

## THE DELAWARE TRIBE OF INDIANS TRIBAL HOUSING ORDINANCE

### Article I – Authority; Interpretation

Pursuant to Article V, Section K of the Constitution of the Delaware Tribe of Indians (“Tribe”) and the Native American Housing Assistance and Self-Determination Act of 1996 (“NAHASDA”), the Tribal Council hereby enacts this Tribal Housing Ordinance (“Ordinance”) in order to establish the Delaware Tribal Housing Department (“DTHD”) as an operating division of the Tribe and to provide for the continued and uninterrupted delivery of housing services to eligible persons. This Ordinance supersedes all previously approved and adopted laws concerning its subject matter.

### Article II – Findings; Purposes

- A. Findings. The Tribal Council, in the exercise of its legislative powers, hereby finds that:
1. There continually exists within the housing service area of the Tribe unsanitary, unsafe and over-crowded dwelling accommodations; that there is a shortage of decent, safe and sanitary dwelling accommodations available at rents or prices which persons of low income can afford; that there is insufficient dwelling accommodations to meet the needs of the tribal members who desire to reside within the tribal service area; and that many tribal members must elect either to leave the area or to remain precariously housed.
  2. 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.
  3. The shortage of decent, safe and sanitary housing cannot be relieved through the operation of private enterprises.
  4. The development of decent, safe and affordable houses, neighborhoods and communities are public uses and purposes, for which money may be spent and private property acquired and is a governmental function of tribal concern.
  5. Residential construction activity and supply of acceptable housing are important factors to generate economic activity.
  6. The Tribe receives federal financial assistance through the NAHASDA Indian Housing Block Grant (“IHBG”) Program, which permits the Tribe to manage the IHBG funds according to its expressed priorities. Further, the Oklahoma legislature enabled tribal governments to dissolve Oklahoma state agency housing authorities and to assume exclusive ownership and control of tribal housing

resources pursuant to amendments to the Oklahoma State Housing Authority Act, 63 O.S. §§ 1051-1092. The reorganization of the DTHD as a department of the Tribe is consistent with tribal sovereignty and self-determination.

- B. Purposes. The Tribal Council hereby establishes the Delaware Tribal Housing Department for the purposes of:
1. Remediating unsafe and unsanitary housing conditions that are injurious to the public health, safety and morals;
  2. Alleviating the acute shortage of decent, safe and sanitary dwellings; and
  3. Providing employment opportunities through the acquisition, construction, improvement, extension, alteration, repair and/or management of housing resources and related activities.

### **Article III – Housing Committee (“Committee”)**

A. Composition; Eligibility

1. The DTHD shall be managed by the Housing Committee. The Committee shall be composed of five (5) voting members who shall be appointed pursuant to paragraph B of this Article. In addition, remaining Tribal Council Representatives who are not appointed to the Housing Committee may serve as ex-officio members of the Housing Committee for the duration of their current terms in elected office and shall not vote on official business coming before the Committee, but may participate in discussions of the Committee and shall receive any materials or reports provided to the Committee. The Tribal Council Representatives may distribute any materials, reports and/or other documents received pursuant to this Article to the Tribal Council. Such materials, reports and/or other documents pertaining to housing operations may be considered confidential and/or proprietary in nature and shall be subject to any and all non-disclosure rules generally applicable to the Tribal Council.
2. No person shall serve on the Housing Committee while also serving on the Tribal Council.
3. Any enrolled member of the Tribe who is at least twenty-one (21) years old and has sufficient knowledge of housing, business or finance is eligible to serve on the Housing Committee.
4. No person shall be barred from serving on the Housing Committee because he or she is a tenant or homebuyer in a housing project of the Tribe, and such Committee member shall be entitled to fully participate in all meetings concerning matters that affect all of the tenants or homebuyers, even though such matters affect him/her as well. However, no such Committee member shall be entitled or permitted to participate in or be present at any meeting (except in

his/her capacity as a tenant or homebuyer), or to be counted or treated as a member of the Committee, concerning any matter involving his/her individual rights, obligations or status as a tenant or homebuyer.

B. Appointment; Removal

1. Housing Committee members shall be appointed and may be re-appointed by majority vote of a quorum of the Tribal Council. A certificate of the Chief of the Tribe attested by the Secretary of the Tribe as to the appointment or reappointment of any Committee member and administration of the oath of office shall be conclusive evidence of his/her due and proper appointment to the Committee. A form "Acceptance of Appointment" is attached hereto as Appendix "A."
2. A Housing Committee member may be removed by motion and majority vote of a quorum of the Tribal Council for: (i) serious inefficiency, (ii) neglect of duty, (iii) misconduct in office or (iv) allowing any portion of any project to become dilapidated, unsanitary or unkept, provided that a Committee member may be removed only after an opportunity to be heard in person or by counsel and further provided that such hearing shall occur no less than ten (10) days after the Tribal Council has provided written notice of the charges and proposed removal to the affected Committee member.

C. Tenure

1. Upon adoption of this Ordinance, one (1) Committee member shall be designated to serve for a one-year term, two (2) Committee members to serve terms of two years each, and two (2) Committee members each to serve three-year terms. Thereafter, all appointments shall be for a term of three (3) years, except that in the case of a prior vacancy, an appointment shall be only for the length of the unexpired term.
2. Each member of the Committee shall hold office until his or her successor has been appointed and duly confirmed, even though his or her tenure of office should thereby exceed three (3) years.

D. Officers

1. The Committee shall elect from its members a Chairperson. The Chairperson shall have the power to vote.
2. The Committee shall elect from its membership a Vice-Chairperson, a Secretary, and a Treasurer. In the absence of the Chairperson, the Vice-Chairperson shall preside, and in the absence of both the Chairperson and Vice-Chairperson, the Secretary shall preside.

3. Removal of a Committee member from an office shall not be deemed to be a removal from the Committee.

E. Meetings

1. Meetings of the Committee shall be held at regular intervals once every quarter. Emergency meetings may be held upon twenty-four notice, provided not less than a majority of the full Committee concurs in the proposed meeting. Special meetings may be scheduled to accommodate a cancelled regular meeting.
2. Telephonic and video conference meetings of the Committee shall be allowed, if such meetings are deemed necessary by the Chairperson, and the following procedure is observed:
  - (a) all Committee members participating can be heard and are able to participate in the discussion;
  - (b) meeting notice is given in the same manner as an in-person meeting, and;
  - (c) a quorum of Committee members participates in the telephonic or video meeting.

F. Compensation

Committee members shall receive a stipend of \$150.00 per regular meeting and shall be entitled to reimbursement for expenses, including travel expenses, incurred in the discharge of their duties and upon providing documentation in support of such expenses.

**Article IV - Powers**

A. The DTHD shall have the following powers consistent with the purposes for which it is established:

1. To lease property from the Tribe and others for such periods as may be authorized by law, and to hold and manage or to sublease the same.
2. To undertake and carry out studies and analyses of housing needs, to operate projects and to provide for the acquisition, construction, reconstruction, improvement, extension, alteration and/or repair of any project or any part thereof.
3. With respect to any dwellings, accommodations, lands, buildings or facilities embraced within any project (including individual, cooperative or condominium units): To acquire such properties for housing-related purposes; 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.

4. To terminate any lease, mortgage, rental agreement or lease-purchase agreement when a tenant or homebuyer has violated the terms of such agreement or has failed to meet any obligations arising thereunder, or when such termination is otherwise authorized under the provisions of such agreement and to bring a judicial enforcement action against such tenant or homebuyer.
5. To purchase insurance or participate in a risk management pool for any property owned or managed by the Tribe or against any risks or hazards.
6. To select and retain contractors, legal counsel, consultants and/or other persons or entities to perform professional services or to otherwise carry out affordable housing activities under this Ordinance.
7. To enter into agreements, contracts, memoranda of understanding, and memoranda of agreements with any governmental agency (Federal, State, or local) or with any person, partnership, or corporation, and to agree to any condition in furtherance of obtaining Federal financial assistance.
8. To adopt bylaws as the Committee shall deem necessary and appropriate.
9. To engage in any and all things necessary to secure financial aid or cooperation by the Federal government in the undertaking, construction, maintenance, or operation of any project by the Committee.
10. To develop and implement such further rules and regulations as the DTHD may deem necessary and desirable to effectuate the purposes and objectives set forth in this Ordinance.

B. It is the purpose and intent of this Ordinance to authorize the DTHD to do any and all things necessary or desirable to identify public or private financing or the financial aid or cooperation of the federal, state and local governments in the undertaking, construction, maintenance or operation of any housing project owned or operated by the Tribe.

#### **Article V – Administration; Oversight**

A. Financial Accounts. The Tribe shall be the exclusive recipient of all IHBG funds made available to the Tribe under NAHASDA, which shall be expended in accordance with the approved Indian Housing Plan. The Treasurer of the Tribe hereby is authorized to prepare, execute and deliver any and all documents, forms, account agreements or other instruments that may be required to establish depository accounts and to otherwise enable the Tribe to receive, invest, transfer and expend IHBG funds and income in accordance with NAHASDA, governing federal laws and regulations, the provisions of this Ordinance and other applicable tribal laws.

B. Housing Director. The DTHD shall be administered by a Housing Director, who shall supervise, direct and monitor the day-to-day operations and activities of the Department's employees, contractors and/or other persons or entities engaged by the Department to perform professional services or to otherwise carry out affordable housing activities.

C. Operating Policies and Procedures. The Housing Committee shall adopt and implement housing program operating policies and procedures consistent with the provisions of this Ordinance. Any policies in effect as of the date of enactment of this Ordinance shall remain in effect until amended or rescinded by further act of the Housing Committee.

#### **Article V – Property; Assets**

A. Real Property. The Tribe may continue to maintain title to all property previously acquired for the purpose of carrying out affordable housing activities. The Housing Director shall determine whether title to any real property acquired after the date of this Ordinance will be held in the name of the Tribe or in the name of the DTHD for the benefit of the Tribe. Subject to the approval of the Housing Committee and the terms of this Ordinance, title to real property may be held in the name of such other entity as may be established for the purpose of providing affordable housing opportunities within the housing service area of the Tribe.

B. Property Use and Disposal. Property acquired with IHBG funds or proceeds shall not be used, transferred, expended or otherwise disposed of except as authorized by the Housing Committee and/or the Tribe in accordance with the provisions of this Ordinance, the applicable Indian Housing Program and governing federal laws and regulations.

#### **Article VI – Transfer of Functions, Personnel and Funds**

A. Transfer of Functions. All functions performed by the state agency Indian Housing Authority, if any, or any other entity performing housing-related functions on behalf of the Tribe shall be transferred to the DTHD as a division of the Tribe in accordance with the provisions of this Article.

B. Transfer of Funds, Securities and Program Income. No later than sixty (60) days following the date of enactment of this Ordinance, the Authority shall transfer all IHBG funds, proceeds and securities held in Housing Authority accounts, if any, to one or more qualified depository accounts held by the Tribe in accordance with applicable federal regulations and the instructions of the Tribal Treasurer.

C. Assumption of Assets and Liabilities. In accordance with Section 1057(D)(4) of the Oklahoma State Housing Authority Act, as amended, the Tribe shall assume all present and future assets and liabilities of any state agency Indian Housing Authority existing as of the date of enactment of this Ordinance.

#### **Article VII – Reporting Requirements; Compliance with Federal Laws;**

A. The DTHD shall submit reports to the Tribal Council on a monthly basis showing the following:

1. A summary of the period's activities;
2. Program income, budgets and expenditures;
3. The condition of the properties;
4. The number of units and vacancies;
5. Any significant problems and accomplishments;

6. Plans for the future; and
7. Such other information as the DTHD or the Tribal Council shall deem pertinent.

B. Each project developed or operated under a contract providing for federal, state and local financial assistance shall comply with all requirements of such contract and applicable federal regulations and requirements.

#### **Article VIII – Governmental Immunities**

A. The DTHD is declared to be an operating division of the Tribe carrying out essential public and governmental functions. The DTHD, its projects and property are exempt from all taxes and special assessments of the Tribe.

B. The DTHD shall share in the Tribe's sovereign immunities, federal and state tax exemptions, and any other governmental protections and powers as provided under this Ordinance. Neither the Tribe nor the DTHD, by adoption of this Ordinance, waives its sovereign immunity in any respect and this Ordinance shall not be construed as such waiver.

C. All property, including funds acquired or held by the DTHD pursuant to this Ordinance, shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall any judgment against the DTHD be a charge or lien upon such property. However, the provisions of this section shall not apply to or limit the right of the DTHD or the Tribe to bring eviction actions against tenant(s) and/or occupant(s) of tribal housing units.

D. If at any time title to, or possession of, any project is held by any public body or governmental agency authorized by law to engage in the development or operation of low-income housing, the provisions of this section shall inure to the benefit of and be enforced by such public body or governmental agency.

#### **Article IX – Tribal Cooperation; Jurisdiction**

A. Tribal Cooperation. For the purpose of aiding and cooperating in the planning, undertaking, construction and/or operation of housing projects, the Tribe hereby agrees that:

1. It will not levy or impose any real or personal property taxes or special assessments upon the DTHD or any housing project.
2. Insofar as it may lawfully do so, it will grant such deviations from any present or future building or housing codes of the Tribe as are reasonable and necessary to promote economy and efficiency in the development and operation of any project, and at the same time safeguard health and safety, and make such changes in any zoning of the site and surrounding territory of any project as are reasonable and necessary for the development of such project and the surrounding territory.
3. It will do any and all things, within its lawful powers, necessary or convenient to aid and cooperate in the planning, undertaking, construction and/or operation of

projects.

B. Financial Assistance. The Tribal Council hereby declares that the powers of the Tribal Government shall be vigorously utilized to enforce eviction of a tenant, mortgagee or homebuyer for nonpayment or other contract violations including action through the appropriate law enforcement agencies and/or jurisdictional courts.

C. Inter-governmental Agreements. The Tribe shall maintain and renew, as necessary, cooperative agreements with other local governments in accordance with NAHASDA and the Oklahoma State Housing Authority Act. Such agreements shall provide, at a minimum, for a payment in lieu of taxes to be made to the applicable taxing authority.



## APPENDIX A

### ACCEPTANCE OF APPOINTMENT

The undersigned hereby accepts his/her appointment to a \_\_\_\_-year term on the Housing Committee of the Delaware Tribe of Indians, and in connection therewith hereby swears, certifies and affirms as follows:

1. I agree to perform my duties as a member of the Housing Committee honestly, faithfully and to the best of my ability, and I will promote and protect the best interests of the people of the Delaware Tribe of Indians.
2. I agree to abide by the Ordinance and By-laws establishing the Housing Committee and further resolutions and directives from the Tribal Council with respect to housing matters.
3. I agree to abide by the Delaware Tribal Housing Ordinance, the Native American Housing Assistance and Self-Determination Act, and other tribal and federal laws and regulations to the extent relevant to or binding upon the Delaware Tribal Housing Department.
4. I understand that, as a member of the Housing Committee, I may have access to confidential information about tribal administrative matters and about the individual financial and living situations of individual tribal members. I understand that all documents which come into my possession at any time during my tenure as a member of the Housing Committee are and will remain the property of the Tribe. I agree to maintain strict confidentiality with respect to all such matters to preserve the privacy of individual tribal members and the Tribe itself and to protect individual tribal members and the Tribe itself from harm or embarrassment.
5. I understand that I may be removed from my position as a member of the Housing Committee by further act of the Tribal Council and in accordance with the Tribal Housing Ordinance.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Committee member's signature

ATTEST:

\_\_\_\_\_  
, Chief  
Delaware Tribe of Indians

\_\_\_\_\_  
, Secretary  
Delaware Tribe of Indians

