

# LUMBEE TRIBE OF NORTH CAROLINA

TRIBAL ORDINANCE NO. 2004-0003

DATE: OCTOBER 21, 2004  
AMENDED: NOVEMBER 16, 2006

## ORDINANCE ON THE ESTABLISHMENT OF AN ADMINISTRATIVE COURT

**WHEREAS**, The Lumbee Tribe of North Carolina ("Lumbee Tribe") is a recognized American Indian Tribe of the State of North Carolina, subject to the Constitution of the Lumbee Tribe of North Carolina ("Tribal Constitution") and its inherent powers of self-government;

**WHEREAS**, Article VII, Section 1 of the Tribal Constitution delegates all legislative authority to the Tribal Council of the Lumbee Tribe of North Carolina ("Tribal Council"); and

**WHEREAS**, Tribal member or those seeking tribal membership are entitled to due process when adverse decisions are made with regard to services and enrollment; and

**THEREFORE**, Be it enacted by the Tribal Council of the Lumbee Tribe of North Carolina this ordinance that shall be cited as "**ORDINANCE ON THE ESTABLISHMENT OF AN ADMINISTRATIVE COURT.**"

### SECTION 1: COMPOSITION AND QUALIFICATIONS

1. The Court shall consist of five (5) sitting judges who shall serve five-year (5) terms after the first term of office as described in Section 2 (A) of this ordinance.
2. These judges shall have the following qualifications:
  - a. Minimum age of thirty (30) years at time of appointment;
  - b. Reside inside the tribal territory;
  - c. Be an enrolled tribal member;
  - d. Possess experience in state, local, and/or federal programs and knowledge of Tribal laws as demonstrated by past experience or work vocation;
  - e. Must possess at least a GED diploma; and
  - f. Meet all other qualifications established by tribal law.
3. No person shall serve on the Administrative Court who, for the past one (1) year, was employed by, contracted by, and/or volunteered with the tribal Government by virtue of appointment or election.

### SECTION 2: TERM

1. The first Court shall serve staggered terms with one judge serving a one-year term, one judge a two-year term, one judge a three-year term, one judge a four-year term and another judge serving a five-year term. A method of chance shall be used to determine the term of office under this Section. Thereafter, each appointed judge shall serve a five-year term.
2. Judges may serve no more than two (2) consecutive term(s).

### **SECTION 3: APPOINTMENT AND REMOVAL**

1. In order to appoint judges that are geographically representatives of the tribal territory, the tribal territory shall be divided into five (5) districts, along Tribal Council district lines, with one (1) judge to the Administrative Court to be chosen from each of the five districts.
2. The five Administrative Court districts shall be drawn according to:
  - a. District 1: Tribal Council Districts 1 and 7
  - b. District 2: Tribal Council Districts 2, 3 and 14
  - c. District 3: Tribal Council Districts 6, 8 and 9
  - d. District 4: Tribal Council Districts 4, 10, 11 and 13
  - e. District 5: Tribal Council Districts 5 and 12
3. Five (5) appointing committees, coinciding with the aforementioned districts with each committee comprised of members of the Tribal Council representing said district, shall, by a majority vote of the members of each committee, bring forth for consideration the name of one (1) judge from the district, and to the extent possible, avoid adjacent communities.
4. The Tribal Council shall confirm the appointment of all judges by a majority vote of the seated Tribal Council after a confirmation hearing has been held by the seated Tribal Council.
5. A judge may be removed from office with a two-thirds (2/3) vote of the seated Tribal Council by the procedures set forth in tribal law on removal of elected and appointed positions.
6. A judge may hear a case in which he or she has a conflict of interest provided that he or she has fully disclosed the interest to all parties and all parties are agreeable to the judge hearing the case.
  - a. The official proceedings of the case shall document any conflict of interest and the resolution of the conflict.

### **SECTION 4: JURISDICTION**

The Administrative Court shall hear all complaints arising, except those identified or designated according to the Tribal Constitution, including but not limited to the administration of tribal programs, denial of tribal membership and removal, except the Court may decline any case upon a majority vote of the judges.

1. Prior to filing in Administrative Court, petitioners or appellants are required to exhaust whatever non-judicial remedies may exist.
2. Nothing in this section shall prohibit a person from appealing a declination or adverse decision to the tribal Supreme Court, providing an appeal is duly filed with the Supreme Court not less than thirty (30) days and no more than sixty (60) calendar days from date of notification of an adverse tribal decision.
3. If all tribal courts decline to hear the case, the action shall constitute final tribal action.

4. A majority vote consisting of three (3) judges voting in like manner is required for a decision to hear or decline to hear a petition.
5. When a decision is made to hear a petition, three (3) judges, who may include the Chief Administrative Court Judge (CACJ), shall be assigned by the CACJ to hear and make a decision on the issues addressed in the petition. A majority vote in the like manner is required for a decision.

**SECTION 5: TEMPORARY RESTRAINING ORDERS AND INJUNCTIONS**

1. A written complaint must be filed with the court before a temporary restraining order may be issued. A temporary restraining order may be granted by any Administrative judge where the applicant can show clear and convincing evidence that immediate and irreparable injury, loss or damage will result to the applicant if the temporary restraining order is not granted.
2. Every temporary restraining order shall:
  - a. Set forth, in writing, the reasons for its issuance;
  - b. Be specific in its terms;
  - c. Describe with specificity the act or acts that are to be restrained;
  - d. Define the injury and state why it is irreparable;
  - e. State the date and hour of its issuance;
  - f. Expire at a definite time, not to exceed ten working days, unless extended for good cause, or by consent of the adverse party.
3. Every injunction shall:
  - a. Set forth, in writing, the reasons for its issuance;
  - b. Be specific in its terms;
  - c. Describe with specificity the act or acts that are to be stopped;
  - d. Define the injury and state why its irreparable;

**SECTION 6: RULES OF THE COURT**

The Administrative Court shall develop rules for its internal operations and conduct of hearings.

**CERTIFICATION**

THIS ***“ORDINANCE ON THE ESTABLISHMENT OF AN ADMINISTRATIVE COURT,”*** TRIBAL ORDINANCE NO. 2004-003, AMENDED AT A MEETING OF THE 19 SEATED MEMBER TRIBAL COUNCIL OF THE LUMBEE TRIBE OF NORTH CAROLINA WHERE 17 MEMBERS WERE PRESENT, CONSTITUTING A QUORUM, THIS THE 16<sup>TH</sup> DAY OF NOVEMBER, 2006 BY A VOTE OF 14 FOR, 2 AGAINST, 1 ABSTENTION(S).

Lawrence T. Locklear 11/30/2006  
 ATTEST: Lawrence T. Locklear Date  
 Speaker, Tribal Council of the Lumbee Tribe of North Carolina

Wendy Moore-Graham 11/30/2006  
 ATTEST: Wendy Moore-Graham Date  
 Secretary, Tribal Council of the Lumbee Tribe of North Carolina

James E. Goins  
Chairman, Lumbee Tribe of North Carolina

Date

**POSTING**

This "**ORDINANCE ON THE ESTABLISHMENT OF AN ADMINISTRATIVE COURT**," TRIBAL ORDINANCE NO. 2004-003, duly posted on this the 5th day of December, 2006



12-5-2006

Ruth B. Locklear  
Tribal Clerk, Lumbee Tribe of North Carolina

Date

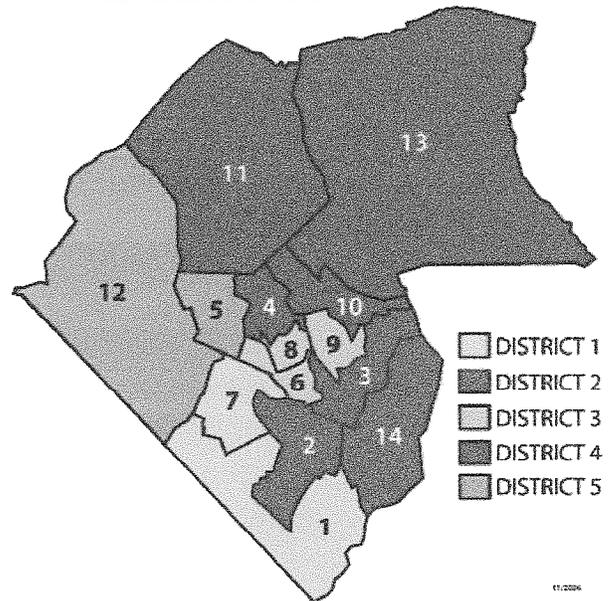
**ROLL CALL VOTE RESULTS TO AMEND  
TRIBAL ORDINANCE NO. 2004-003, "ORDINANCE ON THE ESTABLISHMENT OF AN  
ADMINISTRATIVE COURT"**

**14 FOR, 2 AGAINST, 1 ABSTENTION(S)**

District 1:	Larece Hunt	<u>FOR</u>
District 2:	Sharon Hunt	<u>FOR</u>
	Gerald Goolsby	<u>FOR</u>
District 3:	Pam Spaulding	<u>FOR</u>
	Vacant	-----
District 4:	Vacant	-----
District 5:	Kent Hunt	<u>FOR</u>
	John Lowery	<u>AGAINST</u>
District 6:	Frances Chavis	<u>FOR</u>
	Lawrence T. Locklear	<u>FOR</u>
District 7:	James Harold Locklear	<u>AGAINST</u>
	Joel Garth Locklear	<u>ABSTAIN</u>
	Wendy Moore-Graham	<u>FOR</u>

District 8:	Jerl Locklear	<u>FOR</u>
District 9:	Linda Hammonds	<u>FOR</u>
District 10:	Jimmy McNeill	-----
District 11:	Richard Locklear	<u>FOR</u>
District 12:	Danita Locklear	<u>FOR</u>
	Shelley Strickland	<u>FOR</u>
District 13:	Ricky Burnett	-----
District 14:	Welford Clark	<u>FOR</u>

**LUMBEE TRIBE OF NORTH CAROLINA  
ADMINISTRATIVE COURT DISTRICTS**



11/2004

ATTEST: Gerald Goolsby  
Speaker, Tribal Council of the Lumbee Tribe of North Carolina

Date

*Wendy Moore-Graham*

ATTEST: Wendy Moore-Graham  
Secretary, Tribal Council of the Lumbee Tribe of North Carolina

Date

### CERTIFICATION OF VETO OVERRIDE

THIS VETO OVERRIDE OF "**ORDINANCE ON THE ESTABLISHMENT OF AN ADMINISTRATIVE COURT**," TRIBAL ORDINANCE NO. 2004-0003 WAS CERTIFIED AT A MEETING OF THE 21 SEATED MEMBER TRIBAL COUNCIL OF THE LUMBEE TRIBE OF NORTH CAROLINA WHERE 19 MEMBERS WERE PRESENT , CONSTITUTING A QUORUM, THIS 19<sup>TH</sup> DAY OF JULY, 2007 BY A VOTE OF 19 FOR, 0 AGAINST, 0 ABSTENTION(S).

**ROLL CALL VOTE RESULTS TO ADOPT  
TRIBAL ORDINANCE NO. 2004-003, "ORDINANCE ON THE ESTABLISHMENT OF AN  
ADMINISTRATIVE COURT"  
19 FOR, 0 AGAINST, 0 ABSTENTION(S)**

District 1: Audrey Hunt	YES	District 8: Jerl Locklear	YES
District 2: Gerald Goolsby	YES	District 9: James Taft Smith	YES
Sharon Hunt	YES	District 10: Bradley McMillian	YES
District 3: Laura Sampson	ABSENT	District 11: Richard Locklear	YES
Pam Spaulding	YES	District 12: Danita Locklear	YES
District 4: Helen Locklear	YES	Shelley Strickland	YES
District 5: Kernice Locklear	YES	District 13: Ricky Burnett	YES
John Lowery	YES	District 14: Welford Clark	YES
District 6: Frances Chavis	ABSENT		
Lawrence T. Locklear	YES		
District 7: Ray Littleturtle	YES		
James Harold Locklear	YES		
Wendy Moore-Graham	YES		