

MODEL HOUSING CODE

CODE OF THE GOVERNING BODY OF THE (NAME OF TRIBE)

A CODE RESCINDING (NAME) HOUSING AUTHORITY ORDINANCE ____
IN ITS ENTIRETY AND ESTABLISHING A CONSOLIDATED (NAME) HOUSING AUTHORITY
ORDINANCE TO BE KNOWN AS TRIBAL ORDINANCE NO. _____.

The Council hereby determines that all actions taken by the Housing Authority and all rights and obligations of the Housing Authority which have been established as a result of the Housing Authority's powers derived from the original ordinance and its amendments are not to be invalidated by the adoption of this ordinance.

BE IT ENACTED BY THE TRIBAL COUNCIL OF THE (NAME OF TRIBE) that this code shall serve to replace and shall be adopted in lieu of previous Tribal Council ordinances and amendments.

Pursuant to the authority vested in the (NAME OF TRIBE) by its Constitution and its authority to provide for the health, safety, morals and welfare, the Council of the (NAME OF TRIBE) hereby establishes the public body known as the (NAME) Housing Authority (hereinafter referred to as the Authority), and enacts this code, which shall establish the purposes, power and duties of the Authority.

In any suit, action or proceeding involving the validity or enforcement of or relating to any of its contracts, the Authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers upon proof of the adoption of this ordinance. A copy of the code duly certified by the Secretary of the Tribal Council shall be admissible in any suit, action or proceeding.

ARTICLE I

DECLARATION OF NEED

It is hereby declared:

1. That there exists within the area of the jurisdiction of this Council unsanitary, unsafe and overcrowded dwelling accommodations; that there is a shortage of decent, safe and sanitary dwelling accommodations available at rents or prices which person of low income can afford; and that such shortage forces such persons to occupy unsanitary, unsafe and overcrowded dwelling accommodations;
2. That 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. That this shortage of decent safe and sanitary dwellings for persons of low income cannot be relieved through the operation of private enterprise;

4. That the providing of decent, safe and sanitary dwelling accommodations for persons of low income are public uses and purposes for which money may be spent and private property acquired and are government functions of Tribal concern;
5. That residential construction activity and a supply of acceptable housing are important factors to general economic activity, and that the undertakings authorized by this ordinance to aid the production of better housing and more desirable neighborhood and community development at lower costs will make possible a more stable and larger volume of residential construction and housing supply which will assist materially in achieving full employment;
6. That homebuyer assistance for moderate-income families has been recognized as an unmet need;
7. That the necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

ARTICLE II

PURPOSE

The Authority shall be organized and operated for the purpose of:

1. To act as a recipient and receive block grant funds authorized under PL 104-330 and administer such funds in accordance with the provisions of the Act, as authorized by the (Name) Tribal Council;
2. Remedying unsafe and unsanitary housing conditions that are injurious to the public health, safety and morals;
3. Alleviating the acute shortage of decent, safe and sanitary dwellings for persons of low income;
4. Providing employment opportunities through the construction, reconstruction, improvement, extension, alterations or repair and operation of low income dwellings;
5. Improving the quality of life in all areas serviced by the jurisdiction of the (Name of Tribe);
6. Engaging in activities that are directly or indirectly related to housing, including, but not limited to: mortgage origination and servicing; housing development and management; development and management of other housing-related services.
7. Participating in entities formed to accomplish any of the above-described purposes including acting as a general partner of a limited partnership.

ARTICLE III

DEFINITIONS

The following terms, wherever used or referred to in this ordinance shall have the following respective meanings, unless a different meaning clearly appears from the context:

“Area of Operation” means all area within the jurisdiction of the (Name) Tribal Council.

“Board” means the Board of Commissioners of the Authority.

“Council” means the (Name of Tribe) Tribal Council.

“Federal Government” includes the United States of America, the Department of Housing and Urban Development, or any other agency or instrumentality, corporate or otherwise, of the United States of America.

“Homebuyer” means a person(s) who has executed a lease-purchase agreement with the Authority and who has not yet achieved homeownership.

“Homeowner” means a person(s) who has title to their home.

“Housing Project” or “Project” means any work or undertaking to provide or assist in providing (by any suitable method, including but not limited to: rental, sale of individual units in single or multi-family structures under conventional condominium or cooperative sales contract or lease-purchase agreements; loans; or subsidizing of rentals or charges) decent, safe and sanitary dwelling, apartment, or other living accommodation for persons of low income. Such work or undertaking may include buildings, land leaseholds, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, for streets, sewer, water services, utilities, parks, site preparation or landscaping and for administrative, community, health, recreational, welfare, or other purposes. The term “housing project” or “project” also may be applied to the planning of the buildings and improvements, the acquisition of property or any interest therein, the demolition of existing structures, the construction, reconstruction, rehabilitation, alteration or repair of the improvement or other property and all other work in connection therewith, and the term shall include all other real and personal property and all tangible or intangible assets held or used in connection with the housing project.

“Indian Housing Plan” means the Tribal Council approved comprehensive housing plan required under the Native American Housing and Self Determination Act of 1996 (NAHASDA).

“NAHASDA” means Native American Housing and Self Determination Act, PL 104-330

“Obligations” means any notes, bonds, interim certifications, debentures, or other forms of obligation issued by the Authority pursuant to this ordinance.

“Obligee” includes any holder of an obligation, agent or trustee for any holder of an obligation, or lessor demising to the Authority property used in connection with a project, or any assignee or assignees of such lessor’s interest or any part thereof, and the Federal Government when it is a party to any contract with the Authority in respect to a housing project.

“Persons of Low Income” means person or families who cannot afford to pay enough to cause private enterprise in their locality to build an adequate supply of decent, safe and sanitary dwellings for their use and have family income less than 80% of the National medium income.

ARTICLE IV

BOARD OF COMMISSIONERS

1. (a) (1) The affairs of the Authority shall be managed by the Board of Commissioners composed of (#) persons.
 - (2) The Board members shall be appointed and may be reappointed by the Council. A certificate of the Secretary of the Council as to the appointment or reappointment of any commissioner shall be conclusive evidence of the due and proper appointment of the commissioner.
 - (3) A commissioner shall be a member of the Tribe (optional), and may be a member or non-member of the Tribal Council.
 - (4) No person shall be barred from serving on the Board because he is a tenant or homebuyer in a housing project of the Authority; and such commissioner 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 as well. However, no such commissioner shall be entitled or permitted to participate in or be present at any meeting (except in his capacity as a tenant or homebuyer), or to be counted or treated as a member of the Board, concerning any matter involving his individual right, obligation or status as a tenant or homebuyer.
- (b) The term of office shall be four years and staggered. Each member of the Board shall hold office until his successor has been appointed and qualified.
- (c) The Board shall elect from its members a Chairperson, Vice-Chairperson, a Secretary, and a Treasurer; and any member may hold two of these positions. In the absence of the Chairman, the Vice-Chairman shall preside; and in the absence of both the Chairman and Vice-Chairman, the Secretary shall preside.
- (d) A member of the Board may be removed by the appointing power for serious inefficiency or neglect of duty or for misconduct in office, but only after a hearing before the appointing power and only after the member has been given a written notice of the specific charges against him at least ten (10) days prior to the hearing. At any such hearing, the member shall have the opportunity to be heard in person or by counsel and to present witnesses in his behalf. In the event of removal of any Board member, a record of the proceedings, together with the charges and findings thereon shall be filed with the appointing power.
- (e) The commissioners shall (or shall not?) receive compensation for their services as established from time to time by the Board and shall be entitled to compensation for expenses, including travel expenses, incurred in the discharge of their duties pursuant to adopted Travel Policy.
- (f) A majority of the full Board (i.e., notwithstanding the existence of any vacancies) shall constitute a quorum for the transaction of business, but no Board action shall be taken by a vote of less than a majority of such full Board.
- (g) The Secretary shall keep complete and accurate records of all meetings and actions taken by the Board.

(h) The Treasurer shall keep full and accurate financial records, make periodic reports to the Board, and submit a complete annual report, in written form, to the Tribal Council as required by Article VII, Section 1 of this ordinance.

2. Meetings of the Board shall be held at regular intervals as provided in the By-Laws. Emergency meetings may be held upon 24 hours actual notice and business transacted, provided that not less than a majority of the full Board concurs in the proposed action.

3. Telephonic meetings shall be allowed under the following conditions:

- a. All members participating can be heard and can participate in the discussion.
- b. Notice is given in the same manner as for a regular meeting, and
- c. A quorum of members participates in the telephone meeting.

ARTICLE V

POWERS

1. The Authority shall have perpetual succession in its own name.

2. The Council hereby gives its irrevocable consent to allowing the agency to sue and be sued in its own name, upon any written contract, claim or obligation arising out of its financial activities under this ordinance and hereby authorizes the Authority to agree by written contract to waive any immunity from suit on any of its financial obligation which it might otherwise have; but the Tribe shall not be held liable for the debts or obligations of the Authority. Otherwise, recovery against the Authority shall be exclusively limited to injunctive relief.

3. The Authority shall have the following powers, which it may exercise consistent with the purposes for which it is established:

- (a) To adopt and use a seal.
- (b) To enter into agreements, contracts and understandings with any governmental agency, Tribal, Federal, State or local, or with any person, partnership, corporation or Indian tribe; and to agree to any conditions attached to Federal financial assistance, consistent with the approved Indian Housing Plan.
- (c) To agree, notwithstanding anything to the contrary contained in this ordinance or in any other provision of Tribal law, to any conditions attached to Federal financial assistance relating to the determination of prevailing salaries or wages or payment of not less than prevailing salaries or wages or compliance with labor standards, in the development or operation of projects; and the Authority may include in the any contract let in connection with a project stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum salaries or wages and maximum hours of labor, and comply with any conditions which the Federal Government may have attached to its financial aid to the project.
- (d) To lease property from the Tribe and others for such periods as are authorized by law, and to hold and manage or to sublease the same.
- (e) To borrow or lend money, to issue temporary or long term evidence of indebtedness, and to repay the same. Obligations shall be issued and repaid in accordance with the provision of Article VI of this ordinance.
- (f) To pledge the assets and receipts of the Authority as security for debts; and to acquire, sell, lease, exchange, transfer or assign personal property or interests therein.

- (g) To purchase land or interest in land or take the same by gift; to lease land or interests in land to the extent provided by law and included in Tribal Council approved Indian Housing Plan.
- (h) To undertake and carry out studies and analysis of housing needs, to prepare housing plans, to execute the same, to operate projects and to provide for the construction, reconstruction, improvement, extension, alteration or repair of any project or part thereof.
- (i) With respect to any dwelling, accommodations, lands, or buildings or facilities embraced within any project (including individual cooperative or condominium units); 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; and to make such further rules and regulations as the Board may deem necessary and desirable to effectuate the powers granted by this ordinance in accordance with PL 104-330, NAHASDA.
- (j) To finance purchase of a home by an eligible homebuyer in accordance with regulations and requirements of the Indian Housing Plan.
- (k) To terminate any lease or rental agreement of lease-purchase agreement when the tenant or homebuyer has violated the terms of such agreement, or failed to meet any of its obligations thereunder, or when such termination is otherwise authorized under the provisions of such agreement; and to bring action for eviction against such tenant or homebuyer.
- (l) To establish income limits for admission that insure that dwelling accommodations in a housing project shall be made available only to eligible participants as defined by the (Name) Indian Housing Plan.
- (m) To purchase insurance from any stock or mutual company for any property or against any risk or hazards or to participate in a plan of self insurance authorized by the HUD Secretary such as Amerind Risk Management.
- (n) To invest such funds as are not required for immediate disbursement.
- (o) To establish and maintain such bank accounts as may be necessary or convenient.
- (p) To employ an executive director, technical and maintenance personnel and such other officers and employees, permanent or temporary, as the Authority may require and to delegate to such officers and employees such powers or duties as the Board shall deem proper.
- (q) To take such further actions as are commonly engaged in by public bodies of this character as is consistent with the (Name of Tribe) Indian Housing Plan.
- (r) To join or cooperate with any other public housing agency or agencies operating under the laws or ordinances of the State or another tribe in the exercise, either jointly or otherwise, of any or all of the powers of the Authority and such other public housing agency or agencies for the purpose of financing (including but not limited to the issuance of notes or other obligations and giving security therefore), planning, undertaking, owning, constructing, operating or contracting with respect to a housing project or projects of the Authority or such other public housing agency or agencies. For such purpose, the Authority may by resolution prescribe and authorize any other public housing agency or agencies, so joining or cooperating with the Authority, to act on the Authority's behalf with respect to any or all powers, as the Authority's agent or otherwise, in the name of the Authority or in the name of such agency or agencies.
- (s) To adopt such authority rules, as the Board deems necessary and appropriate pursuant to Ordinances of the (Name of Tribe).

ARTICLE VI

OBLIGATIONS

1. The Authority may issue obligations from time to time in its discretion for any of its purposes and may also issue refunding obligations for the purpose of paying or retiring obligations previously issued by it. The Authority may issue such types of obligations as it may determine, including obligations on which the principal and interest are payable; (a) exclusively from the income and revenues of the project financed with the proceeds of such obligation, or with such income and revenues together with a grant from the Federal Government in aid of such project; (b) exclusively from the income and revenues of certain designated projects whether or not they were financed in whole or in part with the proceeds of such obligations; or (c) from its revenues generally. Any such obligations may be additionally secured by a pledge of any revenues of any project or other property of the Authority.
2. Neither the commissioners of the Authority nor any person executing the obligations shall be liable personally on the obligations by reason of issuance thereof.
3. The notes and other obligations of the Authority shall not be a debt of the (Name) Tribe and the obligations shall so state on their face.
4. Obligations shall be issued in the following manner:
 - a. Obligations of the Authority shall be authorized by a resolution adopted by the vote of a majority of the full Board and may be issued in one or more series.
 - b. The obligations shall bear such dates, mature at such times, bear interest at such rates, be in such denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such a manner, be payable in such medium of payment and at such places, and be subject to such terms of redemption, with or without premium, as such resolution may provide.
 - c. The obligations may be sold at public or private sale at not less than par.
 - d. In case any of the commissioners of the Authority whose signatures appear on any obligations cease to be commissioners before the delivery of such obligations, the signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if the commissioners had remained in office until delivery.
5. Obligations of the Authority shall be fully negotiable. In any suit, action or proceeding involving the validity or enforceability of any obligations of the Authority or the security therefore, any such obligation reciting in substance that it has been issued by the Authority to aid in financing a project pursuant to this ordinance shall be conclusively deemed to have been issued for such purpose, and the project for which such obligation was issued shall be conclusively deemed to have been planned, located and carried out in accordance with the purposes and provisions of this ordinance.
6. In connection with the issuance of obligations, or incurring of obligations under leases and to secure the payment of such obligations, the Authority, subject to the limitations in the ordinance, may:
 - a. Pledge all or part of its gross or net rents, fees, or revenues to which its right then exists or may thereafter come into existence.
 - b. Provide for the powers and duties of obliges and limit their liabilities; and provide the terms and conditions on which such obliges may enforce any covenant or rights securing or relating to the obligations.

- c. Covenant against pledging all or any part of its rents, fees and revenues or against mortgaging any or all of its real or personal property to which its title or right then exists or may thereafter come into existence or permitting or suffering any lien on such revenues or property.
- d. Covenant with respect to limitations on its right to sell, lease or otherwise dispose of any project or any part thereof.
- e. Covenant as to what other or additional debts or obligations may be incurred by it.
- f. Covenant as to the obligations to be issued and as to the issuance of such obligations in escrow or otherwise, and as to the use and disposition of the proceeds thereof.
- g. Provide for the replacement of lost, destroyed or mutilated obligations.
- h. Covenant against extending the time for the payment of its obligations or interest thereon.
- i. Redeem the obligations and covenant for their redemption and provide the terms and conditions thereof.
- j. Covenant concerning the rents and fees to be charged in the operation of a project or projects, the amount to be raised each year or other period of time by rents, fees, and other revenues, and as to the use and disposition to be made thereof.
- k. Create or authorize the creation of special funds for monies held for construction or operation costs, debt services, reserves and other purposes, and covenants as to the use and disposition of the monies held in such funds.
- l. Prescribe the procedure, if any, by which the terms of any contract with holders of obligations may be amended or abrogated, the proportion of outstanding obligations of the holders of which must consent thereto, and the manner in which such consent may be given.
- m. Covenant as to the use, maintenance and replacement of its real or personal property, the insurance to be carried thereon and the use and disposition of the insurance monies.
- n. Covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition or obligation.
- o. Covenant and prescribe as to the events of default and terms and conditions upon which any or all of its obligations become or may be declared due before maturity, and as to the terms and conditions upon which such declarations and its consequences may be waived.
- p. Vest in any obligees or any proportion of them the right to enforce the payment of the obligations or any covenant securing or relating to the obligations.
- q. Exercise all or any part or combination of the powers granted in this section.
- r. Make covenants other than and in addition to the covenants expressly authorized in this section, of like or different character.
- s. Make any covenants ad to any acts and things necessary or convenient or desirable in order to secure its obligations, or in the absolute discretion of the Authority, tending to make the obligations more marketable, although the covenants, acts or things are not enumerated in this section.

ARTICLE VII

MISCELLANEOUS

1. The Authority will prepare an annual report for the Tribal Council consistent with Section 403 and 404 of NAHASDA and make those reports public. The authority will also make all self-monitoring records available to the Tribe as required under NAHASDA.

2. During his tenure, and for one year thereafter, no commissioner, officer or employee of the Authority, or any member of any governing body of the Tribe, or any other public official who exercises any responsibilities or functions with regard to the project, shall voluntarily acquire any financial interest, direct or indirect, in any project or in any property included or planned to be included in any project, or in any contract or proposed contract relating to any project, unless prior to such acquisition, he discloses his interest in writing to the Authority and such disclosure is entered upon the minutes of the Authority, and the commissioner, officer, or employee shall not participate in any action by the Authority relating to the property or contract in which he has such interest. If any commissioner, officer or employee of the Authority involuntarily acquires any such financial interest, or voluntarily or involuntarily acquired any such financial interest prior to appointment or employment as a commissioner, officer or employee, the commissioner, officer or employee, in any such event, shall immediately disclose his financial interest in writing to the Authority, and such disclosure shall be entered upon the minutes of the Authority and the commissioner, officer or employee shall not participate in any action by the Authority relating to the property or contract in which he has any such financial interest.
3. Any violation of the foregoing provisions of this section shall constitute misconduct in office. This section shall not be applicable to the acquisition of any interest in obligations of the Authority issued in connection with any project, or to the execution of agreements by banking institutions for the deposit or handling of funds in connection with a project or to act as trustee under any trust indenture, or to utility services the rates for which are fixed or controlled by a governmental agency, or to membership on the Board as provided in Article IV, Section 1 (a) (4).
4. Each project developed or operated under a contract providing for Federal financial assistance shall be developed and operated in compliance with all requirements of such contract and applicable Tribal and Federal legislation and with all regulations and requirements prescribed from time to time by the Tribal and Federal Government in connection with such assistance.
5. The Authority shall obtain or provide for the obtaining of adequate fidelity bond coverage of its officers, agents, or employees handling cash or authorized to sign checks or certify vouchers.
6. The property of the Authority is declared to be public property used for essential public and governmental purposes and such property and the Authority are exempt from all taxes and special assessments as cited in PL 104-330, Sec. 101 (D).
7. All property including funds acquired or held by the Authority 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 Authority be a charge or lien upon such property. However, the provisions of this section shall not apply to or limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by the Authority on its rents, fees or revenues or the right of the Federal Government to pursue any remedies conferred upon it pursuant to the provisions of this ordinance of the right of the Authority to bring eviction actions in accordance with Article VI, Section 3 (1).
8. In conducting its business, the Authority will adopt and follow a procurement policy that is in compliance with any applicable tribal laws.

ARTICLE VIII

COOPERATION IN CONNECTION WITH PROJECTS

1. For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of projects, the (Name) Tribe hereby agrees that:
 - a. It will not levy or impose any real or personal property taxes or special assessments upon the Authority or any project of the Authority.
 - b. It will furnish or cause to be furnished to the Authority and the occupants of projects all services and facilities of the same character and to the same extent as the Tribe furnishes from time to time without cost or charge to other dwellings and inhabitants.
 - c. 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 and protection of such project, and the surrounding territory.
 - d. It will do any and all things, within its lawful power, necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of projects.
 - e. The (Name) Tribal Government hereby declares that the power of the Tribal Government shall be vigorously utilized to enforce eviction of a tenant or homebuyer for nonpayment or other contract violations including action through the appropriate courts.
 - f. The (Name) Tribal Court shall have jurisdiction to hear and determine an action of eviction of a tenant or homebuyer. The (Name) Tribal Government hereby declares that the powers of the Tribal Courts shall be vigorously utilized to enforce eviction of a tenant or homebuyer for nonpayment or other contract violations.

CERTIFICATION

The foregoing ordinance was adopted by the Tribal Council on the ____ Day of _____, 200_

ATTEST:
