

LUMBEE TRIBE OF NORTH CAROLINA

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ORDINANCE NO: 2006-0002

DATE: March 23, 2006

WHEREAS, The Lumbee Tribe of North Carolina, a recognized Indian Tribe of the State of North Carolina, subject to the Constitution of the Lumbee Tribe of North Carolina and its inherent powers of self-government; and

WHEREAS, Article VII, Number 7 of the Constitution of the Lumbee Tribe of North Carolina provides authority to the Tribal Council to remove from office by a governing tribal ordinance any council member for failure to attend regularly scheduled meetings, and

WHEREAS, Article VII, Number 1b provides legislative authority to adopt rules and regulations to govern the procedures and decorum of Tribal Council; and

WHEREAS, to remove a Tribal Council member from office for failure to attend meetings, there must be guidelines and criteria for determining excused and unexcused absences from Tribal Council meetings and the processes to be used for the removal of a Tribal Council member.

THEREFORE, Be it enacted by the Tribal Council of the Lumbee Tribe of North Carolina the following ordinance that shall be cited as "**Removal of a Tribal Council Member for Failure to Attend Council Meetings**"; and

THEREFORE, Be it resolved that this ordinance shall become effective immediately once it has met the requirements of the Constitution of the Lumbee Tribe of North Carolina.

SECTION 1: REMOVAL OF TRIBAL COUNCIL MEMBER FOR FAILURE TO ATTEND MEETINGS

A member of the tribal council may be removed by a vote of the Tribal Council for the failure to be physically present, consecutively, at three (3) regular called meetings or three (3) special called meetings without cause. Special called meetings are necessary to conduct the business of the Tribe and are required by certain tribal laws. If a Council member is to fulfill his or her obligations and responsibilities to the Tribe, special called meetings must be considered in the removal of a Tribal Council member.

Absences from a meeting shall be evaluated by the following standards, which shall be used to determine if the cause for absences is with or without cause:

- A. What influence does the absence of the Tribal Council member have on the Council meetings (need for quorum, 2/3 vote, additional work for other council members)?
- B. If an illness is stated as the reason for not being present, what is the expected period of time the member will have to be excused from attendance. Is the incapacity from physical or mental disability, to the extent that he/she is incapable of exercising judgment about or attending to the legislative responsibility of the Tribal Council.
- C. If absence is job related, how often is the absence expected to occur? Did job obligation exist when the council member was elected to office?
- D. What has been the attendance record of the Tribal Council member in the past?

SECTION 2: CONTENT OF A PETITION FOR REMOVAL OF A TRIBAL COUNCIL MEMBER

If the Speaker is the subject of the removal, then the Petition for Removal shall be presented to the Vice-Chairman. In the absence of the Speaker and the Vice-Chairman, the Petition may be presented without advance notice at a regular meeting of the full Council or may be a part of the meeting agenda. A petition for the removal of a member of the Tribal Council shall be legibly handwritten or typed on any standard sheet of paper and shall contain the following information:

- A. The name of the person sought to be removed,
- B. The beginning and expiration date of the term of office for the person to be removed.
- C. A written statement of each of the charges which individually or collectively are a justifiable cause for removal, and,
- D. A signed statement by the member or members of the body filing the Petition for Removal that verifies that such allegations are true and correct to the best of his/her or their knowledge.

SECTION 3: PROCESS FOR FILING A PETITION FOR REMOVAL OF A TRIBAL COUNCIL MEMBER

In order to assure that any Petition for Removal of a Tribal Council member is not impeded, obstructed or hindered by any member or members of the seated Tribal Council, the request for a Petition for Removal to be added to the agenda shall be

- A. Approved by the Tribal Council speaker if the request for addition to the agenda is made in advance, or
- B. Added to the agenda, if presented at the regular Tribal Council meeting and do not require a vote of the members present.

Parts A and B of Section 3 of this Ordinance applies only to the Petition for Removal of a Tribal Council member and does not apply to any other tribal law regarding the

approval of the Tribal Council speaker or the vote of the Tribal Council members for an item to be placed or added to the agenda.

SECTION 4: PROCEDURES OF THE SPECIAL CALLED MEETING FOR HEARING THE PETITION FOR REMOVAL OF TRIBAL COUNCIL MEMBER

When the Petition for Removal document has been presented to the Tribal Council,

- A. The Speaker shall set a time and date for a special called meeting of the Tribal Council, of which he or she shall chair.
 - a. If the Speaker is the subject of the removal, then the Petition for Removal document shall be presented to the Vice-Chairman, who shall set a time and date for a special called meeting and shall chair the meeting.
 - b. In the absence of the Speaker and the Vice-Chairman's capacity to fulfill this responsibility, the Tribal Council shall elect from among the members present at the time the Petition for Removal is presented, a person to accept the Petition and set a time and date for a special called meeting of the Tribal Council and to chair the special called meeting.
- B. The special called meeting shall be called to order at the appointed time
- C. A declaration of quorum shall be announced
- D. The subject of the Petition for Removal shall be given the floor to answer the charge/s of cause for removal as identified in the Petition.
- E. The subject of the Petition may inquire, as in a court proceeding, of the charge/s of cause for removal from the Tribal Council.
- F. The subject may call witnesses under oath who volunteer to testify on his or her behalf.
- G. Any member of the government involved may question the subject or their witnesses concerning the charges.
- H. The chair may limit testimony that does not pertain to charges related to the Petition
- I. The chair of the meeting may recess the special called meeting as time requires, but in no event shall the meeting be extended more than five (5) days.
- J. At the conclusion of the answer by the subject, the member or members may present reasonable rebuttal by sworn testimony of himself and others who volunteer to testify under oath if he or she deems rebuttal necessary. Such persons testifying may be questioned by the subject.
- K. After testimony has been heard, the chair of the meeting shall declare a closed session of the Tribal Council at the end of the special meeting to discuss whether justifiable cause for removal exists.
- L. After the closed session of the Tribal Council, the governmental body shall return to open session and determine whether justifiable cause exists to remove the subject of the removal. A roll call vote shall be required and all votes shall be recorded. An affirmative vote of two-thirds (2/3) of those present and casting a vote, shall be required for the Petition of Removal to be considered as voted for.
- M. After the vote is announced, the special called meeting shall be deemed adjourned.

SECTION 5: SANCTIONS OF A TRIBAL COUNCIL MEMBER REMOVED UNDER THE AUTHORITY OF THIS ORDINANCE

If the Petition for Removal of a Tribal Council member is successful, the Tribal Council member

- A. Will be automatically removed from his or her position as a Tribal Council member for the remainder of his or her term, AND
- B. Shall not be eligible to be a candidate for the office of Tribal Council representative again, until at least one full term of office has lapse

CERTIFICATION

THIS ORDINANCE NO. 2006-0002 ADOPTED THIS THE 23RD DAY OF MARCH, 2006 AT A MEETING OF TRIBAL COUNCIL OF THE LUMBEE TRIBE OF NORTH CAROLINA BY A VOTE OF 15 FOR, 5 AGAINST.

Wendy Brooke Strahan 04-03-06
Secretary of the Tribal Council of the Lumbee Tribe of North Carolina Date

James E. Davis
Tribal Chairman of the Lumbee Tribe of North Carolina Date

POSTING

This Ordinance No. 2006-0002 duly posted in the Office of the Lumbee Tribe of North Carolina on this the 3rd day of April, 2006.

Ruth B. Liddle 04-03-06
Tribal Clerk of the Lumbee Tribe of North Carolina Date