

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE TRIBAL COUNCIL OF THE  
CHEMEHUEVI INDIAN TRIBE AMENDING TITLE I OF  
THE CHEMEHUEVI TRIBAL CODE, ORDINANCE NO.  
8.26-01-A, AS AMENDED, TO ADD A NEW CHAPTER 1.12,  
ESTABLISHING A WHISTLEBLOWER POLICY.**

The Tribal Council ("Council") of the Chemehuevi Indian Tribe ("Tribe") does hereby ordain as follows:

Section 1. Findings and Declarations. The Council for the Tribe finds and declares that:

1. The Council is the duly recognized governing body of the Tribe.
2. The Council is responsible for promoting the health, safety, education, and general welfare of all community members.
3. The Council recognizes the need to promote a climate of accountability with respect to the resources of the Tribe and to ensure that no employee should feel at a disadvantage in lawfully raising legitimate concerns.
4. The Council possesses inherent legislative authority to adopt policies, ordinances, or regulations in the best interest of the Tribe.
5. By enacting this ordinance, the Council is establishing a policy to ensure that Tribal employees have the right to raise issues of accountability with respect to the resources of the Tribe at duly enacted meetings of the Tribe.
6. Enactment of this ordinance is in the best interests of the Tribe because it allows the Tribe to encourage disclosure and investigation of improprieties before they can disrupt the business or operations of the Tribe or lead to serious loss; it promotes a climate of accountability with respect to the Tribe's resources, including its employees; and it ensures that no employee should feel at a disadvantage in lawfully raising legitimate concerns.

Section 2. Amendment of Title 1 of the Chemehuevi Tribal Code, Ordinance No. 8-26-01-A, as Amended, to Add a New Chapter 1.12, Establishing a Whistleblower Policy. Title 1, entitled "General Provisions", of the Chemehuevi Tribal Code, Ordinance No. 8-26-01-A, as amended, is hereby amended to add a new Chapter 1.12, entitled "Whistleblower Policy", which shall read as follows:

**CHAPTER 1.12**

**WHISTLEBLOWER POLICY**

Sections:

- |          |                |
|----------|----------------|
| 1.12.010 | General Policy |
| 1.12.020 | Purpose        |

- 1.12.030 Protection of Employees
- 1.12.040 Confidentiality of Disclosure
- 1.12.050 Unsubstantiated Allegations
- 1.12.060 Procedure for Making a Disclosure
- 1.12.070 Annual Review and Reporting

1.12.010 General Policy.

- A. Any employee who, in good faith, makes a Disclosure shall not incur retaliation from the Tribe or any officer, employee, contractor, subcontractor, or agent of the Tribe.
- B. “Good faith” means that the employee has a reasonably held belief that the Disclosure being made is true and is not being made for personal gain or for other ulterior motive.
- C. “Retaliation” means discharge, demotion, suspension, threatening, harassment, or discrimination against any employee in the terms and conditions of their employment.
- D. A “Disclosure” is any lawful act done by the employee to:
  - A. Provide information, cause information to be provided, or otherwise assist in the investigation regarding any conduct which the employee reasonably believes constitutes a violation of the laws or policies of the Tribe, including fraud, when the information or assistance is provided to or the investigation is conducted by the Tribe or law enforcement;
  - B. File, cause to be filed, testify, participate in, or otherwise assist in a proceeding filed or about to be filed, relating to a violation of the laws or policies of the Tribe, including fraud; or
  - C. Submit information or a complaint to the Tribe regarding accounting, internal accounting controls, or auditing matters.

1.12.020 Purpose. The Tribe has adopted this policy in order to:

- A. Encourage disclosure and investigation of improprieties before they can disrupt the business or operations of the Tribe or lead to serious loss; and
- B. Promote a climate of accountability with respect to the Tribe’s resources, including its employees; and
- C. Ensure that no employee should feel at a disadvantage in lawfully raising legitimate concerns; and

- D. This policy applies only to the matters set forth under Subsection 1.12.010 above and does not apply to all grievances that an employee may have such as those related to terms of employment or those concerns that are addressed by other policies of the Tribe.

1.12.030 Protection of Employees. This policy offers protection from retaliation to employees who may any Disclosure under this policy. Any acts of retaliation against an employee making such a Disclosure shall be treated by the Tribe as a serious violation of Tribal law and policy and could result in action, including discharge of employees, or termination of services of contractors, subcontractors, or agents in addition to the general penalties for violating or failing to comply with any of the mandatory requirements of the Tribe's laws, including the Chemehuevi Tribal Code.

1.12.040 Confidentiality of Disclosure.

- A. At the request of the disclosing employee, the Tribe will treat all Disclosures by the employee as confidential. The Tribe will keep confidential the identity of the employee making a Disclosure under this policy until a formal investigation is commenced. Thereafter, the identity of the employee making the Disclosure may be kept confidential, if requested, unless such confidentiality is incompatible with a fair investigation, or unless there is an overriding reason for identifying or otherwise disclosing the identity of the employee making the Disclosure, or unless disclosure of the identity of the employee is required by law.
- B. Where disciplinary proceedings are invoked against any individual as a result of a Disclosure under this policy, the Tribe may require that the name of the person making the Disclosure be disclosed to the person subject to such proceedings.
- C. The Tribe encourages employees to put their name to any Disclosure they make, but any employee may also make anonymous Disclosure pursuant to the procedures set forth below. In responding to an anonymous Disclosure, the Tribe will pay due regard to fairness to any individual named in the Disclosure, the seriousness of the issue raised, the credibility of the information or allegations in the Disclosure, and the prospect of an effective investigation. Investigations will be conducted as quickly as possible, taking into account the nature and complexity of the Disclosure and the issues raised.

1.12.050 Unsubstantiated Allegations.

- A. If an employee makes a Disclosure in good faith pursuant to this policy and any facts alleged are not confirmed by subsequent investigation, no action will be taken against the employee making the Disclosure.
- B. In making a Disclosure, an employee should exercise due care to ensure the accuracy of the information disclosed. Where alleged facts disclosed pursuant to this policy are not substantiated, the conclusions of the investigation will be made

known both to the person who made the Disclosure and to the person(s) against whom any allegation was made in the Disclosure. The finding that the allegations were not substantiated will be made a part of the record.

1.12.060 Procedure for Making a Disclosure.

- A. Any Disclosure made by an employee to the Tribe under this policy must be submitted to one of the following, as appropriate:
  - 1. To the Employee's immediate supervisor or the supervisor's superior;
  - 2. To the Chief Financial Officer;
  - 3. To the Tribal Administrator;
  - 4. To the Tribal Council, at a duly enacted meeting of the Tribe, and in accordance with the laws governing such meetings; or
  - 5. Anonymously, in writing to any of the above.
- B. Upon receiving a Disclosure, the person receiving such Disclosure shall immediately deliver a copy of the Disclosure to the Tribal Administrator and, if it pertains to the Tribe's finances or accounting, also to the Chief Financial Officer. The Tribal Administrator shall retain a log of Disclosures and a file for each Disclosure, which file shall be maintained in a secure location to protect any required confidentiality of the Disclosure.
- C. Following investigation by the Tribal Administrator (or their designee), upon consultation with the Chief Financial Officer, the Office of the Tribal Attorney, and/or appropriate individuals, if it is determined that the concern, complaint, issue, or facts raised or alleged in any Disclosure are without merit, the matter shall be dismissed and the employee informed of the decision and the reasons for such dismissal. If it is determined that the allegation(s) or issue(s) covered in the Disclosure have merit, the matter shall be dealt with in accordance with this policy, the Tribe's other laws and policies and procedures, and/or as otherwise may be deemed appropriate according to the nature of the matter. The outcome of the investigation will be reported to the Tribal Council and to the employee.
- D. If the employee making the Disclosure does so anonymously, the Disclosure shall be treated confidentially, as provided in this policy.

1.12.070 Annual Review and Reporting. The Tribal Administrator shall report quarterly, in writing, to the Tribal Council on the number and nature of Disclosures made, the number and status of the investigations conducted in response to the Disclosures, and the outcome of the investigations.

Section 4. Severability. If any part of this Ordinance is held invalid, the remainder of

the Ordinance shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable.

Section 5. Repeal of All Prior or Inconsistent Ordinances. The provisions of any ordinances or resolutions previously enacted by the Tribal Council which are inconsistent with any of the provisions of this Ordinance are hereby repealed.

Section 6. Effective Date. This Ordinance shall take effect immediately after its passage.

CERTIFICATION

The foregoing Ordinance was adopted at a duly convened meeting of the Chemehuevi Tribal Council held on the \_\_\_ day of \_\_\_\_\_, 2020, by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSENT: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

\_\_\_\_\_  
SIERRA PENCILLE, Chair

ATTEST:

\_\_\_\_\_  
BRIAN McDONALD, Secretary-Treasurer