

DELAWARE TRIBE OF INDIANS TRIBAL SEAL PROTECTION ORDINANCE

SECTION 1 GENERAL PROVISIONS

1.1 Authority; Purpose

A. Authority. The Tribal Council, which is the supreme governing body of the Delaware Tribe of Indians (hereinafter, the “Tribe”) hereby amends, adopts and implements this Tribal Seal Protection Ordinance (hereinafter, the “Ordinance”) pursuant to Article V of the Constitution and Bylaws of the Delaware Tribe of Indians (hereinafter, the “Constitution”).

B. Purpose. The purpose of this Ordinance is to:

1. Identify the Tribal Seal of the Delaware Tribe of Indians (hereinafter, the “Tribal Seal”);
2. Set forth authorized uses of the Tribal Seal.; and
3. Provide a procedure under tribal law for the authorization of acceptable uses of the Tribal Seal.

1.2 Interpretation; Implementation

A. Construction. The effectiveness and enforceability of this Ordinance shall not be dependent upon the adoption of any regulations unless otherwise required by law.

B. Severability. If any section of this Ordinance, or any part thereof, or any application thereof to any party, person or entity or in any circumstance shall be held invalid for any reason whatsoever by the Delaware Tribal District Court (hereinafter, the “Tribal Court”) or any court to which appeals therefrom may be taken, the remainder of the section or part of the Ordinance shall not be affected and shall remain in full force and effect as though no section or part has been declared to be invalid.

C. Statement of Supersedure; Governance. This Ordinance supersedes any and all policies, rules and/or regulations regarding its subject matter. In the event of a conflict between this Ordinance and the Constitution, the terms of the Constitution shall supersede and control such conflict.

D. Effective Date. This Ordinance shall become effective upon adoption by a quorum of the Tribal Council pursuant to the legislative process.

E. Amendments. This Ordinance may be amended by the Tribal Council in accordance with the Constitution and any rules set forth governing amendment of laws of the Tribe.

1.3 Sovereign Immunity

The Tribe specifically retains all governmental immunities associated with its sovereign status, including its immunity from unconsented suit. The Tribe's subsidiaries, employees and agents shall share in its sovereign immunity from suit. The Tribe does not waive its sovereign immunity in any respect and this Ordinance shall not be construed as such waiver.

SECTION 2 OFFICIAL SEAL

2.1 Official Seal of the Tribal Government

The Tribe shall have a Seal, which shall be the official Seal of the government of the Delaware Tribe of Indians.

2.2 Description

The Seal of the Tribe shall be a circular landscape comprised of the Mesingw in the center of the seal (left half red in color, right half black in color) with a cross on the left side (in white color) and a fire drill on the right side (in white color). Centered below the Mesingw are the symbols of the (3) clans of the Delaware Tribe of Indians (from left to right) a wolf paw print, a turtle and a turkey talon (all (3) in red color). Symbols representing the prayer sticks encircle the symbols described above. The outermost border of the circular seal, to the top and in black script reads "DELAWARE TRIBE OF INDIANS". The outermost border of the circular seal, to the bottom and in black script reads "LENAPE".

2.3 Graphical Representation

The following is a graphical representation of the Tribal Seal in full color:



2.4 Meaning of Seal

The Mesingw face in the center of the seal is the Keeper of the Game Animals on which the Lenape depended for food. The face was carved on the center post of the Big House Church (“Xingwekaown”), a wooden structure which held the tribe’s historic religious ceremony. Clan Symbols represent the three clans of the Lenape: Turtle, Wolf and Turkey. The Fire Drill next to the Mesingw face is used to build ceremonial fires. Prayer Sticks are around the outer edge of the seal and represent the twelve prayer sticks that were used in the Big House Church. The Christian cross represents those Lenape who accepted Christianity.

2.5 Original Seal

The original rendition of the Tribal Seal shall remain at the seat of the Tribal government at the office of the Secretary of the Tribal Council, and shall not be removed without the prior, written authorization of the Tribal Council.

2.6 Consistency of the Tribal Seal

The Tribal Seal shall not be altered, manipulated, edited, or redesigned in any way, including but not limited to the proportions, colors or elements of the Tribal Seal, unless authorized by resolution of the Tribal Council. The Tribal Seal as a whole may be reduced or enlarged, provided that it maintains its proportions, colors and elements. No mark, insignia, letter, word, figure, design, picture or drawing of any nature shall be placed upon any part of the Tribal Seal.

SECTION 3 LIMITATION ON USE OF TRIBAL SEAL

3.1 General

Unless otherwise permitted by this Ordinance, the Tribal Seal, or any previous version of the Tribal Seal, shall not be used unless such use has been specifically authorized by resolution of the Tribal Council. All requests for a license to use the Tribal Seal shall be in writing, on a form supplied by the Tribe, and addressed to the Tribal Secretary. The Tribe may assess a fee to cover costs of processing the application. The Secretary of the Tribal Council shall maintain a record of such requests and of the Tribal Council's responses to each request. If the Tribal Council approves the request, the written approval shall state the type of use, the time period for which the use is granted and any royalty to be paid to the Tribe in connection with the permitted use of the Tribal Seal.

3.2 Prohibited Uses of Tribal Seal

No facsimiles, reproductions or impressions of the Tribal Seal, with or without the wording associated with the Tribal Seal, shall be used in any private communications or documents, including but not limited to: private communications by employees of the tribal government, stationary, envelopes, facsimiles, and electronic documents, which are unconnected with authorized, official functions or communications of the Tribe. No person shall use any reproduction of the Tribal Seal in any manner falsely implying official endorsement or sponsorship by the Tribe or any of its tribal administration of any candidate for political office, product, business, service or other activity or in any manner that subjects the Tribe to harm or embarrassment.

3.3 Use in Connection with Subdivisions or Enterprises of the Tribal Government

The Tribal Seal, including duly adopted variations of the Tribal Seal, may be used in connection with documents and communications of any subdivision or enterprise of the tribal government, provided such document, correspondence or communication clearly identifies the identity of the subdivision or enterprise and such correspondence or communication is authorized by the governing body or officials of such subdivision or enterprise.

3.4 Commercial Use of Tribal Seal or Like Reproductions.

- a. *Use in Connection with Official Functions or Enterprises of the Tribe.* No facsimiles, reproductions or impressions of the Tribal Seal, with or without the wording associated with the Tribal Seal, shall be used in connection with the sale of merchandise or for any other commercial purpose associated with any official function or enterprise of the Tribe unless such use has been authorized by resolution of the Tribal Council. The authorizing resolution shall identify whether profits derived from the sale of merchandise or other commercial use of the Tribal Seal in any form shall be accounted for and turned over to the general fund of the Tribe.
- b. *Use in Connection with Private Commercial Activities.* No facsimiles, reproductions or impressions of the Tribal Seal, with or without the wording associated with the Tribal Seal, shall be used for personal gain or profit, including merchandise offered for sale, or for any other commercial purpose unless such use has been specifically authorized by resolution of the Tribal Council.

3.5 Limited Personal Use of Tribal Seal by Tribal Members Permitted

Nothing in this Ordinance shall prohibit any Tribal Member from making or having made, a facsimile, reproduction or impression of the Tribal Seal made for his/her personal use or as a gift to another Tribal member; provided that nothing in this subsection 3.5 shall

authorize any person to use the Tribal Seal in any manner otherwise prohibited in this Ordinance.

3.6 Secretary of the Tribal Council; Custodial and Other Duties.

The Secretary of the Tribal Council shall have custody of the Tribal Seal. Copies of all records and papers in the Secretary's office, certified by the Secretary and authenticated by the Tribal Seal, shall be evidence in all cases equally, and with the like effect, as the originals.

3.7 Use in Connection with Electronic Imaging

Nothing in this Ordinance shall prohibit any Tribal member from obtaining or distributing electronic photographs which contain the Tribal Seal; provided that nothing in this section shall authorize any person to use the electronic photographed Tribal Seal in any manner otherwise prohibited in this Ordinance.

SECTION 4 ENFORCEMENT

4.1 Jurisdiction

The Tribal Court shall have jurisdiction over violations of this Ordinance; provided that this section shall not be construed or applied to prevent the Tribal Council from seeking relief in any other court of competent jurisdiction in its sole discretion pursuant to section 4.4 of this Ordinance.

4.2 Civil Offenses; Penalties

Any person who violates this Ordinance shall be liable for a civil fine not to exceed five thousand dollars (\$5,000) for each violation thereof. The amount of any such civil fine may be recovered in a civil action in the Tribal Court. All fines recovered shall be deposited in the general fund of the Tribe. In enforcing the civil infraction provisions of this Ordinance, the Tribal Prosecutor shall proceed in the name of the Tribe against a person for violation of such provision by civil complaint. The Tribal Prosecutor in such action shall have the burden of showing, by preponderance of the evidence, that such person violated the provisions of this Ordinance.

4.3 Civil Forfeiture

All property bearing facsimiles, reproductions or impressions of the Tribal Seal produced or manufactured in violation of this Ordinance, or monies derived from the sale of such property, shall be subject to seizure by Order of the Tribal Court.

4.4 Additional Remedies

The Tribal Council may seek penalties and injunctive relief provided by any applicable governing law for the improper use of the Tribal Seal. The recovery of a civil fine pursuant to Section 4.2 of this Ordinance shall not bar or affect the recovery of another fine, judgment, penalty, forfeiture, or damages, nor bar the power of the Tribal Court to punish for contempt, nor bar any criminal prosecution for violations of this Ordinance.