

LUMBEE TRIBE OF NORTH CAROLINA

ORDINANCE NO. 2004-003

DATE: OCTOBER 21, 2004
Amended: November 16, 2006
Amended: March 21, 2013

"ORDINANCE ON TH ESTABLISHMENT OF AN ADMINISTRATIVE COURT"

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, Section 1 of the Constitution of the Lumbee Tribe of North Carolina delegates all legislative authority to the Tribal Council; and

WHEREAS, Tribal member or those seeking tribal membership are entitled to due process when adverse decisions are made with regard to services and enrollment; and

THEREFORE, Be it enacted by the Tribal Council of the Lumbee Tribe of North Carolina this ordinance shall be cited as **"ORDINANCE ON THE ESTABLISHMENT OF AN ADMINISTRATIVE COURT"**.

SECTION 1: COMPOSITION AND QUALIFICATIONS

1. The Court shall consist of five (5) sitting judges who shall serve five year (5) terms after the first term of office as described in Section 2(A) of this ordinance.
2. These judges shall have the following qualifications:
 - a. Minimum age of thirty (30) years at time of appointment;
 - b. Reside inside tribal territory;
 - c. Be an enrolled tribal member;
 - d. Possess experience in state, local, and/or federal programs and knowledge of Tribal laws as demonstrated by past experience or work vocation;
 - e. Must possess at least a GED diploma; and
 - f. Meet all other qualifications established by tribal law.
3. No person shall serve on the Administrative Court who, for the past one (1) year, was employed by, contracted by, and/or volunteered with the Tribal Government by virtue of appointment or election.

SECTION 2: TERM

1. The first Court shall serve staggered terms with one judge serving a one-year term, one judge a two-year term, one judge a three year term, one judge a four-year term, and another judge serving a five year term. A method of chance shall be used to determine the term of office under this Section. Thereafter, each appointed judge shall serve a five-year term.
2. Judges may serve no more than two (2) consecutive term(s).

SECTION 3: APPOINTMENT AND REMOVAL

1. In order to appoint judges that are geographically representatives of the tribal territory, the tribal territory shall be divided into five (5) districts, along Tribal Council District lines, with one (1) judge to the Administrative Court to be chosen from each of the five districts.
2. The five Administrative Court districts shall be drawn down according to:
 - a. District 1: Tribal Council Districts 1 and 7
 - b. District 2: Tribal Council Districts 2, 3 and 14
 - c. District 3: Tribal Council Districts 6, 8 and 9
 - d. District 4: Tribal Council Districts 4, 10, 11 and 13
 - e. District 5: Tribal Council Districts 5 and 12
3. Five (5) appointing committees, coinciding with the aforementioned districts with each committee comprised of members of the Tribal Council representing said district, shall, by a majority vote of the members of each committee, bring forth for consideration the name of one (1) judge from the district, and to the extent possible, avoid adjacent communities.
4. The Tribal Council shall confirm the appointment of all judges by a majority vote of the seated Tribal Council after a confirmation hearing has been held by the seated Tribal Council.
5. A judge may be removed from office with a two-thirds (2/3) vote of the seated Tribal Council by the procedures set forth in tribal law on removal of elected and appointed positions.
6. A judge may hear a case in which he or she has a conflict of interest provided that he or she has fully disclosed the interest to all parties and all parties are agreeable to the judge hearing the case.
 - a. The official proceedings of the case shall document any conflict of interest and the resolution of the conflict.

SECTION 4: JURISDICTION

The Administrative Court shall hear all complaints arising, except those identified or designated according to the Tribal Constitution, including but not limited to the administration of tribal programs, denial of tribal membership and removal, except the Court may decline any case upon a majority vote of the judges.

1. Prior to filing in Administrative Court, petitioners or appellants are required to exhaust whatever non-judicial remedies may exist.
2. Nothing in this section shall prohibit a person from appealing a declination or adverse decision to the Tribal Supreme Court, providing an appeal is duly filed with the Supreme Court not less than thirty (30) days and no more than sixty (60) calendar days from date of notification of an adverse tribal decision.
3. If all tribal courts decline to hear the case, the action shall constitute final tribal action.
4. A majority vote consisting of three (3) judges voting in like manner is required for a decision to hear or decline to hear a petition.

SECTION 5 : TEMPORARY RESTRAINING ORDERS AND INJUNCTIONS

1. A written complaint must be filed with the court before a temporary restraining order may be issued. A temporary restraining order may be granted by any Administrative judge where the applicant can show clear and convincing evidence that immediate and irreparable injury, loss or damage will result to the applicant if the temporary restraining order is not granted.
2. Every temporary restraining order shall:
 - a. Set forth, in writing, the reasons for its issuance;
 - b. Be specific in its terms;
 - c. Describe with specificity the act or acts that are to be restrained;
 - d. Define the injury and state why it is irreparable;
 - e. State the date and hour of its issuance;
 - f. Expire at a definite time, not to exceed ten working days, unless extended for good cause, or by consent of the adverse party.
3. Every injunction shall:
 - a. Set forth, in writing, the reasons for its issuance;
 - b. Be specific in its terms;
 - c. Describe with specificity the act or acts that are to be stopped;
 - d. Define the injury and state why its irreparable.

SECTION 6: RULES OF THE COURT

The Administrative Court shall develop rules for its internal operations and conduct of hearings.

1. In addition, this rule shall be imposed for the purpose of Petition Process/Time-Frame for a filed petitioner's complaint and shall be subject to the following provisions:

- a. A requirement of (45) forty-five calendars days to give final decision to petitioner.
- b. Within the first (10) ten calendars days after being filed by the Administrative Designee/Liaison, the Chief Judge or Court Designee shall notify the petitioner of receipt by mail.
- c. The Court shall meet within the (15) fifteen calendars days of petition being filed to discuss if the case will be heard before the Court.
- d. The Chief Judge or Court Designee shall have (25) twenty-five calendars days from the date that the petition has filed to notify the petitioner if his or her case will or will not be heard by Certified Mail.
- e. If the case is to be heard the Court shall have (35) thirty-five calendars days from the date the petition was filed to hear the case.
- f. The Court shall in (45) forty-five calendars days from the date the petition was filed to notify the petitioner by Certified Mail the decision on their case.
- g. The failure of the Chief Judge or Court Designee to meet the (45) forty-five calendars days requirement shall be subject to disciplinary action. Such disciplinary action may result in suspension or removal from his or her appointed office.
- h. The Court, Petition or Respondent may request a delay inclusive of a written reason prior to the scheduled court date. Such request for delay shall be no later than 72 hours before the scheduled court date. The delay can be for a period of no more than (14) calendar days.

SECTION 7: SEVERABILITY

If any section, subsection, paragraph, sentence, phase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct, and independent provision and such shall not affect the validity of the remaining portions thereof.

CERTIFICATION

THIS ORDINANCE NO. 2004-003 "ORDINANCE ON THE ESTABLISHMENT OF AN ADMINISTRATIVE COURT", ADOPTED AT A MEETING OF THE 21-MEMBER TRIBAL COUNCIL OF THE LUMBEE TRIBE OF NORTH CAROLINA WHERE 17 MEMBERS WERE PRESENT, CONSTITUTING A QUORUM, THIS THE 21ST DAY OF MARCH, 2013 BY A VOTE OF 13 FOR, 4 AGAINST, 0 ABSTENTION(S)

Pearlean Revels April 16, 2013
ATTEST: PEARLEAN REVELS Date
Speaker, Tribal Council of the Lumbee Tribe of North Carolina

Larmari Louise Mitchell April 16, 2013
ATTEST: LARMARI LOUISE MITCHELL Date
Secretary, Tribal Council of the Lumbee Tribe of North Carolina

PAUL BROOKS Date
Chairman, Lumbee Tribe of North Carolina

POSTING

This ORDINANCE NO. 2004-003 "ORDINANCE ON THE ESTABLISHMENT OF AN ADMINISTRATIVE COURT", duly posted on this the ____ day of April, 2013.

Cynthia L. Hunt April 16, 2013
ATTEST TO THE SIGNATURE OF THE TRIBAL COUNCIL SPEAKER AND TRIBAL COUNCIL SECRETARY Date
Cynthia L. Hunt, Tribal Clerk, Lumbee Tribe of North Carolina

**ROLL CALL VOTE RESULTS TO ADOPT
ORDINANCE NO. 2004-003
“ORDINANCE ON THE ESTABLISHMENT OF AN ADMINISTRATIVE COURT”**

13 FOR, 4 AGAINST, 0 ABSTENTION(S)

District 1:	Evan Davenport	YES
District 2:	Terry Hunt	YES
	Larnari Louise Mitchell	YES
District 3:	Pearlean Revels	ABSENT
	Lesaundri Hunt	NO
District 4:	Jonathan Locklear	YES
District 5:	Bobby Oxendine	YES
	Charles Bullard	YES
District 6:	Larry Anthony Chavis	YES
	McDuffie Cummings	YES
District 7:	Robert Chavis	YES
	Larry Campbell	NO
	Terry Campbell	NO
District 8:	Steve Sampson	EXCUSED
District 9:	Anita Hammonds Blanks	NO
District 10:	Terry Collins	YES
District 11:	Linda Revels	YES
District 12:	Danita Locklear	ABSENT FOR VOTE
	Walter Lowery	YES
District 13:	William Maiden	EXCUSED
District 14:	Homer Fields	YES

CERTIFICATION OF VETO OVERRIDE

THIS VETO OVERRIDE OF “**ORDINANCE ON THE ESTABLISHMENT OF AN ADMINISTRATIVE COURT**” WAS CERTIFIED AT A MEETING OF THE 21 SEATED MEMBERS TRIBAL COUNCIL OF THE LUMBEE TRIBE OF NORTH CAROLINA WHERE 16 MEMBERS WERE PRESENT , CONSTITUTING A QUORUM, THIS 6TH DAY OF JANUARY, 2014 BY A VOTE OF 16 FOR, 0 AGAINST, ABSTENTION(S).

ROLL CALL VOTE RESULTS TO ADOPT “ORDINANCE ON THE ESTABLISHMENT OF AN ADMINSTRATIVE COURT” 16 FOR, 0 AGAINST, ABSTENTION(S)

District 1:	Evan Davenport	YES
District 2:	Terry Hunt	ABSENT
	Larmari Louise Mitchell	YES
District 3:	Lesaundri Hunt	YES
District 4:	Jonathan Locklear	ABSENT
District 5:	Bobby Oxendine	YES
	Charles Bullard	YES-TELECONFERENCE
District 6:	Larry Anthony Chavis	YES
	McDuffie Cummings	YES
District 7:	Robert Chavis	YES
	Larry Campbell	YES
	Terry Campbell	YES
District 8:	Steve Sampson	ABSENT
District 9:	Anita Hammonds Blanks	YES
District 10:	Terry Collins	YES
District 11:	Linda Revels	ABSENT
District 12:	Danita Locklear	YES
	Walter Lowery	YES
District 13:	William Maiden	YES
District 14:	Homer Fields	YES


ATTEST: MCDUFFIE CUMMINGS
Treasurer, Tribal Council of the Lumbee Tribe of North Carolina

1-6-14
Date


ATTEST: LARMARI LOUISE MITCHELL
Secretary, Tribal Council of the Lumbee Tribe of North Carolina

1-6-14
Date


ATTEST: MCDUFFIE CUMMINGS
Treasurer, Tribal Council of the Lumbee Tribe of North Carolina

1-8-14
Date


ATTEST: LARMARI LOUISE MITCHELL
Secretary, Tribal Council of the Lumbee Tribe of North Carolina

1-6-14
Date

CERTIFICATION OF VETO OVERRIDE

THIS VETO OVERRIDE OF “ORDINANCE ON THE ESTABLISHMENT OF AN
ADMINISTRATIVE COURT” WAS CERTIFIED AT A MEETING OF THE 21 SEATED MEMBER
TRIBAL COUNCIL OF THE LUMBEE TRIBE OF NORTH CAROLINA WHERE 16 MEMBERS
WERE PRESENT , CONSTITUTING A QUORUM, THIS 6TH DAY OF JANUARY, 2014 BY A
VOTE OF 16 FOR, 0 AGAINST, ABSTENTION(S).

ROLL CALL VOTE RESULTS TO ADOPT “ORDINANCE ON THE ESTABLISHMENT OF AN ADMINISTRATIVE COURT” 16 FOR, 0 AGAINST, ABSTENTION(S)

District 1:	Evan Davenport	YES
District 2:	Terry Hunt	ABSENT
	Larmari Louise Mitchell	YES
District 3:	Lesaundri Hunt	YES
District 4:	Jonathan Locklear	ABSENT
District 5:	Bobby Oxendine	YES
	Charles Bullard	YES-TELECONFERENCE
District 6:	Larry Anthony Chavis	YES
	McDuffie Cummings	YES
District 7:	Robert Chavis	YES
	Larry Campbell	YES
	Terry Campbell	YES
District 8:	Steve Sampson	ABSENT
District 9:	Anita Hammonds Blanks	YES
District 10:	Terry Collins	YES
District 11:	Linda Revels	ABSENT
District 12:	Danita Locklear	YES
	Walter Lowery	YES
District 13:	William Maiden	YES
District 14:	Homer Fields	YES

Pearlean Revels

ATTEST: PEARLEAN REVELS

Speaker, Tribal Council of the Lumbee Tribe of North Carolina

May 16, 2013
Date

Larmari Louise Mitchell

ATTEST: LARMARI LOUISE MITCHELL

Secretary, Tribal Council of the Lumbee Tribe of North Carolina

May 16, 2013
Date

CERTIFICATION OF VETO OVERRIDE

THIS VETO OVERRIDE OF “**ORDINANCE NO. 2004-003**” AMENDED MARCH 21, 2013 WAS CERTIFIED AT A MEETING OF THE 21 SEATED MEMBER TRIBAL COUNCIL OF THE LUMBEE TRIBE OF NORTH CAROLINA WHERE 20 MEMBERS WERE PRESENT, CONSTITUTING A QUORUM, THIS 16TH DAY OF MAY, 2013 BY A VOTE OF 13 FOR, 7 AGAINST, 0 ABSTENTION(S).

ROLL CALL VOTE RESULTS TO ADOPT
TRIBAL ORDINANCE NO. 2004-003,
“ORDINANCE ON THE ESTABLISHMENT OF AN ADMINISTRATIVE COURT”
13 FOR, 7 AGAINST, 0 ABSTENTION(S)

District 1:	Evan Davenport	NO
District 2:	Terry Hunt	NO
	Larmari Louise Mitchell	YES
District 3:	Pearlean Revels	YES
	Lesaundri Hunt	NO
District 4:	Jonathan Locklear	EXCUSED
District 5:	Bobby Oxendine	YES
	Charles Bullard	YES
District 6:	Larry Anthony Chavis	YES
	McDuffie Cummings	YES
District 7:	Robert Chavis	YES
	Larry Campbell	NO
	Terry Campbell	NO
District 8:	Steve Sampson	YES
District 9:	Anita Hammonds Blanks	YES
District 10:	Terry Collins	YES
District 11:	Linda Revels	NO
District 12:	Danita Locklear	YES
	Walter Lowery	YES
District 13:	William Maiden	NO
District 14:	Homer Fields	YES