

Tribal Council Code of Ethics

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ARTICLE I. TITLE AND PURPOSE

SECTION 101. TITLE

This document shall be referred to as the "Tribal Council Code of Ethics for the Delaware Tribe of Indians (Code of Ethics).

SECTION 102. PURPOSE

The purpose of this Code of Ethics is to set forth standards by which Elected Tribal Council Members will conduct themselves in order to protect and promote Tribal integrity and to enhance the ability of the Tribe to achieve its objectives in a manner consistent with all applicable laws and regulations. An "*Elected Tribal Council Member*" is any person elected or appointed to replace an elected position on the Tribal Council.

ARTICLE II. PRINCIPLES

SECTION 201. CONDUCT IN CONFORMITY WITH APPLICABLE RULES AND LAWS

The actions of Elected Tribal Council Members shall reflect their commitment to conduct all of the Tribe's activities in an honest, ethical, and professional manner in compliance with all applicable laws and regulations and with Tribal policies.

SECTION 202. INTEGRITY

Elected Tribal Council Members shall not engage in any business activity that appears to be unethical or illegal; shall refuse any illegal offers, solicitations, payments, or other payment to induce business opportunities; and shall refuse any offer that has the appearance of being an illegal or inappropriate offer, solicitation, payment, or remuneration

Elected Tribal Council Members shall not use their position and/or Tribal resources to serve their own personal, financial, or business interests. Elected Tribal Council Members shall not contract or have any relationship for financial enrichment with the Tribe.

SECTION 203. CONFIDENTIALITY

To respect the privacy of Tribal members, employees, and clients, Elected Tribal Council Members shall not use or disclose confidential information gained in the course of or by reason of their official position or

activities, to further their own economic and personal interest or that of anyone else. Elected Tribal Council Members shall maintain strict confidentiality over information received, regardless of economic or personal gain.

Confidential information is defined as information obtained from an Executive Session of the Tribal Council, proprietary matters concerning the Tribe's businesses, pending personnel matters, and information pertaining to pending or future legal issues, and any issue the Tribal Council determines is confidential.

SECTION 204. COMPETENCE

Elected Tribal Council Members shall perform their duties by making informed decisions in good faith and in a manner believed to be in the best interests of the Tribe.

SECTION 205. ACCOUNTABILITY

Elected Tribal Council Members are bound by this Code of Ethics and shall address any behavior inconsistent with this Code in an effective and efficient manner as set forth in this Code. Elected Tribal Council Members shall become familiar with this Code of Ethics and the policies and procedures applicable to Elected Tribal Council Members. They shall provide open channels of communication to allow Tribal members and employees to pursue compliance or ethical questions without fear of retaliation. Elected Tribal Council Members and employees shall immediately report any suspected violations of this Code of Ethics or of any applicable law or regulation, as set forth herein for investigation. No disciplinary action or retaliation may be taken against any Tribal member or employee, who, in good faith, reports a concern, issue, problem, or violation of the law, regulations, or the Code of Ethics. "Good faith" means that there is an objective basis for the allegation and does not require definitive proof.

ARTICLE III. CONFLICT OF INTEREST SECTION

301. CONFLICT OF INTEREST

Elected Tribal Council Members of the Delaware Tribe shall avoid any action, whether or not specifically prohibited by the Code of Ethics as set out herein, which could result in, or create the appearance of:

- (1) Using public office for private gain;
- (2) Giving preferential treatment to any special interest organization or person;
- (3) Interfering with governmental or managerial efficiency or economy;
- (4) Losing or compromising complete independence or impartiality of actions;
- (5) Making a government or management decision outside official channels;
- (6) Adversely affecting the confidence of the Tribal members in the integrity of the government and administration of the Delaware Tribe. No Elected Tribal Council Member shall participate in the selection, or in the award or administration of a contract supported by Federal funds and/or Tribal funds, if a conflict of interest, real or apparent, would be involved.

A conflict of interest shall be deemed to arise for purposes of this section when the Elected Tribal Council Member or any member of their immediate family has a financial or other interest in the firm or person selected for the contract or grant award. Elected Tribal Council Members shall not contract with the Tribe

SECTION 302. ANTI-NEPOTISM

- (A) The Tribe is required to NOT hire anyone related to the Chief or any Tribal Council member within the second degree of affinity of consanguinity. The list of people includes a Chief or Council Members':
- Spouse
 - Child or Child's Spouse
 - Parent or Parent's Spouse
 - Grandchild or Grandchild's Spouse
 - Grandparent or Grandparent's Spouse
 - Sibling or Sibling's Spouse
 - Spouse's Child or Spouse's Parent
 - Spouse's Grandchild or Spouse's Grandparent
 - Spouse's Sibling
- Note: Siblings of "half-blood," meaning that two individuals share one parent, are considered equal to a full sibling sharing two parents. For purposes of this policy "spouse" will signify not only via marriage but also co-habitants and companions.

(B) Assignment of such persons to duties, positions, governmental offices or other entities shall in all instances be made in strict compliance with the current provisions of this Code and the Tribe's Personnel Policies Manual.

SECTION 303. CONFLICT OF INTEREST STATEMENTS AND OFFICIAL ACTION

- (A) Disclosure: It is the premise that all Elected Tribal Council Members who have interests which might conflict with their duties should divulge those interests. Disclosure shall also extend to those interests held by his/her immediate family, when they are known by the Elected Tribal Council Member-
- (B) When an Elected Tribal Council Member is required to take action on a matter in which such Elected Tribal Council Member has a personal economic interest, they should first consider eliminating that interest.
- (C) Unless otherwise provided by applicable law, the abstention by such person from voting or otherwise participating in the official determination or decision shall not affect the presence of such person for purposes of establishing a quorum necessary for a governmental body.

ARTICLE IV. FIDUCIARY DUTY

SECTION 401. ECONOMIC INTERESTS

Elected Tribal Council Members shall not use their governmental positions to serve their own personal, financial, or business interests, and

- (1) Not solicit, or offer anything of value in the course of business dealings;
- (2) Avoid using the Tribe's resources for their own personal, financial, or business interests. Elected Tribal Council Members shall utilize authorized employees and staff only for the official purposes for which they are employed or otherwise retained.
- (3) No Elected Tribal Council Member, however, shall accept any benefit, income, favor or other form of

compensation for the performance of the duties of any other office or employment not actually performed or for which such official or employee is not otherwise properly authorized or entitled to receive.

(4) Strictly prohibit kickbacks, bribes, rebates or any kind of benefits intended to induce business benefits.

(5) Report reimbursable expenses accurately and to only one source; and avoid receiving any financial gain because of business travel or entertainment.

(6) Elected Tribal Council Members shall not:

(a) Use supplies and services in a manner that creates waste or abuse. Elected Tribal Council Members must be responsible and accountable for the proper use of all Tribal property and equipment entrusted in their care.

(b) Use any property of the Delaware Tribe or any other public property of any kind for other than as authorized and approved for official purposes and activities. Such persons shall properly protect and conserve all such property, equipment, and supplies, which are so entrusted, assigned or issued to them.

(7) Elected Tribal Council Members shall not engage in transactions that will provide them an economic advantage due to information received through their public office or employment, and such Tribal Council Members shall not acquire any property or other economic interest when doing so that will substantially affect or influence the performance of their official actions or duties.

SECTION 402. TRIBAL GOVERNMENT CONTRACTS: RESTRICTIONS AND BID REQUIREMENTS

(A) No Elected Tribal Council Member shall participate in the selection or in the award or administration of a contract or grant award of funds from any government agency, if a conflict of interest, real or apparent, shall be involved. Elected Tribal Council Members are prohibited from contracting with the Tribe.

(B) No Elected Tribal Council Member or any member of such person's immediate family shall be a party to, nor have an interest in the profits or benefits of, any government contract of the Delaware Tribe or of any investment of funds of the Delaware Tribe, unless the contract or the investment meets the following requirements:

(1) The contract is let by notice and competitive bid or procurement procedures as required under the applicable laws, rules, regulations and policies of the Delaware Tribe, for necessary materials or services for the governmental agency or entity involved; and

(2) In the continuous course of business, the bid was commenced before the Elected Tribal Council Member assumed their current term of office or employment; and

(3) The entire transaction is conducted at arm's length, with the governmental agency's full knowledge of the interest of the Elected Tribal Council Member or a member of their immediate family; and

(4) The Elected Tribal Council Member has taken no part in the determination of the specifications, deliberations, or decisions of a governmental agency with respect to the public contract; and

(5) The family member is under the direct supervision of an independent body or business entity.

(C) This provision shall not apply to such persons qualifying for housing benefits from the Tribe or for medical benefits from the Indian Health Service or other programs available to all Tribal members.

SECTION 403. GIFTS, AWARDS, LOANS, REIMBURSEMENTS AND CAMPAIGN CONTRIBUTIONS

(A) Except as otherwise provided herein or by applicable rule or regulation adopted hereunder by the Delaware Tribe, or by other applicable law, no Elected Tribal Council Member shall solicit or accept for themselves or another, any gift, including economic opportunity, favor, service, or loan (other than from a regular lending institution or Tribally sponsored lending program on generally available terms) or any other benefit from any person, organization or group which:

- (1) Has, or is seeking to obtain, contractual or other business or financial relationships or approval from any governmental office or entity with which the Elected Tribal Council Member is associated or employed; or
- (2) Conducts operations or activities which are regulated or in any manner supervised by any governmental office or entity with which the Elected Tribal Council Member is associated or employed; or
- (3) Has any interest which, within the past two (2) years or in the near future, has been or will be directly affected by an official action (or inaction) of such Elected Tribal Council Member or the Election Official's office.

(B) The restrictions in Section 403(A) (above) shall not be construed to prohibit:

- (1) An occasional non-financial gift, insignificant in value (less than \$200.00);
- (2) Gifts from and obviously motivated by family or social relationships, as among immediate family members or family inheritances;
- (3) Food and refreshments customarily made available in the ordinary course of meetings where an Elected Tribal Council Member may properly be in attendance;
- (4) An award or honor customarily and publicly presented in recognition of public service.

ARTICLE V. COMPENSATION SECTION

501. COMPENSATION

(A) An Elected Tribal Council Member may receive income, honoraria or reimbursement of expenses attributable to the performance of duties during a duly called Tribal Council meeting or government function in accordance with the approved Stipend Policy-

(B) Elected Tribal Council Members may not receive income, honoraria, or reimbursement of expenses from a second source beyond the Delaware Tribe if such payment is being paid by the Delaware Tribe and would result in a double payment to the Elected Tribal Council Member.

ARTICLE VI. MISCELLANEOUS

SECTION 601. AMENDMENTS TO THE GOVERNMENTAL CODE OF ETHICS

(A) Any Elected Tribal Council Member who is subject to the provisions of this Code, is authorized to submit for approval and adoption by the Tribal Council such supplemental rules, regulations and standards of conduct for the public officials, which are necessary and appropriate to the special conditions relating to their particular functions, purposes and duties and not in conflict with the purposes and other provisions of this Code.

(B) Upon adoption, such supplemental standards, rules, and regulations shall be implemented in the same manner and to the extent applicable, as are all other standards, rules and regulations provided and adopted in accordance with this Code.

ARTICLE VII. IMPLEMENTATION AND COMPLIANCE SECTION

701. FILING OF COMPLAINTS

The Tribal Council shall initiate and/or receive, review and/or investigate complaints filed. A Complaint must be filed in an executive session of a regular or special Tribal Council meeting. The person filing complaint shall request an executive session. Each complaint shall contain a statement of the alleged misconduct, including any section of the Constitution or Tribal Government Code of Ethics alleged violated, and the alleged facts which form the basis of the charge. The Tribal Council shall maintain confidentiality until a final determination is reached.

SECTION 702. NOTICE

The Tribal Council shall issue to the Elected Tribal Council Member a written notice containing a statement of alleged misconduct, including any section of the Constitution or Tribal Government Code of Ethics allegedly violated. The notice shall state the facts upon which such charges are based.

SECTION 703. DETERMINATION TO PROCEED

(A) If the Tribal Council finds sufficient cause to proceed, they shall conduct or cause an investigation to determine any violations or noncompliance with the Constitution or this Code. In any Tribal Council determination regarding the matter under review, that Tribal Council member must abstain from voting on the matter.

(B) If the investigation brings forth violations that are subject to administrative remedies, the record of the investigation shall so state. Administrative remedies shall mean those internal controls of program management.

(C) If the investigation indicates violations that cannot be addressed with administrative remedies references above, the Tribal Council shall move forward with a fair hearing as outlined herein.

(D) The Tribal Council may dismiss by a majority vote any complaint which it determines has insufficient facts to constitute a violation of noncompliance to this Code, or if there is not clear and convincing evidence to support the allegations.

SECTION 704. RESPONSE TO NOTICE

Within twenty (20) business days after receipt of the complaint, the accused Elected Tribal Council Member shall file a written response setting forth any admission, denial, affirmative defense, or other matter upon which they intend to rely on at the hearing.

SECTION 705. FAIR HEARINGS

(A) If the Tribal Council finds sufficient cause to proceed, they shall conduct or cause an investigation to determine any violation or noncompliance with this Code within in thirty (30) calendar days.

(B) The Elected Tribal Council Member in question shall have the opportunity and right to a hearing on his or her own behalf before the Tribal Council. There shall be a full and complete discussion of all aspects of the complaint against the Elected Tribal Council Member prior to a final decision. The individual in question shall have the right to bring spokesperson or advocate to speak on his or her behalf, witnesses, documents and/or any other relevant evidence to support his or her position.

(C) The hearing shall be informal, without formal rules of evidence, held in closed session, and recorded by the Secretary or a designee of the Council.

(D) The Tribal Council shall receive and consider all of the evidence presented at the hearing and shall issue a written decision regarding the matter in question. A decision shall be mailed to the Elected Tribal Council Member by certified mail, within twenty (20) calendar days after the hearing date.

(E) All provisions of the Delaware Tribe's Constitution for removal of Council Members shall apply.

(F) The decision of the Tribal Council following the hearing shall be final.

(G) The accused shall have the right to appeal the decision of the Tribal Council within (10) business days if the accused believes the procedure in this Code was not complied with or the evidence presented did not support the decision of the Council.

SECTION 706. ADMINISTRATIVE DECISION

(A) A majority vote of a quorum duly seated of the Tribal Council shall be required to make a determination.

(B) The Tribal Council may impose or recommend any sanctions or other penalties provided in this Code; or refer their findings to other appropriate entities for action.

(C) Location of the repository of records of complaints and hearings shall be the responsibility of the Tribal Secretary/Treasurer.

SECTION 707. APPEALS

(A) A notice of appeal shall be filed within ten (10) business days of the issuance of a written decision.

(B) The appeal shall be limited to review of the record to determine by the Tribal Court whether the Tribal Council complied with and whether sufficient evidence supported the decision.

SECTION 708. STATUTE OF LIMITATIONS

No action must be brought under this Code more than two (2) years after cause of action has occurred.

SECTION 709. RETALIATION PROHIBITED

(A) Retaliation against any party or witness to a complaint is prohibited. Retaliation shall include any form of adverse or punitive action by or caused by any Elected Tribal Council Member.

(B) This protection shall also be afforded to any person(s) offering testimony or evidence or complying with directives authorized under this Code.

(C) Any violations shall be subject to penalties under this Code, as well as applicable law.

ARTICLE VIII. SANCTIONS AND PENALTIES SECTION

801. ADMINISTRATIVE SANCTIONS

(A) Upon a finding that there has been a violation of any provisions of this Code, the Tribal Council may impose any or all of the following penalties or sanctions:

- (1) Issuance of a private reprimand to such person, with or without suspension of any or all other sanctions provided herein.
- (2) Issuance of a written public reprimand, which shall be entered into such person's permanent record of office and upon the permanent record of the Delaware Tribe, according to provisions of applicable Delaware Tribal laws and procedures.
- (3) Recommend recall from Office under applicable Tribal law and procedure.

(B) No sanctions or penalties provided herein shall limit any other powers neither of the Tribal Council, nor of any other entity or administrative officials or employees under other applicable law, rules, regulations, or procedures.

THIS SUPERCEEDS THE CODE OF CONDUCT