(1) The Tribe no longer requires the supplies, services or construction;

(2) The Tribe can no longer reasonably expect to fund the procurement; or

(3) The proposed amendments to the solicitation would be of such magnitude that a new solicitation would be desirable.

(b) A solicitation may be canceled and all bids or proposals that have already been received may be rejected if:

(1) The supplies, services, or construction are no longer required;

(2) Ambiguous or otherwise inadequate specifications were part of the solicitation;

(3) The solicitation did not provide for consideration of all factors of significance to the Tribe;

(4) Prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;

(5) There is reason to believe that bids or proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith; or

(6) For good cause of a similar nature when it is in the best interest of the Tribe.

(c) The reasons for cancellation shall be documented in the procurement file. The Tribe shall also provide the reasons for cancellation and/or rejection upon request to any offeror solicited.

(d) A notice of cancellation shall be sent to all offers solicited, which if appropriate, shall explain that they will be given an opportunity to compete on any re-solicitation or future procurement of similar items.

(e) If all otherwise acceptable bids received in response to an invitation for bids are at unreasonable prices, or only one bid is received and the price is unreasonable, the Tribe shall cancel the solicitation and either:

(1) Re-solicit using a request for proposal; or

(2) If only one bid is received at an unreasonable price, the Tribe may consider using the noncompetitive proposals method.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.8.010 was formerly codified as XIV LCOTCL §2.801

Subchapter PAP.2.9
Cooperative Purchasing

PAP.2.9.010 Agreements ..... PAP.2.9-**Error! Bookmark not defined.**

PAP.2.9.010 Agreements

(a) The Tribe may enter into state, regional and local intergovernmental agreements to purchase or use common goods and services. The decision to use an intergovernmental agreement or conduct a direct procurement shall be based on economy and efficiency. If used, the intergovernmental agreement shall stipulate who is authorized to purchase on behalf of the participating parties and shall specify inspection, acceptance, termination, payment, and other relevant terms and conditions.

(b) The Tribe encourages the use of federal or state excess and surplus property instead of purchasing new equipment and property whenever such use is economically feasible and reduces costs.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.9.010 was formerly codified as XIV LCOTCL §2.901

Subchapter PAP.2.10
Contracts, Clauses, and Solicitation

PAP.2.10.010 Contract Categories..... PAP.2.10-**Error! Bookmark not defined.**
PAP.2.10.020 Options ..... PAP.2.10-**Error! Bookmark not defined.**
PAP.2.10.030 Specifications..... PAP.2.10-**Error! Bookmark not defined.**
PAP.2.10.040 Contract Provisions ..... PAP.2.10-**Error! Bookmark not defined.**
PAP.2.10.050 Solicitation Notices ..... PAP.2.10-**Error! Bookmark not defined.**
PAP.2.10.060 Monitoring and Remedies..... PAP.2.10-**Error! Bookmark not defined.**

PAP.2.10.010 Contract Categories

(a) Any type of contract which is appropriate to the procurement and which will promote the best interests of the Tribe may be used, provided that the cost plus a percentage of cost and percentage of construction cost methods are prohibited.

(b) All procurements shall include the clauses and provisions necessary to define the rights and responsibilities of the parties. A cost reimbursement contract shall not be used unless it is likely to be less costly or it is impracticable to satisfy the Tribe's needs otherwise.

(c) A time and materials contract should only be used if a written determination is made that no other contract type is suitable, and the contract includes limits or prices that the contractor exceeds at its own risk.

(Res. No. 16-30)

Prior Codifications

- §PAP.2.10.010 was formerly codified as XIV LCOTCL §2.1001

PAP.2.10.020 Options

(a) Options for additional quantities or performance periods may be included in contracts, provided that:

(1) The option is contained in the solicitation;

(2) The option is a unilateral right of the Tribe;

(3) The contract states a limit on the additional quantities and the overall term of the contract;

(4) The options are evaluated as part of the initial competition;

(5) The contract states the period within which the options may be exercised;

(6) The options may be exercised only at the price specified in or reasonably determinable from the contract; and

(7) The options may be exercised only if determined to be more advantageous to the Tribe than conducting a new procurement.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.10.020 was formerly codified as XIV LCOTCL §2.1002

PAP.2.10.030 Specifications

(a) General.

(1) All specifications shall be drafted so as to promote overall economy for the purposes intended and to encourage competition in satisfying the Tribe's needs. Specifications shall be reviewed prior to solicitation to ensure that they are not unduly restrictive or represent unnecessary or duplicative items.

(2) Functional or performance specifications are preferred. Detailed product specifications should be avoided whenever possible.

(3) Consideration shall be given to consolidating or breaking out procurements to obtain a more economical result. For equipment purchases, a lease versus purchase analysis should be performed to determine the more economical form of procurement.

(b) Avoided Limitations.

(1) Geographic restrictions not mandated or encouraged by applicable federal law (except for architect-engineer contracts, which may include geographic location as a selection factor if adequate competition is available);

(2) Unnecessary bonding or experience requirements;

(3) Brand name specification (unless a written determination is made that only the identified item will satisfy the Tribe's needs; and

(4) Brand name or equal specifications (unless they list the minimum essential characteristics and standards to which the item must conform to satisfy its intended use). Nothing in this procurement ordinance shall preempt any applicable licensing laws. Specifications shall be scrutinized to ensure that organizational conflicts of interest do not occur (for example, having a consultant perform a study of the Tribe's computer

needs and then allowing that consultant to compete for the subsequent contract for the computers).

(Res. No. 16-30)

Prior Codifications

* §PAP.2.10.030 was formerly codified as XIV LCOTCL §2.1003

PAP.2.10.040 Contract Provisions

(a) Contract and Subcontract Clauses shall include the following:

(1) A implementing Section 7(b) and (c) of the Indian self-determination and Education Assistance Act in connection with the development or operation of Tribal programs;

(2) The ground for termination of a contract or the imposition of penalties for improper subcontracting or false certification as to subcontracting with Indian enterprises or organizations; and

(3) HUD Contracts and subcontracts should also contain the clauses included in 24 CFR 85.36(i).

(Res. No. 16-30)

Prior Codifications

* §PAP.2.10.040 was formerly codified as XIV LCOTCL §2.1004

PAP.2.10.050 Solicitation Notices

(a) Solicitation notices shall include at least the following information:

(1) A statement of the applicability of Indian preference to the solicitation and a time before the due date for offers by which offers must submit evidence of eligibility for Indian preference;

(2) The Indian preference guidelines stated in Appendix A;

(3) Information as to whether the Tribe maintains lists of Indian-owned economic enterprises and Indian organizations by trade specialty which are available to contractors and subcontractors for use in meeting Indian preference responsibilities;

(4) A requirement that offertory provide a statement describing how they will provide Indian preference in subcontracting, training, and employment, including the number or percentage of Indians to be employed and trained;

(5) The Tribe's description of the information to be submitted on Indian preference;

(6) The factors that the Tribe will use in judging the adequacy of the Indian preference information submitted;

(7) A statement that failure to submit the required Indian preference statements on subcontracting, training, and employment shall be grounds for rejection of the offer;

(8) A requirement that each contractor and subcontractor submit a certification and supporting evidence to the Tribe whenever it is not feasible to provide Indian preference in subcontracting;

(9) For request for proposals that are not restricted to Indian-owned economic enterprises of Indian organizations, the percentage of number of points set aside for Indian preference and the method for allocating these points;

(10) A requirement in unrestricted RFP's that subcontractors using request for proposals solicit subcontractors by reserving up to 15% of the available rating points for Indian preference in subcontracting and the criteria to be used in evaluating subcontractor proposals; and

(11) A requirement that offertory submit a list of core crew employees with their offers, and that contractors and subcontractors are required to provide preference to the greatest extent feasible by hiring qualified Indians in all positions other than core crew positions.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.10.050 was formerly codified as XIV LCOTCL §2.1005

PAP.2.10.060 Monitoring and Remedies

The Tribe shall monitor the implementation of Indian preference in its contracts, subcontracts, training**,** and employment, and take appropriate remedial action (including cancellation of contracts and assessment of penalties) to ensure compliance.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.10.060 was formerly codified as XIV LCOTCL §2.1006

Subchapter PAP.2.11
Appeals and Remedies

PAP.2.11.010 General ..... PAP.2.11-**Error! Bookmark not defined.**
PAP.2.11.020 Bid Protests..... PAP.2.11-**Error! Bookmark not defined.**
PAP.2.11.030 Protests Involving Indian Preferences.. PAP.2.11-**Error! Bookmark not defined.**

PAP.2.11.010 General

It is the Tribe's policy to resolve all procurement or contractual issues informally at the Tribal Administrative level without litigation. When appropriate, the Tribe may consider the use of informal discussions between the parties by individuals who did not participate substantially in the matter in dispute to help resolve any differences.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.11.010 was formerly codified as XIV LCOTCL §2.1101

PAP.2.11.020 Bid Protests

(a) Any actual or prospective individual or contractor may protest the solicitation or award of a contract for serious violations of the principles of this Ordinance.

(b) Any protest against a solicitation must be received before the due date for receipt of bids or proposals, and any protest against the award of a contract must be received within five (5) calendar days after contract award, or the protest will not be considered.

(c) All bid protests shall be in writing, submitted to the Chief Procurement Officer, who shall issue a written decision on the matter.

(d) The CPO may, at his or her discretion, suspend the procurement pending resolution of the protest, if warranted by the facts presented.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.11.020 was formerly codified as XIV LCOTCL §2.1102

PAP.2.11.030 Protests Involving Indian Preferences

Complaints arising out of any of the methods of providing for Indian preference shall be handled in accordance with this ordinance.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.11.030 was formerly codified as XIV LCOTCL §2.1103

Subchapter PAP.2.12
Ethics in Procurement

PAP.2.12.010 General ..... PAP.2.12-**Error! Bookmark not defined.**
PAP.2.12.020 Conflict of Interest ..... PAP.2.12-**Error! Bookmark not defined.**
PAP.2.12.030 Gratuities, Kickbacks, and Use of Confidential Information.....PAP.2.12-**Error! Bookmark not defined.**
PAP.2.12.040 Prohibition Against Contingent..... PAP.2.12-**Error! Bookmark not defined.**

PAP.2.12.010 General

The Tribe shall adhere to the following code of conduct that shall be consistent with applicable laws.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.12.010 was formerly codified as XIV LCOTCL §2.1201

PAP.2.12.020 Conflict of Interest

(a) In the procurement of supplies, equipment, other property, construction and services by recipients and sub-recipients, no employee, officer or agent of the Tribe shall participate directly or indirectly in the selection or in the award or administration of any contract if a conflict, real or apparent, would be involved. Such conflict would arise when a financial or other interest in a firm selected for award is held by:

(1) An employee, officer or agent involved in making the award, either currently employed or within one year after employment or service of the Tribe;

(2) A relative (including father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother- in- law, sister- in- law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister);

(3) A business partner; or

(4) An organization which employs, is negotiating to employ, or has an arrangement concerning prospective employment of any of the above.

(Res. No. 16-30)

Prior Codifications

- §PAP.2.12.020 was formerly codified as XIV LCOTCL §2.1202

PAP.2.12.030 Gratuities, Kickbacks, and Use of Confidential Information

The TGB, employees or agents of the Tribe shall not solicit or accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subcontracts, and shall not knowingly use confidential information for actual or anticipated personal gain.

(Res. No. 16-30)

Prior Codifications

- §PAP.2.12.030 was formerly codified as XIV LCOTCL §2.1203

PAP.2.12.040 Prohibition Against Contingent

Contractors shall not retain a person to solicit or secure a Tribe contract for a commission, percentage, brokerage, or contingent fee, except for bona fide employees.

(Res. No. 16-30)

Prior Codifications

- §PAP.2.12.040 was formerly codified as XIV LCOTCL §2.1204

Subchapter PAP.2.13
Property and Equipment Inventory

PAP.2.13.010 Property and Equipment Inventory Policy ..... PAP.2.13-**Error! Bookmark not defined.**
PAP.2.13.020 Property and Equipment Database Maintenance .....PAP.2.13-**Error! Bookmark not defined.**
PAP.2.13.030 Basic Principles Property and Equipment Management System. PAP.2.13-**Error! Bookmark not defined.**
PAP.2.13.040 Responsibility for Operation of System PAP.2.13-**Error! Bookmark not defined.**
PAP.2.13.050 Items to Be Inventoried and Included in the Property Register .. PAP.2.13-**Error! Bookmark not defined.**
PAP.2.13.060 Items Not Included in the Inventory .... PAP.2.13-**Error! Bookmark not defined.**
PAP.2.13.070 Identification Number Tags ..... PAP.2.13-**Error! Bookmark not defined.**
PAP.2.13.080 Valuation of Property Inventory ..... PAP.2.13-**Error! Bookmark not defined.**
PAP.2.13.090 Valuation of Property Acquired After Initial Inventory ..... PAP.2.13-**Error! Bookmark not defined.**
PAP.2.13.100 Instructions of Operating an Established Inventory System ..... PAP.2.13-**Error! Bookmark not defined.**
PAP.2.13.110 Property and Equipment Forms..... PAP.2.13-**Error! Bookmark not defined.**

PAP.2.13.010 Property and Equipment Inventory Policy

The Tribe shall establish an inventory of all property and equipment consistent with this subchapter. The Tribe's inventory of all property and equipment will be maintained. The inventory document will contain sufficient information for insurance and grant requirements.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.13.010 was formerly codified as XIV LCOTCL §2.1301

PAP.2.13.020 Property and Equipment Database Maintenance

(a) The Chief Procurement Officer will maintain the database of all property and equipment owned by the Tribe. The database will include: tag number, description, serial number, acquisition date, cost, vendor, location, source of funding and conditions, and any grant or other restrictions.

(b) All equipment valued over $5,000 will have a tag affixed with a unique identifying number.

(c) The property and equipment database will be consulted prior to the sale of any item to determine if there are restrictions. Grant purchase equipment may generally not be sold without the grantor's permission.

(d) A biennial inventory shall be taken by the each Department Director to verify the existence of the property and equipment listed in the database.

(e) Equipment will be included in the database using the definitions for capitalization found in Section PAP.2.13.050 of this manual.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.13.020 was formerly codified as XIV LCOTCL §2.1302

PAP.2.13.030 Basic Principles Property and Equipment Management System

(a) Location of Records. All records pertaining to this system shall be located in the accounting office. Forms for this system are illustrated in Appendix C – Sample Accounting Forms and are as follows:

(1) Additions of Property Inventory. This form serves as the asset record for each item of equipment acquired. This form is generated by the custodian of purchased equipment. The Chief Procurement Officer is responsible for maintaining the property management system and the recording of general fixed assets in the system. The Chief Procurement Officer shall use this form to document the addition of property, equipment, or inventory.

(2) Property Inventory Data Sheet. These forms are used for taking the bi-annual physical inventory. This form, completed by each Department Director, provides custodian, description, condition and location of all property and equipment. Also, it is periodically updated as to the condition and location of property and equipment. A review of property and equipment should be carried out at least on a yearly basis by the Chief Procurement Officer, or designee.

(3) Property Disposition Authorization. This form is to be used to authorize the sale, trade-in or scrapping of any piece of property. This form, completed by the Custodian, provides reason for disposal, description, condition and location of all property and equipment. All disposals require the approval of the Department Director, and authorization of the Chief Procurement Officer. As required by law, the Department Director shall also obtain the approval of their granting agency for the disposal of any property purchased with funds from a granting agency.

(4) Transfer of Property. This is used to trace the movement of an asset from one department or location to another. This form, completed by the Custodian, provides reason for transfer, description, condition and location of all property and equipment. All transfers require the Department Director, and authorization of the Chief Procurement Officer. Forms should be filled out when an employee terminates employment or a new employee joins the Tribe.

(b) Location Units.

(1) Property location units shall be established for the Tribe to provide control and accountability of property items. The location unit will be identified and clearly assigned on the "Addition of Property Inventory" form when an item of equipment is acquired.

(2) Location units shall be based on physical areas or functional responsibility. These areas shall be defined by the Department Directors. The Department Directors shall also identify those individuals who will be responsible for the property located in a particular location unit. These individuals will be referred to as "Custodians."

(c) Data Base.

(1) The data base is the backbone of the property management system. The sole purpose of all of the forms and procedures used in this system is to keep the information in the data base accurate and up to date.

(2) The data base contains the following information of each item or property:

(A) Description of the item;

(B) Identification tag number;

(C) Date of acquisition;

(D) Date of disposition;

(E) Serial number and or model number of the item;

(F) Program (source of funds for the purchase of the item);

(G) Department location classification;

(H) Whether the item is owned or leased;

(I) Cost of / or estimated value;

(J) Federal funds used to acquire the asset; and

(K) If applicable the sales price and whether or not the item is insured.

(L) Condition

(3) The totals from the data base will be reconciled with the current period financial statements and the general fixed assets account group on an annual basis by the Chief Procurement Officer.

(d) Property Register.

(1) The "Property Register" is a report generated from the information contained in the data base. This report can present this information in any format required by management simply by changing the sort orders. The information on the "Property Register" is used to:

(A) Account for all identification numbers;

(B) Provide for a method for locating an identification number in the equipment record files;

(C) Prevent the omission or duplication of identification numbers;

(D) Provide an accounting record for each item of equipment owned, leased or disposed of per the property procedure manual;

(E) Provide cumulative dollar values which should correspond with the general ledger balances;

(F) Assure that all items determined to be insured, are insured and that the organization is not paying insurance for items that it does not own or items that have been sold, traded, or disposed of.

(e) Filing and Retention of Property Inventory Records. Asset records shall be retained and maintained by the accounting office. They shall be filed by each Department Director. When an equipment item is disposed of, the asset record shall be retained for three (3) years after the audit report has been issued.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.13.030 was formerly codified as XIV LCOTCL §2.1303

PAP.2.13.040 Responsibility for Operation of System

The equipment inventory system shall be operated and maintained by the Chief Procurement Officer, who shall be responsible for the installation of the system and its

proper operation. The Department Director shall develop a schedule by unit location and designate the individual (custodian) to be physically accountable over property items in each location unit.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.13.040 was formerly codified as XIV LCOTCL §2.1304

PAP.2.13.050 Items to Be Inventoried and Included in the Property Register

(a) Equipment. All equipment items having a unit cost of more than $5,000 and an expected useful life of more than one year shall be inventoried as reportable equipment. These items will be reconciled to the equipment purchases line item in the financial statements.

(b) Sensitive Equipment. Sensitive equipment is defined as all firearms and other property that is subject to theft and pilferage of these additional items can be considered sensitive at the discretion of the Tribe. All sensitive equipment will be inventoried regardless of cost. These items will be given a tag number to track in the inventory database system.

(c) Traditional Items. Native American traditional artifacts and other culturally relevant property owned by the Tribe will be maintained according to traditional law and custom.

(d) Leased Equipment. Equipment that is leased shall be accounted for as part of the regular property management system and assigned an identification number. Leased items will be maintained on a tracking system separate from items listed in the contents and equipment general ledger accounts.

(e) Transfers. Property that has been loaned to another Tribe or Agency shall be accounted for as part of the regular property management system. "Transfer of Equipment" forms must be completed, approved, and attached to the asset record for each item transferred.

(f) Equipment with Motors. Equipment with motors shall either be tagged or assigned an identification number. In the case of vehicles, the VIN number will be used. For other items the serial number will be used. In most cases, a tag number is still assigned.

(g) Intellectual Property. Copyrights or any other intellectual property that has value, and in the property of the Tribe shall be maintained by the IT Director and/or the Custodian.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.13.050 was formerly codified as XIV LCOTCL §2.1305

PAP.2.13.060 Items Not Included in the Inventory

(a) Personal property owned or leased by employees of the Tribe will not be included in the property management system. In order to safeguard the employees and the property management system, each employee having any personal property described above will need to have this information itemized and verified by the custodian. This information will be stored in a separate file. Without this information the physical inventory count process would be prone to error and result in numerous reconciling adjustments.

(b) Software Licenses are the responsibility of the IT Director and/or the Custodian. This should be noted on a separate list within the location unit to insure legal licensing requirements are met.

(Res. No. 16-30)

Prior Codifications

- §PAP.2.13.060 was formerly codified as XIV LCOTCL §2.1306

PAP.2.13.070 Identification Number Tags

(a) All items of property, whether owned or leased, excluding motor vehicles and guns, shall be assigned an identification number. The identification number will be in numerical sequence. Metal identification tags will be used and will be attached in a manner that is easily located, secure, and will not deface the equipment. In situations where identification number tags are not appropriate or practical, the serial number of the item will be used to identify and trace the property. As discussed above, the VIN number will be used for all vehicles, boats, etc.

(b) Consistency shall be followed as to where the identification number is affixed to facilitate finding the numbers on the equipment items.

(Res. No. 16-30)

Prior Codifications

- §PAP.2.13.070 was formerly codified as XIV LCOTCL §2.1307

PAP.2.13.080 Valuation of Property Inventory

(a) Responsibility. The Chief Procurement Officer is responsible for the entire inventory system, including taking the initial inventory. All valuations of property shall be done by the accounting office in accordance with the Tribe's accounting policies and procedures.

(1) Enforcement. Department Directors are responsible for completing the physical inventory on a bi-annual basis, or as otherwise requested by the Chief Procurement Officer. Any Department Director that fails to comply with the provisions of this section shall be subject to disciplinary action pursuant to Section PAP.1.12.030.

(b) Valuation of Equipment on Hand at Initial Inventory. The original purchase price shall be used in establishing property values during the initial inventory whenever possible. Information on original price will be obtained from purchase orders or invoices on file. When original costs are not available, the current fair market value will be used in determining the value of the property item. This will be obtained from current catalogs or best estimated value.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.13.080 was formerly codified as XIV LCOTCL §2.1308

PAP.2.13.090 Valuation of Property Acquired After Initial Inventory

(a) New Items. The value will be the purchase price plus freight and installation charges. The amount will be obtained from the purchase order or invoice.

(b) Trade In Items. If a trade-in is involved, the cost to be used is the gross price before deduction of the trade-in allowance.

(c) Transferred Items. Items received from other Tribes or Agencies (including Federal surplus), gifts, etc. – the cost to be used is the fair market values at the time of acquisition.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.13.090 was formerly codified as XIV LCOTCL §2.1309

PAP.2.13.100 Instructions of Operating an Established Inventory System

(a) Acquisition. Property items may be acquired by purchase or donation. The following procedures shall be used to incorporate items that are acquired subsequent to the initial inventory.

(1) Obtain a complete purchase order and invoice copy from purchasing;

(2) Prepare an "Addition of Property Inventory" form for each item;

(3) Assign and affix an identification tag, or use the serial number or VIN number if tagging is not appropriate, to each new item as soon as it is received;

(4) Enter the information for the "Addition of Property Inventory" form onto the data base; and

(5) File the "Addition of Property Inventory" form, along with a copy of the purchase order and a copy of the invoice to the property management file by department. These documents may be scanned and filed electronically.

(b) Disposition. When a property item is disposed of by trade-in, the following procedures apply:

(1) Obtain a complete "Property Disposition Authorization" form from the custodian;

(2) Remove the asset record from the active file. If funding source notification is required, the Chief Procurement Officer will be responsible for this notification requirement;

(3) Remove identification tag from equipment and destroy tag. Identification numbers used once should not be used again;

(4) Make the appropriate entry in the asset record, next to the listing for the equipment that is being disposed of; and

(5) Remove equipment from "Property Register."

(c) Destroyed, Lost or Stolen Property.

(1) Property that is destroyed, lost or stolen shall be reported to the accounting office by the person responsible for the location unit as soon as the destruction occurs or the loss is discovered;

(2) The Chief Procurement Officer will report this event to the funding source if required, and notify the insurance carrier if the property is insured;

(3) A "Property Disposition Authorization" form shall be completed along with a complete explanation of the circumstances; and

(4) Follow procedure for disposition as outlined above.

(d) Sales of Property.

(1) The custodian determines if property is no longer necessary, not appropriate for trade-in, or transfer and has residual value. The Department Director must approve the property for sale;

(2) Funding source grant awards are reviewed to determine how the proceeds from the sale are to be used. This should insure compliance with the grant provisions;

(3) Property determined to be sold, will be sold on bids. The property will be properly described and bids encouraged. Bid notices will be published in the tribal newspaper and placed on the tribe's website, and local postings on the Tribal office bulletin board. The bids will all be channeled to the Chief Procurement Officer or the

appropriate department's property custodian. The bid process should be completed in two weeks. The highest bid will be accepted. Title and property will not transfer until payment is received in full by form of money order or cashier's check.

(e) Physical Inventories. A physical inventory of equipment shall be made at a minimum of once every two years. Physical inventories shall be reconciled to the "Property Register" and the general ledger biennially by the accounting office.

(1) The individual taking the physical inventory shall list all items at a given location of the "Property Inventory Data Sheet." The tag number, condition, quantity and a brief description shall be listed for each item.

(2) Items without identification numbers shall be described in detail on the "Property Inventory Data Sheet" unless the item is clearly labeled as personal property of an employee or the item is rented or borrowed. Personal property, rented or borrowed items should be disclosed to the Chief Procurement Officer.

(3) Personal property inventory will be stored in a distinct and separate file by employee name, department, location, and personal property listed.

(4) The "Property Register," by location, shall be reconciled to the "Property Inventory Data Sheets" by checking the data sheets against the number and descriptions shown on the "Property Register."

(5) The accounting office shall personally conduct a physical check of any items which were not previously recorded and take appropriate action as follows:

(A) If it was determined that an item was missed during the taking of the inventory, that item shall be added to the "Property Inventory Data Sheets;"

(B) If it is established that the identification tag previously assigned has become lost, a new identification number shall be assigned and a new tag attached to the item. The new number shall be shown on the original "Property Inventory Data Sheet" and recorded on the "Addition of Property Inventory" form. A line shall be drawn through the original number and the reason for the change shall be noted on the data sheet;

(C) Missing property, unresolved differences between the custodian and the Chief Procurement Officer, must be resolved. The property is the responsibility of the custodian. Any authorizations for the disposal of missing property must be executed by the Chief Procurement Officer; or

(D) The Chief Procurement Officer can make unannounced inventory checks to determine compliance with these procedures.

(6) Ownership of items classified as property must be established. Those items acquired since the previous inventory, but not recorded, shall be recorded the same as the original acquisition.

(7) A thorough check of all location units and organization records shall be made before reporting items of property missing at the time of the inventory. A report of all items lost, missing, or stolen subsequent to the previous inventory shall be prepared and submitted to the Chief Procurement Officer by the Department Director and shall include the following:

(A) Identification number;

(B) Description of the item;

(C) A brief statement of the circumstances regarding the loss with action taken to recover the item involved;

(D) Unit value; and

(E) Total value of all items listed.

(f) Information Gathering and Communication. In order to maintain accurate and up to date information in the data base, it is essential that information be gathered efficiently and that communications be open and consistent with purchasing and the equipment custodians. The following steps should be taken by the Chief Procurement Officer to achieve this purpose:

(1) Send a copy of the "Property Register," by location, to the Department Director each quarter for review. Request the department list. Also, ask them to list any items that have been purchased that do not appear on the list. Stress to them the importance of the "Property Register" being current. Inform them that this information is used to make sure that all of their program's property is adequately insured and that their program is not paying insurance for equipment that is no longer in service.

(2) Request that all vendors send their invoices directly to accounting and not to a satellite office or some other location.

(3) Inquire of the Accounts Payable Manager weekly as to whether there were any purchase orders issued for property purchases or payments made for property

purchased. If there are, check the "Property Register" to determine if the property is in the system. If it is not, set up property records for these items.

(Res. No. 16-30)

Prior Codifications

* §PAP.2.13.100 was formerly codified as XIV LCOTCL §2.1310

PAP.2.13.110 Property and Equipment Forms

(a) Addition of Property Inventory Form. This form is generated by the Department Directors whenever property, equipment or inventory is received. It should be forwarded to the Chief Procurement Officer. The Chief Procurement Officer is responsible for maintaining the property management system and the recording of general fixed assets in the system. The Chief Procurement Officer uses this form to document the addition of property, equipment or inventory.

(b) Property Inventory Data Sheet. This form, completed by the Department Director, provides custodian, description, condition and location of all property and equipment. Also, it is periodically updated as to the condition and location of property and equipment. A review of property and equipment should be carried out at least on a biannual basis.

(c) Property Disposition Authorization Form. This form, completed by the Custodian, provides reason for disposal, description, condition and location of all property and equipment. All disposals require the approval of the Department Director, authorization of the Chief Procurement Officer, and as required by law authorization of the granting agency.

(d) Transfer of Property Form. This form, completed by the Custodian, provides reason for transfer, description, condition and location of all property and equipment. All transfers require the approval of the Department Director, and authorization of the Chief Procurement Officer.

APPENDIX A:

INDIAN PREFERENCE GUIDELINES

INDIAN PREFERENCE:

Eligibility for Indian preference shall be established in accordance with the requirements of federal law. If the Tribe or its prime contractor determines an applicant ineligible for Indian preference, the Tribe or its prime contractor shall notify the applicant in writing before contract award, or filling the position, or providing the desired training

The Tribe may restrict procurement activity to eligible Indian organizations and Indian-owned economic enterprises.

Restricted Solicitations. The Tribe may provide Indian preference in procurement activities by advertising for bids or proposals from only qualified Indian organizations and Indian owned-enterprises. Or, the Tribe may use a two-stage preference procedure. The regulations describe the two-stage procedure as follows:

Stage 1. Invite or otherwise solicit Indian-owned economic enterprises to submit a statement of intent to respond to a bid announcement or request for proposals limited to Indian-owned firms.

Stage 2. If responses are received from more than one Indian enterprise found to be qualified, advertise for bids or proposals limited to Indian organizations and Indian-owned economic enterprises.

If the solicitation is restricted to qualified Indian owned economic enterprises and organizations, and two or more (or a greater number determined by the Tribe and stated in the invitation) qualified Indian owned economic enterprises or organizations submit responsive bids, award shall be made to the qualified enterprise or organization with the lowest responsive bid. If equal low bids are received, drawing lots or similar random method shall make award, unless otherwise provided in state, tribal, or local law. If fewer than the minimum number of qualified Indian owned economic enterprises or organizations submit responsive bids, all bids shall be rejected, and the Tribe shall cancel the solicitation. The Tribe may accept a single bid received from a responsible bidder, subject to HUD approval for HUD projects, in unusual circumstances, such as if the Tribe determines that, based on a cost or price analysis, the bid price is fair and reasonable, or the Tribe determines that the delay of re-soliciting would subject the project to higher costs.

Unrestricted Solicitations. If the Tribe isn't able to award a contract based on the procedures described in the previous section, the Tribe shall re-advertise the contract inviting bids from non-Indians as well as Indian owned economic enterprises or organizations.

The Tribe may require information from prospective contractors seeking to qualify as Indian organizations or Indian-owned economic enterprises.

Complaints arising from any of the methods the Tribe utilizes to implement Indian preference shall be conducted in accordance with this ordinance.

Award shall be made under unrestricted solicitations to the lowest responsive bid from a qualified Indian-owned economic enterprise or organization within the maximum total contract price established for the specific project or activity being solicited, if the bid is no more than 15% higher than the total bid price of the lowest responsive bid from any qualified bidder.

If the bid from the qualified Indian-owned economic enterprise of organization is within the (15%) range of the lowest, non-Indian firm, the Indian-owned firm will be given the opportunity to meet the lowest bid price. Should the Indian-owned firm refuse to meet this lower price, the bid shall then be awarded to the responsive and responsible low bidder for the project.

Example:

Bidder # 1: $120,000.00 Non-Indian Firm

Bidder # 2: $110,000.00 Indian Firm

Bidder # 3: $105,000.00 Non-Indian Firm

Bidder # 4: $116,000.00 Indian Firm

Bidder # 3, a non-Indian-owned firm, is the apparent low bidder for this project, Bidder # 2, an Indian-owned firm is within 15% (of Bidder # 3. Bidder # 2 is then provided the opportunity to meet the dollar amount of Bidder # 3's bid. If Bidder # 2 is unable to meet Bidder # 3's bid, the award shall be made to Bidder # 3, if Bidder # 2 is able to meet the lower bid, the award shall be made under this Indian Preference Policy. The Tribe must always ensure the lowest, responsive and responsible bid is made for every solicitation, under the Informal or Formal Bidding procedures of this document.

APPENDIX B:

WAGE REQUIREMENTS

WAGE REQUIREMENTS.

(Note: Federal Law requires that prevailing wage rates as determined by the Secretary of Labor (commonly known as Davis-Bacon wage rates) be paid to all laborers and mechanics employed in construction contracts utilizing federal funds.

On December 27, 2000, the Omnibus Indian Advancement Act (P.L. 106-568) allows for Indian tribes to determine and apply their own prevailing wage rates in their contracts or agreements for construction contracts in place of federally determined prevailing wage rates.

If needed, the Chief Procurement Officer or designee should request Davis Bacon wage-rates as determined by the Department of Labor at least forty-five (45) days prior to the initial solicitation for construction contracts. This determination must be provided to the bidder at the time the quote is requested. At least ten (10) days before award of the

contract, the CPO or designee should confirm that the work is considered eligible for Davis-Bacon wage rates.

(Res. No. 16-30)

Prior Codifications

- §PAP.2.13.110 was formerly codified as XIV LCOTCL §2.1311

Chapter PAP.3
Travel Policies and Procedures of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians

PAP.3.1 General Provisions ..... PAP.3.1-**Error! Bookmark not defined.**
PAP.3.2 Definitions ..... PAP.3.2-**Error! Bookmark not defined.**
PAP.3.3 Travel Authorization ..... PAP.3.3-**Error! Bookmark not defined.**
PAP.3.4 Transportation Expenses..... PAP.3.4-**Error! Bookmark not defined.**
PAP.3.5 Per Diem..... PAP.3.5-**Error! Bookmark not defined.**
PAP.3.6 Miscellaneous..... PAP.3.6-**Error! Bookmark not defined.**
PAP.3.7 Conferences and Trainings..... PAP.3.7-**Error! Bookmark not defined.**
PAP.3.8 Cancellation/Changes ..... PAP.3.8-**Error! Bookmark not defined.**
PAP.3.9 Employee Conduct..... PAP.3.9-**Error! Bookmark not defined.**
PAP.3.10 Abuse of Policy ..... PAP.3.10-**Error! Bookmark not defined.**

Preamble

This travel policy and procedural manual 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(j) of the Amended Constitution and By-laws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians empowers the Tribal Governing Board to "make expenditures from available funds for public purposes, including salaries or other remuneration of Band officials, employees or members." This travel policy and procedural manual, outlines the general policies, rules and practices and is intended to be a helpful reference. The Tribal Governing Board acting in its sovereign capacity may in its sole discretion amend this travel policy and procedural manual from time to time.

Subchapter PAP.3.1
General Provisions

PAP.3.1.010 Title ..... PAP.3.1-**Error! Bookmark not defined.**
PAP.3.1.020 Authority ..... PAP.3.1-**Error! Bookmark not defined.**
PAP.3.1.030 Purpose ..... PAP.3.1-**Error! Bookmark not defined.**
PAP.3.1.040 Application..... PAP.3.1-**Error! Bookmark not defined.**
PAP.3.1.050 Effective Date ..... PAP.3.1-**Error! Bookmark not defined.**
PAP.3.1.060 Interpretation ..... PAP.3.1-**Error! Bookmark not defined.**
PAP.3.1.070 Severability and Non-Liability..... PAP.3.1-**Error! Bookmark not defined.**
PAP.3.1.080 Cost Control and Consistency with Good Business Practices.....PAP.3.1-**Error! Bookmark not defined.**

PAP.3.1.010Title

This travel policies and procedures manual shall be known as the Travel Policies and Procedures of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(Res. No. 16-98)

Prior Codifications

- §PAP.3.1.010 was formerly codified as XIV LCOTCL §3.101

PAP.3.1.020Authority

This travel policy and procedure manual 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(j) of the Amended Constitution and By-laws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians empowers the Tribal Governing Board to "make expenditures from available funds for public purposes, including salaries or other remuneration of Band officials, employees or members.."

(Res. No. 16-98)

Prior Codifications

- §PAP.3.1.020 was formerly codified as XIV LCOTCL §3.102

PAP.3.1.030Purpose

It is the purpose of this travel policy and procedural manual to provide the general policies, rules and practices governing travel by all employees of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians in the performance of their official job duties on

behalf of the Tribe. This travel policy and procedural manual is intended to be a helpful reference to employees when traveling on official tribal business. The Tribal Governing Board acting in its sovereign capacity may in its sole discretion amend this travel policy and procedural manual from time to time.

(Res. No. 16-98)

Prior Codifications

- §PAP.3.1.030 was formerly codified as XIV LCOTCL §3.103

PAP.3.1.040 Application

This travel policy and procedural manual shall govern travel by all employees while on official tribal business.

(Res. No. 16-98)

Prior Codifications

- §PAP.3.1.040 was formerly codified as XIV LCOTCL §3.104

PAP.3.1.050 Effective Date

Except as otherwise provided in specific sections, the provisions of this travel policy and procedural manual shall be effective on the date adopted by the Tribal Governing Board.

(Res. No. 16-98)

Prior Codifications

- §PAP.3.1.050 was formerly codified as XIV LCOTCL §3.105

PAP.3.1.060 Interpretation

The provisions of this travel policy and procedural manual:

(a) Shall be interpreted and applied as minimum requirements applicable to all employee travel conducted while on official tribal business;

(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. 16-98)

Prior Codifications

- §PAP.3.1.060 was formerly codified as XIV LCOTCL §3.106

PAP.3.1.070 Severability and Non-Liability

If any section, provision or portion of this travel policy and procedural manual 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 travel policy and procedural manual.

(Res. No. 16-98)

Prior Codifications

* §PAP.3.1.070 was formerly codified as XIV LCOTCL §3.107

PAP.3.1.080 Cost Control and Consistency with Good Business Practices

All tribal entities involved in preparing, authorizing and processing travel requests shall exercise sound business judgment in preparing and authorizing travel requests. Travel shall be via the lowest reasonable cost alternative to minimize expense. In incurring travel expenses, all employees shall be as conservative as possible consistent with sound business/ cost control practices. The Travel/Purchase Clerk may assume that, if a practice or policy or procedure is in the best interests of the Tribe and is not addressed in this ordinance, nor prohibited by tribal law, federal law, or other directive including this travel policy and procedure manual, the practice, policy or procedure may be a permissible exercise of authority. The Travel/Purchase Clerk is advised to seek advice from the Executive Director or Tribal Governing Board liaison whenever doubts arise about an intended practice, policy or procedure. In circumstance where a conflict of interest may exist between the Executive Director and an employee, then the Travel/Purchase Clerk shall seek advice directly from the Tribal Governing Board liaison.

(Res. No. 16-98)

Prior Codifications

* §PAP.3.1.080 was formerly codified as XIV LCOTCL §3.108

Subchapter PAP.3.2
Definitions

PAP.3.2.010 General Definitions ..... PAP.3.2-**Error! Bookmark not defined.**

PAP.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) **"Business Travel"** means employee travel conducted in the performance of their official job duties on behalf of the Tribe.

(b) **"Per Diem"** is a daily payment instead of reimbursement for actual expenses for lodging (excluding taxes), meals, and related incidental expenses. Rate is specified by the U.S. General Services Administration (GSA).

(c) **"Reduced Per Diem"** is a reduced per diem rate when there are known reductions in lodging and meal costs or when your subsistence costs can be determined in advance and are lower than the prescribed per diem rate.

(d) **"Privately Owned Vehicle" or "POV"** means any vehicle such as an automobile or motorcycle operated by an individual that is not owned or leased by the Tribe, and is not commercially leased or rented by an employee under a Tribal rental agreement for use in connection with official Tribal business.

(e) **"Furnished meal"** means a meal provided to an employee, either directly from the Tribe or as a result of the Tribe paying a registration fee or other cost which allows the employee to attend a conference or other event. If the Tribe has already paid for a meal, the employee/travel requester must not count the meal as quarter within the subsistence section of the travel advance request form.

(f) **"Travel Advance Request Form"** means the form that outlines the request for travel.

(g) **"Conference"** means a meeting, retreat, seminar, symposium or event that involves employee travel.

(h) **"Accompanied baggage"** means Tribal property and personal property of the traveler necessary for official travel.

(i) **"Tribal Vehicle"** means any automobile that is owned by the Tribe.

(j) **"Tribal Governing Board" or "TGB"** means the Tribal Governing Board as established by the Lac Courte Oreilles Constitution and Bylaws dated November 2, 1966.

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

(Res. No. 16-98)

Prior Codifications

* §PAP.3.2.010 was formerly codified as XIV LCOTCL §3.201

Subchapter PAP.3.3
Travel Authorization

PAP.3.3.010 Approval Authority..... PAP.3.3-**Error! Bookmark not defined.**
PAP.3.3.020 Authorization..... PAP.3.3-**Error! Bookmark not defined.**
PAP.3.3.030 Reimbursement or Advance..... PAP.3.3-**Error! Bookmark not defined.**
PAP.3.3.040 Travel Advance Request..... PAP.3.3-**Error! Bookmark not defined.**
PAP.3.3.050 Travel Pack..... PAP.3.3-**Error! Bookmark not defined.**

PAP.3.3.010 Approval Authority

Tribal Governing Board, the Executive Director and Program/Department Directors shall have the authority to approve or deny any business travel. Employees shall not approve the reimbursement or advance of their own travel related expenses.

(Res. No. 16-98)

Prior Codifications

- §PAP.3.3.010 was formerly codified as XIV LCOTCL §3.301

PAP.3.3.020 Authorization

Generally a written or electronic authorization is required prior to employee incurring any travel expenses. If it is not practicable or possible to obtain such authorization prior to travel, the Tribal Governing Board, the Executive Director or Program/Department Director may approve a specific authorization for reimbursement of travel expenses after travel is complete.

(Res. No. 16-98)

Prior Codifications

- §PAP.3.3.020 was formerly codified as XIV LCOTCL §3.302

PAP.3.3.030 Reimbursement or Advance

(a) The Tribe may reimburse travel expenses, documented through receipt; provided the expense is consistent with all provisions of this Travel Policy and Procedural Manual, including without limitation Section PAP.3.1.080 and Section PAP.3.3.030(b).

(b) Alternatively, the Tribe may provide the employees with travel advances, which constitute a reasonable projection of travel expenses. All travel advances shall be subject to

the provisions of this manual, including without limitation Section PAP.3.1.080 and Section PAP.3.3.030(b).

(Res. No. 16-98)

Prior Codifications

* §PAP.3.3.030 was formerly codified as XIV LCOTCL §3.303

PAP.3.3.040 Travel Advance Request

(a) Employee shall not be eligible to receive a travel advance, if they have failed to timely submit a prior travel pack to the Travel Clerk for reconciliation.

(b) Employee or a designated program/department employee shall submit the Travel Advance Request Form, and all required supporting documentation, to their immediate supervisor. The immediate supervisor shall ensure that the Travel Advance Request Form is complete and that all required supporting documentation is attached and shall forward to Grant Accountant. Grant Accountant shall forward approved Travel Advance Request Form to the Travel Clerk.

(1) Travel advance requests that involve air travel shall be submitted at least twenty one (21) days prior to departure whenever possible to ensure a reduced rate.

(2) Travel advance requests that do not involve air travel shall be submitted at least fifteen (15) days prior to travel.

(3) Employee may choose to make a reservation for lodging consistent with Section PAP.3.1.080 and Section PAP.3.6.030 before completion and/or submission of the travel advance request to ensure availability. Employee or designated employee shall include reservation documentation in the travel advance request.

(c) Program/Department Director shall ensure employees authorized for travel are in compliance with this Travel Policy and Procedural Manual prior to authorizing business travel.

(d) Decision to approve or deny the travel shall be based, as applicable, upon a consideration of the following:

(1) Whether it is necessary for the employee to perform official duties on behalf of the Tribe;

(2) Whether it will increase the employee's understanding or ability to perform official duties on behalf of the Tribe;

(3) Whether it will unreasonably interfere with or delay completion of assigned duties;

(4) Whether the cost is covered by the applicable operating budget;

(5) Whether the travel advance request is consistent with Section PAP.3.1.080, including regarding modes of transportation, whether it is less expensive than an alternative mode or necessarily saves time;

(6) Any other appropriate factor deemed relevant.

(Res. No. 16-98)

Prior Codifications

* §PAP.3.3.040 was formerly codified as XIV LCOTCL §3.304

PAP.3.3.050 Travel Pack

(a) Travel Clerk will prepare a travel pack for employee with instructions. Travel Clerk will issue a check advancing 80% of the amount determined to be the advance amount.

(1) Upon the request of an employee, the Travel Clerk can advance 100% of the projected cost of lodging when circumstances necessitate.

(b) Upon return, employees shall complete and submit travel pack with required documentation and receipts to the Travel Clerk within ten (10) business days.

(1) It is the employee's responsibility to submit receipts. Travel Clerk is not responsible for obtaining receipts for the employee. Employees shall not be credited for claimed travel expenses which are not documented by receipt.

(2) If employee was advanced for a travel expense (i.e., lodging) for which the Tribe paid separately, employee may include a check for the travel expense with the travel pack.

(3) Employees are required to prepare a synopsis of the meeting, workshop, seminar, conference, etc. to evaluate the benefit of attendance.

(c) As a courtesy, Travel Clerk will send employee an outstanding travel pack notice letter if the travel pack has not been received within ten (10) business days. The notice shall inform the employee that travel pack must be turned in within five (5) business days from the date of the notice and failure may result in the commencement of an automatic payroll deduction for the full amount that was advanced or at the discretion of the Travel Clerk an amount that ensures the Tribe will be reimbursed the advance within a reasonable amount of time.

(d) Travel Clerk will reconcile the travel pack and issue a check for the remaining 20% of the amount determined to be the advance amount adjusting the advance amount as appropriate.

(e) If travel pack reconciliation results in a credit, the Tribe will issue a check to the employee within ten (10) business days.

(f) If travel pack reconciliation results in a deficit, Travel Clerk will send employee a reconciled travel pack notice. The reconciled travel pack notice will indicate the amount that is owed by employee to the Tribe. Employee will have five (5) business days from the date of the notice to pay the full amount or contact the Travel Clerk to make reasonable payment arrangements.

(1) If Employee fails to pay the amount owed or make reasonable payment arrangements within five (5) business days, the Tribe will deduct the full amount from the employee's next payroll check or at the discretion of the Travel Clerk at an amount that ensures the Tribe will be reimbursed within a reasonable amount of time.

(2) Employee may choose to pay the amount owed to the Tribe by check in lieu of having the amount owed deducted from the employee's payroll check. If the check is returned more than twice, the Travel Clerk may deduct the amount owed from the employee's next payroll check.

(g) If an employee resigns or is terminated and has an outstanding travel pack, the amount of the travel advance will be deducted from their final paycheck and held until the travel pack is received and reconciled.

(Res. No. 16-98)

Prior Codifications

* §PAP.3.3.050 was formerly codified as XIV LCOTCL §3.305

Subchapter PAP.3.4
Transportation Expenses

PAP.3.4.010 Airline Travel..... PAP.3.4-**Error! Bookmark not defined.**
PAP.3.4.020 Tribal Vehicle ..... PAP.3.4-**Error! Bookmark not defined.**
PAP.3.4.030 Privately Owned Vehicle (POV)..... PAP.3.4-**Error! Bookmark not defined.**
PAP.3.4.040 Rental Vehicle ..... PAP.3.4-**Error! Bookmark not defined.**
PAP.3.4.050 Tolls and Parking..... PAP.3.4-**Error! Bookmark not defined.**
PAP.3.4.060 Taxi, Bus and Shuttle ..... PAP.3.4-**Error! Bookmark not defined.**

PAP.3.4.010 Airline Travel

Employees are required to exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business when making official travel arrangements, and therefore, should consider the least expensive class of travel that meets their needs.

(a) Coach-class shall be used while on business travel consistent with Section PAP.3.1.080.

(b) Coach-class Seating Upgrades are not considered a new or higher class of accommodation since seating is still in the coach cabin. However, the use of these upgraded/preferred coach seating options is generally a traveler's personal choice and therefore is generally deemed to be at the traveler's personal expense. The supervisor of the traveler may in a permissible exercise of authority authorize and reimburse the additional seat choice fee in reasonable circumstances.

(c) First-class and Business-Class may be used only when specifically authorized/approved if the following applies:

(1) No coach-class accommodations are reasonably available. "Reasonably available" means available on an airline that is scheduled to leave within 24 hours of your proposed departure time, or scheduled to arrive within 24 hours of your proposed arrival time;

(2) When use of other than coach-class is necessary to accommodate a medical disability or other special need;

(3) Where the scheduled flight time, including stopovers and change of planes, is in excess of 14 hours;

(4) The use results in an overall cost savings to Tribe by avoiding additional subsistence costs, overtime, or lost productive time while awaiting coach-class accommodations.

(5) Medical conditions may require consideration for the employee who is directed to travel.

(6) Frequent Flyer Miles:

(A) Employees shall retain all benefits from frequent flyer mile programs.

(7) Compensation from Airline for voluntarily vacating seat and rescheduling:

(A) Employees may retain compensation provided by an airline for voluntarily vacating their seat and rescheduling to a later flight as long as it does not interfere with performing their official duties.

(B) Additional expenses incurred as a result of voluntarily vacating seat and rescheduling will not be reimbursed by the Tribe.

(C) If voluntarily vacating seat and rescheduling delays your travel during work hours, the Tribe will charge you for annual leave for the additional hours.

(8) Luggage:

(A) The Tribe will advance or reimburse for luggage fees, and similar expenses, documented through receipt; provided expense is consistent with Section PAP.3.1.080.

(B) Employees shall pack luggage to avoid overweight luggage fees and multiple and excess luggage fees.

(C) Consistent with Section PAP.3.1.080, the Tribe will generally only advance or reimburse for one checked bag if travel is for a duration that is less than one week. Tribe may advance or reimburse for more than one checked bag if approved by Program/Department Director.

(Res. No. 16-98)

Prior Codifications

* §PAP.3.4.010 was formerly codified as XIV LCOTCL §3.401

PAP.3.4.020Tribal Vehicle

(a) Tribal vehicles shall be used only for approved business travel.

(b) Employees who seek to use a tribal vehicle shall obtain the prior written authorization pursuant to Subchapter PAP.3.3.

(c) Employees must be compliant with the vehicle driver certification policy.

(d) Generally, employees with certain moving violations and other infractions or crimes may be denied insurance coverage and therefore approval.

(e) Tribal vehicles shall be driven on the most direct available route to and from the intended approved business travel destination. Employees shall not detour for personal use or reasons.

(f) Employees shall not permit any other person, except another authorized employee, to operate a tribal vehicle.

(g) Employees shall not operate a tribal vehicle while having any blood alcohol content or while under the influence of any illegal drug, chemical or non-prescribed prescription drug.

(h) Employees shall not possess or transport in a tribal vehicle any alcoholic beverage, illegal drug, chemical or non-prescribed prescription drug.

(i) Employees shall not abuse, misuse or operate contrary to law a tribal vehicle. If a tribal vehicle is damaged through an intentional or reckless act of an employee or while operating contrary to law, the employee may be charged the cost of any insurance deductible and other related costs.

(Res. No. 16-98)

Prior Codifications

* §PAP.3.4.020 was formerly codified as XIV LCOTCL §3.402

PAP.3.4.030Privately Owned Vehicle (POV)

(a) Employees who use a POV for business travel must have in effect at all times, and provide the Human Resource Department with, a valid driver's license and proof of current comprehensive automobile insurance, including liability insurance and coverage limits satisfactory to the Tribe, on January 1st and July 1st of each year, and upon request.

(b) Employees shall only be authorized to use a POV for business travel if the employee has complied with Section PAP.3.4.030(a) and the business travel is consistent with Section PAP.3.1.080 and Section PAP.3.3.030(b). If not, employee is not authorized to engage in business travel for the Tribe in a POV. It is the responsibility of each employee to confirm whether he or she is authorized to use a POV by contacting the HR department.

(c) Employees must obtain prior approval consistent with Section PAP.3.3.010 and Section PAP.3.3.020 to utilize a POV when a commercial carrier is more cost effective. If approved, the advance amount will factor in the totality of the circumstances. (e.g., airline ticket to Chicago, IL is $250.00, parking is $50.00 and baggage fee is $25.00 and mileage to Chicago, IL would be $500.00 the advance amount consistent with Section PAP.3.1.080 would be $325.00).

(d) Mileage Reimbursement:

(1) In accordance with Section PAP.3.1.080, if more than one employee is traveling to the same destination for business; employees shall make accommodations and arrangements to ride share. Requests to drive separately must be approved by the Program/Department Director.

(2) If more than one employee is traveling together in one POV, mileage will be paid to the driver of the POV.

(3) Mileage will be reimbursed for travel to and from restaurants while on business travel.

(4) If mileage exceeds the amount that was advanced in the travel pack, Employee must submit with the travel pack an explanation and it must be approved by the Program/Department Director.

(e) Employees assume responsibility for all parking and traffic fines and physical damage to vehicle. The Tribe shall not be responsible for any such damages, fines, costs or expenses.

(f) Any expenses incurred during the use of POV (ex: repairs, etc.) are ineligible for reimbursement.

(g) Employees, with the exception of law enforcement, fire and emergency response personnel, shall not talk, text message, or email while operating a POV on business travel, and shall not perform any other work during such time. If an urgent matter arises, employee shall park the vehicle in a safe location, and then may address the work related matter.

(h) TGB members are eligible to receive mileage reimbursement, without prior approval, when attending board meetings or while conducting official tribal business.

(Res. No. 16-98)

Prior Codifications

* §PAP.3.4.030 was formerly codified as XIV LCOTCL §3.403

PAP.3.4.040Rental Vehicle

(a) Rental vehicles may be approved in accordance with Section PAP.3.1.080 when more than one employee is traveling together and when lodging was not available at the time of making reservations at the conference/training/meeting location and it is more cost effective to rent a vehicle than pay for transportation that would be incurred for each employee without a rental vehicle. Rental vehicles may also be approved when the Program/Department Director believes a rental vehicle is necessary.

(1) The Tribe will reimburse for fuel costs if documented through receipt.

(b) When an employee as a matter of personal preference (rental car not consistent with Section PAP.3.1.080 and not approved by Program/Department Director) decides to use a rental vehicle, the employee is expected to make arrangements and assume all risk, liability, and costs associated with the rental care. Upon approval by Program/Department Director, Tribe will reimburse an amount that does not exceed what it would have cost for transportation (taxi, bus, super shuttle, etc.). Employee shall submit a copy of the receipt to the travel clerk to verify the rental car.

(Res. No. 16-98)

Prior Codifications

- §PAP.3.4.040 was formerly codified as XIV LCOTCL §3.404

PAP.3.4.050Tolls and Parking

(a) The Tribe will advance or reimburse road, bridge, and tunnel tolls and parking fees and similar expenses, documented through receipt; provided the expense is consistent with Section PAP.3.1.080.

(b) Consistent with Section PAP.3.1.080, employees are encouraged to reduce airport parking fees by making reservations at off-site parking.

(Res. No. 16-98)

Prior Codifications

- §PAP.3.4.050 was formerly codified as XIV LCOTCL §3.405

PAP.3.4.060Taxi, Bus and Shuttle

(a) The Tribe will advance or reimburse for taxi, bus and shuttle service and similar expenses, documented through receipt; provided the expense is consistent with Section PAP.3.1.080.

(b) Consistent with Section PAP.3.1.080, employees shall use the least expensive alternative among taxi, bus and shuttle service. Therefore, taxi service is permitted only when a bus or shuttle is not available or when delay warrants taxi service.

(Res. No. 16-98)

Prior Codifications

* §PAP.3.4.060 was formerly codified as XIV LCOTCL §3.406

Subchapter PAP.3.5
Per Diem

PAP.3.5.010 General per Diem Rules..... PAP.3.5-**Error! Bookmark not defined.**
PAP.3.5.020 Meals..... PAP.3.5-**Error! Bookmark not defined.**
PAP.3.5.030 Lodging ..... PAP.3.5-**Error! Bookmark not defined.**
PAP.3.5.040 Reimbursement ..... PAP.3.5-**Error! Bookmark not defined.**

PAP.3.5.010General per Diem Rules

Generally per diem is allowed when travel is for more than 12 hours. However, this can be waived by Tribal Governing Board, the Executive Director or Program/Department Directors upon consideration of the following:

(a) Whether employee is attending a multiple day conference and mileage to and from would be more expensive for the Tribe than providing per diem;

(b) Whether not allowing per diem will unreasonably interfere with or delay completion of assigned duties of employee;

(c) Whether approval of per diem is consistent with Section PAP.3.1.080 of this manual;

(d) Any other appropriate factor deemed relevant by the Director.

(Res. No. 16-98)

Prior Codifications

* §PAP.3.5.010 was formerly codified as XIV LCOTCL §3.501

PAP.3.5.020Meals

(a) Tribe will advance or reimburse for meals at the federal per diem rate. The rate includes taxes and tips, so employees will not be reimbursed separately for those items.

(b) If meals are provided at the conference/training or meeting, the per diem rate shall be adjusted accordingly in the travel advance request.

(1) The Tribe may advance or reimburse when meals are provided if:

(A) You are unable to consume the furnished meal(s) because of medical requirements or religious beliefs.

(B) You were unable to take part in the furnished meal due to the conduct of official business.

(Res. No. 16-98)

Prior Codifications

- §PAP.3.5.020 was formerly codified as XIV LCOTCL §3.502

PAP.3.5.030Lodging

(a) Lodging shall be selected based upon comfort, convenience, and cost. Employees are free to select lodging based upon these considerations; provided the Tribe will not reimburse for more than the federal per diem rate, unless approved pursuant to Subchapter PAP.3.3 of this manual.

(b) Employees who lodge with other individuals (family members, etc.) while on business travel shall be solely responsible for all resulting additional costs, including those based upon increased room occupancy.

(c) The Tribe will advance or reimburse, documented through receipt; provided lodging expenses are consistent with Section PAP.3.1.080 of this manual.

(Res. No. 16-98)

Prior Codifications

- §PAP.3.5.030 was formerly codified as XIV LCOTCL §3.503

PAP.3.5.040Reimbursement

(a) Meals and incidentals (M&IE) rate will be applied in quarters as follows:

(1) Departure Date – 3 quarters

(2) Return Date – 3 quarters

(3) Full Day – 4 quarters

(b) Per diem shall be reduced in accordance with Section PAP.3.1.080 and Section PAP.3.5.020(b) of this manual when meals are furnished at the conference/training/meeting.

(Res. No. 16-98)

Prior Codifications

- §PAP.3.5.040 was formerly codified as XIV LCOTCL §3.504

Subchapter PAP.3.6
Miscellaneous

PAP.3.6.010 Unusual Circumstances ..... PAP.3.6-**Error! Bookmark not defined.**
PAP.3.6.020 Travel Outside of Normal Work Hours..... PAP.3.6-**Error! Bookmark not defined.**
PAP.3.6.030 Tribal Credit Cards..... PAP.3.6-**Error! Bookmark not defined.**
PAP.3.6.040 Ineligible Travel Expenses..... PAP.3.6-**Error! Bookmark not defined.**

PAP.3.6.010 Unusual Circumstances

(a) Reimbursement of travel expenses incurred based on unusual circumstances must be reviewed and approved by Program/Department Director.

(Res. No. 16-98)

Prior Codifications

- §PAP.3.6.010 was formerly codified as XIV LCOTCL §3.601

PAP.3.6.020 Travel Outside of Normal Work Hours

(a) Overtime is not allowed in conjunction with travel. Employees will be compensated their regularly scheduled hours at their regularly scheduled rate while in travel status. Actual time spent attending a conference or traveling on the weekend will be paid when it occurs during the employees regularly scheduled hours for a weekday (between 8 AM and 5 PM for most employees). Nonexempt employees will be allowed to work a flexible schedule to avoid exceeding 40 hours in a payroll week (Sunday through Saturday) when travel will be taking place on the weekend.

(b) When it is not possible to avoid exceeding 40 hours in a payroll week due to travel, time above 40 hours will be considered compensatory time. Employee shall make arrangements with Program/Department Director to use compensatory time within a reasonable time frame.

(Res. No. 16-98)

Prior Codifications

- §PAP.3.6.020 was formerly codified as XIV LCOTCL §3.602

PAP.3.6.030 Tribal Credit Cards

(a) Use of Tribally issued cards shall be for official business only. All receipts for use of the credit cards must be retained and submitted to the fiscal department at the conclusion of each trip or use.

(b) Each holder of a Tribally issued credit card will sign a statement agreeing to the following:

(1) That the card shall not be used for personal items under any circumstances, and that misuse of the card is grounds for disciplinary action up to and including termination.

(2) Any undocumented/unapproved purchase will be deducted from the cardholder's payroll check; three (3) days notice will be given of such a deduction; if receipts are submitted, this amount can be reimbursed.

(c) When utilizing a Tribally issued credit card for travel costs, only approved expenses in accordance with Section PAP.3.1.080 may be charged to the card. Ineligible expenses may not be charged to the card, such expenses must be paid for separately (ex: room service, in room movies, tips, etc.).

(Res. No. 16-98)

Prior Codifications

- §PAP.3.6.030 was formerly codified as XIV LCOTCL §3.603

PAP.3.6.040 Ineligible Travel Expenses

(a) Common carrier transportation in excess of coach fare.

(b) Any lodging expense in excess of single occupancy, conference/government room rate.

(c) Any vehicle rental fee in excess of the standard rate (ex: GPS units, car seats, etc.).

(d) Additional insurance elected on a vehicle rental (this is not required as all rental vehicles are covered by the Tribe's insurance policy when rented by employees for official business).

(e) Additional airfare costs incurred due to personal preference in dates of travel (ex; if traveler will be staying additional days on personal time).

(f) Any costs incurred for entertainment (ex; in room movies, etc.).

(g) Tips of any kind.

(Res. No. 16-98)

Prior Codifications

- §PAP.3.6.040 was formerly codified as XIV LCOTCL §3.604

Subchapter PAP.3.7
Conferences and Trainings

PAP.3.7.010 Approval ..... PAP.3.7-**Error! Bookmark not defined.**
PAP.3.7.020 Attendance ..... PAP.3.7-**Error! Bookmark not defined.**

PAP.3.7.010Approval

(a) Employees shall obtain approval pursuant to Subchapter PAP.3.3 to attend a conference, training, seminar, etc.

(b) Information regarding the conference, training, seminar, etc. shall be attached to the Travel Advance Request form.

(Res. No. 16-98)

Prior Codifications

- §PAP.3.7.010 was formerly codified as XIV LCOTCL §3.701

PAP.3.7.020Attendance

(a) Employees shall attend the entire conference or training and obtain all materials. Employees who fail to attend the entire conference or training may not be reimbursed or receive full credit during reconciliation for amounts received through travel advance.

(Res. No. 16-98)

Prior Codifications

- §PAP.3.7.020 was formerly codified as XIV LCOTCL §3.702

Subchapter PAP.3.8
Cancellation/Changes

PAP.3.8.010 General Rules..... PAP.3.8-**Error! Bookmark not defined.**

PAP.3.8.010 General Rules

(a) Travel Clerk must be notified within 48 hours of cancellation if all possible to allow for the proper cancellation of lodging, airfare, etc.

(b) If a travel advance has been prepared and disbursed for the business travel, employee must repay the travel advance in full within five (5) business days.

(c) In the event that adequate notice is not given and a "no-show" charge is incurred, it will be the employee's responsibility to cover the charge, unless it is due to unusual circumstances approved by the Program/Department Director. Payments for such charges will be due within five (5) business days.

(d) All costs incurred for non-business related change fees (airfare changes, early/late hotel checkouts, etc.) must be paid by the employee.

(Res. No. 16-98)

Prior Codifications

* §PAP.3.8.010 was formerly codified as XIV LCOTCL §3.801

Subchapter PAP.3.9
Employee Conduct

PAP.3.9.010 Expectations ..... PAP.3.9-**Error! Bookmark not defined.**

PAP.3.9.010Expectations

(a) When in official travel status, the employee will conduct himself/herself in a professional manner. The employee must be aware that he/she is a representative of the Tribe and act accordingly.

(b) When attending training, attendance is required for the full course. If the employee becomes ill and cannot attend a day of training or complete the course, he/she must contact Program/Department Director as soon as possible.

(Res. No. 16-98)

Prior Codifications

* §PAP.3.9.010 was formerly codified as XIV LCOTCL §3.901

Subchapter PAP.3.10
Abuse of Policy

PAP.3.10.010 Allegations ..... PAP.3.10-**Error! Bookmark not defined.**
PAP.3.10.020 Violation or Repeated Violations ..... PAP.3.10-**Error! Bookmark not defined.**

PAP.3.10.010 Allegations

(a) Any allegations of abuse of the provisions of this policy will be investigated to the fullest extent possible.

(Res. No. 16-98)

Prior Codifications

* §PAP.3.10.010 was formerly codified as XIV LCOTCL §3.101

PAP.3.10.020 Violation or Repeated Violations

(a) Violation may result in a suspension of travel privileges and disciplinary action in accordance with Tribal personnel policies and procedures.

(b) Violations shall be subject to the 14 LCOTCL § 1.202 of the Tribal Government Personnel Manual, titled "Grounds for Disciplinary Action;" the procedures under that section will be followed regarding any violations under this manual. All violations are subject to discipline up to and including termination. The tribe reserves the right to pursue recovery for any funds deemed to be used in violation under this manual by current and former employees, including criminal and civil remedies.

(Res. No. 16-98)

Prior Codifications

* §PAP.3.10.020 was formerly codified as XIV LCOTCL §3.102

Chapter PAP.4
Housing Authority Personnel Policies and Procedures of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians

PAP.4.1 General Provisions ..... PAP.4.1-**Error! Bookmark not defined.**
PAP.4.2 Definitions ..... PAP.4.2-**Error! Bookmark not defined.**
PAP.4.3 Governance ..... PAP.4.3-**Error! Bookmark not defined.**
PAP.4.4 Hiring Process ..... PAP.4.4-**Error! Bookmark not defined.**
PAP.4.5 Employment ..... PAP.4.5-**Error! Bookmark not defined.**
PAP.4.6 Wages ..... PAP.4.6-**Error! Bookmark not defined.**
PAP.4.7 Fringe Benefits ..... PAP.4.7-**Error! Bookmark not defined.**
PAP.4.8 Conduct ..... PAP.4.8-**Error! Bookmark not defined.**
PAP.4.9 Safety ..... PAP.4.9-**Error! Bookmark not defined.**
PAP.4.10 Vehicle Driver Certification ..... PAP.4.10-**Error! Bookmark not defined.**
PAP.4.11 Problem Solving ..... PAP.4.11-**Error! Bookmark not defined.**
PAP.4.12 Disciplinary Action and Appeal ..... PAP.4.12-**Error! Bookmark not defined.**

Preamble

This personnel policy and procedural manual is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians in the implementation of Chapter PRP.7 of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians Tribal Code of Law (LCOTCL) – Housing Authority Code, which was enacted by Lac Courte Oreilles Tribal Governing Board Resolution No. 15-95. This personnel policy and procedural manual, outlines the general policies, rules and practices in effect at Lac Courte Oreilles Housing Authority (hereinafter "LCOHA") and is intended to be a helpful reference during your employment with the LCOHA. The information contained herein is general information, and its contents do not create or constitute a contract between the LCOHA and any employee. The Tribal Governing Board acting in its sovereign capacity on behalf of the LCOHA may in its sole discretion amend this personnel policy and procedural manual from time to time. The LCOHA Human Resource Director, or designee, will distribute approved revisions to all employees.

Subchapter PAP.4.1
General Provisions

PAP.4.1.010 Title ..... PAP.4.1-**Error! Bookmark not defined.**
PAP.4.1.020 Authority ..... PAP.4.1-**Error! Bookmark not defined.**
PAP.4.1.030 Purpose ..... PAP.4.1-**Error! Bookmark not defined.**
PAP.4.1.040 Mission Statement ..... PAP.4.1-**Error! Bookmark not defined.**
PAP.4.1.050 Effective Date ..... PAP.4.1-**Error! Bookmark not defined.**
PAP.4.1.060 Interpretation ..... PAP.4.1-**Error! Bookmark not defined.**
PAP.4.1.070 Severability and Non-Liability ..... PAP.4.1-**Error! Bookmark not defined.**
PAP.4.1.080 Repeal of Inconsistent LCOHA Manual(s). PAP.4.1-**Error! Bookmark not defined.**

PAP.4.1.010 Title

This personnel policies and procedures manual shall be known as the Housing Authority Personnel Policies and Procedures of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.1.010 was formerly codified as XIV LCOTCL §4.101

PAP.4.1.020 Authority

This personnel policy and procedural manual is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians in the implementation of Chapter PRP.7 of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians Tribal Code of Law (LCOTCL) – Housing Authority Code, which was enacted by Lac Courte Oreilles Tribal Governing Board Resolution No. 15-95.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.1.020 was formerly codified as XIV LCOTCL §4.102

PAP.4.1.030 Purpose

It is the purpose of this personnel policy and procedural manual to provide the general policies, rules and practices in effect at LCOHA. This personnel policy and procedural manual is intended to be a helpful reference during your employment with the LCOHA. The information contained herein is general information, and its contents do not create or constitute a contract between the LCOHA and any employee. The Tribal Governing Board

acting in its sovereign capacity on behalf of the LCOHA may in its sole discretion amend this personnel policy and procedural manual from time to time. The LCOHA Human Resource Director, or designee, will distribute approved revisions to all employees.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.1.030 was formerly codified as XIV LCOTCL §4.103

PAP.4.1.040 Mission Statement

We the people of Odaawaa Zaaga'iganing, the Lac Courte Oreilles Band of Lake Superior Chippewa, will sustain our heritage, preserve our past, strengthen our present, and embrace our future. We will defend our inherent sovereignty and safeguard our Mother Earth and provide for the education, health, social welfare, and economic stability of the present and future generations. We will provide for the spiritual, cultural, intellectual, physical, emotional and social wellbeing of all employees and will assist employees to grow and develop as members of the Tribe's workforce to share in the success and prosperity of the Tribe.

(a) It is the mission of the LCOHA to shelter and protect our people and help our community prosper.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.1.040 was formerly codified as XIV LCOTCL §4.104

PAP.4.1.050 Effective Date

Except as otherwise provided in specific sections, the provisions of this personnel policy and procedural manual shall be effective on the date adopted by the Tribal Governing Board.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.1.050 was formerly codified as XIV LCOTCL §4.105

PAP.4.1.060 Interpretation

The provisions of this personnel policy and procedural manual:

(a) Shall be interpreted and applied as minimum requirements applicable to the employment related activities of the LCOHA;

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

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

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.1.060 was formerly codified as XIV LCOTCL §4.106

PAP.4.1.070 Severability and Non-Liability

If any section, provision or portion of this personnel policy and procedural manual is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this personnel policy and procedural manual shall not be affected thereby. The LCOHA 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 personnel policy and procedural manual.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.1.070 was formerly codified as XIV LCOTCL §4.107

PAP.4.1.080 Repeal of Inconsistent LCOHA Manual(s)

All previous personnel policy and procedural manual(s) of the LCOHA inconsistent with this manual are hereby repealed and the provisions of this manual shall govern the employment related activities of the LCOHA.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.1.080 was formerly codified as XIV LCOTCL §4.108

Subchapter PAP.4.2
Definitions

PAP.4.2.010 General Definitions ..... PAP.4.2-**Error! Bookmark not defined.**

PAP.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) "Board" means the Lac Courte Oreilles Housing Board of Commissioners.

(b) **"Compensatory time" and "compensatory time off"** refers to paid time off, which is not counted as hours worked during the applicable workweek, or other work period for purposes of overtime compensation, and for which the non-exempt employee is compensated at the non-exempt employee's regular rate.

(c) **"Contracted Employee"** refers to an employee who has entered into a written contract, which has been properly authorized and signed by a signatory of the Tribe/LCOHA and the employee which defines the employment relationship. The contract will be for a specified period, and will outline benefits, pay and other conditions of employment. The terms and conditions of employment for Contracted employees may differ from the terms in this personnel policy and procedural manual, and this manual may be incorporated by reference in the Contracted Employee's written contract.

(d) **"Employee"** means an employee of the LCOHA including: Exempt Employee, Non-exempt Employee, Full-time Employee, Part-time Employee, Seasonal Employee, or Temporary Employee.

(e) **"Executive Director"** means the individual employed by the Tribal Governing Board to manage the affairs of the Housing Authority as provided for in this manual, the Housing Authority Ordinance, and other relevant documents.

(f) **"Exempt Employee"** refers to an employee who the Human Resources Director, or designee, categorizes as being exempt from minimum wage or overtime pay, or both, and includes executive, administrative, and professional employees who are compensated on a salary basis.

(g) **"Extreme Circumstance"** means an unscheduled or unplanned circumstance exceeding an ordinary, usual, or expected event.

(h) **"Full-time Employee"** refers to an employee regularly scheduled to work thirty-two to forty (32-40) hours per week who has completed the ninety (90) day probationary period. Full-time employees are eligible for employee benefits subject to the limitations of the applicable benefit plans.

(i) **"Housing Authority" or "LCOHA"** means the Lac Courte Oreilles Housing Authority which is the entity that has been delegated the responsibility for carrying out the intent of this ordinance, under the direction of the Executive Director.

(j) **"Immediate family member"** refers to Husband, Wife, Son, Daughter, Mother, Father, Brother, Sister, Mother-in-law, Father-in-Law, Grandparent, Grandchild. Immediate family member may also include a partner who has been in a relationship for a period of time or in relationship under Ojibwe tradition and practices.

(k) **"Independent contractor"** is an individual who is not an employee of the Tribe/LCOHA, but rather has entered into a contract with the Tribe/LCOHA, which defines the scope of services. Independent contractors are not employees, do not receive benefits, are not subject to this personnel policy and procedural manual and are governed by a written or verbal contract.

(l) **"Management"** refers to the LCOHA Executive Director, Assistant Director, Human Resources Director and any employee who is assigned permanent or temporary supervisory or decision making authority.

(m) **"Non-Exempt Employee"** refers to an employee who the Human Resource Director, or designee, categorizes as being non-exempt from minimum wage or overtime pay, or both.

(n) **"Part-time Employee"** refers to an employee regularly scheduled to work less than thirty-two (32) hours per week. Part-time employees are not eligible for employee benefits or leave.

(o) **"Positive Test Result"** means a Blood Alcohol Concentration determined to be under the influence as established in Section PAP.4.2.010(w) andSection PAP.4.8.080(c).

(p) **"Probationary Employee"** refers to an employee who has not successfully completed their required probationary period.

(q) **"Seasonal Employee"** refers to an employee hired for an established period usually during peak workloads or seasonal demands. Seasonal workers may not be eligible for all employee benefits.

(r) **"Serious Health Condition"** refers to a condition which requires inpatient care at a hospital, hospice, or residential medical care facility, or a condition which requires

continuing care by a licensed health care provider. This policy covers illnesses of a serious and long-term nature, resulting in recurring or lengthy absences. Generally, a chronic or long term health condition which, if left untreated, would result in a period of incapacity of more than three (3) days would be considered a serious health condition.

(s) **"Temporary Employee"** refers to an employee hired for a period of ninety (90) days or less. Temporary employees may work a full-time or part-time schedule and are not eligible for employee benefits and paid leave.

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

(u) **"Tribal Court"** means the court of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(v) **"Tribal Governing Board"** means the Tribal Governing Board of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(w) **"Under the Influence of Alcohol**, **Illegal Drugs or Controlled Substances"** means the following: a Blood Alcohol Concentration that indicates a positive test result as established in Section PAP.4.8.080(c); or are results that confirm the presence of illegal substance; or are results that confirm the presence of a controlled substances that an employee does not have a valid prescription for or the levels exceed the prescribed dosage.

(x) **"Valid Prescription"** means a prescription that is current and issued for a medical purpose in the usual course of professional practice by a practitioner or a covering practitioner who has conducted at least 1 in-person medical evaluation of the patient.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.2.010 was formerly codified as XIV LCOTCL §4.201

Subchapter PAP.4.3
Governance

PAP.4.3.010 General ..... PAP.4.3-**Error! Bookmark not defined.**
PAP.4.3.020 Sovereignty ..... PAP.4.3-**Error! Bookmark not defined.**
PAP.4.3.030 Employment Laws ..... PAP.4.3-**Error! Bookmark not defined.**

PAP.4.3.010 General

The Tribal Governing Board is the governing body of the Tribe. Pursuant to the Amended Constitution and Bylaws of the Tribe, ultimate legal and fiscal responsibility of the LCOHA is with the Tribal Governing Board, as the elected representatives of the members of the Tribe. The Tribal Governing Board possesses the inherent sovereign authority to delegate oversight and management responsibilities to program directors for the planning and daily operations of Tribal programs and entities. The Tribal Court interprets and enforces, in accordance with and subject to applicable law, as well as these policies and procedures established by the Tribal Governing Board.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.3.010 was formerly codified as XIV LCOTCL §4.301

PAP.4.3.020 Sovereignty

The LCOHA is a public body established as a subordinate entity of the Tribe pursuant to Chapter PRP.7. The Tribe is a sovereign nation, with inherent reserved rights recognized through federal treaties, as such the tribe exists within the geographical boundaries of the United States. Immunity from private lawsuits is one aspect of inherent tribal sovereignty. Immunity from suit means that no private lawsuit can be maintained against the Tribe or any of its subordinate entities such as the LCOHA, unless the Tribe consents to the action. Nothing in this manual, including without limitation the provisions of Subchapter PAP.4.12, constitutes a waiver of the Tribe's inherent sovereign immunity.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.3.020 was formerly codified as XIV LCOTCL §4.302

PAP.4.3.030 Employment Laws

It is the general policy of the Tribe to extend to its employees, where possible, the rights and benefits provided by employers regulated by the laws of the United States. However,

the Tribe looks to federal employment laws as guidelines only, and nothing in this personnel policy and procedural manual shall be construed as the Tribe's consent to application of such laws. Another aspect of the Tribe's inherent sovereignty is that Wisconsin Statutes are not applicable on LCOHA operations without the express written permission of the Tribal Governing Board. The Tribe reserves the right to create and modify its employment policies without regard to such laws or interpretations thereof.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.3.030 was formerly codified as XIV LCOTCL §4.303

Subchapter PAP.4.4
Hiring Process

PAP.4.4.010 Equal Employment Opportunity ..... PAP.4.4-**Error! Bookmark not defined.**
PAP.4.4.020 Indian Preference..... PAP.4.4-**Error! Bookmark not defined.**
PAP.4.4.030 Hiring Preferences..... PAP.4.4-**Error! Bookmark not defined.**
PAP.4.4.040 Employment of Relatives..... PAP.4.4-**Error! Bookmark not defined.**
PAP.4.4.050 Employment of Minors..... PAP.4.4-**Error! Bookmark not defined.**
PAP.4.4.060 Disclosure and Background Check ..... PAP.4.4-**Error! Bookmark not defined.**
PAP.4.4.070 Funding and Approval ..... PAP.4.4-**Error! Bookmark not defined.**
PAP.4.4.080 Posting..... PAP.4.4-**Error! Bookmark not defined.**
PAP.4.4.090 Job Application..... PAP.4.4-**Error! Bookmark not defined.**
PAP.4.4.100 Screening and Selection Process..... PAP.4.4-**Error! Bookmark not defined.**
PAP.4.4.110 Tribal Governing Board Notification ..... PAP.4.4-**Error! Bookmark not defined.**
PAP.4.4.120 Orientation ..... PAP.4.4-**Error! Bookmark not defined.**
PAP.4.4.130 Position Description ..... PAP.4.4-**Error! Bookmark not defined.**
PAP.4.4.140 Probationary Period ..... PAP.4.4-**Error! Bookmark not defined.**
PAP.4.4.150 Classifications ..... PAP.4.4-**Error! Bookmark not defined.**
PAP.4.4.160 Employment At-Will..... PAP.4.4-**Error! Bookmark not defined.**

PAP.4.4.010 Equal Employment Opportunity

The LCOHA reaffirms its commitment to equal employment opportunity and advancement toward all applicants and employees regardless of race, color, creed, national origin, gender, sexual orientation, marital status, veteran status, religion, status with regard to public assistance, membership or activity in a local commission, disability, age or any other status protected by law.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.4.010 was formerly codified as XIV LCOTCL §4.401

PAP.4.4.020 Indian Preference

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000 *et. seq.* prohibits various forms of discrimination, including racial, color, gender-based, religion or national origin within the employment context. However, similar to the United States government, Indian tribes are expressly exempted from the definition of a covered "employer." Consistent with this exemption, the Tribe grants Indian preference in employment, and will apply preference in the following order when there are two or more candidates that meet the job qualifications:

(a) Members of the Lac Courte Oreilles Tribe,

(b) Members of other Federally Recognized Tribes with a dependent or dependents who are members of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians,

(c) Members of other Federally Recognized Tribes,

(d) Non-members with a dependent or dependents who are members of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians,

(e) All Others.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.4.020 was formerly codified as XIV LCOTCL §4.402

PAP.4.4.030Hiring Preferences

The LCOHA will utilize the following preference ranking when considering an applicant for employment. It is the responsibility of the applicant to provide the necessary documents listed below for the purpose of obtaining preferences:

(a) Indian preference as described in Section PAP.4.4.020 of this manual (Applicant must provide a signed official document from a federally recognized Tribe acknowledging enrollment);

(b) Veteran preference (Applicant must provide a Veterans Administration form DD214);

(c) Current tenants of LCOHA (Applicant must provide a copy of a current signed lease with the LCOHA showing tenancy);

(d) Former employees of LCOHA whom left in "good standing" and whose separation was not as a result of disciplinary action or an agreement in lieu of disciplinary action which would have otherwise resulted in termination.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.4.030 was formerly codified as XIV LCOTCL §4.403

PAP.4.4.040Employment of Relatives

The LCOHA encourages relatives of LCO Tribal members to seek employment with the LCOHA. However, the LCOHA also seeks to avoid potential problems arising from family members directly supervising one another. A waiver of this provision may be granted by the

LCOHA Executive Director when the services of the Housing employee cannot be obtained from any other available person with the same or equivalent qualifications.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.4.040 was formerly codified as XIV LCOTCL §4.404

PAP.4.4.050 Employment of Minors

The LCOHA will utilize, solely as a guideline, federal laws pertaining to the employment of minors.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.4.050 was formerly codified as XIV LCOTCL §4.405

PAP.4.4.060 Disclosure and Background Check

(a) All applicants who are being considered for employment with the LCOHA must provide the information as described in Section Section PAP.4.4.090 of this handbook. Incomplete applications and application which fail to provide consent for background checks will not be considered. For all applicants considering employment with LCOHA, the LCOHA reserves the right to:

(1) to conduct background checks on all LCOHA employees.

(b) While employed with the LCOHA, every employee must notify his or her department head or director in writing of any pending criminal charge or conviction, which may result in disciplinary action pursuant to Subchapter PAP.4.12 of this manual. The LCOHA reserves the right to;

(1) issue disciplinary action depending upon the severity of the charge or conviction.

(2) to conduct a criminal background check or personnel background check of current LCOHA employees with reasonable suspicion of policy violations as detailed in this handbook.

(c) Failure to pass a background check to the satisfaction of the Tribe or to disclose a criminal charge or conviction may result in revocation of a conditional offer of hire or disciplinary action, up to and including termination.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.4.060 was formerly codified as XIV LCOTCL §4.406

PAP.4.4.070Funding and Approval

Prior to posting or filing a position, the Executive Director must ensure there are sufficient funds to pay for salary, fringe benefits and all other costs of the position. If the job is for a shorter period and only limited funds are available or if the position is contingent upon receiving funding, this constraint will be explicitly specified at the time of advertisement. The LCOHA Executive Director or designee shall ensure that all positions submitted for posting have all required approvals.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.4.070 was formerly codified as XIV LCOTCL §4.407

PAP.4.4.080Posting

Only the LCOHA Human Resources Director, or designee, is authorized to post a position, provided an existing position shall only be posted with the prior approval of the LCOHA Executive Director. All positions shall be posted for at least ten (10) working days, provided temporary positions may be exempt from this section that are of a 14 (fourteen) day duration or less. The LCOHA Human Resource Director, or designee, will advertise all job postings locally at various locations and other places as appropriate including electronic posting.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.4.080 was formerly codified as XIV LCOTCL §4.408

PAP.4.4.090Job Application

(a) Application Form. Applicants for employment are required to submit an application form, which will include without limitation:

(1) Signature for permission to perform a background and reference check.

(2) Driving record and insurance information (if applicable).

(3) Letter of interest

(4) Resume

(5) Proof of any stated qualifications

(6) Letters of recommendation

(7) Documentation of hiring preferences pursuant to Section PAP.4.4.030 of this manual.

(b) Background Investigations. The LCOHA Human Resource Director, or designee, shall ensure that background investigations are performed prior to applicant screening pursuant to Section PAP.4.4.060 of this manual.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.4.090 was formerly codified as XIV LCOTCL §4.409

PAP.4.4.100 Screening and Selection Process

As an employer, the LCOHA seeks to employ individuals who possess the qualifications, skills, abilities and background to meet the employment needs of the LCOHA. It is also the intent of the LCOHA to treat all applicants with respect and fairness along with ensuring the provisions of Section PAP.4.4.010 of this manual, are adhered to. Pursuant to the Privacy Act of 1974, 5 U.S.C. § 552a, all applications shall be treated as privileged information and shall be made available only to those directly involved in the hiring process.

(a) Applicant Screening.

(1) Upon receipt, all applications will be date stamped and kept in the hiring file until the deadline date and time has expired. After the deadline, all applications received, within the required time lines, will be reviewed by the Human Resources Director for completeness and minimum qualifications. In addition, the Human Resources Director will conduct a background and reference check to determine any issues that might prohibit an individual from being employed by the LCOHA.

(2) Applicants that are deemed to meet these minimum qualifications will be notified in writing, emailed (if applicable) and/or telephonically of an offer to be interviewed. Any applications deemed to not be complete, not meet the minimum qualifications or have a background check that contains information that is detrimental to the Tribe or the LCOHA will be notified in writing that they were not selected to be interviewed.

(3) The decision to not offer an interview will not be subject to any grievance, complaint or appeal provisions of the Tribe/LCOHA.

(4) In the event the Executive Director or Human Resources Director determines that there is no qualified or insufficient applicants the position may be reposted.

(5) Reference and background checks made by the Human Resources Director should be properly documented and retained for a period no longer than the probationary period of the position being considered.

(b) Applicant Interview.

(1) All eligible applicants will be interviewed by a committee which shall be facilitated by the Human Resources Director and composed of the following, unless the position being considered requires such other composition as determined by the Executive Director:

(A) Immediate Supervisor for the position being interviewed,

(B) Other LCOHA Departmental Supervisor

(C) One (1) LCOHA employee, randomly chosen.

(c) Interviewing Principles.

(1) The committee will interview each eligible applicant and shall make the selection based upon all relevant factors, including but not limited to:

(A) Preferences defined in Section PAP.4.4.030 of this manual,

(B) Education/Training,

(C) Personal and professional references,

(D) Experience relevant to position,

(E) Interview.

(2) The committee may utilize a ranking system that factors all of the areas established in Section PAP.4.4.100(c)(1) above, that will ensure a fair and equitable process for determining the best qualified candidate, and if applicable an alternate, to fill the position being interviewed. Such system may utilize points or other forms of ranking that is deemed relevant for the position in consideration. The Human Resources Director shall forward the committee's recommendation to the LCOHA Executive Director for review and approval.

(3) The LCOHA Human Resource Director or designee shall notify the successful and unsuccessful applicants in writing within five (5) working days. If the selected individual does not accept the position or an employee does not successfully complete the probationary period, the LCOHA Human Resource Director shall offer the position to the alternate selection, if applicable. If there was no alternate selected then the LCOHA Human Resource Director or designee may repost the position as approved by the Executive Director.

(4) All relevant documents related to a hiring will be retained by the Human Resources Director for a period not longer than the probationary period for the position

being considered. Pursuant to the Privacy Act of 1974, 5 U.S.C. § 552a, all such information shall be treated as privileged information and shall be made available only to those directly involved in the hiring process.

(5) If an employee does not complete the probationary period, the LCOHA Human Resource Director shall offer the position to the alternate selection. If there was no alternate selected then the LCOHA Human Resource Director or designee may repost the position as approved by the Executive Director.

(6) The decision to not hire an interviewee will not be subject to any grievance, complaint or appeal provisions of the Tribe/LCOHA.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.4.100 was formerly codified as XIV LCOTCL §4.410

PAP.4.4.110 Tribal Governing Board Notification

The Executive Director will notify the TGB who was hired for what position(s) and/or if a position(s) was reposted.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.4.110 was formerly codified as XIV LCOTCL §4.411

PAP.4.4.120 Orientation

All new employees will be provided an orientation within the first five (5) days of employment, and will be provided this personnel policy and procedural manual, all required forms for employment, benefits, a copy of Chapter CMP.6 – Worker's Compensation Code, and day-to-day procedures. The LCOHA Human Resource Director, or designee, will also answer any questions which may arise throughout the course of employment. Supervisors will provide further direction relevant to the operation of their department.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.4.120 was formerly codified as XIV LCOTCL §4.412

PAP.4.4.130 Position Description

The LCOHA Human Resource Director, or designee, will provide every employee with a copy of his or her current and or amended position description. The position description is intended to provide a general overview of the duties of the position. From time to time, however, employees will perform duties and handle duties and responsibilities that are not

a part of the original position description. Position descriptions contain a general description of a position and do not create any employment rights or entitlements.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.4.130 was formerly codified as XIV LCOTCL §4.413

PAP.4.4.140Probationary Period

(a) All newly-hired employee's will be placed on a ninety (90) calendar day probationary period with the exception of positions identified by the Executive Director as needing an extended period in order to adequately assess the employees capabilities to perform the job duties. During an employee's probationary period they will get to know fellow employees, Management and the duties involved for the position. The LCOHA will work closely with employees during the probationary period to assist in understanding the needs and processes of the job. The probationary period may be waived by the Executive Director for short term or seasonal employment.

(b) The probationary period is a trial time for both the employee and the LCOHA. During this probationary period, the LCOHA will evaluate the employee's suitability for employment. At any time during the probationary period, an employee may resign without any detriment to the employee's record. In addition, if during this period an employee's work habits, attitude, attendance, or performance do not measure up to the LCOHA's standards, the LCOHA may extend the probationary period for up to ninety (90) calendar days or terminate the employee's employment without the ability of the employee to appeal the decision.

(c) Probationary employees are eligible for holiday leave and funeral leave. Probationary employees accrue Personal Time Off. Such employees cannot use Personal Time Off until the completion of their probationary period, unless authorized by their immediate supervisor with concurrence from the Executive Director and only for medical reasons or extreme circumstances. Under no circumstances are probationary employees entitled to participate in the sharing of Personal Time Off. If an employee does not complete the probationary period for any reason, the employee forfeits all accrued but unused benefits.

(d) At the end of the probationary period, LCOHA will prepare a written performance evaluation and discuss overall job performance with the employee. During the course of the discussion, the employee is encouraged to present his or her comments and ideas as well.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.4.140 was formerly codified as XIV LCOTCL §4.414

PAP.4.4.150Classifications

Upon hire, the LCOHA will inform every employee of his or her employment classification, whether exempt or non-exempt, full-time, part-time, seasonal or temporary. This is important because employment classification has an effect on employee rights and benefits under this personnel policy and procedural manual (See Subchapter PAP.4.2 – Definitions for the various classifications).

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.4.150 was formerly codified as XIV LCOTCL §4.415

PAP.4.4.160Employment At-Will

Employees, with the exception of certain contracted employees, are hired for an indefinite and unspecified duration and are not guaranteed employment for any specified length of time. As such, either the LCOHA or an employee can terminate the employment relationship at-will, at any time. In addition, the LCOHA can modify, amend, supplement or delete terms and conditions of employment relationship at-will, at any time, with or without cause or advance notice. No individual or governmental body, other than the Tribal Governing Board, or its authorized designee, has the power or legal authority to alter the at-will nature of the employment relationship.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.4.160 was formerly codified as XIV LCOTCL §4.416

Subchapter PAP.4.5
Employment

PAP.4.5.010 Work Site Accommodations ..... PAP.4.5-**Error! Bookmark not defined.**
PAP.4.5.020 Personnel Files ..... PAP.4.5-**Error! Bookmark not defined.**
PAP.4.5.030 Medical Documentation ..... PAP.4.5-**Error! Bookmark not defined.**
PAP.4.5.040 Hours of Work ..... PAP.4.5-**Error! Bookmark not defined.**
PAP.4.5.050 Pay Period ..... PAP.4.5-**Error! Bookmark not defined.**
PAP.4.5.060 Reclassification ..... PAP.4.5-**Error! Bookmark not defined.**
PAP.4.5.070 Evaluations ..... PAP.4.5-**Error! Bookmark not defined.**
PAP.4.5.080 Resignations ..... PAP.4.5-**Error! Bookmark not defined.**
PAP.4.5.090 Transfers ..... PAP.4.5-**Error! Bookmark not defined.**
PAP.4.5.100 Promotions ..... PAP.4.5-**Error! Bookmark not defined.**
PAP.4.5.110 Attendance ..... PAP.4.5-**Error! Bookmark not defined.**
PAP.4.5.120 Lunch ..... PAP.4.5-**Error! Bookmark not defined.**
PAP.4.5.130 Break Periods ..... PAP.4.5-**Error! Bookmark not defined.**

PAP.4.5.010 Work Site Accommodations

The LCOHA is exempted from the federal and state offered definition of an employer as provided by the American's with Disabilities Act, 42 USC § 12111 (5) (B). However, as a matter of its own internal policies the Tribe discourages discrimination against persons with disabilities and when possible seeks to accommodate persons with disabilities on the job. When possible, the LCOHA will make reasonable efforts to provide reasonable accommodations to all employees and applicants, including work site accessibility. Employees must notify their department head or director or the LCOHA Human Resource Director, or designee, in writing of any requested reasonable accommodation within a reasonable period of time after the employee learns of the need for such accommodation.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.5.010 was formerly codified as XIV LCOTCL §4.501

PAP.4.5.020 Personnel Files

The LCOHA will create and maintain a personnel file for each employee beginning at the time of employment. These files are the sole property of the LCOHA and are deemed confidential. All employee files, past and present, will be secured in a locked location at all times. Access will be limited to the LCOHA Executive Director, or designee, a department head or director, an employee or his or her representative if designated in writing which

states the purpose of the disclosure. Information contained within a personnel file may only be copied and released to an employee or his or her representative with the approval of the Executive Director. A personnel file may contain the following types of information:

(a) Original employment application,

(b) Letters of reference,

(c) Notice of hire,

(d) New hire forms,

(e) Current position description,

(f) Records of all disciplinary actions,

(g) Performance evaluations,

(h) Starting pay scale and subsequent increases,

(i) Change of employment status,

(j) Applicable skills test results,

(k) Training and career development records,

(l) Copy of certification or licenses as required,

(m) Copy of separation notice or letter of resignation,

(n) Exit interview and inventory checklist,

(o) Other documents relied upon by the LCOHA to make decisions concerning the employee's employment.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.5.020 was formerly codified as XIV LCOTCL §4.502

PAP.4.5.030 Medical Documentation

The LCOHA will maintain employee documentation as it relates to Doctor's excuse for longer than the allowable three day absence, return to work statements or any limitations on type of work to be performed by the employee. This information shall be maintained alongside an employee's personnel file, but shall be maintained in a separate file. Access will be limited to the LCOHA Executive Director, or designee. All personal medical related

information is subject to the provisions of the Health Insurance Portability and Accountability Act of 1996, 110 Stat. 1936.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.5.030 was formerly codified as XIV LCOTCL §4.503

PAP.4.5.040Hours of Work

(a) The standard work hours are from 8:00 a.m. to 4:30 p.m. Employee hours may be changed at the discretion of the department head or director, subject to the approval of the Executive Director. A written approval shall be maintained in employee's personnel file.

(b) Each Employee must accurately record, sign and in addition have their respective Supervisor attest to the hours being paid by signing an approved timesheet. Each timesheet shall accurately reflect the actual hours being paid during the pay period and distributed by the correct payroll and account/department coding for each employee. The timesheet is a legal record of hours worked and may not be altered without consent of both the employee and his or her department head or director. Each employee and their Supervisor are responsible for the accuracy of their timesheet. A time clock may be used to assist the employee and supervisor in the management and recording of time worked by an employee but a timesheet is the only official record that will be used for the purpose of paying an employee. If and when a time clock is used the timecards must remain in the LCOHA Administrative Offices and no employee shall knowingly falsify another employee's time.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.5.040 was formerly codified as XIV LCOTCL §4.504

PAP.4.5.050Pay Period

The LCOHA pay period is from Monday through Sunday and all hours worked during this period are to be recorded as defined in Section PAP.4.5.040 of this manual.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.5.050 was formerly codified as XIV LCOTCL §4.505

PAP.4.5.060Reclassification

The LCOHA may reclassify an employee (full-time, part-time, exempt, nonexempt, etc.) if the duties or need for the employee has changed. The reclassification of an employee may result in a change in the terms and conditions of employment including without limitation

eligibility for benefits, and leave. Any supervisor who seeks to reclassify an employee shall obtain proper authorization from the LCOHA Executive Director.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.5.060 was formerly codified as XIV LCOTCL §4.506

PAP.4.5.070Evaluations

Each employee will receive an annual written performance evaluation from their supervisor. The evaluation will highlight the employee's strengths and weaknesses, and ways to improve or enhance job performance. The employee and the supervisor must sign the evaluation. The employee's signature does not necessarily indicate concurrence, but does record acknowledgement and delivery of the document. Employees should not expect that evaluations will automatically result in a change in pay. However, the LCOHA will rely on evaluations, in addition to all other relevant information, to make decisions about an employee's terms and conditions of employment.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.5.070 was formerly codified as XIV LCOTCL §4.507

PAP.4.5.080Resignations

Each employee must provide his or her supervisor with at least two (2) weeks prior written notice of resignation. Failure to provide notice will result in a negative recommendation for future employment and may result in forfeiture of accrued but unused leave.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.5.080 was formerly codified as XIV LCOTCL §4.508

PAP.4.5.090Transfers

An employee may be granted a transfer upon agreement of the supervisors of both of the applicable departments or programs involved, subject to the prior approval of the LCOHA Executive Director. The transferred employee must accept all provisions of the other position (i.e. benefits, rate of pay, duties, hours of work, etc.). The provisions of Subchapter PAP.4.4 of this manual shall not apply to transfers with the exception of Section PAP.4.4.040, Section PAP.4.4.070, Section PAP.4.4.130, Section PAP.4.4.150, and Section

PAP.4.4.160. In addition, the provisions of Section PAP.4.4.140, may not apply upon approval of the new supervisor, with concurrence from the Executive Director.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.5.090 was formerly codified as XIV LCOTCL §4.509

PAP.4.5.100Promotions

A supervisor may recommend an employee for a promotion based upon job performance and the needs of the LCOHA, subject to the prior approval of the LCOHA Executive Director. The promoted employee must accept all provisions of the new position (i.e. benefits, rate of pay, duties, hours of work, etc.). The provisions of Subchapter PAP.4.4 of this manual shall not apply to transfers with the exception of Section PAP.4.4.040, Section PAP.4.4.070, Section PAP.4.4.130, Section PAP.4.4.150, and Section PAP.4.4.160. In addition, the provisions of Section PAP.4.4.140, may not apply upon approval of the new supervisor, with concurrence from the Executive Director.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.5.100 was formerly codified as XIV LCOTCL §4.510

PAP.4.5.110Attendance

Punctuality and regular attendance are essential to the effective operation of the LCOHA. Employees must report to work on time. Any employee who will be absent from work must notify his or her immediate supervisor no later than their respective scheduled start time. Any employee who wants to leave early for any reason must have prior approval from his or her immediate supervisor, sign out and sign in upon return. Failure to report to work, without notice, for three consecutive working days will be considered job abandonment and the employee will be considered to have resigned from the LCOHA. Job abandonment will not be subject to any appeal provisions and shall be subject to the provisions of Section PAP.4.5.080 of this manual.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.5.110 was formerly codified as XIV LCOTCL §4.511

PAP.4.5.120Lunch

Employees are allowed one (1) hour leave for lunch. Employees must take their lunch at the usual time, between 12:00 – 1:00, unless mutually changed by the employee and supervisor.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.5.120 was formerly codified as XIV LCOTCL §4.512

PAP.4.5.130Break Periods

Employees are allowed one fifteen (15) minute break between the hours of 8:00 a.m. and noon and another fifteen (15) minute break between 1:00 p.m. and 4:30 p.m. Employees should be mindful and courteous of workload requirements and the need to make certain that break periods should not be abused.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.5.130 was formerly codified as XIV LCOTCL §4.513

Subchapter PAP.4.6
Wages

PAP.4.6.010 Wage Classifications..... PAP.4.6-**Error! Bookmark not defined.**
PAP.4.6.020 Wage Increases..... PAP.4.6-**Error! Bookmark not defined.**
PAP.4.6.030 On Call Maintenance Staff..... PAP.4.6-**Error! Bookmark not defined.**
PAP.4.6.040 Compensatory Time..... PAP.4.6-**Error! Bookmark not defined.**
PAP.4.6.050 Temporary Increases..... PAP.4.6-**Error! Bookmark not defined.**
PAP.4.6.060 Employer Payroll Deductions..... PAP.4.6-**Error! Bookmark not defined.**
PAP.4.6.070 Bank Deposits or Payroll Deductions ..... PAP.4.6-**Error! Bookmark not defined.**
PAP.4.6.080 Workers' Compensation..... PAP.4.6-**Error! Bookmark not defined.**

PAP.4.6.010 Wage Classifications

The LCOHA establishes wage and salary classifications for each position based on many factors, including, but not limited to position category, education, experience, knowledge, ability and level of responsibility.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.6.010 was formerly codified as XIV LCOTCL §4.601

PAP.4.6.020 Wage Increases

The LCOHA will consider cost of living, merit and wage increases on an annual basis. All such increases are contingent upon many factors, including funding availability and performance evaluation. Any increase is at the discretion of Management.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.6.020 was formerly codified as XIV LCOTCL §4.602

PAP.4.6.030 On Call Maintenance Staff

Maintenance personnel that are designated to be the weekly "on-call" worker will be provided an additional stipend above their normal pay to compensate them for their services. Such compensation will be in lieu of any overtime or compensatory time compensation. If there is a need for additional staff to assist the designated "on-call" maintenance staff those Non-exempt employees will be compensated at a rate equal to 1.5 times their regular rate for any hours worked in excess of forty (40) hours actually worked in

a work week. Other paid leave does not count as hours worked for purposes of calculating overtime pay in a work week.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.6.030 was formerly codified as XIV LCOTCL §4.603

PAP.4.6.040 Compensatory Time

(a) The LCOHA Human Resource Director, or designee, will classify and consistently review the classification of employees as either Exempt or Non-exempt. Exempt employees are compensated on a salary basis and will not accrue compensatory time or overtime for hours worked in excess of forty (40) hours in a workweek. Non-exempt employees will accrue, in lieu of overtime compensation, compensatory time for authorized hours worked in excess of forty (40) hours in a workweek.

(b) A Non-exempt employee shall not work over forty (40) hours in a workweek without the prior written authorization of the department head or director. A department head or director may adjust any employee's work schedule to avoid accumulation of compensatory time.

(c) The LCOHA will permit a Non-exempt employee to use accrued compensatory time off with their supervisor's approval as long as the use of the compensatory time will not unduly disrupt the operations of the LCOHA.

(d) A Non-exempt employee must use compensatory time during the fiscal year in which it was accrued, and all such unused time shall be forfeited at the end of the fiscal year, provided a maximum of forty (40) hours may be carried over into any new fiscal year. The LCOHA may enforce this provision any time it becomes aware an employee carried over too much compensatory time from one fiscal year to the next.

(e) A Non-exempt employee who has accrued compensatory time off shall be paid for up to forty (40) hours of unused compensatory time at employee's ending rate of pay upon the resignation of employment. Employees that have been terminated pursuant to Subchapter PAP.4.12 of this manual shall forfeit all remaining uncompensated accrued compensatory time.

(Res. No. 2022-48; Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.6.040 was formerly codified as XIV LCOTCL §4.604

PAP.4.6.050 Temporary Increases

A department head or director who obtains prior authorization of the LCOHA Executive Director may temporarily increase the pay rate of an employee during the time that the

employee is temporarily performing the duties of a position with a higher salary range. Any increase will cease upon removal of the conditions that warranted the increase.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.6.050 was formerly codified as XIV LCOTCL §4.605

PAP.4.6.060 Employer Payroll Deductions

Various payroll deductions are made each payday to comply with applicable laws, including but not limited to federal and state income tax withholding and social security. At the end of each calendar year, the LCOHA will provide each employee with a Wage and Tax Statement (W-2) form. This statement summarizes employee income and deductions for the year.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.6.060 was formerly codified as XIV LCOTCL §4.606

PAP.4.6.070 Bank Deposits or Payroll Deductions

The LCOHA may automatically deposit Employees' paychecks at financial institutions and may provide for payroll deductions, subject to applicable, charges, procedures and limitations. In addition, the LCOHA may make deductions from Employees' paychecks in accordance with orders issued by a court of competent jurisdiction. Employees should contact the Accounting Department with any questions.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.6.070 was formerly codified as XIV LCOTCL §4.607

PAP.4.6.080 Workers' Compensation

The LCOHA carries insurance to cover the cost of work-incurred injury or illness. Benefits help pay for employees' medical treatment and a portion of any income lost while recovering. An employee must report any work-related injury or illness to his or her department head or director by completing the "First Report of Injury or Illness Form," which must be completed within the timelines as stated in the Chapter CMP.6 – Worker's Compensation Code**.** Refer to the Chapter CMP.6 – Worker's Compensation Code for additional guidelines.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.6.080 was formerly codified as XIV LCOTCL §4.608

Subchapter PAP.4.7
Fringe Benefits

PAP.4.7.010 Fringe Benefits..... PAP.4.7-**Error! Bookmark not defined.**
PAP.4.7.020 Eligibility ..... PAP.4.7-**Error! Bookmark not defined.**
PAP.4.7.030 Group Health Insurance / Cobra..... PAP.4.7-**Error! Bookmark not defined.**
PAP.4.7.040 Holiday Leave..... PAP.4.7-**Error! Bookmark not defined.**
PAP.4.7.050 Personal Time off..... PAP.4.7-**Error! Bookmark not defined.**
PAP.4.7.060 Sharing of Personal Time Off..... PAP.4.7-**Error! Bookmark not defined.**
PAP.4.7.070 Additional Paid Leave..... PAP.4.7-**Error! Bookmark not defined.**
PAP.4.7.080 Unpaid Leave ..... PAP.4.7-**Error! Bookmark not defined.**
PAP.4.7.090 Family and Medical Leave ..... PAP.4.7-**Error! Bookmark not defined.**
PAP.4.7.100 Life Insurance, Disability Insurance and Retirement Plan.....PAP.4.7-**Error! Bookmark not defined.**
PAP.4.7.110 Employee Assistance Program..... PAP.4.7-**Error! Bookmark not defined.**
PAP.4.7.120 Christmas Bonus ..... PAP.4.7-**Error! Bookmark not defined.**
PAP.4.7.130 Employee Recognition – Years of Service PAP.4.7-**Error! Bookmark not defined.**

PAP.4.7.010Fringe Benefits

(a) The following is a brief list of the fringe benefits available to eligible employees;

(1) Group Health Insurance/COBRA

(2) Holiday

(3) Personal Time Off (PTO)

(4) Sharing of PTO

(5) Additional Paid Leave

(6) Unpaid Leave

(7) Family and Medical Leave

(8) Life Insurance, Disability Insurance and Retirement Plan

(9) Employee Assistance Program

(10) Christmas Bonus

(11) Employee Recognition – Years of Service

(b) The LCOHA reserves the right, at its sole and absolute discretion, to rescind or amend benefits, to change insurance carriers, or to require employees to contribute towards premium costs. The LCOHA may make these changes at any time, except as provided by law. The Human Resource Director or Insurance Officer, or their designee, will notify employees of changes. While the LCOHA intends to continue offering sponsored benefits, there is no guarantee that such benefits will always be available.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.7.010 was formerly codified as XIV LCOTCL §4.701

PAP.4.7.020Eligibility

The following employee classifications and eligibility for Fringe Benefits are as follows;

(a) Full Time Employee. Full time Employees, as defined in Section PAP.4.2.010(g) of this manual, are eligible for all Fringe Benefits after satisfactorily completing their probationary period, unless otherwise provided for in an Employment Contract with the LCOHA or mandated by law.

(b) Part Time Employee. Part Time Employees, as defined in Section PAP.4.2.010(m) of this manual, are not eligible for any fringe benefits offered by the LCOHA, unless otherwise mandated by law.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.7.020 was formerly codified as XIV LCOTCL §4.702

PAP.4.7.030Group Health Insurance / Cobra

(a) Group Health Insurance is through the Federal Employee Health Benefits; FEHB. An eligible employee may select an insurance provider that best meets their individual needs through FEHB. FEHB is offered for both single, single plus one, and family coverage. Employees considered to be full time status will be required to pay 21%, or as amended from time to time by official action of the Tribal Governing Board, of the premium for the plan selected. Employee's portion of payment will be made through payroll deductions done weekly.

(b) Employees who are covered by the group health plan may have the right to choose continuation of health coverage if coverage is lost due to a reduction in hours of employment or termination of employment. Continuation coverage is provided pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985, and later amendments,

otherwise known as "COBRA". Employees should contact the Human Resource Director for additional information regarding qualifying events or other requirements of COBRA.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.7.030 was formerly codified as XIV LCOTCL §4.703

PAP.4.7.040 Holiday Leave

The Tribe/LCOHA grants eligible employees paid holiday leave. The Tribal Governing Board will approve the holiday schedule at least one (1) month prior to the beginning of a new calendar year. Eligible employees will receive the following paid holidays:

(a) New Year's Day

(b) Martin Luther King Jr. Day

(c) Treaty Day

(d) President's Day

(e) Good Friday

(f) Easter Monday

(g) American Indian Day

(h) Memorial Day

(i) Independence Day

(j) Honor the Earth Powwow (Friday prior to or the Monday after)

(k) Labor Day

(l) Veterans Day

(m) Thanksgiving

(n) Christmas

(o) Other official holidays as established by the Tribal Governing Board

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.7.040 was formerly codified as XIV LCOTCL §4.704

PAP.4.7.050Personal Time off

(a) Full-time employees will accrue paid Personal Time Off (PTO) at the following rates:

(1) If employed up to three (0 to 3) years, 16 hours per month for a total of 192 hours per year.

(2) If employed three years to ten years (3 to 10), 20 hours per month for a total of 240 hours per year.

(3) If employed more than ten (10+) years, 24 hours per month for a total of 288 hours per year.

(b) In no circumstance will employees accrue any amounts over the maximum designated accumulations stated above. If an employee is on any leave without pay the employee will not accrue any PTO until the employee returns to a full time status. An employee who quits his or her employment without providing at least a two (2) week notice will forfeit any accrued PTO unless otherwise approved by his or her department head or director in collaboration with the LCOHA Executive Director.

(c) For purposes of calculating length of service it will be the responsibility of the employee to provide the LCOHA Human Resources Director with a statement from other Lac Courte Oreilles Tribally controlled entities stating the start and end dates. The length of service will only be calculated utilizing the certifiable time for an employee that left a position in good standing.

(d) Prior to the utilization of accrued PTO, Employees must schedule and have the use of accrued PTO time approved so it will not interfere with job responsibilities, except as otherwise provided by law. If an employee is on PTO and there is early release or closure of the employee's worksite, the employee shall be credited any such leave during the period of early release or closure. If requesting more than three (3) days of PTO time employees shall obtain prior authorization at least three (3) working days in advance of the leave date. The department head or director may or may not approve such request depending on a variety of factors, including project deadlines and schedules. In extreme emergency situations the Executive Director, in consultation with the employees Supervisor, may waive the three (3) day notification provision, if requested by the employee in writing citing the reason.

(e) To utilize PTO for unscheduled absences employees must notify the LCOHA and their immediate supervisor prior to their designated start time. If an Employee is absent from work for 3 days or longer, which is related to an illness or other medical related issues, a Physicians excuse must be provided that substantiates their absence.

(f) Probationary employees will not be able to use PTO during their 90 day probationary period unless it is for medical reasons or extreme circumstances with approval of their

Supervisor and concurrence of the Executive Director. Furthermore, probationary employees are not permitted to share PTO.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.7.050 was formerly codified as XIV LCOTCL §4.705

PAP.4.7.060 Sharing of Personal Time Off

Employees are permitted to share PTO within the same Employer Tax ID. Under no circumstances are probationary employees entitled to participate in the sharing of Personal Time Off. Employees may cash-out PTO with Director's approval.

(Res. No. 2023-46 Section 1; Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.7.060 was formerly codified as XIV LCOTCL §4.706

PAP.4.7.070 Additional Paid Leave

The LCOHA grants employees additional paid leave in certain situations, including the following:

(a) Civil Leave. The LCOHA grants eligible employees paid civil leave during the required absence when any employee appears as a witness for the federal, state or Tribal Government, in obedience to a subpoena. An employee must promptly notify his or her department head or director upon receipt of any subpoena. If an employee receives any stipend for such civil leave, he or she must use PTO during any work absence for such service. No employee shall take both compensated time and stipend pay during the required absence for civil leave.

(b) Jury Duty Leave. The LCOHA grants eligible employees paid leave during the required absence for jury service. An employee must promptly notify his or her department head or director upon receipt of any notice to appear. If an employee receives any stipend for such jury duty leave, he or she must use PTO during any work absence for such service. No employee shall take both compensated time and stipend pay during the required absence for jury service.

(c) Funeral Leave.

(1) All full-time employees will be given a five (5) day leave without loss of pay for funeral services for immediate family. Immediate family includes the following:

(A) Husband, Wife, Son, Daughter, Mother, Father, Brother, Sister, Mother-in-law, Father-in-Law, Grandparent, Grandchild, including a partner who has been in a

relationship for a period of time or in relationship under Ojibwe tradition and practices.

(2) Up to three (3) day leave for other persons will be given only if the full-time employee is assisting the family during their immediate time of loss, subject to prior approval of employee's supervisor.

(3) All other funeral leave will be limited to no more than one (1) day with pay to attend the funeral services, subject to the notification and approval of employee's immediate supervisor.

(d) Committee or Board Leave. The LCOHA grants eligible full-time employees paid leave to serve on committees or boards of the Tribal Governing Board and may approve leave to participate in other outside boards or committees. An employee must receive prior approval from his or her department head or director prior to accepting an appointment or volunteering to sit on any committee or board. An employee may receive a stipend for such committee or board service, he or she shall not need to use PTO during any work absence for such service. Attendance at any meetings related to such appointment must be preapproved by the employee's immediate Supervisor and such appointment/meetings shall not interfere with an employee's work performance and duties.

(e) Maternity Leave. The LCOHA grants eligible full-time female employees up to eight (8) weeks, a maximum of three hundred and twenty (320) hours paid leave, for time to deliver and care for a newborn child. If an employee has medical problems prior to delivery, she may utilize paid maternity leave, subject to the maximum limit, with written verification from her doctor. An employee must request and obtain the prior approval of his or her department head or director to utilize this leave. The paid leave under this section is included in the maximum leave provided for in Section PAP.4.8.060 of this manual.

(f) Paternity Leave. The LCOHA grants eligible full-time employees up to one (1) week, maximum of forty (40) hours, paid leave to care for a newborn child. An employee must request and obtain the prior approval of their department head or director to utilize this leave. The paid leave under this section is included in the maximum leave provided for in Section PAP.4.8.060 of this manual.

(g) Parental Leave. The LCOHA grants eligible full-time employees up to two (2) weeks, maximum of eighty (80) hours, paid leave for adoption, customary adoption, guardianship, protective placement, or an emergency safety plan of a pre-school (0-5 years of age) child. Leave may be granted prior to the legal proceedings having been completed. An employee must request the leave as early as possible and obtain approval of his or her department head or director to utilize the leave. The paid leave under this section is included in the maximum leave provided for in Section PAP.4.8.060 of this manual.

(h) Military Leave. The LCOHA grants eligible full-time employees up to ten (10) days, maximum of eighty (80) hours, paid leave upon presentment of official orders requiring attendance for training or to perform other duties as a member of the United States Armed Forces. An employee serving on military leave with pay will be paid only the difference between compensation fees received for such duties and his or her normal salary. An employee must notify his or her department head or director prior to such leave. The LCOHA will look to the provisions of the Uniformed Services Employment and Reemployment Rights Act (USERRA) 38 U.S.C. § 4301 *et. seq.* solely as a guideline in determining reemployment of employees who take extended military leave.

(i) Voting Leave. The LCOHA will grant eligible employees two (2) hours paid leave to exercise the right to vote. An employee must request and obtain the prior approval of his or her department head or director to utilize this leave.

(j) Birthday Leave. The LCOHA will grant eligible employees eight (8) hours of paid leave for the employee's birthday, provided the employee must take such leave within five (5) calendar days, either before or after, the date of the birthday.

(k) Education Leave. The LCOHA may grant employees paid release time to attend job-related or degree seeking courses. An employee must consult with his or her department head or director prior to registering to ensure the course is acceptable and must request and obtain the prior written approval of his or her Department head or Director with concurrence from the LCOHA Executive Director to utilize this benefit. An employee must also have an approved Professional Development Plan on file with the Human Resource office. An employee must promptly provide his or her Department head or Director and the Human Resource Director, or designee, with written proof of course completion. A failure to successfully complete a course may jeopardize an employee's ability to obtain approval of subsequent paid release time hereunder. The LCOHA may pay the tuition, books and associated fees of an employee attending an accredited institution of higher learning. The employee must be attending for the purpose of obtaining a degree or enrolling in courses in a field of study that is related to their position of employment with the LCOHA. An employee desiring to have the LCOHA pay these expenses must have an approved Professional Development Plan on file which is approved by their immediate Supervisor and agree to the terms and conditions of an Educational Expense Reimbursement Agreement.

(l) Conferences and Meetings. The LCOHA may grant employees time to attend job-related conferences and professional meetings. An employee must consult with his or her department head or director prior to registering to ensure the conference or professional

meeting is acceptable. An employee must request and obtain the prior written approval of his or her department head or director to utilize this benefit.

(Res. No. 2023-119; Res. No. 2023-11 Section 3; Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.7.070 was formerly codified as XIV LCOTCL §4.707

PAP.4.7.080 Unpaid Leave

(a) Disciplinary Leave. The LCOHA may take disciplinary action, up to and including termination or suspension without pay, against employees who violate the provisions of this personnel policy and procedural manual.

(b) 30-Day Leave of Absence. The LCOHA may grant eligible employees up to thirty (30) days unpaid leave, without loss of employment status. The LCOHA may grant such leave only when the resulting leave will not adversely affect the operations of the LCOHA. An employee must request and obtain the prior written approval of his or her department head or director with written concurrence from the LCOHA Executive Director to utilize this leave.

(c) Religious Leave. The LCOHA may grant eligible employees up to an additional fifteen (15) days of unpaid religious leave. An employee must request and obtain the prior approval of his or her department head or director to utilize this leave.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.7.080 was formerly codified as XIV LCOTCL §4.708

PAP.4.7.090 Family and Medical Leave

Employees may be eligible for up to twelve (12) weeks of family and medical leave during any twelve (12) month period. The leave may be paid, unpaid, or a combination of paid and unpaid, depending on the circumstances. This policy sets forth the LCOHA's policies and procedures for requesting family and medical leave.

(a) Eligibility for Leave. To be eligible for family and medical leave under this policy all of the following conditions must be met:

(1) An employee must have been employed by the LCOHA for at least twelve (12) months or fifty-two (52) weeks.

(2) An employee must have worked at least one thousand two hundred fifty (1250) hours during the twelve (12) months immediately preceding the request for leave.

(b) Reasons for Requesting and Types of Leave. Employees who are eligible for leave under this policy may request up to twelve (12) workweeks of unpaid leave during any twelve (12) month period for the following reasons:

(1) To care for a child following the child's birth or placement for adoption or foster care (this may be taken only within twelve (12) months of the birth or placement).

(2) To care for an immediate family member who has a serious health condition as defined in Section PAP.4.2.010(r) of this manual.

(3) Because the employee has a serious health condition as defined in Section PAP.4.2.010(r) of this manual, which prevents the employee from performing the functions of the position.

(c) If an employee takes PTO for a condition that progresses into a serious health condition and the employee requests unpaid leave as provided under this policy, the LCOHA may designate all or some portion of related leave taken as leave under this policy, to the extent that the earlier leave meets the necessary qualifications.

(d) If both parents work for the LCOHA, and each wishes to take leave for the birth of a child, adoption or acceptance of a child in foster care, or to care for an immediate family member with a serious health condition, the employees may only take a combined total of twelve (12) weeks of unpaid leave.

(e) Employees can take up to twelve (12) weeks of leave under this policy during any twelve (12) month period. The LCOHA will measure the twelve (12) month period as a rolling twelve (12) month period measured backward from the date an employee uses any leave under this policy. Each time an employee takes a leave, the LCOHA will compute the amount of leave you have taken under this policy and subtract it from the twelve (12) weeks of available leave, and the balance remaining is the amount an employee is entitled to take at that time. An employee's family or medical leave taken may run concurrently with other types of leave including workers' compensation and other leaves, such as short-term or long-term disability, etc.

(f) Intermittent or Reduced Work Schedule Leave. Leaves may be taken all at once or on an intermittent or reduced work schedule basis. Intermittent or reduced work schedules may be used only in the following circumstances:

(1) In situations where leave is requested due to the birth, adoption or acceptance of a child in foster care, intermittent or reduced work schedules will be granted at the LCOHA's sole discretion and if granted must be taken within one (1) year of the birth or placement of the child.

(2) In situations where leave is requested in order to care for an immediate family member who suffers from a serious health condition or because of an employee's own serious health condition, intermittent or reduced work schedules will be granted only when an employee can prove the leave is medically necessary.

(3) In situations where an intermittent or reduced work schedule is permitted, the LCOHA may require an employee to transfer to an alternative position with equivalent pay and benefits in order to accommodate the recurring periods of absence.

(g) Use of Paid and Unpaid Leave. Employees who have accrued PTO must use paid leave first and take the remainder of the twelve (12) weeks as unpaid leave.

(1) Employees who take a leave because of their own serious health condition or the serious health condition of a family member must use all accumulated PTO prior to being eligible for unpaid leave.

(2) Employees who take leave for the birth of a child must use paid PTO for physical recovery following childbirth, except where such leave is compensated as paid maternity leave under this personnel policy and procedural manual or as paid short-term or long-term disability leave. These employees must then use all paid vacation, and then will be eligible for unpaid leave for the remainder of the twelve (12) weeks. Employees who take leave for the adoption or acceptance of a child in foster care must use all paid PTO prior to being eligible for unpaid leave.

(h) Procedure for Requesting Leave. In situations where leave is foreseeable, employees must provide written notice to the department head or director at least thirty (30) days prior to the date on which the leave is scheduled to begin. If the leave is foreseeable due to a planned medical treatment, employees must make reasonable efforts to schedule the treatment(s) to minimize disruptions to the Housing Authority's operations. If circumstances occur, in which it is not practicable to provide thirty (30) days' notice, employees must provide written notice as far in advance as is practicable. If an employee fails to provide thirty (30) days advance written notice of a requested leave and have no reasonable excuse, the leave may at the Executive Director's discretion be delayed for up to thirty (30) days from the date of written notice.

(i) Medical Certification Requirement. When leave is requested because of a serious health condition affecting an employee or his or her immediate family member, the LCOHA requires the employee to obtain certification of the health condition from the pertinent doctor or health care provider. This certification must be provided to the department head or director within fifteen (15) days after the leave is requested or, when the need for leave was unforeseeable, within fifteen (15) days after the leave has commenced unless it is not practicable to do because of the nature of the health condition.

(1) If an employee seeking leave due to a serious health condition fails to provide the required medical certification, the leave will be denied until the certification is provided. If the leave request was not foreseeable, such as in a medical emergency, the failure to provide the required medical certification within a reasonable time may result in the denial of continuation of leave. Medical certification provided in justification of a request for leave must include the following information:

(A) The date on which the serious health condition started and its expected duration,

(B) The diagnosis concerning the condition,

(C) A brief description of the treatment prescribed for the condition,

(D) A statement of whether in-patient hospitalization is required, or

(E) A statement that the employee is needed to care for his or her immediate family member afflicted with a serious health condition or, if the employee has the serious health condition, a statement that he or she is unable due to the health condition to perform the essential functions of the position or work of any kind.

(2) The LCOHA, if it doubts the certification, at its expense, may require an employee seeking leave due to a serious medical condition to obtain a second opinion from a doctor or other health care professional designated by the LCOHA. If the second opinion conflicts with the certification provided by the employee, the LCOHA may, at its sole discretion and at its expense, require a third opinion from a doctor or other health care professional designated jointly by the LCOHA and the employee. Such a third opinion will be final and binding.

(3) If an employee plans to take intermittent leave or work a reduced schedule, the certification must also include dates and the duration of treatment and a statement of medical necessity for taking intermittent leave or working a reduced schedule. During a leave taken under this section, employees may be required to provide, periodically, written notice to the Executive Director concerning his or her status and intention to return to work.

(j) Return from Leave. Upon completion of leave due to an employee's own serious health condition, the employee must provide the LCOHA with medical certification from his or her doctor or other health care professional that the employee is now able to return to work. If an employee fails to provide this certification, he or she will not be permitted to return to work until such certification is provided. An employee who takes leave under this policy will be able to return to the same job or a job with equivalent status, pay, benefits and other employment terms. The LCOHA may choose to exempt certain highly

compensated employees from this requirement and not return them to the same or similar position.

(k) Health Benefits during Leave.

(1) During a leave taken pursuant to this policy, an employee's health benefits under any existing Tribal sponsored health plan will be continued as if the employee had continued in employment continuously for the duration of the leave. If, however, an employee fails to return at the end of a leave taken under this policy, except if this is due to the continuation, recurrence or onset of a serious health condition or something else beyond the employee's control, then the Tribe may recover from the employee all of the health care premiums paid to maintain health coverage during the leave.

(2) If under the LCOHA's current policy, an employee pays a portion of the health care premium, while on paid leave, the LCOHA will continue to make payroll deductions to collect the employee's share of the premium. While on unpaid leave, the employee must continue to make this payment, either in person or by mail. The payment must be received by the first day of each month. If the payment is more than thirty (30) days late, the employee's health care coverage may be dropped for the duration of the leave.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.7.090 was formerly codified as XIV LCOTCL §4.709

PAP.4.7.100Life Insurance, Disability Insurance and Retirement Plan

If requested by the Employee, the LCOHA through the Tribe provides eligible employees Life and Disability insurances along with a Retirement Plan. An Employee wanting these types of benefits should consult with the Tribe's Benefit's Administrator for further information.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.7.100 was formerly codified as XIV LCOTCL §4.710

PAP.4.7.110Employee Assistance Program

The Tribe recognizes that individual employees may develop personal problems which could have negative effects on job performance. The Tribe offers an Employee Assistance Program (EAP) for all employees, the purpose of which is to encourage the early diagnosis and treatment of personal, psychological, and medical problems. Employees are encouraged to contact the Human Resource Director, or designee, for information regarding the EAP. Employees are responsible for submission of all documents and paperwork to pay the costs incurred for services rendered in connection with the EAP. Employees may utilize their health insurance plan as coverage is available; otherwise the service will be self-pay.

Employees may attend a scheduled EAP appointment with the LCO-CHC during work hours. If the EAP appointment is at another facility the employee may use permitted paid or unpaid leave for EAP absences. EAP appointments (that the employee is required to attend by the Employer) will be coordinated with the employee's supervisor so customer service does not get interrupted.

(a) Self-Referral. An employee may request assistance from their supervisor for personal, psychological, or medical reasons at any time during their employment. Strict confidentiality will be maintained throughout this process.

(1) Procedure: A department head or director shall provide the employee and the Human Resource Director, or designee, with written notice using the LCOCHC – Behavior Health Clinic intake form and a signed consent form to release and or share information between departments of any referral. The Human Resource Director will set up the EAP Process with the LCOCHC – Behavioral Health Director. The Behavioral Health Director will report to the Human Resource Director on the status of the referral within five (5) working days after receipt of the referral. Regardless of any EAP referral, employees must maintain an acceptable level of job performance. Documentation of completion or non-completion of the EAP will be on file in the employee's personnel file located in the Human Resource Department.

(A) A leave of absence to attend inpatient treatment shall be granted to employees requesting assistance through self-disclosure. The leave of absence may not exceed 12 weeks pursuant to Section PAP.4.7.090 of this manual.

(B) Employees placed on a leave of absence from self-disclosure shall:

1) Be allowed to return to the position, shift, and level of seniority that was held by the employee prior to the leave being granted.

2) Be allowed to maintain tribally sponsored Health; Life and short-term disability Insurance Benefits during the leave. The employee will be responsible for their portion of insurance premiums.

3) Be allowed to utilize any accrued Paid Time Off hours earned prior to the leave.

4) Any accrual of Paid Time Off hours shall be in accordance with the Tribe's policies on family and medical leave pursuant to Section PAP.4.7.090 of this manual.

(C) An employee returning to duty following a leave of absence from self-disclosure will be required to undergo testing for illegal drugs and prescribed medication for which they do not have a valid prescription as a condition of returning to work. If the applicant is suspected to be under the influence of alcohol

at the time of return to drug screen, a PBT may be requested. Employees who refuse to take a test is thereby insubordinate will be considered to have produced a positive test result and shall be terminated. Upon receipt of a positive test result as defined in Section PAP.4.2.010(o), the employee shall be subject to disciplinary action, up to and including termination pursuant to Section PAP.4.8.080(f) of this manual and the positive test sample will be sent for a confirmation test result pursuant to Section PAP.4.8.080(a) of this manual.

(D) Utilization of this self-disclosure provision does not negate any disciplinary action for which an employee is subject to pursuant to Section PAP.4.8.080(f) of this manual, or any other tribal law or policy.

(b) Employer Referral. An employee's department head or director shall refer an employee to the Human Resource Director, or designee, when an employee's conduct mandates as such.

(1) Procedure: A department head or director shall provide the employee and the Human Resource Director, or designee, with written notice using the LCOCHC – Behavior Health Clinic intake form and a signed consent form to release and or share information between departments of any referral. The Human Resource Director will set up the EAP Process with the LCOCHC – Behavioral Health Director. The Behavioral Health Director will report to the Human Resource Director on the status of the referral within five (5) working days after receipt of the referral. Employees shall comply with the referral to the EAP and follow subsequent recommendations for referral and treatment. Failure to show-up for required scheduled EAP appointment will result in further disciplinary action up to and including termination of employment. Regardless of any EAP referral, employees must maintain an acceptable level of job performance. Documentation of completion or non-completion of the EAP will be on file in the employee's personnel file located in the Human Resource Department.

(A) A leave of absence to attend inpatient treatment shall be granted to employees when required by an approved LCOCHC- Behavioral Health EAP treatment plan. The leave of absence may not exceed 12 weeks pursuant to Section PAP.4.7.090 of this manual.

(B) Employees placed on a leave of absence when required by an approved LCOCHC- Behavioral Health EAP treatment plan shall:

1) Be allowed to return to the position, shift, and level of seniority that was held by the employee prior to the leave being granted.

2) Be allowed to maintain tribally sponsored Health; Life and short-term disability Insurance Benefits during the leave. The employee will be responsible for their portion of insurance premiums.

3) Be allowed to utilize any accrued Paid Time Off hours earned prior to the leave.

4) Any accrual of Paid Time Off hours shall be in accordance with the Tribe's policies on family and medical leave pursuant to Section PAP.4.7.090 of this manual.

(C) An employee returning to duty following a leave of absence from a referral of the employer will be required to undergo testing for illegal drugs and prescribed medication for which they do not have a valid prescription as a condition of returning to work. If the applicant is suspected to be under the influence of alcohol at the time of return to drug screen, a PBT may be requested. Employees who refuse to take a test is thereby insubordinate will be considered to have produced a positive test result and shall be terminated. Upon receipt of a positive test result as defined in Section PAP.4.2.010(o), the employee shall be subject to disciplinary action, up to and including termination pursuant to Section PAP.4.8.080(f) of this manual and the positive test sample will be sent for a confirmation test result pursuant to Section PAP.4.8.080(a) of this manual.

(D) Participation in an approved LCOCHC- Behavioral Health EAP treatment plan does not negate any disciplinary action for which an employee is subject to pursuant to Section PAP.4.8.080(f) of this manual, or any other tribal law or policy.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.7.110 was formerly codified as XIV LCOTCL §4.711

PAP.4.7.120Christmas Bonus

Christmas bonuses may be paid to LCOHA employees as determined by the LCOHA Executive Director, which will be subject to any funding or other limitations.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.7.120 was formerly codified as XIV LCOTCL §4.712

PAP.4.7.130Employee Recognition – Years of Service

(a) Employees that have worked for the Housing Authority for fifteen (15) years shall receive a gift equal to one week's pay.

(b) Employees that have worked for the Housing Authority for twenty (20) years shall receive a gift equal to two week's pay.

(c) Employees that have worked for the Housing Authority for twenty five (25) years shall receive a gift equal to two week's pay, a gift and plaque.

(d) Upon retirement (25 years or more), an employee shall receive one hundred dollars for each year of service to the Housing Authority.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.7.130 was formerly codified as XIV LCOTCL §4.713

Subchapter PAP.4.8
Conduct

PAP.4.8.010 General Statement of Conduct ..... PAP.4.8-**Error! Bookmark not defined.**
PAP.4.8.020 Conflict of Interest ..... PAP.4.8-**Error! Bookmark not defined.**
PAP.4.8.030 Outside Employment ..... PAP.4.8-**Error! Bookmark not defined.**
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PAP.4.8.060 Alcohol and Drugs ..... PAP.4.8-**Error! Bookmark not defined.**
PAP.4.8.070 Drug Free Workplace Act Compliance ..... PAP.4.8-**Error! Bookmark not defined.**
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PAP.4.8.160 Solicitation and Distribution ..... PAP.4.8-**Error! Bookmark not defined.**
PAP.4.8.170 Workplace Violence ..... PAP.4.8-**Error! Bookmark not defined.**
PAP.4.8.180 Off-Duty Misconduct..... PAP.4.8-**Error! Bookmark not defined.**
PAP.4.8.190 Children in the Workplace..... PAP.4.8-**Error! Bookmark not defined.**
PAP.4.8.200 Policy Regarding Use of Social Media by Employees.....PAP.4.8-**Error! Bookmark not defined.**

PAP.4.8.010 General Statement of Conduct

All Employees must conduct themselves in a manner, which is kind, courteous, ethical and respectful to all members of the public, including fellow employees. In all instances, employees must exercise good judgment and conduct themselves with the highest degree of professionalism. A failure to follow any conduct policies or other provisions of this personnel policy and procedure manual may result in disciplinary action, up to and including termination.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.8.010 was formerly codified as XIV LCOTCL §4.801

PAP.4.8.020Conflict of Interest

Employees are not permitted to engage in nepotism, favoritism, and any outside business transactions, or other activities, which are detrimental to the best interests of the Tribe and/or the LCOHA. This includes activities that, directly or indirectly, divert business opportunities from the Tribe/LCOHA or confer an unfair advantage upon or benefit to a family member. It also includes activities that negatively reflect upon the Tribe/LCOHA's image or are contrary to the mission of the Tribe/LCOHA, except for activities specifically protected by law. The Tribe/LCOHA respects the right of employees to engage in activities outside their employment that are of a private nature and unrelated to their job or the Tribe/LCOHA. However, employees must fully disclose to their department head or director or the Human Resource Director, or designee, all business and personal activities that represent such a conflict of interest with the Tribe/LCOHA. If an employee is unsure whether a conflict of interest exists, the employee is encouraged to seek the advice of the Human Resource Director, or designee.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.8.020 was formerly codified as XIV LCOTCL §4.802

PAP.4.8.030Outside Employment

Employees may not accept simultaneous employment with another tribal agency or another employer without the express permission of the Executive Director. Permission may be denied if the other employer is a competitor or supplier of the Tribe/LCOHA. The request may be denied with employment of another tribal agency if the total hours worked in a given week violates tribal policy or interferes with the work expectations of the LCOHA. The LCOHA considers all full time employees' work with the LCOHA to be their primary employment responsibility. As such, outside employment will not be considered an excuse for poor performance, absenteeism, tardiness or refusal/inability to work overtime.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.8.030 was formerly codified as XIV LCOTCL §4.803

PAP.4.8.040Political Activity

Employees shall not directly or indirectly use their authority, influence or political aspirations to compel individuals to participate or not participate in Tribal political activity and/or election processes. Campaign buttons, posters, or apparel related to tribal political activity is prohibited at the workplace, and distributing literature, emailing, and circulating petitions related thereto during work time or in work areas is strictly prohibited. In addition,

employees shall not use Tribal/LCOHA property and services to influence individuals to participate or not participate in the Tribal election process.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.8.040 was formerly codified as XIV LCOTCL §4.804

PAP.4.8.050 Harassment

(a) The Tribe/LCOHA has a "zero-tolerance" policy with respect to employee harassment. Any form of unlawful employee harassment based on race, color, religion, sex, national (including Tribal) origin, age, disability or status in any protected group is prohibited. The Tribe will not tolerate interference with the ability of employees to perform their expected job duties. Harassment of employees, tenants or members of the public by LCOHA employees will result in disciplinary action, up to and including termination.

(1) Sexual Harassment. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal, visual or physical conduct of a sexual nature. No supervisor, manager or any other employee shall threaten or insinuate, either explicitly or implicitly that another employee's refusal to submit to sexual advances will adversely affect that person's employment, wages, advancement, assigned duties, or any other condition of employment or career development. Similarly, no supervisor, manager or employee shall promise, imply or grant any preferential treatment in connection with another employee engaging in sexual conduct.

(A) Sexual harassment also includes unwelcome sexual flirtations, advances or propositions, verbal abuse of a sexual nature, subtle pressure or requests for sexual activities, unnecessary touching of an individual, graphic or verbal commentaries about an individual's body, sexually degrading words used to describe an individual, a display in the workplace of sexually suggestive objects or pictures, sexually explicit or offensive jokes, or physical assault.

(2) Racial and National (including Tribal) Origin Harassment. Racial and national origin harassment is verbal or physical conduct that denigrates, belittles or shows hostility or aversion towards an individual because of his or her race or national (including tribal) origin and has the purpose or effect of creating an intimidating, hostile, or offensive working environment, or has the purpose or effect of unreasonably interfering with an individual's work performance or otherwise adversely affects an individual's employment opportunities. This includes, but is not limited to, epithets, slurs, intimidating or hostile acts that relate to race, or national (including tribal) origin, written or graphic material that denigrates, belittles or shows hostility or aversion toward an individual because of his or her race, or national (including tribal) origin and

that is placed on walls, bulletin boards or elsewhere on our premises or circulated in facilities.

(3) General. Harassment under this policy may also include words or conduct committed by customers or suppliers of the Tribe. In the event that any harassing or offensive language or conduct occurs, employees must report it to the Human Resource Director, or designee, immediately so the matter can be addressed promptly.

(4) Enforcement. Each member of Management is responsible for creating an atmosphere free of harassment, sexual, racial or otherwise. Further, employees are responsible for respecting the rights of their coworkers.

(b) If an employee experiences any job-related harassment based on sex, race, national (including tribal) origin, disability, or another factor, or believes that he or she has been treated in an unlawful, discriminatory manner, the employee must promptly report the incident to his or her department head or director or Human Resource Director, or designee, who will investigate the matter and take appropriate action. All employee complaints will be kept confidential to the maximum extent possible.

(c) The Tribe/LCOHA prohibits any form of retaliation against any employee for filing a bona fide complaint under this policy or for assisting in a complaint investigation. However, if, after investigating any complaint of harassment or unlawful discrimination, the Tribe/LCOHA determines that the complaint is not bona fide and was not made in good faith or that an employee has provided false information regarding the complaint, disciplinary action may be taken against the individual who filed the complaint.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.8.050 was formerly codified as XIV LCOTCL §4.805

PAP.4.8.060Alcohol and Drugs

(a) All employees of the Tribe are subject to the drug testing procedures as provided in Section PAP.4.8.080 of this manual.

(b) Employees are expected to come to work with a clear mind, unimpaired by drugs or alcohol. No employee under the influence of alcohol, illegal drugs or controlled substances as established in Section PAP.4.2.010(w) shall be permitted to come to or remain at work.

(c) Employees, while on the Tribe's property or on duty, shall not be under the influence of alcohol or illegal drugs; possess or consume alcoholic beverages; possess or consume prescription drugs in the absence of a valid prescription; or use, sell, possess, transfer or purchase illegal drugs or controlled substances. Prescription drugs shall be used only in the manner, combination, and quantity prescribed by a licensed medical practitioner while on

the Tribe's property or while on duty. As a condition of continued employment with the Tribe, all employees must notify the Tribe of any criminal drug statute conviction or charges against them no later than five (5) days after receiving such conviction or charges.

(d) Drug means any substance other than alcohol capable of altering an individual's mood, perception, pain level or judgment. A prescribed drug is any substance prescribed for individual consumption by a licensed medical practitioner. An illegal drug is any drug or controlled substance, the sale or consumption of which is illegal.

(e) The legal use of controlled substances prescribed by a licensed medical provider is not prohibited, but all employees are required to make such use known to the appropriate supervisor within five (5) days they are prescribed the controlled substance. Failure to make the legal use of a controlled substance as prescribed by a licensed medical provider to the appropriate supervisor shall result in disciplinary action up to and including termination.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.8.060 was formerly codified as XIV LCOTCL §4.806

PAP.4.8.070 Drug Free Workplace Act Compliance

(a) The Tribe hereby establishes a policy providing for a drug-free workplace as required by the Drug Free Workplace Act of 1988, 41 U.S.C. 701 *et. seq.* As such, as required by the Act, the Tribe hereby publishes a statement notifying employees that the Tribe prohibits the unlawful manufacture, illegal distribution, dispensation, possession or use of a controlled substance in the workplace. All employees who violate this policy shall be subject to disciplinary action, up to and including termination. As a condition of continued employment with the Tribe, all employees must notify the Tribe of any criminal drug statute conviction or charges no later than five (5) days after receiving such conviction or charges.

(b) General Provisions.

(1) Consent. No alcohol test may be administered, urine sample obtained, or any drug test conducted without the consent of the person being tested. An employee gives consent to participate in any and all forms of testing as a condition of continued employment with the Tribe.

(2) Record Keeping. It is essential that all necessary documentation from each form of testing is maintained in the Human Resources Department in applicable employee files for no less than 5 years. Employee violations will never expire.

(3) Notice of Conviction or Charges.

(A) An employee will be responsible for notifying his/her immediate supervisors in writing within five (5) day of any criminal drug statute conviction or charges for violation. The employee's department head or director shall notify the Human Resource Director who will notify the legal department.

(B) As required by law, the Legal Department will be responsible for notifying the applicable funding agency of the employee's department within ten days after receiving notice from the human resource director, or designee of an employee's criminal drug statute conviction or charges occurring in the workplace or while on duty.

(4) Illegal Distribution or Illegal Dispensing of Controlled Substance on Tribal property. Any employee who manufactures, illegally distributes, or illegally dispenses a controlled substance on Tribal property or while on duty will be terminated. Such termination shall not be subject to appeal.

(c) Rehabilitation and Rehiring. Any employee who has been dismissed for violation of the Tribe's Drug-Free Workplace Policy may be eligible for re-employment after 90-days with the Tribe upon proof of rehabilitation provided by an accredited treatment facility that the person has been to treatment or has successfully completed appropriate treatment and is in recovery.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.8.070 was formerly codified as XIV LCOTCL §4.807

PAP.4.8.080 Drug and Alcohol Testing

All employees and applicants for employment are subject to drug and alcohol testing, including reasonable suspicion, pre-employment, return-to-duty, and random drug testing. Drug tests require laboratory testing as provided by the Mandatory guidelines for Federal Workplace Drug Testing Programs pursuant to 94 FR 28101, May 15, 2015 as amended, as minimum standards for the following five classes of drug and correlative cutoff concentrations: Marijuana; Cocaine; Opiates including opium and codeine derivatives such as Oxycodone, Oxymorphone, Hydrocodone, Hydromorphone; Amphetamines and Methamphetamines including Methylenedioxyamphetamine (MDA) and Methylenedioxyethylamphetamine (MDEA); Phencyclidine (PCP). Employees are encouraged to contact the Human Resource Director, or designee, with any questions regarding drug and alcohol testing. Failure or refusal to participate in an employer-directed drug test is considered insubordination and the employee will be terminated for insubordination.

(a) General Drug and Alcohol Testing Procedures. In cases where an employee is required to undergo testing for the presence of alcohol or drugs including reasonable

suspicion, pre-employment, return-to-duty, and random drug testing, the following procedures shall apply:

(1) LCO-CHC using a licensed laboratory of the LCO-CHC choice that conducts substance abuse testing that is deemed appropriate by the Tribal Governing Board for business purposes; i.e., screening and confirmatory testing, will take a sufficient sample to assure that confirmation testing can occur in the event of an initial positive test result. The initial cost for this testing will be incurred by the Tribe.

(2) The laboratory evaluation of the samples will be carried out by a laboratory that is contracted with the LCO-CHC and is certified by either the College of American Pathologists or the National Institute on Drug Abuse.

(3) In the event of a positive test result, a confirmation test will be performed by a laboratory specified in Section PAP.4.8.080(a)(2) above, using the original sample (not a new sample). The confirmation test will be based on a different analytical method of higher analytical certainty.

(4) The employee within two (2) working days of the results must request any further confirmation testing (using the original sample) by a laboratory specified in subs. 1(a) above, in writing. Costs of confirmation testing incurred will be paid by the employee.

(5) The results of any drug or alcohol tests shall be kept confidential, except information shall be shared between departments as deemed necessary. All policies regarding employee personnel records shall be strictly adhered to and followed in accordance with the provisions of this Manual.

(6) A portable breath test (PBT) conducted by a Class 1 PBT Certified person of the LCO-CHC choice that is deemed appropriate by the Tribal Governing Board for business purposes shall be utilized for alcohol testing.

(b) Pre-Employment Testing Procedures.

(1) An applicant for employment will be required to undergo testing for illegal drugs and prescribed medication for which they do not have a valid prescription as a condition of employment. If the applicant is suspected to be under the influence of alcohol at the time of their pre-employment drug screen, a PBT may be requested.

(2) Applicants who test positive for alcohol, illegal drugs, and/or prescribed medication for which they do not have a valid prescription, shall be denied employment.

(3) An applicant who initially declines a drug test will be denied employment and not eligible for employment for 90 days.

(c) Probable Cause Testing Procedures.

(1) Upon a finding by an employee's department head or director that there is probable cause that the employee is either under the influence of alcohol (under the influence shall mean a blood alcohol concentration of 0.02 grams of alcohol per 100 milliliters of a person's blood or while the person has 0.02 grams of alcohol per 210 liters of a person's breath) or drug abuse that is impairing the employee's ability to carry out job-related activities, the employee shall be required to be tested for the presence of drugs or alcohol pursuant to Section PAP.4.8.080(c)(3), below. A finding of probable cause and directive requiring the employee to submit to testing for drugs or alcohol must be in writing signed by the employee's department head or director. The probable cause finding must be supported by evidence of specific, personal observations concerning job performance, appearance, behavior, speech, or bodily odors of the employee. If hearsay information is received, such information must be corroborated by personal observations, or observations and evaluation by the Executive Director, or designee.

(2) Once an employee's department head or director has determined that probable cause pursuant to Section PAP.4.8.080(c)(1), above exists, the employee's department head or director shall immediately contact the Human Resource Director, or designee and convey that one of his or her employees is under the influence of alcohol or a controlled substance and that such influence is impairing that employee's ability to carry out his or her job related duties.

(3) Upon receiving contact from an employee's department head or director, the Human Resource Director, or designee shall have the employee drug tested and if alcohol related have the employee submit to a portable breath test (PBT) conducted by a Class 1 PBT Certified person as specified in Section PAP.4.8.080(a)(6), above. If the employee refuses to take a test (including but not limited to a drug test, drug urine test, or PBT test) after being required to do so, the employee is thereby insubordinate and considered to be in violation of the Drug Testing Policy and shall be terminated.

(4) Upon receipt of a positive test result, the employee shall be immediately relieved of their duty station and will be subject to disciplinary action, Section PAP.4.8.080(f) below, and the positive test sample will be sent for a confirmation test result pursuant to Section PAP.4.8.080(a) above. In all cases, an employee may face legal consequences for his/her actions. Upon receipt of a positive confirmation test result pursuant to Section PAP.4.8.080(a) above, the employee shall be referred by the Human Resource Director, or designee to participate in the Employee Assistance Program pursuant to Section PAP.4.7.110(a) of this manual. Failure to comply and successfully complete an approved LCOCHC- Behavioral Health EAP treatment plan within the timeframe established in the treatment plan will result in termination.

(d) Preventive Testing Program (Random Testing) Procedures.

(1) All employees are included in the Tribe's Preventive Testing Program (Random Testing). Employee Preventive Testing will be conducted at unscheduled and unannounced times. If an employee is participating in the EAP they may be exempt from Section PAP.4.8.080(f), below of this manual if a subsequent violation is a result of their initial EAP referral.

(2) Method of Conducting Preventive Testing.

(A) A non-biased selection procedure will be used to assure equitable distribution in the selection process.

(B) The randomly generated list of employees to be tested will be kept on file for 2-years.

(3) Employees who are selected for preventative testing and refuse to take a test will be considered insubordinate and will be terminated. An employee has up to 3 hours to provide a sample and may not leave the property. Consideration for extending the timeframe will be afforded the employee if the employee is cooperating, i.e. drinking water or other fluids. An employee who fails to provide a sample within the allotted or extended timeframe is insubordinate and will be terminated.

(4) If an employee that is selected for preventative testing is on travel, PTO, or other leave, the employee shall be notified upon their return to work to comply with the preventative testing procedure pursuant to Section PAP.4.8.080(d)(3), above.

(5) Upon receipt of a positive test result, the employee shall be immediately relieved of their duty station and will be subject to disciplinary action, up to and including termination pursuant to Section PAP.4.8.080(f), below and the positive test sample will be sent for a confirmation test result pursuant to Section PAP.4.8.080(a), above. In all cases, an employee may face legal consequences for his/her actions.

(e) Return to Duty Procedures. An employee returning to duty following a chemical dependency related leave of absence must receive a release by a licensed physician stating that the reasons for the employee being placed on leave have been resolved.

(f) Discipline for Drug Testing Violation. In all cases, an employee may face legal consequences for his/her actions.

(1) Any employee who uses (or is under the influence of) alcohol and/or drugs, possesses alcohol and/or drugs or intoxicants on Tribal property or while on duty will be subject to disciplinary action, up to and including termination as follows:

(A) First Offense: The employee will be informed of a first offense in writing and will be suspended three (3) days without pay.

(B) Second Offense: If a second offense occurs, the employee will be suspended five (5) days without pay. During the suspension, the employee must have a conference with the LCO-CHC's alcohol and drug counselor and undergo an assessment. If it is determined that the violation reflects a drug or alcohol abuse problem that is affecting the employee's job performance, then a plan of action will be developed by a licensed counselor and the employee. The licensed counselor will put the plan in writing and the plan will be approved for employment purposes by the employee's department head or director with final approval by the executive director. Failure to comply and successfully complete any approved LCO-CHC Behavioral Health EAP treatment plan will result in termination. Such termination shall not be subject to appeal.

(C) Third Offense: If a third offense occurs, the employee shall be terminated. Such termination shall not be subject to appeal.

(2) Any employee who refuses to take a test as established in Section PAP.4.8.080(a) will be considered insubordinate and will be terminated for insubordination. Such termination shall not be subject to appeal.

(3) Rehabilitation and Rehiring. Any employee who has been dismissed for violation of the Tribe's Drug Testing Policy may be eligible for re-employment after 90-days with the Tribe upon proof of rehabilitation provided by an accredited treatment facility that the person has been to treatment or has successfully completed appropriate treatment and is in recovery.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.8.080 was formerly codified as XIV LCOTCL §4.808

PAP.4.8.090 Inspection and Search

(a) The Tribe has the authority to inspect or search the entire work-place, including, but not limited to any office or desk when there are reasonable grounds for suspecting that the search will turn-up evidence that an employee violated any provision of this manual or otherwise engaged in work-related misconduct.

(b) The Tribe has the authority to inspect or search, when the inspection or search is necessary for non-investigatory work-related purpose, including locating and retrieving any information from a location within the work place.

(c) The Tribe has the authority to inspect or search any employee's personal possessions located within the work place when there are reasonable grounds for suspecting that the search will turn-up evidence that the employee violated any provision of this manual or otherwise engaged in work-related misconduct.

(d) If an employee is found to be in possession of any item or substance prohibited by this manual or fail to comply with any inspection or search conducted in accordance with this manual, the employee will be subject to appropriate disciplinary action, up to and including termination. Any illegal substances that are found, in the course of an inspection or search, will be turned over to law enforcement.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.8.090 was formerly codified as XIV LCOTCL §4.809

PAP.4.8.100Confidentiality

(a) In the course of performing duties for the Tribe/LCOHA, employees may obtain or become aware of confidential information, such as personnel, financial and legal information of the Tribe/LCOHA, its programs, operations, enterprises and employees, including but not limited to information encompassed in any reports, investigations, research or development work, mailing lists, bid lists, directories, listings, plans, specifications, proposals, marketing plans, financial projections, cost sheets, bid estimates, bid spreadsheets, vendor or subcontractor quotes, financial data and any and all concepts or ideas, materials or information related to the business, products, or services of the Tribe/LCOHA or its customers and vendors ("Confidential Information").

(b) Employees must hold all Confidential Information in strict confidence and shall not directly or indirectly disclose Confidential Information or permit the release thereof to any outside person or entity except as necessary to perform employment duties or as otherwise required by law. If any question arises about whether information must be treated as confidential, employees must treat such information as confidential until confirmed otherwise by their department head or director, in consultation with the legal department.

(c) Employees also must not use or release, directly or indirectly, any proprietary information or trade secrets of the Tribe/LCOHA without prior authorization from their department head or director, in consultation with the legal department. Trade secrets include any formula, pattern or devise of compilation of information which is used in the Tribe/LCOHA's business or operations.

(d) Violations of confidentiality, including the disclosure of confidential information (verbal, written or documents) as defined under this section shall be subject to discipline, up

to and including termination. The LCOHA reserves the right to prosecute any violations to fullest extent allowed under tribal, state or federal law.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.8.100 was formerly codified as XIV LCOTCL §4.810

PAP.4.8.110 Media Inquiries

The Tribe/LCOHA generates public interest and persons often seek newsworthy information. Therefore, it is our policy to allow only authorized representatives to make contact with or provide information or comments to reporters and news agencies regarding the Tribe/LCOHA. Any employee who is contacted by a reporter regarding the Tribe/LCOHA must inform his or her department head or director of the request for information. Prior written authorization by the Tribal Governing Board Chairman or his/her designee is required prior to any media release of information.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.8.110 was formerly codified as XIV LCOTCL §4.811

PAP.4.8.120 Security Measures / Limited Access Control Areas

Maintaining security and limiting access to certain areas of the LCOHA's facilities is important to the continued success and is required by law in some instances. Employees shall not permit unauthorized persons, which may include LCOHA employees, to enter secure and limited access controlled areas or to access confidential or protected information.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.8.120 was formerly codified as XIV LCOTCL §4.812

PAP.4.8.130 Dress and Appearance

Employees must dress and groom themselves in accordance with appropriate social and business standards. An employee's department head or director or the Executive Director retain the right to request any employee to change his or her mode of dress or grooming if deemed provocative or otherwise inappropriate. In addition, employees must maintain good personal hygiene.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.8.130 was formerly codified as XIV LCOTCL §4.813

PAP.4.8.140 Smoking

(a) Employees shall smoke only in designated areas, notwithstanding subd. (3) below.

(b) Smoking is prohibited in the following areas, notwithstanding subd. (3) below:

(1) In any LCOHA owned or leased vehicle;

(2) In any LCOHA units designated as a workplace.

Violators of this section are subject to disciplinary action, up to and including termination.

(c) Nothing in this policy shall be deemed to limit or interfere with the use of tobacco at traditional ceremonies and cultural functions.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.8.140 was formerly codified as XIV LCOTCL §4.814

PAP.4.8.150 Internet and Telephones

(a) All electronic and telephonic communication systems and all communications and information transmitted by, received from, or stored in these systems are the property of the LCOHA and as such are to be used solely for job-related purposes. The use of any software and business equipment, including, but not limited to, e-mail, internet access, facsimile machines, computers, telephones (land lines and cellular phones) and copy machines for private purposes is prohibited.

(b) No employee may not use a pass code or voice-mail access code that has not been issued to that employee or that is unknown to the LOCHA. Moreover, improper use of the e-mail system (*e.g.*, distributing offensive jokes or remarks) will not be tolerated.

(c) Employees shall not use the Tribe/LCOHA's internet, voice mail and e-mail resources, phones and other systems in a prohibited manner, including:

(1) To transmit, view, retrieve, or store any communications of a discriminatory or harassing nature or materials that are considered obscene or pornographic;

(2) To access pornographic internet sites, display or print any associated materials, pictures and cartoons;

(3) To harass or transmit messages with derogatory or inflammatory remarks about an individual's race, sex (including pregnancy), age, disability, religion, national origin or physical attributes or transmit abusive, profane or offensive language;

(4) For non-business, personal or private use, including but not limited to game playing and personal communication not associated with business;

(5) To disclose any confidential or proprietary information except where such disclosure is authorized or permitted in this personnel policy and procedural manual.

(d) Employees shall not use the Tribe/LCOHA's internet, voice mail and e-mail resources and other systems and equipment, including but not limited to computer hardware, software, copier, fax machine and postage machine in a manner that is contrary to the provisions of any purchase or lease contract, such as unlawful copying of computer software.

(e) Notwithstanding the Tribe/LCOHA's right to retrieve and read any voice or electronic mail messages, such messages should be treated as confidential by other employees and accessed only by the intended recipient. Employees are not authorized to retrieve or read any voice or e-mail messages that are not sent to them. Any exception to this policy must receive prior written approval by Management.

(f) The Tribe/LCOHA may monitor, record and listen to all internet, e-mail and voice mail usage, to assure compliance with its policies, for cost analysis and for legitimate business purposes. Thus, the Tribe/LCOHA may listen to, access and disclose any information in the electronic communication and telephone systems, even such information or communication protected by an employee's personal password, at any time, with or without notice to the employee. Employees have no expectation of privacy in connection with the use of these systems, or the transmission, receipt or storage of information in such systems.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.8.150 was formerly codified as XIV LCOTCL §4.815

PAP.4.8.160Solicitation and Distribution

(a) In the interest of good housekeeping and safety, employees shall not distribute non-work literature such as leaflets, pamphlets, etc., at all times in working areas. It is the responsibility of each employee of the LCOHA to keep all facilities clean and orderly.

(b) Non-employees, other than customers and vendors, are not permitted on LCOHA property for the purpose of solicitations or any other reason without the express authorization of the Tribal Governing Board.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.8.160 was formerly codified as XIV LCOTCL §4.816

PAP.4.8.170Workplace Violence

(a) The Tribe/LCOHA is concerned about the increased violence in society, which has also filtered into many workplaces, and has taken steps to help prevent incidents of violence from occurring at its facilities. It is our policy to expressly prohibit any acts or threats of violence against any employee in or about our facilities or elsewhere at any time. We will not condone any acts or threats of violence against our employees, customers, or visitors on the Tribe/LCOHA's property at any time or while they are engaged in business with or on behalf of the Tribe/LCOHA, on or off our premises.

(b) In keeping with the spirit and intent of this policy, and to ensure the objectives in this regard are attained, the Tribe/LCOHA is committed to the following:

(1) To provide a safe and healthful work environment;

(2) To take prompt remedial action, up to and including immediate termination, against any employee who engages in any threatening behavior or acts of violence or who uses any obscene, abusive, or threatening language or gestures;

(3) To take appropriate action when dealing with customers, former employees, or visitors to our property who engage in such behavior. Such action may include notifying the police or other law enforcement personnel and prosecuting violators of this policy to the maximum extent of the law;

(4) To establish viable security measures to ensure that the Tribe/LCOHA's facilities are safe and secure to the maximum extent possible and to properly handle access to the Tribe/LCOHA's facilities by the public, off-duty employees, and former employees.

(c) Employees, former employees, customers and visitors shall not bring or possess unauthorized firearms or other weapons onto the Tribe/LCOHA's premises. Any employee who displays a tendency to engage in violent, abusive, or threatening behavior or who otherwise engages in behavior that the Tribe/LCOHA, in its sole discretion, deems offensive or inappropriate, or who possesses a firearm or weapon in violation of this policy will be subject to disciplinary action, up to and including termination.

(d) Employees have a "duty to warn" LCOHA Management of any suspicious workplace activity or situations or incidents that they observe or that they are aware of that involve other employees, former employees, customers, or visitors and that appear problematic. This includes, for example, threats or acts of violence, aggressive behavior, offensive acts, threatening or offensive comments or remarks, and the like. Employee reports made pursuant to this policy will be held in confidence to the maximum possible extent. The LCO

Tribe/LCOHA will not condone any form of retaliation against any employee for making a report under this policy.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.8.170 was formerly codified as XIV LCOTCL §4.817

PAP.4.8.180Off-Duty Misconduct

Employees shall not engage in off-duty misconduct which is deemed detrimental to the Tribe/LCOHA. While it is impossible to predict every detrimental situation, the Tribe/LCOHA may determine that off-duty misconduct is adverse to the Tribe/LCOHA, because it is serious in nature; is at odds with an employee's job duties; or is notorious and has the potential to discredit the Tribe/LCOHA.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.8.180 was formerly codified as XIV LCOTCL §4.818

PAP.4.8.190Children in the Workplace

The presence of children in the workplace is discouraged because it can be disruptive to other employees. However, the LCOHA recognizes that there may be circumstances when it is necessary for an employee to have a child at the workplace for a short period. A supervisor has the authority to prohibit an employee from having a child at the workplace if the supervisor determines that the employee is abusing this policy or the workplace is being disturbed.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.8.190 was formerly codified as XIV LCOTCL §4.819

PAP.4.8.200Policy Regarding Use of Social Media by Employees

(a) While the Tribe/LCOHA encourages its employees to enjoy and make good use of their off-duty time, certain activities on the part of employees may become a concern if they have the effect of impairing the work of any employee; harassing, demeaning, or creating a hostile working environment for any employee; disrupting the smooth and orderly flow of work within the office; or harming the goodwill and reputation of the Tribe. In the area of social media (print, broadcast, digital, and online services such as Facebook, LinkedIn, MySpace, Plaxo, and Twitter, among others), employees may use such media in any way they choose as long as such use does not produce the adverse consequences noted above. For this reason, the following provisions apply regarding an employee's use of social media, both on and off duty:

(1) An employee shall be subject to disciplinary action, up to and including termination of employment, depending upon the severity and repeat nature of the offense, if an employee publishes any personal information about the employee, another employee of the Tribe, the Tribe and its officials, or a tribal member in any public medium (print, broadcast, digital, or online) that:

(A) has the potential or effect of involving the employee, their coworkers, tribal members or the Tribe in any kind of dispute or conflict with other employees or third parties;

(B) interferes with the work of any employee;

(C) creates a harassing, demeaning, or hostile working environment for any employee;

(D) disrupts the smooth and orderly flow of work within the office, or the delivery of services to tribal members;

(E) harms the goodwill and reputation of the Tribe in the community at large; or

(F) tends to place in doubt the reliability, trustworthiness, or sound judgment of the person who is the subject of the information.

(2) No employee may use the Tribe's equipment or facilities for furtherance of non-work-related social media related activities or relationships without the express advance permission of their program Director.

(3) Employees who conduct themselves in such a way that their social media related actions toward and relationships with each other interfere with or damage work relationships, disrupt the flow of work or tribal member relations, or cause unfavorable publicity in the community, should be concerned that their conduct may be inconsistent with one or more of the provisions of this policy. In such a situation, the employees involved should request guidance from their program Director or the Executive Director to discuss the possibility of a resolution that would avoid such problems. Depending upon the circumstances, failure to seek such guidance may be considered evidence of intent to conceal a violation of the policy and to hinder an investigation into the matter.

(4) Use of social media that involves any kind of criminal activity or harms the rights of others may result in criminal prosecution or civil liability to those harmed, or both.

(5) Social media access and use involving Tribal equipment and resources are subject to the Tribe's computer and internet policy at all times.

(6) The provisions in this policy are not intended to restrict communications regarding the terms and conditions of the workplace.

(b) How an employee uses social media is not a matter of concern as long as it is consistent with the aforementioned provisions on this policy. Employees may address any questions on this policy to the Lac Courte Oreilles Legal Department.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.8.200 was formerly codified as XIV LCOTCL §4.820

Subchapter PAP.4.9
Safety

PAP.4.9.010 General Rules..... PAP.4.9-**Error! Bookmark not defined.**
PAP.4.9.020 Accidents or Injuries..... PAP.4.9-**Error! Bookmark not defined.**
PAP.4.9.030 Protective Equipment ..... PAP.4.9-**Error! Bookmark not defined.**
PAP.4.9.040 Hazardous Materials ..... PAP.4.9-**Error! Bookmark not defined.**
PAP.4.9.050 Personal Responsibility ..... PAP.4.9-**Error! Bookmark not defined.**

PAP.4.9.010 General Rules

(a) The safety of employees is important to the Tribe/LCOHA. Fire extinguishers, exits and first-aid kits are available in marked locations around Tribal/LCOHA facilities. Employees must strictly adhere to all applicable safety regulations and comply with the following general rules:

(1) Employees must report immediately all accidents or injuries to a supervisor without exception;

(2) Employees may smoke only in designated areas;

(3) Employees must be careful and take necessary precautions when operating, cleaning or repairing any machinery;

(4) Employees must be present prior to starting any operation or task which calls for more than one employee;

(5) Employee must not attempt to operate equipment without authorization or proper training or certification;

(6) The Tribe/LCOHA will not tolerate horseplay or practical jokes. Accidents or injuries resulting from such horseplay or conduct shall not be considered work related.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.9.010 was formerly codified as XIV LCOTCL §4.901

PAP.4.9.020 Accidents or Injuries

If an accident or injury occurs, until medical help arrives employees should try to provide aid and comfort to the injured person. Employees should try to keep the

circumstances of any accident or injury fresh in their minds so that the incident can be reported accurately and to provide information that may prevent a repeated incident.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.9.020 was formerly codified as XIV LCOTCL §4.902

PAP.4.9.030Protective Equipment

The LCOHA will furnish required safety equipment to employees, if the work requires such equipment. Safety equipment includes safety glasses, gloves, safety shoes, noise protection devices, special protective devices for handling hazardous chemicals and waste, etc. Employees must follow all rules concerning the wearing of safety equipment at all times and must not remove safety equipment from any machinery, such as machine guards.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.9.030 was formerly codified as XIV LCOTCL §4.903

PAP.4.9.040Hazardous Materials

The LCOHA complies with all applicable "Right to Know" laws, which means employees will be made aware of any chemical hazards at the workplace. Employees will also receive special training concerning the labeling, handling and disposal of hazardous substances, and what steps should be taken in the event of a spill or release.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.9.040 was formerly codified as XIV LCOTCL §4.904

PAP.4.9.050Personal Responsibility

All employees shall take personal responsibility in the performance of all workplace related activities. If at any time an employee reasonably determines that a workplace related activity is unsafe or warrants protective equipment, the employee shall make all reasonable efforts to remedy the situation.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.9.050 was formerly codified as XIV LCOTCL §4.905

Subchapter PAP.4.10
Vehicle Driver Certification

PAP.4.10.010 Purpose..... PAP.4.10-**Error! Bookmark not defined.**
PAP.4.10.020 Scope ..... PAP.4.10-**Error! Bookmark not defined.**
PAP.4.10.030 Policy ..... PAP.4.10-**Error! Bookmark not defined.**
PAP.4.10.040 Procedures..... PAP.4.10-**Error! Bookmark not defined.**
PAP.4.10.050 Minimum Certification Requirements.. PAP.4.10-**Error! Bookmark not defined.**
PAP.4.10.060 Recordkeeping ..... PAP.4.10-**Error! Bookmark not defined.**
PAP.4.10.070 Supervisors Responsibility..... PAP.4.10-**Error! Bookmark not defined.**

PAP.4.10.010 Purpose

The purpose of this subchapter is to certify employees who may operate a vehicle or travel on tribal business and to minimize Tribal exposure to liability claims resulting from vehicle accidents.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.10.010 was formerly codified as XIV LCOTCL §4.1001

PAP.4.10.020 Scope

Any person driving on Tribal/LCOHA business including all employees and volunteers shall comply with this subchapter. Tribal business does not include an employee's regular commute to and from the work place.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.10.020 was formerly codified as XIV LCOTCL §4.1002

PAP.4.10.030 Policy

Drivers of Tribal/LCOHA, personal, or rental vehicles may be authorized to drive on Tribal business if they are 18 years of age and certification criteria contained in this subchapter are satisfied.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.10.030 was formerly codified as XIV LCOTCL §4.1003

PAP.4.10.040 Procedures

Drivers must achieve certification to drive on tribal business by meeting the requirements listed in Section PAP.4.10.050 of this manual.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.10.040 was formerly codified as XIV LCOTCL §4.1004

PAP.4.10.050 Minimum Certification Requirements

(a) Tribal Vehicle Certification.

(1) Current Wisconsin Driver's License

(2) Commercial Driver's License if required by Federal law or other contractual obligations

(3) License requirements listed in the employee's current job description.

(4) Completed Driving Record Authorization Form in employee's personnel file.

(5) None of the following driving violation convictions within the last year:

(A) Operating without valid driver's license

(B) Obstruction in regard to driver violation

(C) Reckless driving

(D) Violation of Occupational License

(E) Causing great bodily harm with vehicle

(F) Negligent homicide by use of motor vehicle

(G) Operating while license suspended

(H) Vehicle usage resulting in felony conviction

(I) Operating a school bus without a school bus license

(b) Personal Vehicle Certification.

(1) Current Wisconsin Driver's License

(2) Evidence of current minimum insurance coverage as follows, verified by an insurance policy with copy supplied to the Human Resource Director at every policy renewal:

(A) $100,000 per Person

(B) $300,000 per Accident for Bodily Injury

(C) $25,000 Property Damage

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.10.050 was formerly codified as XIV LCOTCL §4.1005

PAP.4.10.060 Recordkeeping

(a) The Lac Courte Oreilles Human Resource Department will maintain a current list of all certified drivers.

(1) Lists will be supplied to the LCOHA Travel Clerk.

(b) Tribal Vehicle Drivers must notify the Human Resource Department within five (5) working days of any conviction affecting their certification eligibility. Failure to do so may be considered "employee misconduct" and subject to disciplinary action.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.10.060 was formerly codified as XIV LCOTCL §4.1006

PAP.4.10.070 Supervisors Responsibility

(a) Supervisors shall ensure that no uncertified employees drive on Tribal business.

(1) Departments, where appropriate, shall create Standard Operating Procedures which minimize drivers risk exposure.

(b) Supervisors shall take action when employees or the Human Resource Department report violations. Actions may be, but are not limited to:

(1) Reassigning the uncertified employee to a position which does not require driving.

(2) Removing the driving requirement from the employee's job description.

(3) Place the employee on unpaid leave until they become recertified.

(4) Termination of employment because of a valid driver's license is a required qualification on the job description.

(c) If all fines, suspensions, revocations, and any other penalties or conditions imposed on the driver due to the driving violation conviction(s) are satisfied, the Supervisor may decide to re-certify the driver if all other certification requirements are satisfied.

(d) If a supervisor has reason to question an employee's mental or physical health as it relates to the employee's ability to drive on Tribal business, the supervisor shall refer the employee to the Employee Assistance Program (EAP) for an assessment.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.10.070 was formerly codified as XIV LCOTCL §4.1007

Subchapter PAP.4.11
Problem Solving

PAP.4.11.010 Scope ..... PAP.4.11-**Error! Bookmark not defined.**

PAP.4.11.010 Scope

(a) Problem Solving Process. When people work closely together it is only natural that problems, questions or conflict may sometimes arise. It is in the best interest of the LCOHA and all employees that these issues be resolved as quickly and fairly as possible; therefore, the LCOHA supports an "open-communication policy" to encourage addressing these issues. The following "Problem Solving Process" has been designed to provide guidelines for resolution of questions, problems or conflicts:

(1) If you have a work related or personal problem that you think the LCOHA can help you resolve, you are encouraged to discuss it with your supervisor. Your supervisor is usually in the best position to help you.

(2) If you do not get an answer, or you are not satisfied with the answer, the issue should be written down and presented to the Human Resources Director. The Human Resources Director will facilitate a meeting to assist with mutually resolving the issue.

(3) In the unlikely situation that these steps have not resolved the issue, you may take your problem to the LCOHA Executive Director.

(b) Chain of Command. All LCOHA employees are required to follow the chain of command, with no exceptions. The chain of command consists of and is limited to the following:

(1) Your Supervisor

(2) Human Resources Director

(3) LCOHA Executive Director

(c) Open Communication Policy. The LCOHA supports open lines of communication between employees, which assures all LCOHA employees concerns will be heard and considered. It is the belief and commitment of the LCOHA to maintain direct lines of communication and good working relationships with all employees. Problems arise in all work places and this process is designated to identify and correct those problems and issues in a fair, equitable and timely manner. It should be noted that not all problems or issues will

have an outcome that all parties agree with but in no circumstances will insubordinate behavior or communications be tolerated.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.11.010 was formerly codified as XIV LCOTCL §4.1101

Subchapter PAP.4.12
Disciplinary Action and Appeal

PAP.4.12.010 Consent..... PAP.4.12-**Error! Bookmark not defined.**
PAP.4.12.020 Grounds for Disciplinary Action ..... PAP.4.12-**Error! Bookmark not defined.**
PAP.4.12.030 Types of Disciplinary Actions ..... PAP.4.12-**Error! Bookmark not defined.**
PAP.4.12.040 Disciplinary Action Appeal Procedure.. PAP.4.12-**Error! Bookmark not defined.**

PAP.4.12.010 Consent

Each employee shall agree to, by signing, a Consent to Appeal Procedure as a condition of continued employment. The Appeals Procedure constitutes a contract between the Tribe/LCOHA and the employee and establishes the framework under which employees may appeal disciplinary action imposed under this subchapter or employment claims, provided no employee can appeal any disciplinary action based on activity that results in an arrest and conviction. In addition, regarding employment claims, it is important to note that nothing in this personnel policy and procedural manual shall be construed as the Tribe/LCOHA consenting to application of any law or waiving applicable defenses, including the defense that the subject law does not apply to the Tribe/LCOHA.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.12.010 was formerly codified as XIV LCOTCL §4.1201

PAP.4.12.020 Grounds for Disciplinary Action

(a) Employees must perform assigned duties at or above satisfactory levels; they must follow standards of workplace behavior contained in this manual and comply strictly with all applicable laws, rules and regulations. A system of progressive discipline will be utilized, when appropriate, to afford employees an opportunity to correct behavior. Therefore, verbal and written warnings are utilized as a corrective action tool and will not be subject to the appeal procedures identified in Section PAP.4.12.040.

(b) An employee may be suspended for any conduct which results in an arrest, pending the determination of the Executive Director of the seriousness of the offense. Conduct by an LCOHA employee which results in a felony arrest and/or felony conviction as defined under state and federal law will result in termination.

(c) The LCOHA reserves the right to impose discipline for any of the actions listed in this section; such action may include suspension and /or termination:

(1) Incompetence;

(2) Neglect of duty;

(3) Insubordination;

(4) Refusal to work;

(5) Willful misconduct;

(6) Political activity as defined in Section PAP.4.8.040 of this manual;

(7) False representation in conjunction with job performance;

(8) Intoxication or use of intoxicants during working hours;

(9) Conviction of any felony either in performance of job duties, or in private affairs;

(10) Negligence or willful damage to tribal property;

(11) Discourteous treatment of the public or fellow employees during working hours;

(12) Loss of driver's license if required for the job;

(13) Job performance which results in serious harm to the employee's program;

(14) Failure to properly report to work on time;

(15) Unauthorized disclosure of confidential information;

(16) Conflict of interest;

(17) Theft;

(18) Falsification of timecards;

(19) Willful violation of any Tribal law, rule, regulations or any deliberate action that is detrimental to the Tribe;

(20) Willful violation of security or safety rules;

(21) Negligence or any careless action which endangers the life or safety of another person;

(22) Unauthorized possession of dangerous or illegal firearms, weapons, or explosives on the Tribe's property or while on duty;

(23) Engaging in criminal conduct or acts of violence, or making threats of violence toward anyone on the Tribe's premises or when representing the Tribe/LCOHA;

(24) Provoking a fight on Tribal property;

(25) Refusing to obey instructions properly issued by Management;

(26) Refusing to help out on a special assignment;

(27) Threatening, intimidating, or coercing fellow employees on or off the premises – at any time, for any purpose;

(28) Dishonesty; willful falsification or misrepresentation on the application for employment or other work records; falsifying other data requested by the Tribe;

(29) Giving confidential or proprietary Tribal/LCOHA information to competitors, other organizations, the general public, or to unauthorized employees; working for a competing business while still employed by the Tribe/LCOHA, breach of confidentiality of personnel information;

(30) Malicious gossip and/or spreading rumors; engaging in behavior designed to create discord and lack of harmony; interfering with another employee on the job;

(31) Poor work performance;

(32) Leaving work before the end of a workday or not being ready to work at the start of a workday without approval of Management; stopping work before time specified for such purposes, unless authorized by law.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.12.020 was formerly codified as XIV LCOTCL §4.1202

PAP.4.12.030 Types of Disciplinary Actions

(a) Employees must perform assigned duties at or above satisfactory levels, follow standards of workplace behavior contained in this personnel policy and procedural manual and comply strictly with all applicable laws, rules and regulations. A system of progressive discipline will be utilized, when appropriate, to afford employees an opportunity to correct behavior, however some personnel infractions are severe enough to impose any of the below-mentioned disciplinary actions, up to and including termination. Disciplinary actions

may be handled in any manner deemed appropriate by the LCOHA. This may include, but is not limited to, the following:

(1) Employee Warning.

(A) An employee may receive a verbal or written warning from their supervisor to rectify behavior which requires disciplinary action. Neither a verbal or written warning is appealable pursuant to Section PAP.4.12.040 of this manual.

(B) The department head or director will discuss with the employee the seriousness of the problem and the possible consequences of a failure to correct the problem. The department head or director will review applicable policies and will document the meeting through signature of both the department head or director and the employee.

(C) The Human Resource Director, or designee, will maintain all employee warnings in an employee's personnel file in the event that further progressive discipline is necessary.

(2) Suspension.

(A) An employee may be recommended for suspension by their supervisor when the employee's behavior warrants such disciplinary action. The recommendation must be written in a manner that clearly states the justifiable reason and forwarded to the Human Resources Director. The Human Resources Director will consult with the Supervisor to ensure the reason is justified and clearly stated. If the Human Resources Director is satisfied that all the information is contained in the documentation and there is clear substantiated reason for the suspension, the same will be forwarded to the Executive Director for final approval or denial. All suspensions are without pay. Suspensions are appealable pursuant to Section PAP.4.12.040 of this manual.

(B) Upon return from suspension, the department head or director will meet with an employee regarding the nature of the problem. A corrective action plan will be developed with the employee including specific timelines for completion.

(C) The Human Resource Director, or designee, shall document all suspensions and maintain all corrective action plans in the employee's personnel file in the event that further progressive discipline is necessary.

(3) Probationary Period in lieu of Termination.

(A) In lieu of termination an employee may be placed on a probationary period for a serious violation of this personnel policy and procedural manual, as

recommended by a Supervisor and agreed to and evidenced by the signature of the employee on a "Waiver of Appeal Process" form. The Supervisor must follow the same procedures as outlined in Section PAP.4.12.030(a)(2). During this probationary period, the LCOHA will evaluate the employee's continued suitability for employment. If during this period an employee has not shown improvement or adequately addressed the issues surrounding the probationary period in lieu of termination the Supervisor may recommend the termination of the employee's employment, without the ability of the employee to appeal the decision, subject to the approval of the Executive Director.

(B) Employees placed on a probationary period pursuant to this section are eligible for holiday leave and funeral leave. Probationary employees pursuant to this section shall accrue Personal Time Off. Such employees cannot use Personal Time Off until the completion of their probationary period, unless authorized by their immediate supervisor with concurrence from the Executive Director and only for medical reasons or extreme circumstances.

(C) At the end of the probationary period pursuant to this section, the LCOHA will prepare a written performance evaluation and discuss with the employee the curative conduct of the employee pertaining to the problem causing the probationary period as well as the employee's overall job performance.

(D) The Human Resource Director, or designee, shall document all probationary periods pursuant to this section and maintain all written performance evaluations pertaining to this section in the employee's personnel file in the event that further progressive discipline is necessary.

(4) Termination.

(A) An employee may be recommended for termination from employment by their supervisor at any time, depending upon the severity of the offense. The recommendation must be written in a manner that clearly states the justifiable reason and forwarded to the Human Resources Director. The Human Resources Director will consult with the Supervisor to ensure the reason is justified and clearly stated. If the Human Resources Director is satisfied that all the information is contained in the documentation and there is clear substantiated reason for the termination, the same will be forwarded to the Executive Director for final approval or denial. All terminations are appealable pursuant to Section PAP.4.12.040 of this manual.

(B) The department head or director shall document all terminations and provide a copy of all documentation to the Human Resource Director, or designee.

(b) The LCOHA retains the sole discretion to determine what behavior warrants disciplinary action and what type of disciplinary action will be imposed. The LCOHA reserves the right to terminate employees at any time for any reason that does not violate applicable law with or without notice and with or without prior resort to other means of discipline.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

* §PAP.4.12.030 was formerly codified as XIV LCOTCL §4.1203

PAP.4.12.040 Disciplinary Action Appeal Procedure

(a) Appeal Policy.

(1) It is the policy of the LCOHA to ensure fair and equitable treatment for all LCOHA employees. Therefore, all LCOHA employees have the right to appeal any suspension or termination received by an employee pursuant to Section PAP.4.12.020 of this manual. Verbal and written warnings are corrective action tools and thus are not subject to appeal.

(2) An employee who presents an appeal under the provisions of this manual will not be discriminated against or otherwise penalized for such action. If an employee is threatened or harassed at any time during the appeal process, he or she may notify the Human Resources Director in writing. The Human Resource Director will investigate, with the assistance of the Legal Department, such complaints and recommend proper action to the Executive Director. An appeal and any materials submitted in connection shall be considered confidential until the appeal process has been completed under the provisions of this section.

(b) Appeal Procedures. A formal appeal will be filed and processed in the manner described below, except that time limits may be waived or extended by written mutual consent of the parties involved.

(1) Appeal. The Employee will submit a written statement detailing the issue being appealed within three (3) working days of receiving a suspension or termination pursuant to Section PAP.4.12.020 of this manual. An Employee's failure to file an appeal within the specified time period will be considered a waiver of the formal appeal procedure and the disciplinary action will be final. The Human Resources Office will make four (4) written copies of the appeal; one copy will be given to his or her supervisor, one copy will be given to the Executive Director, one copy shall be retained by the Human Resource Director, and one copy shall be placed in the Employee's file. The original copy of the appeal will always remain with the Human Resources Office.

(2) If at any time during the process the Employee and the Employee's Supervisor are able to agree on a solution to the appeal filed, they may submit a joint statement

outlining the acceptable terms to the Executive Director. If the terms are approved by the Executive Director, then the matter is settled with copies provided to the Employee and the Supervisor with a copy retained by the Human Resource Director. The Executive Director decision will be final.

(3) Once the Employee, the Supervisor, the Executive Director, and the Human Resource Department have copies of the appeal, the LCOHA Human Resource Director shall provide a copy of the appeal to the Tribal Operations Human Resource Director and the process shall continue pursuant to Section PAP.4.12.040(c) below.

(c) Tribal Operations Appeals Committee.

(1) Schedule Evidentiary Hearing.

(A) Upon timely receipt of all appeal documentation from the LCOHA Human Resource Director, the Tribal Operations Human Resource Director, or designee, will schedule an appeal committee evidentiary hearing to take place within ten (10) working days.

(B) The Tribal Operations Human Resource Director, or designee, will notify the employee and the LCOHA Human Resource Director of the evidentiary hearing date by personal delivery or certified mail at least five (5) days prior to the scheduled hearing date.

(C) The employee is limited to one (1) advocate, at his or her cost, and no more than five (5) witnesses.

(D) All employees requested to testify at an appeal, must attend the appeal hearing when directed by the Tribal Operations Human Resource Director, or designee. Failure to appear may result in a monetary fine or disciplinary action or both.

(2) Evidentiary Hearing. The appeals committee will conduct an evidentiary hearing. The members of the appeals committee shall select by majority vote a chairperson, who shall preside over the appeal and a recording secretary who shall be responsible for documenting and recording the proceedings. Any decisions or instruction by the Chair shall be final.

(A) All hearings shall be electronically recorded. The order of appearance for the Appeals hearing shall be as follows:

(i) Opening remarks by supervisor;

(ii) Opening remarks by employee;

(iii) Supervisor examination of witnesses with cross-examination by employee;

(iv) Employee examination of witnesses with cross-examination by supervisor;

(v) Supervisor and employee may redirect witnesses after examination of witnesses;

(vi) Closing remarks by supervisor;

(vii) Closing remarks by employee.

(B) The Appeals Committee shall make all decisions by majority vote. No member shall be permitted to abstain from any vote. The Appeals committee shall be permitted to take notes during the hearing; all materials shall be submitted to the Tribal Operations Human Resource Director at the conclusion of the hearing and deliberation. The Tribal Operations Human Resource Director shall maintain all recordings.

(C) The appeals committee shall determine whether the employee committed the policy violation(s) upon which the discipline is based and whether the employer followed the appropriate procedural steps established in Section PAP.4.12.020 of this manual. The employer has the burden of proving by a preponderance of the evidence whether each violation occurred and whether the appropriate procedural steps established in Section PAP.4.12.020 of this manual were followed.

(D) If the appeals committee determines that the employer failed to meet the burden of proof regarding all violations and procedural steps established in Section PAP.4.12.020 of this manual, it shall overturn the decision of the employer 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 LCOHA 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.

(E) If the appeals committee determines that the employer met the burden of proof regarding only a portion, but not all of the violations, it shall overturn the decision of the employer 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 LCOHA 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 appeals committee determines that the employer met the burden of proof regarding all violations and the appropriate procedural steps established in Section PAP.4.12.020 of this manual were followed, it shall uphold the decision of the employer; and shall uphold all disciplinary measures taken without substituting its judgment for that of the employer.

(G) The appeals committee shall issue a written decision within ten (10) working days which includes for each alleged claim or violation, both findings of fact and a conclusion regarding each claim or work rule violation. The decision shall be provided to each party.

(H) If either party disagrees with the appeals committee's decision, the party may appeal the decision to the Tribal Court by filing notice of appeal within three (3) working days of the decision, with a copy to the Tribal Operations Human Resource Director. The filing of an appeal by the employer shall stay any action under Section PAP.4.12.040(c)(2)(D) or Section PAP.4.12.040(c)(2)(D) above, pending resolution of the appeal by the Tribal Court. The Human Resource Director shall submit to the Tribal Court the record of the appeals committee proceedings within five (5) working days of receiving a copy of the notice of appeal. The Lac Courte Oreilles Legal Department shall be notified of all appeals and shall be provided with the entire record of the grievance and the all information submitted in connection to the appeal.

(3) Hearing before the Lac Courte Oreilles Tribal Court. Either party may request a review of the Appeal Committee's decision by the Lac Courte Oreilles Tribal Court. The Court's review will be limited to the information presented to the Appeals Committee and the limited review is to ensure that the Due Process rights of the Employee and the LCOHA were protected and followed. If the Court finds any deficiencies in the Appeals Committee's decision, it shall remand the matter back the Appeal Committee for further review consistent with the Court's findings. Each party shall have five (5) working days to submit their request for Tribal Court review of the Appeals Committee's decision; failure to abide the timeline stated in this section shall be deemed a waiver of the disciplinary appeal and the appeal shall be terminated; the Appeals Committee's decision shall be deemed as final.

(A) The Tribal Court shall have the discretion to decide whether to schedule a hearing in any employment appeal.

(B) The Tribal Court may issue a decision without a hearing after reviewing the decision of the appeals committee 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 Section PAP.4.12.020 of this manual were not followed, it shall uphold/overturn the decision of the appeals committee 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 LCOHA 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.

(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 appeals committee 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 LCOHA 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 Section PAP.4.12.020 of this manual were followed, it shall uphold/overturn the decision of the appeals committee; and shall uphold all disciplinary measures taken by Management without substituting its judgment for that of Management.

PERSONNEL POLICIES AND PROCEDURES MANUAL

RECEIPT AND ACKNOWLEDGEMENT

I hereby acknowledge receipt of a copy of the Housing Authority Personnel Policies and Procedures of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians. This personnel policy and procedural manual contains the policies and rules that apply to me. I agree to read the manual and follow it during my employment with the LCOHA. I further understand the Tribe/LCOHA may amend this personnel policy and procedural manual at any time and that such changes will be communicated to me in writing.

Employee Signature Date

Employee Name (Printed)

Please keep a copy of this acknowledgement for your records.

CONSENT TO APPEAL PROCESS

I hereby consent, as a condition of my employment, to the exclusive jurisdiction of the Tribe/LCOHA's Disciplinary Action and Appeal procedures as set forth in this subchapter of this manual, and the jurisdiction of the Tribal Court for all disputes in connection with my employment with the LCOHA. I acknowledge that my failure to comply with time limitations for resolving a complaint or filing an appeal will preclude further consideration of any matter. I hereby waive any right I may have to litigate in another court of law, any and all claims arising out of my employment, and hereby waive any right I may have to a jury trial, and agree instead to submit any and all disciplinary action claims to the Disciplinary Action and Appeal procedures as set forth in this subchapter of this manual. I hereby consent to the application of Tribal law, both substantive and procedural, regarding all proceedings, matters and things relating to my employment relationship with the Tribe/LCOHA.

Employee Signature Date

Employee Name (Printed)

Please keep a copy of this consent for your records.

WAIVER OF APPEAL PROCESS

I hereby consent, as a condition of my employment, to participate in a Probationary Period in lieu of Termination pursuant to Section PAP.4.12.030(a)(3) of this manual. I hereby waive any right I may have to the Appeal procedures as set forth in this section of this manual through my participation in this Probationary Period in lieu of Termination. I hereby acknowledge that as a condition of my employment that I have consented to the application of Tribal law, both substantive and procedural, regarding all proceedings, matters and things relating to my employment relationship with the Tribe/LCOHA.

Employee Signature Date

Employee Name (Printed)

Please keep a copy of this consent for your records.

(Res. No. 19-75; Res. No. 17-14; Res. No. 16-12)

Prior Codifications

- §PAP.4.12.040 was formerly codified as XIV LCOTCL §4.1204