

DEPARTMENT OF KLAMATH TRIBAL HOUSING

Section 1. Authority and Purpose.

The Klamath Tribes' ("Tribes") authority arises from its inherent sovereign powers and status as an independent government and from such authorities as may be delegated to it due to its status as an independent government and due to its relationship with the United States of America or other sovereign powers. This authority is exercised in accordance with the Constitution of the Klamath Tribes, Tribal ordinances, resolutions and other expressions of Tribal sovereignty. The Tribes possess the authority to provide for the health, safety, and welfare of the Tribes, Klamath Tribal members, and those who may be directly or indirectly associated with the Tribes. The purpose of this Ordinance is to form an efficient and cohesive Department of Klamath Tribal Housing ("Department") while avoiding duplicative financial expenditures and effort in order to maximize serves to those who are or who become eligible for Tribal housing services. This will be accomplished through the development of a cohesive and unified working relationship with clearly delineated roles among the Department of Klamath Tribal Housing, the Klamath Tribal Housing Advisory Committee, the Klamath Tribal Executive Committee and Klamath Tribal Administration.

This Ordinance shall be effective upon the date of approval by the Klamath Tribal General Council as adopted at meeting of the Klamath Tribal General Council.

Section 2. Declaration of need.

It is declared:

A. That it is the goal that all tribal members be afforded adequate, safe, sanitary and livable housing. It is further declared that the policy of the Tribes is to provide tribal housing services in a manner that will ensure that low income persons are afforded first priority for those services.

B. That there exists in the service area of the Klamath Tribes unsanitary, unsafe and overcrowded 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; and that such shortage forces such persons to occupy unsanitary, unsafe and overcrowded dwelling accommodations;

C. 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;

D. That the shortage of decent, safe and sanitary dwellings for persons of low income cannot be relieved through the operation of private enterprises;

E. 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 governmental functions of tribal concern;

F. 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 and acquisition 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; and

G. That the necessity in the public interest for the provisions hereinafter enacted is declared as a matter of legislative determination.

Section 3. Definitions.

A. For purposes of this Ordinance, the following words shall have the definitions attached to them herein unless a different meaning clearly appears from the context:

1. "Klamath Tribes" or "Tribes" means the sovereign Indian nation comprised of the Klamath Tribe, the Modoc Tribe, and the Yahooskin Band of Snake Indians.

2. "Executive Committee" or "Tribal Council" means the representative elected body of the Klamath Tribes General Council. The Executive Committee is comprised of the Tribal Chairperson, Tribal Vice-Chairperson, Tribal Secretary, Tribal Treasurer, and six (6) at large members.

3. "Director" or "Department Director" means the person hired by the Tribes to serve as the director of the Department of Tribal Housing and assigned to fulfill his or her duties as provided in this ordinance and other relevant documents.

4. "General Manager" means the person hired by the Tribes to serve as the overall supervisor of the administrative and other offices and departments of the Klamath Tribes.

5. "Area of operation" means all areas within the jurisdiction of the Tribes.

6. "Federal government" means the United States of America, and any of its agencies, instrumentalities, corporate or otherwise.

7. "Home buyer" means a person(s) who has executed a lease-purchase agreement with the Department and who has not yet achieved home ownership.

8. "Housing project", "project" and "housing services" means any work or undertaking to provide or assist in providing (by any suitable method, including buy not limited to: rental, sale of individual units in single or multifamily structures under conventional condominium, or cooperative sales contracts or lease-purchase agreements; loans; or subsidizing of rentals or charges) decent, safe and sanitary dwellings, apartments or other living accommodations for persons of low income. Such work or undertaking also includes buildings, land, leaseholds, equipment, facilities and other real or personal property for necessary streets, sewers, water

service, utilities, parks, administrative, community, health, recreational, welfare or other purposes. These terms also include 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 improvements 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.

9. "Persons of low income" means persons or families who cannot afford to pay enough to cause private enterprise in their locality to provide an adequate supply of decent, safe, and sanitary dwellings for their use.

10. "Tribal Housing Authority" means that body which was previously created and serving as the primary body responsible for Klamath Tribal Housing services and which is extinguished hereby by the adoption of this Ordinance.

Section 4. Purposes.

A. The Department shall be operated for the following purposes:

1. To remedy unsafe and unsanitary housing conditions that are injurious to the public health, safety, and morals;

2. To alleviate the acute shortage of decent, safe and sanitary dwellings for persons of low income;

3. To provide employment opportunities through the construction, reconstruction, improvement, extension, alteration or repair and operation of low income;

4. To serve as the principle housing organization and department of the Tribes for comprehensive housing planning, delivery of housing services, and evaluation of housing and housing programs for the Tribes;

5. To establish and maintain the fiscal integrity and accountability of housing programs of the Klamath Tribes;

6. To coordinate and develop to their maximum potential all appropriate resources of the Klamath Tribes, the federal government, agencies, groups of individuals to provide housing services to the Klamath Tribes, and, as appropriate, the local community;

7. To avoid duplication of services and efforts to maximize efficiency and effectiveness in the delivery of housing services;

8. To ensure that the lines of communications between the tribal people, tribal government, tribal committees, and Department staff remain open to provide for the maximum possible beneficial services to the tribal service population; and

9. To do all other things necessary and proper to accomplish the purposes set forth above in accordance with Tribal law and policy which are not otherwise forbidden by law or the Tribes' policies and procedures.

B. The Department shall be organized in the following manner:

1. Department Director:

a. Employment: The *Department Director* (“*Director*”) shall be a regular Tribal employee and shall be hired in accordance with applicable tribal policies and procedures. The hiring body may utilize such outside expertise as it deems advisable in hiring the Director. The Tribal General Manager shall serve as the Director’s immediate supervisor. *Provided, however,* that the Director shall serve at the pleasure of the Executive Committee and shall not be entitled to the grievance procedures generally available to other Tribal employees due to their status as tribal employees.

b. Director’s duties: The Director shall fulfill the duties set forth in the Director’s job description and such other duties or directives as may be reasonably required of him or her. In addition, unless excused, the Director shall attend all Klamath Tribal Housing Advisory Committee meetings, work in a cooperative relationship with that body to ensure that their recommendations are considered, and provide periodic reports to the Executive Committee.

The Director shall work with the Executive Committee and tribal staff to ensure that, within 180 days after the effective date of this Ordinance, all properties which may be held in the name of the Klamath Tribal Housing Authority are transferred to and recorded in the name of the Klamath Tribes and that all other administrative, personnel and other activities and duties are, to the maximum extent feasible, in compliance with the applicable tribal policies, procedures, and laws. Within that period of time, the Director shall also work with the Executive Committee and such federal and other agencies as may be necessary to accomplish a smooth and efficient transfer of all duties, activities, responsibilities, obligations, and such other items or activities from the formerly existing Klamath Tribal Housing Authority to the newly created Department of Klamath Tribal Housing.

From time to time, the Director:

1. May recommend to the Executive Committee and, if authorized, undertake and carry out studies and analyses of housing needs and prepare housing needs study and analyses results.
2. May recommend that the department undertake and operate certain projects, including providing for the construction, reconstruction, improvements, extensions, alterations or repairs of any housing project or any part thereof.

The Director may also advise the Executive Committee on the wisdom of joining and cooperating with any other public housing agency or agencies operating under the laws or ordinances of a state or another tribe, either jointly or otherwise, for mutually beneficial purposes.

c. Certain duties and authorization for delegation of authority. This provision shall not be construed as a delegation of authority. However, since the Department is expected to enter into numerous agreements and/or arrangements with individuals, governments and other entities in performing its duties, the Executive Committee is hereby authorized to provide written

delegations of authority for carrying out certain duties and activities. No delegations of authority shall be valid or presumed in the absence of a specific "Delegation of Authority" document which shall be developed by the Executive Committee. Delegations may be for a class of actions or for any particular action. The following actions and duties are among the duties and authorities which may be delegated:

1. The authority to lease property from persons or entities for such periods as are authorized by law, and to hold and manage or to sublease the same;
2. The authority to purchase land or an interest in land or take the same by gift;
3. The authority to lease land or interests in land to the extent permitted by law;
4. With respect to any dwellings, accommodation, lands, buildings or facilities embraced within any projects (including individual cooperative or condominium units); the authority 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 home buyers, including the establishment of priorities, concerning the occupancy, rental, care and management of housing units; and to make sure further rules and regulations that are deemed necessary and desirable are effectuated;
5. The authority to finance the purchase of a home by an eligible home buyer in accordance with applicable laws, rules, and regulations;
6. The authority to terminate any lease or rental agreement or lease-purchase agreement when the tenant or home buyer has violated the terms and conditions of an 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 home buyer before the Tribal Executive Committee, the Tribal General Council or, when established, the Tribal Court.
7. To establish income limits to insure that dwelling accommodations in a housing project shall be made available only to a person of low income.
8. To purchase insurance from any stock or mutual company for any property or against any risk or hazards.

d. Reporting Requirements: The Director shall report to the Executive Committee, in the form requested by the Executive Committee, at least monthly. Monthly reports shall include, at a minimum: (1) the financial status of the Tribal Housing Department; (2) any particular successes or problems which are being or have been recently encountered by the Department; (3) the number of units and vacancies; and (4) such other information as the Executive Committee may reasonably require. In addition, the Director shall be responsible for ensuring that complete and accurate financial records are maintained by the Department. At least annually, and as directed by Executive Committee, the Director shall submit a written report to the Executive Committee which shall include:

1. A summary of the year's activities;
2. The financial condition of the Department;

3. The condition of any property for which management is the primary responsibility of the Department; and
4. Any significant problems and accomplishment;
5. Plans for the future;
6. The number of units and vacancies; and
7. Such other information as the General Manager or the executive committee shall deem appropriate.

A copy of the report shall also be delivered contemporaneously to the Klamath Tribal Housing Advisory Committee.

Section 5. Miscellaneous

A. Each program 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 federal legislation and regulations.

B. The Department shall obtain or provide for the obtaining of adequate fidelity bond for any officers or personnel handling cash, or authorized to sign checks or certify vouchers.

C. All properties utilized by the Department are declared to be public property used for essential public and governmental purposes and such property and the Department and Tribes are exempt from all taxes and special assessments.

D. All property including funds acquired or held by the Department pursuant to this Ordinance shall be exempt from levy and sale by non-Klamath Tribal governmental entities by virtue of an execution, and no execution or other judicial process by a non-Klamath Tribal governmental entity shall issue against the same nor shall a judgement against the Department be a charge or lien upon such property except by a Klamath Tribal governmental entity. However, this section shall not work to limit the right of an obligee to pursue any authorized remedies for the enforcement of any pledge or lien specifically given as security pursuant to a transaction expressly entered into for that purpose to the extent that the Tribes may expressly waive their sovereign immunity for that purpose. Further, no waiver which may have been provided in whole or in part by the Klamath Tribal Housing Authority shall operate against the Klamath Tribes except as may be clearly and expressly authorized in writing by the Tribal Executive Committee after the date on which this ordinance becomes effective. This provision is not, and shall not be construed as, a waiver of sovereign immunity and does not imply that one has been given.

E. All funds received by the Department or by the Tribes on behalf of the Department shall be spent by the to advance the purposes set forth in this Ordinance, which may include lawful support for Tribal governmental support services and operations.

Section 6. Klamath Tribal Housing Advisory Committee

The Klamath Tribal Housing Advisory Committee ("KHoAC") shall be organized and operated in accordance with the following guidelines and for the following purposes:

A. Composition and Appointment: The KHoAC shall serve as an advisory committee to the Executive Committee and to the Director. It shall be composed of five (5) General Council members, each of whom may be a member or nonmember of the Executive Committee. To the maximum extent practicable, the KHoAC's composition should reflect the composition of the service area community, including geography. The Tribal Chairperson shall be an ex officio member of the KHoAC and may participated fully in all proceedings and vote on all actions. The KHoAC members shall be appointed, and may be reappointed, by the Chairperson of the Klamath Tribes after consultation with the KHoAC Chairperson and upon the confirmation of a majority of the Executive Committee. A certificate of the Secretary of the Executive Committee shall be conclusive evidence of proper appointment or reappointment of a KHoAC member. No person shall be barred from serving on the KHoAC because such person receives services through the authority's programs. No KHoAC member shall participate in any matter involving his or her individual rights, obligations or status. No individual KHoAC member, regardless of position, acting alone and without KHoAC approval is empowered or authorized to take any action or make any public statement regarding the Department's or KHoAC's positions on any matter.

B. Advisory Capacity: The KHoAC shall serve in an advisory capacity to the Executive Committee and to the Director in order to promote comprehensive Department planning, delivery of housing services, and evaluation of housing and Department programs.

1. "Advisory" capacity to the Executive Committee means that the KHoAC shall assist the Executive Committee in understanding the housing, housing project, and housing services needs of Klamath Tribal members and such other persons or entities as Department may serve. As with other Tribal Committees, the KHoAC does not supervise the Executive Committee on Tribal Housing matters nor is it empowered to require that certain actions be taken or to require or demand that the Executive Committee engage in or approve any particular recommended course of action. The KHoAC shall review, but does not have approval authority over, all required or requested reports that the Director submits to the Executive Committee. Such duty or authority of review does not extend to reports or portions thereof that may be deemed confidential. The Chairperson or the Secretary of the KHoAC shall also be present at all Executive Committee meetings where the Director is expected to present or submit required or requested reports.

2. "Advisory" capacity to the Director means that the KHoAC shall assist the Director in understanding the housing and housing project needs of Klamath Tribal members and such other persons or entities as the Department may serve and in the planning and delivery of those services, and evaluation of housing and Department programs. The KHoAC is not authorized to supervise the Director on Tribal Housing matters or to require or demand that the Director engage in or approve any particular recommendation and shall not be involved in Department personnel matters except upon Executive Committee request, and then in only an advisory capacity.

CTerm of office: KHoAC member terms of office shall be four years and staggered. When the KHoAC is first established, one member's terms shall be designated to expire in one year, another member's terms in two years, another member's terms in three years, and the last

two members' terms to expire in four years. KHoAC members serve at the pleasure of the Executive Committee and may be removed from the KHoAC when deemed necessary by the Executive Committee.

D. Officers: The KHoAC shall elect annually from among its members the following officers: a chairperson, vice-chairperson and a secretary. In the absence of the chairperson, the vice-chairperson shall preside, and in the absence of the vice-chairperson, the secretary shall preside. The Secretary shall keep complete and accurate records of all meetings and actions taken by the board.

E. Compensation: KHoAC members are neither employees nor agents of the Tribes and are not empowered to bind the Tribes or the Department. As volunteer workers however, upon prior Executive Committee approval, KHoAC members shall be entitled to compensation for reasonable expenses, including travel and training expenses, reasonably incurred in the discharge of their duties.

F. Meetings: The KHoAC shall meet at regular intervals and at such other times as may be allowed by this ordinance, but no less than monthly. Emergency meetings may be held upon twenty-four (24) hours actual notice and business transacted; provided, that not less than a majority of the full KHoAC (at least 3 if 5 members, and at least 4 if 7 members, not including the Executive Committee Chairperson) concurs in the proposed business, action or recommendation. Regular and special meetings may be held upon seven days' written notice to each KHoAC member (including the Tribal Chairperson). Notice of meetings shall be provide by the chairperson or any two officers (vice-chairperson and secretary). Notice of meetings, other than emergency meetings, shall be posted at usual and accustomed tribal locations and published in the tribal newsletter or other tribal publication where time permits.

F. By-laws: The KHoAC shall operate in accordance with by-laws approved by the Executive Committee. However, where the KHoAC believes that certain amendments to the by-laws are advisable it may develop such proposed amendments and present them to the Executive Committee for its review. The Executive Committee may approve, modify or reject the proposed amendments. Neither the by-laws nor any amendments thereto shall take effect until final approval by the Executive Committee.

Section 7. Amendments.

This Ordinance may be modified or repealed in the usual and accustomed manner as Tribal Ordinances are adopted, *provided however*, that if the Tribes adopt a written and formal procedure for adopting or amending tribal ordinances, actions to modify or repeal this ordinance shall be effective only if undertaken in the manner established therein.