

# LUMBEE TRIBE OF NORTH CAROLINA

CLLO-2016-0818-01

DATE: August 18, 2016

## **Tribal Banking, Finance and Real Property Ordinance**

**Whereas**, The Lumbee Tribe of North Carolina, a recognized Indian Tribe of the State of North Carolina, subject to the Constitution of the Lumbee Tribe of North Carolina and its inherent powers of self-government;

**Whereas**, Article VII, Section 1-b of the Constitution of the Lumbee Tribe of North Carolina delegates all legislative authority to the Tribal Council; and

**Whereas**, The Tribal Council has the authority to approve, enact and amend the annual fiscal year budget and budget process and,

**Whereas**, The Tribal Council is responsible for oversight and review of all budget components and,

**Whereas**, The Tribal Council has the authority and fiduciary responsibility to ensure compliance with all program funding and allocation,

**THEREFORE**, Be it enacted by the Tribal Council concerning the Lumbee Tribe of North Carolina, hereafter designated "Tribe," the following ordinance that shall be cited as the "**TRIBAL BANKING, FINANCE and REAL PROPERTY ORDINANCE**".

### **SECTION 1: Banking and Finance**

#### **1.1 Purpose.**

The provisions of this section shall apply to every Tribal department, program, office, employee or representative. No Tribal funds (not previously budgeted) shall be expended except in accordance with an act of appropriation and the requirements of this section. Nothing in this ordinance is intended to diminish the inherent power of the legislative, executive, or judicial branch.

#### **1.2 Definitions.**

(a) **Appropriation.** - An enactment by the Tribal Council that authorizes, specifies, or otherwise provides that funds may be used for a particular purpose.

(b) **Tribal Treasury.** - Any bank or banks, savings and loan institutions, or trust company designated by the Tribal Chairman or his designee as an official depository of the Tribe.

(c) **Tribal Funds.** - Any moneys belonging to the Tribe including but not limited to fees, vending, charges, rental, mortgage, sale of assets, sales tax, tax credits, state and federal funds, gifts, donations, interest income, proceeds from investments.

#### **1.3 Tribal Treasury.**

All funds belonging to the Tribe shall be maintained in the Tribal Treasury. All funds proposed to be received by the Tribe, shall be accepted upon approval from the Tribal Council. All Tribal Treasury accounts shall be established with the Tribe's Federal Identification Number associated with any tribally affiliated corporation not governed by a board independent of tribally elected officials. All Tribal Funds shall be reported to the Tribal Council for budgeting purposes.

#### **1.4 New Bank Accounts.**

Council shall be noticed no less than five (5) business days prior to opening a new account. The notice should include the following:

- (a) Banking institution;
- (b) Detailed purpose of account;
- (c) Name of signatories on the account;
- (d) Tribal Council Finance Chair should be listed on the account for access to bank statements only.

#### **1.5 Current Bank Accounts.**

Council shall be noticed in no less than five (5) business days of current accounts. The notice should include the following:

- (a) Banking institution;
- (b) Detailed purpose of account;
- (c) Name of signatories on the account;
- (d) Tribal Council Finance Chair should be listed on the account for access to bank statements only.

### **SECTION 2: Department of Finance.**

#### **2.1 Department of Finance is declared to be an office of deposit and disbursement.**

(a) The Department of Finance is declared to be a department of deposit and disbursement where such records and accounts, as may be necessary to disclose the accountability of the Tribe's accounts, shall be kept.

(b) The Department of Finance shall maintain an account of all tribal funds deposited in and drawn from the Tribal Treasury along with those yet to be deposited.

(c) The Department of Finance will receive all moneys which shall be paid into the treasury of the Tribe; and pay all checks legally drawn on the Tribe's accounts.

(d) No moneys shall be paid out of the Tribal Treasury unless the same is paid thru a line item budgeted by ordinance of the Tribal Council.

(e) The Department of Finance will determine that all requests presented for payment are valid and legally drawn on the Tribal Treasury.

### **SECTION 3: Acquisition of Real Property.**

#### **3.1 Purpose**

Only Tribal funds allocated by the Tribal Council in a budget ordinance may be expended on the acquisition of real property in accordance with the provisions of this section.

#### **3.2 Definitions.**

(a) Real Property. – Real property means all lands, buildings, building improvements, space in buildings, timber rights, mineral rights, rights-of-way, easements, options, and all other rights, estates, and interests in property.

(b) Acquisition. - Any purchase, legal transfer, legal seizure, gift, lease, or rental of lands and other real property.

#### **3.3 All real property acquisitions to be made by the Tribe.**

(a) Every acquisition of real property on behalf of the Tribe, as defined in section 3.2, shall be made by the Tribal Chairman or his designee.

(b) Every acquisition of real property must be accomplished with funds appropriated in a Tribal Council budget ordinance. Such proposal for acquisition of real property shall be submitted to the Council, so as to provide adequate notice to the Tribal Council as to the acquisitions of the Tribe, no later than 60 days prior to planned purchase of acquisition.

(c) Every acquisition of real property acquired without the expenditure of Tribal funds shall require a resolution of acceptance by the Tribal Council. Such proposal for acquisition of real property shall be submitted to the Council so as to provide adequate notice to the Tribal Council as to the acquisitions of the Tribe, but in no case later than 60 days prior to planned acquisition date.

### **3.4 For purchase of property where funds have not been previously allocated.**

(a) If, after investigation by the Tribal Chairman, it is determined that it is in the best interest of the Tribe that land or other real property be acquired, the Tribal Chairman or his designee shall present his findings and recommendations for acquisition in writing to be vetted thru the Finance Committee. The purchase price, a copy of the deed, tax office statement showing tax value, a map of the property and means of purchase shall be included.

(b) The Finance Committee will report its recommendations to the Tribal Council

(c) If the Tribal Council approves, a resolution shall be adopted budgeting funds for the purchase of real property. A resolution granting approval as necessary for Lending Institutions may include any other terms, conditions, and restrictions the Council considers appropriate and not inconsistent with this section. A budget amendment will be necessary if the funds are available within the current budget.

All legal transfer of real property shall be made to "the Lumbee Tribe of North Carolina" or any corporate entity over which elected Tribal officials have control.

### **3.5 Procedure for sale of real property.**

(a) If, after investigation, it is determined that it is in the best interest of the Tribe that land or other real property be sold, the Tribal Chairman or his designee shall present his findings for sale in writing to the Finance Committee.

(b) The Finance Committee will report the findings to the Tribal Council

(c) Upon notice the Tribal Council shall adopt a resolution recognizing the sale for historical documentation.

Nothing in this section is intended to restrict the foreclosure, eviction or any other real property transfer related to the Homeownership, Rehabilitation or direct services to Tribal members under NAHASDA.

## **SECTION 4: Tribal Debt.**

### **4.1 Purpose.**

No department, program, officer, employee, or representative of the Tribe shall cause the Tribe to incur a debt, liability or obligation, or a pledge of the credit of the Tribe except by majority vote of the Tribal Council to be embodied in a resolution.

### **4.2 Procedure for incurrence of debt.**

(a) Whenever the Tribal Chairman or his designee determine that indebtedness is appropriate to finance capital facilities, acquire real property or other purposes as may be necessary he shall present his findings and recommendations to the Finance Committee in a written proposal, in accordance with the requirements for acquisition of real property, as stated in Section 3, to be presented to the Tribal Council for consideration.

(b) As part of the written proposal in subsection 4.2a, the Chairman or his designee shall present a schedule of funds expected to be available to pay all sums to come due on the indebtedness during its term.

(c) The Finance Committee will report its findings and recommendation to the Tribal Council.

(d) The Council, upon receipt of the proposal required by 4.2a and 4.2b shall, if approved by a majority vote, adopt a resolution granting approval of the incurrence of debt. Said resolution granting approval must be given to the Lender to show the Chairman's authority to incur the debt.

(e) The resolution must do all of the following:

- (1) Authorize the debt.
- (2) State the principal amount.
- (3) State the maturity of the indebtedness.
- (4) State the rate of interest.
- (5) Include any other conditions, restrictions or clauses in the discretion of the Council.

#### **SECTION 5: Reporting**

The Tribal Council shall receive a detailed report, on a quarterly basis, showing all deposits and investments made on behalf of the Tribe. The report shall include a listing of all deposits and investments with or on behalf of the Tribe or any of its departments or programs. The report shall include the bank or financial institution of deposit the funding source and the amount of deposit on all accounts. The first report is due 30 days after enactment into law of this ordinance, thereafter, reports shall be made on a quarterly basis to align with the current reporting requirements of the Supreme Court Order for the General Ledger and Check Register and any such reporting requirements as may be embodied in other ordinances . All funds received by the Tribe shall be reported to the Tribal Council within 30 days of receipt to be budgeted.

#### **SECTION 6: Tribally Created Corporations**

Corporations created by the tribe wherein the tribe owns a majority interest shall adhere to the requirements in the Tribal Constitution.

#### **SECTION 7: Liability for False Entries in tribal books.**

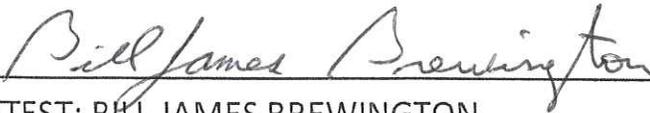
If the Chairman or his designee is found to have made any false entry with regards to the Tribal Treasury, to be laid before the Tribe, Tribal Council or any committee thereof, to defraud the Tribe or any such person, such findings shall be referred to the Tribal Council who will bring forward a complaint to the Supreme Court in accordance with the constitution of the Lumbee Tribe.

#### **SECTION 8: Saving Clause**

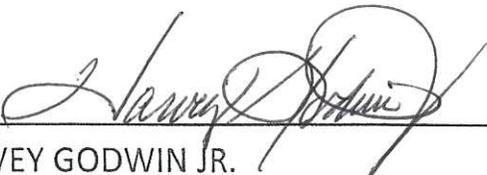
In the event that any phrase, provision, part, paragraph, subsection, or section of this ordinance is found by the court of competent jurisdiction to violate the Constitution, laws, or ordinances of the Lumbee Tribe of North Carolina, such phrase, provision, part, paragraph, subsection or section shall be considered to stand alone and the entirety of the balance of the ordinance to remain in full and binding force and effect.

CERTIFICATION

THIS CLLO-2016-0818-01 "Tribal Banking, Finance and Real Property Ordinance"  
ADOPTED AT A MEETING OF TWENTY-ONE (21) MEMBER TRIBAL COUNCIL OF THE  
LUMBEE TRIBE OF NORTH CAROLINA WHERE 19 MEMBERS WERE PRESENT,  
CONSTITUTING A QUORUM, THIS THE 18th DAY OF AUGUST, 2016, BY A VOTE OF  
19 YES, 0 NO, AND 0 ABSTENTION(S).

  
\_\_\_\_\_  
ATTEST: BILL JAMES BREWINGTON 8/18/2016  
DATE  
Speaker, Tribal Council of the Lumbee Tribe of North Carolina

  
\_\_\_\_\_  
ATTEST: JAN LOWERY 8/18/2016  
DATE  
Secretary, Tribal Council of the Lumbee Tribe of North Carolina

  
\_\_\_\_\_  
HARVEY GODWIN JR. 9-16-2016  
DATE  
Chairman, Lumbee Tribe of North Carolina

POSTING

THIS CLLO-2016-0818-01 "Tribal Banking, Finance and Real Property Ordinance" duly posted on this the 18 day of AUGUST 2016.

  
ATTEST: Belinda Brewer



8/18/16  
DATE

Tribal Clerk Designee, Lumbee Tribe of North Carolina

**ROLL CALL VOTE RESULTS TO ADOPT  
CLLO-2016-0818-01 "TRIBAL BANKING, FINANCE AND REAL PROPERTY ORDINANCE"  
19 YES, 0 NO, 0 ABSTENSION(S)**

District 1:	LaKishia Sweat	YES
District 2:	Terry Hunt	ABSENT
	Janie McFarland	YES
District 3:	Alton Locklear	YES
	Lesaudri Hunt	YES
District 4:	Jonathan Locklear	YES
District 5:	Bobby Oxendine	YES
	Jarrod Lowery	YES
District 6:	Larry Townsend	YES
	Douglas Locklear	YES
District 7:	Reginald Oxendine	YES
	Jan Lowery	YES
	Bill Brewington	YES
District 8:	Daniel Jones	YES
District 9:	Anita Hammonds Blanks	YES
District 10:	Janet Locklear	YES
District 11:	Frank Cooper	YES
District 12:	Areatha Patterson	YES
	Shelley Strickland	YES
District 13:	William Maiden	ABSENT
District 14:	Barbara Lowery	YES



Lumbee Tribe of North Carolina  
*The Desk of the Tribal Clerk*

**Record of Posting**

Tribal Ordinance: CLLO-2016-0818-01

Posted Date: 8/18/16

Presented to Tribal Chairman for Review: 9/16/16

Signature or Veto date: \_\_\_\_\_

Reason for Veto: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Harvey Godwin, Jr.  
Harvey Godwin, Jr.  
Tribal Chairman of the Lumbee Tribe of North Carolina

9-16-2016  
Date

Belinda Brewer  
Belinda Brewer  
Tribal Clerk Designee of the Lumbee Tribe of North Carolina



9/16/16  
Date