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ORDINANCE OF THE GOVERNING BODY

OF THE

SAUK-SUIATTLE INDIAN TRIBE

Ordinance No. 12/2/07: TRIBAL DEBT COLLECTION

THEREFORE BE IT ENACTED BY THE TRIBAL COUNCIL OF THE SAUK-SUIATTLE INDIAN TRIBE, AS FOLLOWS:

WHEREAS, The Sauk-Suiattle Tribal Council is the duly constituted governing body of the Sauk-Suiattle Indian Tribe, by authority of the Constitution and Bylaws, approved by the Secretary of the Interior on September 17, 1975 and in accordance with the Indian Reorganization Act of June 18, 1934 (48 Stat.984); and

WHEREAS, the Sauk-Suiattle Indian Tribal Council is the duly elected governing body of the Sauk-Suiattle Indian Tribe; and

WHEREAS, in accordance with the Tribal Constitution and Bylaws of the Sauk-Suiattle Indian Tribe, it shall be the duty of Tribal Council to protect and preserve the people of the Sauk-Suiattle Indian Tribe as provided in Article II, Section 1(a) including the promulgation of laws and ordinances pursuant to Article VII, Section 1(P); and

WHEREAS, in order to maintain and provide the peace, health and general welfare of the Sauk-Suiattle members, the Tribal Council is committed to the responsible and prudent use of any and all tribal funds; now

THEREFORE, BE IT ENACTED THAT, the Sauk-Suiattle Tribal Council hereby asserts its right as a sovereign power, to determine how internal policies should be implemented for debt collection; now

BE IT FURTHER ENACTED THAT, this Ordinance is to set forth uniform procedures to be followed by the Tribal Council and Administration in carrying out the provisions of the debt collection; now

BE IT FINALLY ENACTED THAT, the Tribal Debt Collection shall be approved in accordance with the following procedures:

TITLE I

Section 1.010 PURPOSE AND SCOPE:

- (1) The purpose for this Ordinance provides for the efficient repayment of debts to the Tribe so that tribal programs and entities can continue to provide services to the tribal membership.
- (2) This Ordinance governs all repayment of debt to the Tribe except where a specific program ordinance has been established pursuant to Council action the individual has entered into a specific agreement/contract for repayment specific to that program, the specific provisions of which will govern where those provisions differ from this Ordinance, or in the event a duly authorized contract or agreement between the Tribe and an individual provides alternate procedures.

Section 1.020 BACKGROUND AND INTENT:

The Tribal Council finds that it is its duty to find ways to provide for effective and efficient repayment of debts to the Tribe so that these programs and entities can best provide services to its tribal members.

Section 1.030 DEFINITIONS:

- (1) "Administrative Review" means the process whereby an individual may submit a request to the Controller/Comptroller to review the debt in question if he/she believes the amount shown is incorrect or has any other reason to question the debt.
- (2) "Court" or "tribal court" shall mean the Sauk-Suiattle Tribal Court.
- (3) "Debt" means any debt owed to the Tribe or any tribal entity which functions under the authority of the Tribe.
- (4) "Debtor" means Tribal member or other individual owing a debt to the Tribe.
- (5) "Official" means any person responsible for overseeing, administering, supervising or managing the operations and activities from which a debt occurs. In every situation where the Official is not readily identifiable, it shall be the program, department or entity director, whether the person is in interim, temporary, or permanent employment status, or their designated representative.
- (6) "Payment Plan" means a written plan submitted by the Tribal member or individual to the Controller/Comptroller or his designee, for repayment of debt.
- (7) "Tribal entity" means the Tribe, its departments, programs, entities and subdivisions operating under a governing document established pursuant to authority contained in Tribal law.
- (8) "Tribal Payment" means payments made to tribal members through various programs, including but not limited to, per capita payments, Board and Committee member payments, and salaries, but does not include payments from the Tribe made to members based on a member's financial need, such as pursuant to disability programs or other needs based social service and educational programs.

Section 1.040 COLLECTION PROCESS:

(1) **Debtor List.** The director or executive of every tribal program or entity, including by way of example and not limitation, the Tribal Health and Social Services Department, Tribal Court, and Education Department, shall forward to the Controller/Comptroller a list of tribal members currently indebted to such program or entity, including the amount of such indebtedness. Such Debtor List shall be forwarded to the Controller/Comptroller on the 1st day of each month.

(2) **Notice. Tribal Payments:** Within 10 business days after receiving Debtor Lists, the Controller/Comptroller shall cause a notice to be sent out to each tribal member on the Debtor Lists, which notice shall be substantially in the following form:

Tribal records show that you owe (name of Tribal program or entity) the sum of \$ _____ as of _____ (date). Unless it is paid in full immediately or you enter into a payment plan through the Finance Office, it will be withheld from your share of the next Gaming Distribution and all other non-needs based Tribal Payments. The amount withheld will then be credited towards your Tribal debt. If you wish to enter into a payment plan to repay this debt, you must submit a "Payment Plan Request" to the Controller/Comptroller within ten (10) working days of the date of this notice. If you believe the amount shown is incorrect or have any other reason to question the debt, you must submit a request for Administrative Review to the Controller/Comptroller within ten (10) working days of the date of this notice. If you do not submit a Request for Administrative Review or enter into a payment plan, the amount you owe will be withheld from your future Tribal Payments.

(3) **Administrative Review by Controller/Comptroller:** A Tribal Member may request an Administrative Review by the Controller/Comptroller or his designee. Such request must be submitted within ten (10) working days of receipt of notice of debt. The Controller/Comptroller shall review all collection documentation, including tribal records and/or those provided by the individual debtor. The Controller/Comptroller shall return a written decision within five (5) working days of the date the Request for Administrative Review was submitted via certified mail.

(4) **Appeal Procedure:** If the Debtor is not satisfied with the decision made by the Controller/Comptroller or his designee, the Debtor must file a written Request for Appeal of Administrative Review with the Sauk-Suiattle Tribal Court within ten (10) working days of the date of certified mailing of the decision of the Controller/Comptroller. The Request for Appeal must indicate any errors the Debtor believes the Controller/Comptroller made in his or her decision.

(5) **Appeal to Tribal Court.**

(a) **Time for hearing.** If an action is commenced in the Sauk-Suiattle Tribal Court within the time period set out in paragraph (4) above, a hearing shall be held within five (5) working days after the filing of the action to determine the validity of the Debtor's claim.

(b) **Evidence.** The court shall review the written Request for Appeal, the documentation submitted by the Tribe, and any other relevant evidence.

(c) **Scope of review.** The court shall review the decision of the Controller/Comptroller and modify that decision only in the event the court determines the decision was not based on substantial evidence or was not in accordance with this Ordinance.

(d) Interim effect. The filing of a Tribal Court action shall constitute a stay of any distribution of the Tribal Payment, or any portion thereof, by the Finance Department to either the Tribal Entity or the Debtor until the Court has issued a decision.

Section 1.050 PAYMENT PLANS:

(1) If a Payment Plan Request is submitted within the time allowed, the Controller/Comptroller or his designee shall review the Request and documentation submitted in support of a plan of repayment and develops a written payment plan within ten (10) working days of the date of receipt of the Payment Plan Request. The Controller/Comptroller or his designee may request documentation deemed necessary, in developing an acceptable payment plan. The Controller/Comptroller or his designee may also require the Debtor participate in a meeting to discuss any proposed payment plan. The Controller/Comptroller or his designee has the discretion whether or not to allow a payment plan. Terms of the payment plan will be reviewed by the Office of Legal Counsel. Payment plans shall incorporate the following provisions:

(a) If payments under an allowed payment plan are current, there will be no involuntary withholding from Tribal payments for payment of such debt.

(b) At such time as any payments under this payment plan are not current, the Controller/Comptroller or his designee shall cause a notice to be sent out to the Debtor, which notice shall be substantially in the following form:

Our Tribal records show that the payment plan you agreed to follow for payment of your Tribal debt is not current. Tribal records show that you owe (Tribal program or entity) the sum of \$ _____ as of _____ (date). Unless you bring your payment plan current within five (5) working days of this notice or you pay the current total debt owed in full immediately, your payment plan will be cancelled and the current total debt will be withheld from his/her share of any future tribal payment, allocation, distribution or other non-needs based Tribal payments. The amount withheld will then be credited towards your Tribal debt.

(2) Payment Credit. The Controller/Comptroller shall be responsible for informing the Tribal Programs and entities who make Tribal payments the names of Debtors and amounts of debt so that these amounts may be withheld from the next Tribal payment. The Controller/Comptroller shall also have the duty of notifying the respective Tribal programs and entities of the amounts to be credited to each Debtor after funds are withheld from the Tribal Payment(s) or payments are received pursuant to a payment plan.

(3) Payment Proportional Distribution. In situations where the total of multiple debts exceeds the amount of the Tribal Payment, the Controller/Comptroller shall distribute the payment on a proportional basis to each Tribal entity to which a debt is owed. When the Tribal Payment is to be divided between two or more Tribal entities, the portion to which each entity is entitled shall be calculated by multiplying the Debtor's total Tribal Payment by a fraction, the numerator of which is the debt owed to that Tribal entity and the denominator of which is the total of all debts owed by the Debtor to all Tribal entities entitled to a portion of the Tribal Payment. Payments received pursuant to an allowed payment plan shall also be proportionally distributed in accordance with this paragraph. Further, in no event can the amount withheld from a paycheck from the Tribe exceed 50% of the total net pay.

Section 1.060 REPORTING OF BAD DEBTS:

Each Tribal entity shall maintain a current list of those Tribal members having outstanding and delinquent debts. The specific names and debt information of such members shall be made available to other Tribal Entities upon request.

Section 1.070 SOVEREIGN IMMUNITY:

(1) Sovereign Immunity of the Tribe. Except as provided below, nothing in this Ordinance is intended nor shall be construed as waiving the sovereign immunity from suit of the Tribe, any Tribal Entity or any official, employee, or agent while in the performance of his/her official duties.

(2) Counterclaims. When the Tribe or a Tribal Entity collects on a debt pursuant to this ordinance and the Debtor brings an action in Tribal Court, the Debtor may assert any claim that arises from the same transaction as the Debt sought to be collected by the Tribal Entity. The amount sought in the Debtor's claim may not exceed the amount sought to be collected by the Tribe. Any recovery on the Debtor's claim may operate only as a setoff against the Debt sought to be collected by the Tribal Entity. Under no circumstances may a Debtor's claim result in a money judgment against the Tribe or any Tribal Entity.

Section 1.080 SEVERABILITY:

If any part of this Ordinance is held to be invalid the remainder shall continue to be in full force and effect to the maximum extent possible.

CERTIFICATION

Pursuant to the authority contained in Article VII, Section 1(N) of the Constitution and Bylaws of the Sauk-Suiattle Indian Tribe, ratified by the Tribe on July 19, 1975 and certified by the Secretary of Interior on September 17, 1975, pursuant to the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), the foregoing Ordinance was adopted this on December 7, 2007 at a regular Tribal Council meeting held at the Sauk-Suiattle Indian Reservation at which a quorum was present, by a vote of 5 for, 0 against, 1 abstain, and 1 absent.


Janice W. Mabee, Chairman

ATTEST:


Cynthia M. Harris, Secretary