WHITE EARTH NATION
TITLE III
HOUSING, TRIBAL PROPERTY AND UNLAWFUL DETAINER AND MORTGAGE FORECLOSURE CODE

CHAPTER ONE—GENERAL PROVISIONS 3

§1.01 Purposes and Interpretation 3
§1.02 Definitions 3
§1.03 Jurisdiction 6
§1.04 Notice of Breach 7

CHAPTER TWO—TENANCY 9

§2.01 Rent 9
§2.02 Damage or Security Deposits 9
§2.03 Rent Escrow To Remedy Violations 10
§2.04 Tenancy and Expiration of Tenancy 10
§2.05 Holdover Tenant 11
§2.06 Duties of Parties Upon Termination of Tenancy 11
§2.07 Landlord's Transfer of Rental Property 11

CHAPTER THREE—COVENANTS UNDER PROPERTY LAW 12

§3.01 Possession 12
§3.02 Trespass 12
§3.03 Covenant of Habitability 12
§3.04 Termination Due to Inhabitability 13
§3.05 Wrongful Removal or Exclusion from Dwelling Unit 13
§3.06 Tenant's Right to Quiet Enjoyment 14
§3.07 Abandonment 14

CHAPTER FOUR—RENTAL AGREEMENTS 16

§4.01 Required Provisions 16
§4.02 Default Provisions 16
§4.03 Writing Requirement 17
§4.04 Use and Occupancy of Premises Restrictions 17
§4.05 Good Faith Performance or Enforcement 18
§4.06 Termination Due to Landlord Violating Terms of the Rental Agreement 18
§4.07 Damages 18

CHAPTER FIVE—LANDLORD AND TENANT TORT LIABILITY 20

§5.01 Duty to Maintain 20
§5.02 Negligence Petition 20
§5.03 Remedies 20

CHAPTER SIX— EVICTION AND ENFORCEMENT 22

§6.01 Grounds for Eviction 22

§6.02 Notice to Vacate Requirements 23
§6.03 Serving Notice to Vacate 23
§6.04 Pre-Eviction Options 24
§6.05 Eviction Action 24
§6.06 Burden of Proof 25
§6.07 Tenant's Defenses 25
§6.08 Landlord's Rights not Limited 26
§6.09 Writ of Recovery Execution and Order to Vacate 26
§6.10 Stay of Writ of Recovery 28
§6.11 Appeals 28

CHAPTER SEVEN—CRIME-FREE/DRUG-FREE HOUSING 31

§7.01 Drug-Related Illegal Activities 31
§7.02 Expedited Eviction or Lease Termination 31
§7.03 Standard for Granting Expedited Eviction 32
§7.04 Court Ordered Right to Immediate Possession 32

CHAPTER EIGHT—VICTIMS OF VIOLENCE'S RIGHT TO TERMINATE RENTAL AGREEMENT 34

§8.01 Right to Terminate Rental Agreement 34
§8.02 Procedure 34
§8.03 Treatment of Information 34
§8.04 Liability for Rent; Termination of Tenancy 34
§8.05 Waiver Prohibited 35

CHAPTER NINE—MORTGAGE AND FORECLOSURE 36

§9.01 Recording 36
§9.02 Pre-Foreclosure Procedures 36
§9.03 Foreclosure 37
§9.04 Summons and Complaint 37
§9.05 Cure of Default by Subordinate Lienholder 38
§9.06 Judgment and Remedy 38
§9.07 Foreclosure Evictions 39
§9.08 Certified Mailing to Tribe and Landlord 39
§9.09 Intervention 39

CHAPTER TEN—FEDERAL RULES AND REGULATIONS 40

§10.01 Federal Rules and Regulations 40

CHAPTER ELEVEN—APPEALS 41

§11.01 Appeals 41

CHAPTER ONE—GENERAL PROVISIONS

§1.01 Purposes and Interpretation

1. This Title shall be liberally construed and applied to carry out its purposes and intent.

2. This Title shall:

   (a) Simplify, clarify, modernize and revise the law governing the occupation of dwelling units and accommodations, as well as the rights, obligations and remedies of the owners, sellers, lessors, landlords, lessees, tenants and occupiers of such structures;

   (b) Encourage owners and occupiers of dwellings to maintain and improve them in order to improve the quality of housing as a tribal resource;

   (c) Resolve disputes regarding the use, enjoyment and control of all tribally owned or leased buildings, offices, property and real estate;

   (d) Preserve the peace, harmony, and safety of the people of the White Earth Nation and those who enter or reside within the exterior boundaries of the White Earth Reservation;

   (e) To avail the White Earth Nation, tribal entities, and tribal members of financing for the construction and/or buying of family residences on trust or fee land within the jurisdiction of the White Earth Nation by setting forth procedures for the recording, priority, and foreclosure of mortgages given to secure loans made by or through any government lending institution; and

   (f) To establish laws and procedures which are necessary to obtain governmental funding for tribal housing programs or loan guarantees for private or tribal housing construction, purchase or renovation.

§1.02 Definitions

1. The following definitions shall apply for the purposes of this Title unless a different meaning is expressly provided, or the context clearly indicates a different meaning:

   (a) An *"Action," "Suit or lawsuit," "Claim," "Complaint"* or *"Defense"* will include any dispute between persons, entities or tribal agencies which relates to the sale, rent, use or occupancy of any housing, dwelling, tribal office or tribally owned or leased property or accommodation for occupancy, including claims for the payment of monies for such housing, dwelling, tribal office or tribally owned or leased property or accommodations, damages to such buildings, fees, costs or expenses relating to them, the condition of such buildings, fees, costs or expenses related to them, the condition of such buildings or the relationships between the owners and occupiers of such buildings, including the right to occupy or use them.

(b) *"Building or housing titles"* are any law, ordinance or governmental regulation of the White Earth Nation or an agency of the United States which deals with fitness for habitation, health conditions or the safety, construction, maintenance, operation, occupancy, use or appearance of any dwelling unit. Where appropriate to the situation, standard or nationally-recognized building standards or titles may be applied as building titles or housing titles.

(c) *"Deposit"* includes any money or other property required by a landlord from a tenant as and for security and which is to be returned to the tenant upon termination of the rental agreement, less any deductions properly made and allowed by this Title or any law, rule or regulation of the United States of America promulgated to effectuate the Low Income Rental Program or any other low income housing program, or U.S. governmental housing program administered by the White Earth Housing Authority (hereinafter referred to as "WEHA") and other tribal agencies.

(d) "*Domestic Abuse Advocate*" means a person who provides services to victims of dating violence, domestic abuse, domestic violence, sexual assault, or stalking under a victim services provider.

(e) A *"Dwelling"* or *"Dwelling unit"* means a structure or part of a structure that is used as a home, residence or sleeping place by one or more persons.

(f) "*Family or household member*" means all of the customary family relationships recognized by the White Earth Nation, including extended family relationships, which include:

i. Adults who are current or former spouses;

ii. Adults who are dating, who have dated, or who are engaged in or who have engaged in a sexual relationship;

iii. Adults or children who are related or formerly related by marriage as recognized by Western or Ojibwe tradition;

iv. Persons who have a child in common or who are expecting a child in common, regardless of whether they have been married or resided together at any time;

v. Children of a person in a relationship described in paragraphs (i) through (iv) above;

vi. Any adult or children who reside in the household;

vii. Persons who have a biological, legal, or kinship parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren; and

viii. Persons who are related by blood, adoption, or marriage.

(g) *"Good faith"* means honesty in fact in the conduct of the transaction concerned.

(h) An *"Indian"* is any person recognized as being Indian or Alaskan Native by any Tribe, the government of the United States, or any state, or any person who is recognized or acknowledged to be Indian in the community and who has an ancestor or ancestors who resided on the North American continent prior to 1492.

(i) *"Indian country"* the *"territorial jurisdiction"* or the *"jurisdiction"* of the White Earth Nation shall include all lands within the exterior boundaries of the White Earth Reservation or any other land owned by the White Earth Nation.

(j) *"Landlord"* means the owner, manager, lessor, or sublessor of the dwelling unit or the building of which it is a part.

(k) *"Owner"* means one or more persons, entity, tribal agency or agency of any government, either jointly or severally in whom is vested:

i. All or part of the legal title to the property; or

ii. All or part of the beneficial ownership and a right to present use and enjoyment of the property, and such term includes a lender/mortgagee in possession.

(l) A *"Person"* includes an individual, organization, public agency, corporation, partnership or any other entity recognized by law.

(m) *"Premises"* means a dwelling unit and the structure of which it is a part, the facilities and appurtenances therein, and the grounds, areas, facilities held out for the use of the tenant generally or use of which is promised to the tenant.

(n) *"Rent"* means all payments to be made to an owner or landlord for the lease, purchase, or occupancy of a dwelling under an express or implied agreement for the purchase or occupancy of it. For the purposes of this Title, this does not include deposits and damages, but does include all other payments to be made under any agreement for either the purchase or occupation of a dwelling, including all lease or mutual help and occupancy agreements. The term shall also include any payment due and owing for the purposes of any eviction due to a default in a purchase agreement or any other agreement for the sale of housing.

(o) *"Rental Agreement"* means any agreement, written or oral, of the parties, as well as valid rules, regulations, and policies regarding the terms and conditions for any use or occupancy of a dwelling or premises. For purposes of this Title, it shall also include any agreement which governs the use and occupancy of a dwelling under a use and occupancy agreement, lease, or any sales agreement where a person has not yet achieved home ownership under that agreement.

(p) The *"Reservation"* The land reserved to the White Earth Band of Ojibwe as recognized under the 1867 Treaty of Washington between the Mississippi Band of Chippewa Indians and the United States, 16 Stat. 719, including all lands which are now or in the future located within the exterior boundaries of the aforementioned treaty; any and all land held in trust for the Tribe by the United States; and all other considered "Indian Country" as defined by 18 U.S.C. §1151 that is associated with the Tribe.

(q) *"Single-Family Residence"* means a structure used and maintained as a single dwelling unit. A dwelling unit, including those with common walls, shall be deemed a single-family residence if it has direct access to a street or thoroughfare and shares neither heating facilities, hot water equipment, nor any other essential facility or service with any other dwelling unit.

(r) A *"Tenant"* is any person, lessee, or sublessee entitled to rent, purchase or occupy a dwelling under a written or oral agreement to rent, occupy or purchase a dwelling, and it includes any person legally occupying a dwelling that he or she does not own.

(s) *"Tribal Council"* means the governing body of the White Earth Nation.

(t) *"Tribal Court"* means the White Earth Tribal Court, the judicial body of the White Earth Nation.

(u) *"Tribal Office"* means any building, structure or place used by the White Earth Nation tribal government for business.

§1.03 Jurisdiction

1. This Title shall apply to any and all agreements, whether written or oral, in selling, renting, leasing, occupying or using any and all housing, dwelling, offices, places or accommodations for residential or commercial purposes.

2. The White Earth Tribal Court shall assert jurisdiction over all buildings and lands intended for dwelling, occupation, residence or commercial development which may lie within the exterior boundaries of the White Earth Reservation and all other lands owned by the White Earth Nation.

3. Jurisdiction is extended over all persons or entities within the jurisdiction of the White Earth Nation who sell, rent, lease, or allow persons to occupy housing, dwellings, or accommodations for the purpose of residence or commercial development, and all persons who buy, rent, lease or occupy such structures. Such personal jurisdiction is extended over all persons and entities, who rent, lease, or otherwise occupy or reside in buildings or lands described in §1.03, (2) regardless of tribal membership status; and

4. The White Earth Tribal Court shall exercise exclusive jurisdiction over all matters with respect to this Code which arise within the exterior boundaries of the White Earth Reservation and all other lands owned by the White Earth Nation and involve any person

or entity entering into consensual transactions with the White Earth Nation and any of its governmental agencies including but not limited to the WEHA and other tribal agencies.

5. Jurisdiction is extended over all buildings situated on lands owned by, held in trust for, leased by the White Earth Nation, its members, WEHA and other tribal agencies, or any other entity of the White Earth Nation, irrespective of its situs.

§1.04 Notice of Breach

1. The tenant or landlord shall serve written notice of a breach a covenant, the rental agreement, or duty of care as follows to the other party to under this section.

2. The landlord shall serve the tenant personally if possible. If the tenant cannot be located, service shall be made by delivering the notice to any family member residing with the tenant who is over the age of sixteen (16) years. If service cannot be made on the tenant personally or on such family member, notice shall be posted at a conspicuous place on the dwelling unit of the tenant. If the notice is posted, a copy of such notice shall be mailed to the tenant by certified mail, return receipt requested. The landlord must keep a copy of the notice to vacate and proof of service in accordance with this section, by affidavit or other manner recognized by law.

3. The tenant shall provide written notice of breach and/or intent to vacate to the landlord personally or by mailing the notice to the landlord at the landlord's address or as otherwise specified within the terms of the rental agreement.

4. Except upon the termination of the tenancy or emergency, a tenant who, between November 15 and April 15, removes from, abandons, or vacates a building or any part thereof that contains plumbing, water, steam, or other pipes subject to damage from freezing shall provide the landlord three (3) days' notice of intent to vacate.

5. The landlord or any successor shall prominently and in writing identify what person at what address is entitled to accept service or notice. The landlord or any person authorized to enter into a rental agreement on the landlord's behalf shall disclose to the tenant in writing at or before the commencement of the tenancy the name and address of:

   (a) The person(s) authorized to manage the premises;

   (b) The owner(s) of the premises; or

   (c) The name and address of a person authorized to act for and on behalf of the owner for the purpose of receipt of service of process and notice.

   (d) The information required by this section shall be kept current. Failure to comply with this section may result in sanctions against the owner or landlord.

6. If a party has properly notified the other of the breach and the party has refused or failed within a reasonable time to remedy the aggrieved party may petition the Court.

(a) If the aggrieved party is a landlord seeking eviction the party shall proceed under Chapter 6 of this Title.

(b) If the aggrieved party is a tenant, the process will commence under the White Earth Rules of Civil Procedure.

§2.01 Rent

1. In the absence of an agreement, the occupants of a dwelling unit shall pay to the landlord as rent the fair rental value for the use and occupancy of the dwelling unit.

2. Rent shall be payable at the time and place agreed to by the parties. Unless otherwise agreed, the entire rent shall be payable at the dwelling unit at the beginning of any term of one (1) month or less, while one (1) month's rent shall be payable on the first (1st) of each month of a longer term.

3. Upon the landlord's delivery of the premises, the tenant shall pay rent without demand or notice at the time and place agreed upon by the parties. Failure of the landlord to deliver the premises or keep the premises in habitable condition may allow the tenant to cease paying rent. The tenant may set up a rent escrow account with the tribal court administrator under §2.03.

4. If rent is unpaid when due, the landlord shall provide written notice detailing their demand for payment. If the tenant fails to pay rent within five (5) days after the landlord properly served written notice, the landlord may bring an action for recovery of the rent and/or eviction at any time.

§2.02 Damage or Security Deposits

1. Any damage or security deposit required by a landlord of a tenant must be kept in an escrow account for the tenant. Misappropriation of the security deposit shall be subject to civil penalties not to exceed treble the amount of the damage deposit misappropriated from the escrow account.

2. Upon termination of the tenancy, any security deposit held by the landlord may be applied to the payment of accrued rent and the amount of damages which the landlord has suffered by reason of the non-compliance with this Code and the rental agreement, all as itemized by the landlord in a written statement to be delivered by certified mail with a return receipt requested and to be signed for by the tenant or any family member residing with the tenant who is over the age of sixteen (16) years or in person to if he or she can be found. If the landlord proposes to retain any portion of the security deposit for rent, damages or other legally allowable charges under the provisions of this Code or the rental agreement, the landlord shall return the balance of the security deposit without interest to the tenant within thirty (30) days after the termination of the tenancy and delivery of possession.

3. Upon cessation of a landlord's interest in the dwelling unit, including but not limited to, termination of interest by sale, assignment, death, bankruptcy, appointment of receiver or otherwise, the person in possession of the tenant's damage or security deposits shall, within a reasonable time:

    (a) Transfer said deposits to an escrow account as specified by the new landlord and

notify the tenant(s) in writing of such transfer and of the new landlord's name and address; or

(b) Return the deposits to the tenant(s).

4. Upon receipt of the transferred deposits as set out in §2.02, (3)(a) above, the new landlord, in relation to such deposits, shall have all the rights and obligations of a landlord holding such deposits under this Code.

5. If a landlord fails to comply with this section or fails to return any prepaid rent required to be paid to a tenant under this Code, the tenant may obtain a court order to recover the damage and security deposit and prepaid rent, if any.

6. Except as otherwise provided by the rental agreement, a tenant shall not apply or deduct any portion of the security deposit from the last month's rent or use or apply such tenant's security deposit at any time in lieu of payment of rent.

7. This section does not preclude the landlord or tenant from recovering other damages to which he or she may be entitled under this Code.

8. Tenants in rental units under the ownership or management of the WEHA or any other tribal agency may bring an action for settlement or accounting of the disputed accounts and contributions only after the tenants have exhausted all administrative remedies provided by the WEHA or any other tribal agency.

§2.03 Rent Escrow To Remedy Violations

If a landlord has violated a covenant for possession in §3.01 (2), inhabitability in §3.04(1), wrongful removal in §3.05(1), quiet enjoyment in §3.06 (7), a residential tenant may deposit the amount of rent due to the landlord along with a copy of the written notice of the violation as defined in §1.04 with the court administrator.

§2.04 Tenancy and Expiration of Tenancy

1. Unless the rental agreement fixes a definite term in writing, the tenancy is week-to-week in the case of a tenant who pays weekly rent, and in all other cases month-to-month.

2. When the tenancy is month-to-month or a tenancy at will, the landlord or tenant may set the tenancy to expire by providing a written notice as provided in §2.04 to the other party at least one full month before the date upon which the termination is to become effective.

3. When the tenancy is less than month-to-month, the landlord or tenant may set the tenancy to expire provided the landlord or tenant gives to the other a written notice served as provided in this section at least seven (7) days before the date upon which the termination is to become effective.

4. Unless earlier terminated or unless otherwise agreed upon, a tenancy for a definite term expires on the ending date thereof without notice.

§2.05 Holdover Tenant

If the tenant remains in possession without the landlord's consent after the expiration of the rental agreement or its termination by operation of law, the landlord may immediately bring an action in Tribal Court for possession and damages. If the tenant's holdover is willful and not in good faith, the landlord may also recover an amount which is twice the average monthly rental, computed and pro-rated on a daily basis, for each month or portion thereof that said tenant remains in possession.

§2.06 Duties of Parties Upon Termination of Tenancy

Except as otherwise provided in this Code, whenever either party to a rental agreement rightfully elects to terminate, the duties of each party under the rental agreement shall cease and be determined upon the effective date of said termination, and the parties shall thereupon discharge any remaining obligations under this Code as soon as practicable.

§2.07 Landlord's Transfer of Rental Property

1. A conveyance of real estate, or of any interest therein, by a landlord shall be valid without the notice to tenant, but the payment of rent by the tenant to the landlord at any time before written notice of the conveyance is given to the tenant shall be good against the new landlord.

2. Unless otherwise agreed and except as otherwise provided in this Code, upon termination of the landlord's interest in the dwelling unit, including but not limited to, terminations of interest by sale, assignment, death, bankruptcy, appointment of a receiver or otherwise, the landlord shall provide written notice to the tenant of the termination of the landlord's interest and then is relieved of all liability under the rental agreement and of all obligations under this Code as to events occurring. The tenant to the landlord shall be liable for all obligations under the rental agreement or under this Code. Upon receipt by a tenant of written notice of the termination of the landlord's interest in the dwelling unit, a tenant shall pay all future rental payments, when due, to the new landlord.

3. Unless otherwise agreed and except as otherwise provided in this Code, a manager of premises that includes a dwelling unit is relieved of liability under a rental agreement and this Code as to events occurring after written notice to the tenant of the termination of management.

4. Any agreement, assignment, conveyance, trust deed or security instrument which authorizes a person other than the beneficial owner to act as a landlord of a dwelling unit shall not relieve the beneficial owner of the duty to conform with this Title and any other controlling law, title, ordinance or regulation concerning the maintenance and operation of the premises.

§3.01 Possession.

1. At the commencement of the term of tenancy, a landlord shall deliver full possession of the premises to the tenant in compliance with the rental agreement.

2. If the landlord fails to deliver possession of the dwelling unit to the tenant, rent abates until possession is delivered and the tenant may:

   (a) terminate the rental agreement by giving a written notice of such termination to the landlord, whereupon the landlord shall return all prepaid rent and deposit; or

   (b) demand performance of the rental agreement by the landlord and maintain an action for possession of the dwelling unit against any person wrongfully in possession, the landlord, and/or anyone in actual possession, and recover the actual damages sustained.

3. The landlord may bring an action for possession against any other person wrongfully in possession. The court may evict the possessor and award damages to the landlord.

§3.02 Trespass

When the person currently holding possession of the property has no lawful right to occupy the dwelling, said person shall be considered to be a trespasser in violation of the White Earth Civil Trespass Ordinance, the White Earth Criminal Trespass Ordinance, and the criminal trespass provisions contained in Minnesota statutes. The trespasser may be cited criminally and held civilly liable for any and all damages.

§3.03 Covenant of Habitability

1. Upon conveying any residential premises to a tenant in exchange for rent, the landlord promises:

   (a) that the premises and all common areas are fit for the use intended by the parties;

   (b) to keep the premises in reasonable repair during the term of the lease or license, except when the disrepair has been caused by the willful, malicious, or irresponsible conduct of the tenant or licensee or a person under the direction or control of the tenant or licensee;

   (c) to maintain the premises in compliance with the applicable portions 24 CFR § 5.703 - Physical Condition Standards for HUD Housing that is Decent, Safe, Sanitary and in Good Repair, and health and safety laws of the local units of government where the premises are located during the term of the lease or license, except when violation of the health and safety laws has been caused by the willful, malicious, or irresponsible conduct of the tenant or licensee or a person under the direction or control of the tenant or licensee.

§3.04 Termination Due to Inhabitability

1. If the dwelling unit or premises are damaged or destroyed by fire or if some other occurrence renders the premises uninhabitable or poses an imminent threat to the health and safety of any occupant, the tenant may give the landlord written notice to the landlord which specifies the breach and their intent to;

    (a) terminate the lease effective in one (1) day. If the landlord does not repair or give definite assurances to the tenant's written satisfaction within that period, the lease shall be terminated the following day; or

    (b) Procure reasonable amounts of heat, hot water, running water, electric, gas or other essential service during the period of the landlord's non-compliance and deduct their actual and reasonable cost from the rent; or

    (c) Recover damages based upon the diminution of the fair rental value of the dwelling unit; or

    (d) Procure reasonable substitute housing during the period of the landlord's non-compliance, during this time the tenant shall be excused from paying rent for the uninhabitable residence.

    A tenant's failure to immediately notify the landlord of the defects in the property which threatens their life, health, or safety, waives their right to any remedies under this section, and may be liable to landlord for damages caused by their failure to provide notice.

2. If the condition complained of was caused by a deliberate or negligent act or omission of the tenant, a member of the tenant's family, the tenant's animal or pet or other person or animal on the premises with the tenant's consent, the rights of the tenant do not apply.

3. If the rental agreement is terminated under this section, the landlord shall return all unused deposits. If the tenancy is week to week or month to month, the landlord shall return all prepaid rents for future periods. Accounting for rent in the event of termination or apportionment shall be made as of the date of the fire or casualty.

§3.05 Wrongful Removal or Exclusion from Dwelling Unit

1. If a landlord wrongfully removes or excludes a tenant from possession of a dwelling unit, the tenant may; recover damages and/or possession in a proceeding brought in the Tribal Court. A tenant may also terminate the rental agreement after giving written notice.

2. A landlord signing a separate lease with a new tenant for a dwelling still under an existing tenant's control constitutes wrongful exclusion under this title.

    (a) In such cases the landlord shall be liable to both tenants for damages and/or possession and/or termination of the lease.

    (b) A landlord may only add a new tenant to a lease is to execute a new lease signed

by all existing tenants as well as the tenant(s) being added. The new lease may relate back to the original date by written agreement of the parties.

3. The tenant may recover an amount not more than three times the average monthly rent, or actual damages, whichever is greater. If the rental agreement is terminated, the landlord shall return all unused deposits and if the tenancy is week to week or month to month, the landlord shall return all prepaid rents for future periods.

§3.06 Tenant's Right to Quiet Enjoyment

1. A tenant has the right to enjoy the whole use of their rental property without undue interference by the landlord or a third party.

2. Except in case of emergency or unless it is impracticable to do so, the landlord shall give the tenant at least one (1) days' notice of intent to enter and may enter only at reasonable times. A landlord shall not abuse the right of access or use it to harass the tenant.

3. The tenant shall not unreasonably withhold consent to the landlord or the landlord's agents or employees to enter the dwelling unit to inspect the premises, make necessary or agreed repairs, decorations, alterations, or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, lender/mortgagees, tenants, workmen or contractors.

4. A landlord and the landlord's agents, employees, or contractors may enter the dwelling unit without the consent of the tenant in case of an emergency. Within seven (7) days of such entry, the landlord shall provide the tenant with written notice, in a manner provided under §1.04, of the date and purpose of the entry, the names of the people who entered, and any actions that those people took in the dwelling.

5. Unless the tenant has abandoned or surrendered the premises, a landlord has no right of access during a tenancy except as is provided in this Code or pursuant to a court order or the rental agreement.

6. If the tenant refuses to allow lawful access, the landlord may obtain injunctive relief to compel access.

7. If the landlord makes an unlawful entry or a lawful entry in an unreasonable manner or harasses the tenant by making repeated unreasonable demands for entry, the tenant may obtain injunctive relief to prevent the recurrence of the conduct or, upon written notice, terminate the rental agreement. In either case, the tenant may recover actual damages.

§3.07 Abandonment

1. Where a tenant leaves the dwelling unit without safely providing for essential services such as continued heat and running water, the landlord may deem the unit abandoned, enter to make reasonable repairs to reduce damages, and file a motion to seek emergency possession.

2. A landlord may file a motion for emergency possession with the Tribal Court alleging abandonment. The hearing on the petition for emergency possession shall occur within two weeks of the filing date.

3. If the tenant abandons or surrenders possession of the dwelling unit or has been lawfully removed from the premises through eviction proceedings and leaves household goods, furnishings, fixtures, or any other personal property in the dwelling unit, the landlord may take possession of the property, and store it for one (1) month at the tenant's expense. After one (1) month;

    (a) The landlord may dispose of any unclaimed property without a duty of accounting or any liability to any party.

    (b) If through the process of removing the abandoned property the landlord believes an item is of cultural, religious, or ceremonial significance, the landlord shall make reasonable efforts to locate next of kin, or where next of kin is not found, contact the Tribe to return these items.

4. If the tenant wrongfully vacates and abandons the dwelling unit during the term of the tenancy, the landlord shall make reasonable efforts to make the dwelling unit available for rental. If the landlord rents the dwelling unit for a term beginning before the expiration of the rental agreement, said rental agreement automatically terminates without further notice as of the commencement date of the new tenancy.

CHAPTER FOUR—RENTAL AGREEMENTS

§4.01 Required Provisions

1. These minimum rights and responsibilities of landlords and tenants which cannot be waived by consent of the parties;

   (a) The landlord shall disclose, in writing, the name, address, and telephone number of the person responsible for receiving rent, notices and demands under this Code, the person authorized to manage the dwelling unit, the landlord of the premises or his agent, and the person responsible for making repairs, where they are required;

   (b) The landlord shall maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appliances, including elevators, supplied or required to be supplied;

   (c) No party shall violate applicable housing or building codes;

   (d) No party may intentionally or recklessly cause nuisance or damage, destruction, or injury to the landlord's personal property, other tenants' property, or property within common areas; or disturbing another tenant's right to quiet enjoyment of a dwelling unit;

   (e) A Rental Agreement may not authorize any person other than the landlord or tenant to confess judgment on a claim arising out of the rental agreement; and

   (f) Neither party may waive or modify the covenants imposed by Chapter 3 of this Title.

§4.02 Default Provisions

1. Unless the parties sign an agreement in conspicuous writing to the alternative, the following provisions shall be part of all rental agreements under this Title. Failure of either party to uphold these provisions shall give the injured party the right to commence a petition for damages under §4.07.

2. The Landlord shall;

   (a) Except in the case of one or two-family residences or where provided by a governmental entity, provide and maintain appropriate receptacles and conveniences for the removal of ashes, garbage, rubbish and other waste incidental to the occupancy of the dwelling unit and arrange for the frequent removal of such wastes; and

   (b) Except in the case of a one or two-family residence or where the service is supplied by direct and independently-metered utility connections to the dwelling unit, supply running water and reasonable amounts of hot water. at all times and reasonable heat.

3. The Tenant shall;

   (a) Keep that part of the premises which such tenant occupies and uses as safe, clean and sanitary as the condition of the premises permits;

   (b) Dispose from such tenants dwelling unit all ashes, garbage, rubbish and other waste in a safe, clean, and sanitary manner;

   (c) Keep all plumbing fixtures in the dwelling unit or used by the tenant as clean and sanitary as their condition permits;

   (d) Not engage in conduct or allow any person or animal or pet on the premises with the express or implied permission or consent of the tenant, to engage in conduct that will disturb the quiet and peaceful enjoyment of the premises of other tenants;

   (e) Not allow children, members of the household, or guests to deface, destroy, paint with graffiti, mutilate or damage the premises in any way. Parents or adults with responsibility for supervising and controlling said children shall be legally and financially responsible for all actions of such children;

   (f) Not use the dwelling unit for any purpose other than as a place of abode; and

   (g) Pay reasonable charges for the repair of damages, other than normal wear and tear, to the dwelling unit, premises, or common areas caused by the tenant, members of the household, or guests, or to repair such damages as required under the rental agreement, within thirty (30) calendar days of such damage.

§4.03 Writing Requirement

1. Rental agreements for term tenancies for a period of longer than one year must have a written rental agreement which must at a minimum indicate the parties, the term length, and be signed by the party against whom a suit is being brought.

2. A landlord of a residential building with 12 or more residential units must have a written lease for each unit rented to a residential tenant.

§4.04 Use and Occupancy of Premises Restrictions

1. A landlord, from time to time, may adopt a rule, regulation, or policy however described, concerning the tenant's use and occupancy of the premises. Such a rule, regulation, or policy is enforceable against the tenant only if:

   (a) The landlord adopted the policy in good faith;

   (b) It is sufficiently explicit in its prohibition, direction or limitation of the tenant's conduct to fairly inform the tenant of expectations;

   (c) It is not for the purpose of evading the obligations of the landlord; and

(d) The tenant has notice of it at the time such tenant enters into the rental agreement or within a reasonable time after it is adopted.

2. If the rule, regulation, or policy is adopted after the tenant enters into the rental agreement and that rule, regulation, or policy creates a substantial modification of such tenant's bargain, the rule, regulation, or policy so adopted is not valid and enforceable against the tenant unless the tenant consents to it in writing.

§4.05 Good Faith Performance or Enforcement

Every duty and every act which must be performed as a condition precedent to the exercise of a right or remedy under this Chapter imposes an obligation of good faith in its performance or enforcement.

§4.06 Termination Due to Landlord Violating Terms of the Rental Agreement

1. If the landlord has materially violated the terms of the rental agreement which does not threaten the tenant's immediate welfare, the tenant may deliver a written notice either;

   (a) to terminate the rental agreement which specifies the acts or omissions constituting the breach. The landlord shall have fourteen (14) days to remedy the breach. If the landlord fails to remedy the breach the rental agreement will terminate upon a date specified by the tenant not less than thirty (30) days after receipt of the notice.

   (b) to correct the condition at the landlord's expense. The tenant may thereafter cause the work to be done in a workmanlike manner and, after submitting an itemized statement to the landlord, deduct from the rent the actual and reasonable cost of the work, in which event that breach shall not terminate the rental agreement.

2. If the rental agreement is terminated under this section, the landlord shall return all unused deposits. If the tenancy is week to week or month to month, the landlord shall return all prepaid rents for future periods. Accounting for rent in the event of termination or apportionment shall be made as of the date of the fire or casualty.

§4.07 Damages

1. An aggrieved party under the provisions of this Code has a duty to mitigate damages.

2. If the Court finds that a party has materially breached the rental agreement, it shall terminate the rental agreement under §4.05.

   (a) If the party in breach is the tenant the landlord must comply with the notice of eviction requirements under §6.02 and §6.03, prior to the Court issuing a writ of recovery under §6.09.

3. If the Court finds that a party has not materially breached the rental agreement it may award compensatory damages.

4. Compensatory damages may be paid to the petitioner or the Court in any following manners;

   (a) The respondent shall within a court specified period of time execute a valid check for the full amount owed.

   (b) The respondent shall pay the petitioner back through a corresponding increase or decrease in rent for a court specified period of time. Such increases will not be considered a retaliatory raise in rent under §6.07.

   (c) Granting the petitioner a lien upon any property, which belongs to the respondent which has reasonably been determined to have a value as near as practicable to the amount owed. Provided that such lien shall be secondary to the claim of any prior bona fide holder of chattel mortgage or to the rights of a conditional seller of such property, other than the respondent. The respondent shall deliver the property to the petitioner within a court specified period of time.

5. If the Court finds that the respondent is judgment proof, the Court may issue an eviction order under §6.10 or terminate the lease under §4.05. The Court may base its finding on any of the following;

   (a) The respondent's admission to being judgment proof;

   (b) The respondent appearing in court in forma pauperis;

   (c) The petitioner providing evidence that the respondent lacks the capital or valuable property to pay off the debt;

   (d) The respondent failing to pay off the debt in a Court specified period of time under §5.03(1)(a); or

   (e) The respondent failing to deliver the property which the petitioner has placed a lien on within a Court specified period of time under §5.03(c). The respondent will not be deemed judgment proof if upon delivering the property in good faith the petitioner learns it is worth less than the value of the debt owed. Only if the petitioner demonstrates that the respondent caused the diminution of value in bad faith, then the Court may find the respondent judgement proof.

CHAPTER FIVE—LANDLORD AND TENANT TORT LIABILITY

§5.01 Duty to Maintain

1. By entering into to a landlord/tenant relationship each party has a duty to;

   (a) not deliberately or negligently destroy, deface, damage, impair or remove any part of the premises or permit any person, animal or pet to do so;

   (b) Use in a safe, sanitary, reasonable, and non-destructive manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appliances including elevators in the premises;

   (c) Report to the other as soon as practicable any defective condition of the premises which comes to the party's attention, and which the party has reason to believe is unknown to the other; and

   (d) Immediately notify the other of any defects in the premises hazardous to life, health, or safety.

2. Every parent or guardian is financially responsible for the damages caused by their minor children whether those damages be intentional or unintentional. Such responsibility is not limited to the actual dwelling unit of the parent or guardian but also includes any and all damages caused by said minor children to any dwelling, structure, home, residence, upon the premises where the tenant leases a dwelling. Upon agreement of all parties, the court may allow them to participate in a restorative justice initiative.

3. Any above-mentioned duty incorporated in to the rental agreement, shall be governed by the agreement.

§5.02 Negligence Petition

1. A party may petition the Court for damages resulting from the other's negligent failure to uphold a duty owed to the petitioner.

2. The petitioner shall serve notice to the respondent in accord with §2.04, and the proceedings shall commence in accords with the White Earth Rules of Civil Procedure, except as otherwise provided in this chapter.

§5.03 Remedies

1. The respondent shall be found liable for damages by a preponderance of the evidence.

2. The Court shall apply any fair and equitable remedy for negligent acts as specified in the rental agreement, if applicable.

3. If the rental agreement does not provide remedies, the Court may order the breaching party to pay the amount owed in any following manners;

(a) The respondent shall within a Court specified period of time execute a check for the full amount owed.

(b) The respondent shall pay the petitioner back through a corresponding increase or decrease in rent for a court specified period of time. Such increases will not be considered a retaliatory raise in rent under §6.07.

(c) Granting the petitioner, a lien upon any property, which belongs to the respondent which has reasonably been determined to have a value as near as practicable to the amount owed. Provided that such lien shall be secondary to the claim of any prior bona fide holder of chattel mortgage or to the rights of a conditional seller of such property, other than the respondent. The respondent shall deliver the property to the petitioner within a court specified period of time.

4. If the Court finds that the respondent is judgment proof, the Court may issue an eviction order under §6.10 or terminate the lease under §4.05. The Court may base its finding on any of the following;

(a) The respondent's admission to being judgment proof;

(b) The respondent appearing in court in forma pauperis;

(c) The petitioner providing evidence that the respondent lacks capital or valuable property to pay off the debt;

(d) The respondent failing to pay off the debt in a Court specified period of time under §5.03(1)(a); or

(e) The respondent failing to deliver the property which the petitioner has placed a lien on within a Court specified period of time under §5.03(c). The respondent will not be deemed judgment proof if upon delivering the property in good faith the petitioner learns it is worth less than the value of the debt owed. Only if the petitioner demonstrates that the respondent caused the diminution of value in bad faith, then the Court may find the respondent judgement proof.

CHAPTER SIX— EVICTION AND ENFORCEMENT

§6.01 Grounds for Eviction

1. No person shall reside in or take possession of real property except as allowed by law, and in such cases, the person may not enter by force but shall enter in a peaceable manner. Entry by force may be allowed if such entry is required in the course of law enforcement action.

2. The landlord may recover possession of the property by eviction in the matter hereinafter provided when the person holds over real property after any such case as:

   (a) A sale of the property on an execution or judgment; or

   (b) The expiration of the time for redemption on foreclosure of a mortgage; or

   (c) Termination of contract to convey the property; or

   (d) The current possessor's lease has expired; or

   (e) The possessor has acted contrary to the conditions or covenants of the rental agreement; or

   (f) Any rent becomes due according to the terms of such rental agreement and the rent due has not been paid; or

   (g) The termination of the tenancy by notice to vacate following a material breach of the rental agreement.

3. A Tenant may be evicted for materially breaching of the terms of the rental agreement or not upholding their covenant to the landlord.

   (a) Failing to pay rent under §2.01.

   (b) Failing to pay any costs, or damages which have been due and owing for thirty (30) calendar days or more. The receipt by a landlord of partial payments under an agreement shall not excuse the payment of any balance due upon demand.

   (c) Serious or repeated violations of the rental agreement, any reasonable rules, regulations, or policies adopted in accordance with §8.01 of this Title, or any applicable building or housing titles.

   (d) Violation of the rules, regulations, and policies as specified in §4.05, or any other terms of the rental agreement that do not conflict with the required provisions of this Title.

4. A tenant or authorized occupant may not be evicted on the basis that they are the victim of domestic abuse, criminal sexual conduct, or stalking.

§6.02 Notice to Vacate Requirements

1. When a landlord desires to obtain possession of a dwelling unit and there exists one or more legally cognizable reasons to evict the tenant or tenants occupying the unit as set forth in §6.01, the landlord shall give notice to the adult tenants to vacate the dwelling unit according to the provisions of this Chapter.

2. The notice to vacate shall be addressed to the adult tenants of the dwelling unit and shall state the legally cognizable reasons(s) for termination of the tenancy and the date by which the tenant is required to vacate the dwelling unit.

3. The notice to vacate shall be in writing substantially in the following form:

> "I (or we) hereby give you notice that you are to vacate the dwelling unit now occupied by you at [insert the address or other reasonable description of the location of the dwelling unit], on or before the [insert date] for the following reason [insert legally cognizable reason(s) for the notice to vacate using the language in the Title or rental agreement or words of similar import]. Signed, [insert signature, name and address of the landlord, and date and place of signing]."

§6.03 Serving Notice to Vacate

1. Any notice to vacate must be in writing, and must be delivered in the following manner:

   (a) The tenant shall provide the written notice to vacate to the landlord personally or by mailing the notice to the landlord at the landlord's address or as otherwise specified within the terms of the rental agreement.

   (b) The landlord shall serve written notice to vacate by an adult person upon the tenant personally unless otherwise specified by law. If the tenant cannot be located, service shall be made by delivering the notice to any family member of the tenant over the age of sixteen (16) years residing within the dwelling unit.

   (c) If service cannot be made on the tenant personally or on such family member, notice shall be posted at a conspicuous place on the dwelling unit of the tenant. If the notice is posted, a copy of such notice shall be mailed to the tenant by certified mail, return receipt requested.

   (d) The landlord must keep a copy of the notice to vacate and proof of service in accordance with this section, by affidavit or other manner recognized by law.

2. The notice must be delivered within the following periods of time:

   (a) No less than seven (7) calendar days prior to the date to vacate specified in the notice for any failure to pay rent or other payments required by the agreement or abandonment.

(b) No less than three (3) business days prior to the date to vacate specified in the notice for nuisance, serious injury to property, injury to persons, or illegal or drug related activity under Chapter 9 of this Title.

(c) In situations in which there is an emergency, such as a fire or condition making the dwelling unsafe or uninhabitable, or in situations involving an imminent or serious threat to public health or safety the notice may be made in a period of time which is reasonable, given the situation.

(d) No less than fourteen (14) calendar days in all other situations.

§6.04 Pre-Eviction Options

1. None of these options are required. This section lists alternative means of dispute resolution for the parties. Both parties must agree to exercise the pre-eviction options.

2. *Negotiated Settlement*: After a notice to vacate is served upon a tenant, the landlord and tenant may engage in discussions to avoid a proceeding to evict and to settle the issues between the parties. The agreement to enter into discussions will not affect the rights of the parties unless the parties reach an agreement to waive any of their rights.

3. *Stay of Proceedings*: Where the parties mutually agree in good faith to proceed with such discussions, and eviction proceedings have been initiated, the Court will stay such proceedings until it is notified by one or both parties that a hearing is required or that a settlement has been reached.

4. *Settlement Options*: In reaching an agreement, the parties may consider, but are not limited to the following options:

   (a) The parties may employ the use of advocates or attorneys.

   (b) The parties may employ the use of a mediator or conciliator.

   (c) The parties may agree to arbitrate the issues in binding arbitration.

   (d) The parties may agree to any other barter for services and goods, or to any other means of securing a fair exchange of value for the use of the dwelling.

   (e) The parties may agree to dismiss the matter in exchange for any agreement reached.

   (f) The parties may agree to stipulate to a judgment to be entered by the Court.

§6.05 Eviction Action

1. In all such cases, the person entitled to the premises may recover possession of the property by eviction in the manner provided herein.

2. The Petitioner shall file a complaint with the White Earth Tribal Court describing the

premises of which possession is claimed. The Petitioner shall also serve the Respondent in accordance with the White Earth Rules of Civil Procedure. The complaint shall allege facts which authorize the recovery and shall state the Petitioner's prayer for relief.

3. The White Earth Tribal Court shall issue a summons commanding the Respondent to appear before the Court. The date of the hearing shall not be less than seven (7) days from the date of the service of the summons upon the Respondent unless proceeding under §3.07 or §§9.01 or 9.02.

4. At the court appearance specified in the summons, the Respondent shall answer the complaint and all matters therein. The Respondent's answer to the complaint shall be made by either an admission to the allegations or a denial to the allegations. Nothing in §10.02 (2) prohibits the Respondent from alleging affirmative defenses.

5. Trial on all cases except under §3.07 or §9.01 shall be held within 20 days. The Court shall schedule a trial within 20 days of filing to hear and decide the action. Where proceeding under §3.07 or §9.01, the Court shall schedule a hearing within 72-hours of filing (excluding weekends and holidays) and the trial shall be held within 10 days of filing.

6. If requested by either party, the Court may grant a continuance of the trial for good cause. A continuance of the trial shall not exceed 10 days where proceeding under §3.07 or §9.01, and 20 days in all other circumstances.

7. The proceedings in an eviction action shall be the same as in other civil actions before the White Earth Tribal Court unless otherwise provided by this Title. The Court may require all rent past due and any rent that may accrue during the pendency of the action to be paid to the Court before trial.

§6.06 Burden of Proof

1. The burden of proof in all proceedings under this Title shall be by a preponderance of the evidence.

2. If the Tribal Court finds the landlord is entitled to recover the premises, the Court shall immediately enter judgment that the landlord have recovery of the premises and damages. The Court shall immediately issue execution in favor of the landlord for costs incurred and immediately issue a writ of recovery of the premises and order to vacate.

3. If the Tribal Court finds for the tenant, the Court shall enter judgment for the tenant. The Court may expunge the records relating to the action.

§6.07 Tenant's Defenses

1. *Retaliation Defense*: It is a defense to an action for recovery of premises following the alleged termination of a tenancy by notice to vacate for the Respondent to prove by a preponderance of the evidence that:

(a) The alleged termination was intended as a penalty for the Respondent's good faith attempt to secure or enforce rights under a rental agreement or contract; or

(b) The alleged termination was intended as a penalty for the Respondent's good faith report to a governmental authority of the Petitioner's violation of a health, safety, housing, or building title or ordinance.

(c) If the notice to vacate was served within ninety (90) days of the date of an act of the tenant as described above, the Petitioner shall have the burden of proving that the notice to vacate was not served for a retaliatory purpose.

2. *Rent Increase as Penalty*: In any proceeding for the recovery of premises upon the ground of nonpayment of rent, the tenant may establish by a preponderance of the evidence as a defense that the Petitioner increased the tenant's rent or decreased the services as a penalty in whole or in part for any lawful act of the tenant as described in §6.07 (1). Once established, the tenant shall only be liable the amount of rent due and payable under the tenant's original rental agreement.

3. *Covenant of Habitability*: The tenant may also establish by a preponderance of the evidence a defense that the landlord did not uphold the covenant of habitability under §3.03, and that the tenant complied or was in the process of complying with their procedural requirements under that section. Once established the Court may terminate the lease and render an accounting under §3.04(1).

§6.08 Landlord's Rights not Limited

Nothing contained in §6.07 shall limit the right of the landlord pursuant to the provisions of §6.01 to terminate a tenancy for a violation by the tenant of a lawful, material provision of a rental agreement, whether written or oral, or to hold the tenant liable for damage to the premises caused by the tenant or a guest of the tenant.

§6.09 Writ of Recovery Execution and Order to Vacate

1. General

(a) The law enforcement officer who holds the order to vacate shall execute it by demanding that the Respondent, any adult member of the Respondent's family occupying the premises, or any other person in charge, relinquish possession of the premises and leave the premises, taking all persons and all personal property from the premises within twenty-four (24) hours after such demand.

(b) If the Respondent fails to comply with the demand, then the law enforcement officer shall take whatever assistance may be necessary to remove the Respondent, all persons, and all personal property from the premises and place the Petitioner in possession of the premises.

(c) If the Respondent cannot be found and there is no person in charge of the premises, then the law enforcement officer shall enter the premises, breaking in if

necessary, and inventory the property, and allow the Petitioner to remove and store the personal property of the Respondent at a place designated by the Petitioner.

2. *Execution of Priority Order*: A law enforcement officer shall give priority to the execution of any order to vacate that is based on an eviction action involving unlawful activities, or on the basis that the Respondent is causing a nuisance or is seriously endangering the safety of other residents, their property, or the Petitioner's property.

3. Removal and Storage of Property

   (a) If the Respondent's personal property is to be stored in a place other than the premises, the Petitioner shall have the right to remove all personal property of the Respondent at the expense of the Petitioner.

   (b) The Respondent must make immediate payment for all expenses of removing personal property from the premises. If the Respondent fails or refuses to do so, the Petitioner has a lien on all the personal property for the reasonable costs and expenses incurred in removing, caring for, storing, and transporting the property to a suitable storage place.

   (c) The Petitioner may enforce the lien by detaining the personal property until paid. If no payment has been made for thirty (30) days after the execution of the order to vacate, the Petitioner may hold a public sale.

   (d) If the Respondent's personal property is to be stored on the premises, the law enforcement officer shall enter the premises, breaking in if necessary, and the Petitioner may remove the Respondent's personal property. The Petitioner must prepare an inventory and mail a copy of the inventory to the Respondent's last known address, or if the Respondent has provided a different address, to the address provided. The inventory must be prepared, signed, and dated in the presence of the law enforcement officer and must include the following:

      i. A list of the items of personal property and a description of their condition;

      ii. The date, the signature of the Petitioner or the Petitioner's agent, and the name and phone number of a person authorized to release the Respondent's personal property; and

      iii. The name and badge number of the law enforcement officer.

   (e) The Petitioner and law enforcement officer shall retain a copy of the inventory.

   (f) The Petitioner shall notify the respondent of the date and approximate time the Petitioner is scheduled to remove the Respondent, all persons and all personal property from the premises. The notice must be sent by first class mail, return receipt requested. Additionally, the Petitioner must make a good faith effort to

notify the Respondent by phone. The notice must be mailed as soon as the information regarding the date and approximate time the law enforcement officer is scheduled to enforce the order is known to the Petitioner, except that the scheduling of the of the law enforcement officer to enforce the order need not be delayed because of the notice requirement. The notice must inform the Respondent that the Respondent and the personal property will be removed from the premises if the Respondent has not vacated the premises by the time specified in the notice.

(g) No personal property shall be seized by any law enforcement officer or any other person after lawful entry of any judgment if said seizure involves a basic life-sustaining item required for the general welfare of any person.

§6.10 Stay of Writ of Recovery

No stay of the writ of recovery may be granted except upon a showing by the Defendant that the immediate recovery would cause a severe and substantial hardship upon the Defendant or the Defendant's family. Upon a proper showing by the Defendant of severe and substantial hardship, the Tribal Court may issue an *ex-parte* stay the writ of recovery for a reasonable period not to exceed seven (7) days.

§6.11 Appeals

1. *Statement of Intention to Appeal*: If the White Earth Tribal Court renders judgment against the Respondent and the Respondent or their attorney informs the Court of an intent to appeal, the Court shall issue an order staying the writ for recovery of the premises and order to vacate for at least twenty-four (24) hours after judgment, except as provided in §10.05 (7).

2. *Time for Appeal*: In housing cases, time is of the essence. The Appellant's brief shall be filed with the notice of appeal. Appellee's brief shall be filed within seven (7) calendar days of Appellant's brief.

3. *Appeal Bond*: If the party appealing remains in possession of the property, that party must give a bond in an amount to be determined by the Court that provides that all costs of the appeal will be paid, the party will comply with the Court's order, and current rent and utilities due to the party excluded from possession during pendency of the appeal will be paid to the landlord. The bond must be approved by the Court.

4. *Stay Pending Appeal*: After the appeal is taken, all further proceedings in the case are stayed, except as provided in §10.05 (7).

5. *Stay of Writ Issued Before Appeal*:

   (a) Except as provided in §10.05 (7) if the Court issues a writ for recovery of premises and order to vacate before an appeal is taken, the appealing party may request that the Court stay further proceedings and execution of the writ for possession of premises and order to vacate, and the Court shall grant a stay.

(b) If the party appealing remains in possession of the premises, that party must give a bond under §10.05 (3).

(c) When the law enforcement officer who has the writ for possession of the premises and order to vacate is served with the order granting the stay, the law enforcement officer shall cease all further proceedings. If the writ for possession of premises and order to vacate has not been completely executed, the Respondent shall remain in possession of the premises until the appeal is decided.

6. *Dismissal of Appeals*: In all cases of appeal, the Appellate Court shall not dismiss or quash the proceedings for want of form only, provided they have been conducted substantially in accordance with applicable law.

7. *Amendments*: Amendments may be allowed at any time, upon such terms as to the Court may appear just, in the same cases and manner and to the same extent as in civil actions. The Appellate Court may compel the trial Court, by attachment, to make or amend any return which is withheld or improperly or insufficiently made.

8. *Exception*: §10.05 (1),(4), and (6) do not apply in an action on a rental agreement, against a tenant holding over after the expiration of the term of the rental agreement, or a termination of the rental agreement by a notice to vacate.

9. *Hearing Schedule*: The Appellate Court shall review the filings and determine whether a hearing is necessary. If a hearing is deemed necessary, the Appellate Court shall schedule a hearing within thirty (30). All decisions on housing cases by the White Earth Court of Appeals shall be rendered within thirty (30) days from the hearing date or the Appellee's brief, if no hearing is held.

CHAPTER SEVEN—CRIME-FREE/DRUG-FREE HOUSING

§7.01 Drug-Related Illegal Activities

1. "*Drug-related activity*" means illegal manufacture, sale, distribution, purchase, use or possession with intent to manufacture, sell, distribute or use of a controlled substance (as defined in §102 or the Controlled Substance Act [21 U.S.C. 802]) or possession of drug paraphernalia as defined in the White Earth Criminal Title.

2. "*Illegal activity*" means any unlawful action which includes but is not limited to; prostitution or prostitution related activity; unlawful use or possession of a firearm; possession of stolen property; or acts of violence or threats of violence.

3. Neither the landlord nor the tenant shall:

   (a) Unlawfully allow drug-related activity on any area of the premises. This includes the dwelling, dwelling unit, common area, roadways and/or any part of the property.

   (b) Engage in or allow any member of the tenant's household or guests to engage in illegal activity, including drug-related activity, on the premises.

   (c) Permit the dwelling to be used for or to facilitate illegal activity, including drug-related illegal activity, regardless of whether the individual engaging in such activity is a member of the tenant's household or a guest.

§7.02 Expedited Eviction or Lease Termination

1. If a landlord or tenant has credible evidence that the other party has engaged in or knowingly permitted drug related and/or illegal activities to occur on or within the premises, including any common areas owned by the landlord connected to the premises, where the tenant is leasing a dwelling, the party shall file a petition for expedited eviction or termination of the lease.

4. The petitioning party shall provide written notice to the respondent to vacate the premises or terminate. The notice to vacate shall be in writing substantially in the following form:

   "I (or we) hereby give [Tenant's Name(s)] notice that I (or we) filed a petition for expedited eviction against you in the White Earth Tribal Court due to my (or our) reasonable belief that you have violated the Crime Free/Drug Free Ordinance, the Housing Code, Chap. 9, by engaging in [insert specific incident of illegal or drug related activity which occurred on the premises].

   You may defend your lease by appearing at the initial hearing at Tribal Court, scheduled for [insert date and time] or vacate the dwelling unit now occupied by you at [insert the address or other reasonable description of the location of the dwelling unit], on or before the [insert date].

FAILURE TO APPEAR AT THE HEARING WILL RESULT IN YOUR EVICTION FROM THIS PREMISIS.

Signed, [insert signature, name and address of the landlord, and date and place of signing]."

2. The petitioning party must prove at the initial hearing that they provided notice to the respondent under §6.03(1) or §1.04.

3. The Court shall hold an expedited hearing no sooner than 3 and no later than 5 business days after the petition was filed at the request of the petitioner.

§7.03 Standard for Granting Expedited Eviction

1. The petitioner must prove by a preponderance of the evidence that the respondent engaged in or knowingly permitted drug-related and/or illegal activities to occur on or within the premises, including any common areas owned by the landlord connected to the premises, where the tenant is leasing a dwelling.

2. A tenant shall not be evicted for the drug-related or illegal actions of a minor child who resides with them, unless the landlord can prove the tenant consensually engaged in or knowingly permitted the drug-related or illegal activities on the premises.

3. In a petition against multiple adult tenant-respondents who are on the lease for a single abode the petitioner must prove that each respondent engaged in or knowingly permitted illegal or drug related activity.

   (a) The Court may void the lease and order the eviction of each respondent found to have engaged in or knowingly permitted illegal or drug-related activity.

   (b) The Court shall leave any respondent found to have not engaged in or knowingly permitted illegal or drug-related activity in possession of the property.

§7.04 Court Ordered Right to Immediate Possession

1. The Court may dismiss the petition if the moving party provides evidence that the respondent has vacated the premises or signed an agreement to terminate the lease and not hold the tenant liable for abandonment.

2. The Court may find the party in default only if the respondent fails to appear and it determines the petitioner has met its burden under §9.03(1).

3. *Clean Hands Defense*: If the Court finds by a preponderance of the evidence that petitioning party has engaged in the drug or criminal activity complained of in the petition, it shall grant any remedy it deems just.

4. The Court may issue an expedited order to vacate under §6.10(2). The respondent shall have the right to request a stay of writ of recovery under §6.11 and appeal under §6.12.

CHAPTER EIGHT—VICTIMS OF VIOLENCE'S RIGHT TO TERMINATE RENTAL AGREEMENT

§8.01 Right to Terminate Rental Agreement

A tenant to a rental agreement may terminate the rental agreement without penalty or liability, if the tenant or authorized occupant fears imminent violence after being subjected to domestic abuse, criminal sexual conduct, or stalking.

§8.02 Procedure

1. The tenant must provide advance written notice to the landlord stating that the tenant fears imminent violence from a person as indicated in a criminal complaint, order for protection, affidavit by a domestic abuse advocate stating that the tenant is a victim of domestic abuse or sexual assault, or other valid court order if the tenant or authorized occupant remains in the leased premises, the tenant needs to terminate the tenancy, date the tenant will vacate, and written instructions for the disposition of any remaining personal property.

2. The written notice must be signed and dated and delivered to the landlord before the termination of the tenancy by either mail, fax, or in person, and be accompanied by the criminal complaint, order for protection, affidavit by a domestic abuse advocate stating that the tenant is a victim of domestic abuse or sexual assault, or other valid court order.

3. The tenancy terminates, including the right of possession of the premises, as provided in §10.04.

§8.03 Treatment of Information

A landlord shall not disclose any information provided to the landlord by a tenant in the written notice required under §10.02 (2), any information contained in the criminal complaint, order for protection, affidavit by a domestic abuse advocate stating that the tenant is a victim of domestic abuse or sexual assault, or other valid court order, the address or location to which the tenant has relocated, or the status of the tenant as a victim of violence.

§8.04 Liability for Rent; Termination of Tenancy

1. A tenant who is a sole tenant and is terminating a rental agreement under §10.01 is responsible for the rent payment for the full month in which the tenancy terminates. The tenant is relieved of the contractual obligation for payment of rent or any other charges for the remaining term of the rental agreement, except as provided in this section. In a sole tenancy, the tenancy terminates on the date specified in the notice provided to the landlord as required under §10.02. The landlord shall promptly notify all utility providers of the change in tenancy.

2. In a tenancy with multiple tenants, one of whom is terminating the rental agreement under §10.01, any rental agreement governing all tenants is terminated at the latter of the end of the month or the end of the rent interval in which one tenant terminates the rental

agreement under §10.01. All tenants are responsible for the rent payment for the full month in which the tenancy terminates. Upon termination, all tenants are relieved of any other contractual obligation for payment of rent or any other charges for the remaining term of the rental agreement, except as provided in this section. Any tenant whose tenancy was terminated under this paragraph may reapply to enter into a new rental agreement with the landlord. The landlord shall promptly notify all utility providers of the change in tenancy.

3. This section does not affect a tenant's liability for delinquent, unpaid rent or other amounts owed to the landlord before the rental agreement was terminated by the tenant under this section.

§8.05 Waiver Prohibited

A tenant may not waive, and a landlord may not require the tenant to waive, the tenant's rights under this Chapter.

CHAPTER NINE—MORTGAGE AND FORECLOSURE

§9.01 Recording

All mortgages must be recorded in accordance with the recording procedures designated by the Tribe, whether it be recorded in the BIA designated area office (currently Aberdeen, South Dakota) or the county recorder's office where the property is located.

§9.02 Pre-Foreclosure Procedures

1. Before a borrower/mortgagor (hereinafter "borrower") becomes ninety (90) days delinquent on the mortgage payments, the lender/mortgagee (hereinafter "lender") shall make a reasonable effort to arrange a face-to-face interview, provided the borrower complies with the request to meet with the borrower.

2. Lender shall document that it has made at least one (1) telephone call to the borrower to set up a face-to-face interview.

3. Before the borrower has been delinquent for ninety (90) days and at least ten (10) days before the beginning of a foreclosure action in Tribal Court, the lender shall advise the borrower in writing by certified mail, return receipt requested, and by posting prominently on the unit, with a copy provided to the Tribe, as follows:

    (a) Advise the borrower that information regarding the loan and default will be given to credit bureaus;

    (b) Advise the borrower of homeownership counseling opportunities and programs available through the lender or otherwise; and

    (c) Advise the borrower of other available assistance regarding the mortgage and default.

4. In addition to all the foregoing notice requirements, the lender shall complete the following additional requirements when a leasehold mortgage is involved:

    (a) Notify the borrower that if the leasehold remains in default for more than ninety (90) days, the lender may ask the applicable governmental agency to accept assignment of the leasehold mortgage if this is a requirement of the governmental program;

    (b) Notify the borrower of the qualifications for forbearance relief from the lender, if any, and that forbearance relief may be available from the government if the mortgage is assigned; and

    (c) Provide the borrower with names and addresses of government officials to whom further communications may be addressed, if any.

§9.03 Foreclosure

1. A borrower shall be considered in default when the borrower is thirty (30) days past due on mortgage payment(s) to the lender.

2. If a borrower has been in default for ninety (90) days or more and the lender has complied with the procedures set forth in §7.02, the lender may commence a foreclosure proceeding in the Tribal Court.

3. A mortgage may be foreclosed by action or advertisement.

4. In foreclosing by advertisement, the lender shall provide six (6) weeks published notice that the mortgage will be foreclosed by the sale of the mortgaged premises, to occur at least four (4) weeks before the appointed time of sale. A copy of the notice shall be personally served upon the person in possession of the mortgaged premises, if occupied.

5. The notice shall contain:

    (a) The name of the borrower, the lender, each assignee of the mortgage, if any, and the original or maximum principal amount secured by the mortgage;

    (b) The date of the mortgage, and when and where recorded, except where the mortgage is upon registered land, in which case the notice shall state that fact, and when and where registered;

    (c) The amount claimed to be due on the mortgage on the date of the notice;

    (d) A description of the mortgaged premises, conforming substantially to that contained in the mortgage, and the commonly used street address of the mortgaged premises;

    (e) The time and place of sale;

    (f) The time allowed by law for redemption by the borrower, the borrower's personal representatives or assigns; and

    (g) The date the borrower must vacate the property.

§9.04 Summons and Complaint

1. The mortgage holder shall serve notice on the mortgagee as provided in §2.04

2. The complaining party shall file a verified complaint with the White Earth Tribal Court clerk. The verified complaint in a mortgage foreclosure proceeding shall contain the following:

    (a) The name of the borrower and each person or entity claiming through the borrower, as a respondent, subsequent to the recording of the mortgage;

(b) A description of the property subject to the mortgage;

(c) A concise statement of facts concerning the execution of the mortgage or in the case of a leasehold mortgage, the lease; the facts concerning the recording and the alleged default;

(d) True and correct copies of each promissory note, if a leasehold mortgage then a copy of the lease, the mortgage or assignment thereof relating to the property; and

(e) Any applicable allegations concerning relevant requirements and conditions prescribed in federal laws and regulations, tribal titles, ordinances and regulations and/or provisions of lease or leasehold mortgages or security instruments.

3. The complaint shall be verified in the following manner:

(a) By the affidavit of the party, or of one or more of the parties pleading together, that the affiant knows the contents of the pleading, that the averments thereof are true of affiant's own knowledge, save as to such as are therein stated on information and belief, and that as to those the affiant believes them to be true; or

(b) If the party is a corporation, the affidavit may be made by any officer thereof having knowledge of the facts sworn to.

4. The White Earth Tribal Court shall issue a summons commanding the Respondent to appear before the Court.

§9.05 Cure of Default by Subordinate Lienholder

Prior to the entry of a judgment of foreclosure, any borrower or a subordinate lienholder may cure the default(s) under the mortgage by making a full payment of the delinquency to the lender and all reasonable legal and court costs incurred in foreclosing the property. There shall be no right of redemption in any leasehold mortgage foreclosure proceeding.

§9.06 Judgment and Remedy

1. This matter shall be heard within sixty (60) days from the date of service of the complaint on the borrower. The Tribal Court shall enter judgment to foreclose the interest of the borrower, assign the mortgage to the lender or the lender's designated assignee; in the case of a leasehold mortgage, the lease will be assigned to the lender or the lender's designated assignee, subject to the following provisions:

2. The lender shall give the White Earth Nation the right of first refusal on any acceptable offer to purchase the lease or leasehold mortgage which is later obtained by the lender or lender's designated assignee.

3. The lender or lender's assignee may only transfer, sell or assign the lease and/or leasehold mortgage to a tribal member, the Tribe or the Tribal Housing Authority.

4. Any other transfer, sale or assignment of the lease or leasehold mortgage shall only be made to a tribal member or the Tribal Housing Authority during the remaining period of the leasehold.

§9.07 Foreclosure Evictions

Foreclosure evictions shall be handled the same as unlawful detainer evictions, with the added provision that foreclosure eviction proceedings shall not happen until after the borrower, lessee, occupier has received thirty (30) calendar days' notice and remains in possession of the property contrary to the terms of the notice. All foreclosure evictions shall happen no later than sixty (60) days from the date of service of notice upon the borrower that foreclosure was completed.

§9.08 Certified Mailing to Tribe and Landlord

Any foreclosure proceeding on a lease or leasehold mortgage where the Tribe or the landlord is not named as a defendant, a copy of the summons and complaint shall be mailed to the Tribe and to the landlord by certified mail, return receipt requested, within five (5) days after the summons was issued. If the landlord's location cannot be ascertained, the summons and complaint shall be mailed to the Bureau of Indian Affairs.

§9.09 Intervention

The Tribe or any landlord may petition the Tribal Court to intervene in any lease or leasehold mortgage foreclosure proceeding under this Code. Neither the filing of a petition for intervention by a Tribe, nor the granting of such petition by the Tribal Court shall operate as a waiver of the sovereign immunity of the Tribe, except as may be expressly authorized by the Tribe.

CHAPTER TEN—FEDERAL RULES AND REGULATIONS

§10.01 Federal Rules and Regulations

Any rule or regulation that has been promulgated by the U.S. Department of Housing and Urban Development for the purpose of implementation and management of Indian Housing programs and which the WEHA is required to follow to qualify for federal funds shall supersede the provisions of this Code for those federally funded housing units only. Prior to commencement of any action in Tribal Court any aggrieved party must first exhaust all available administrative remedies, if any.

CHAPTER ELEVEN—APPEALS

§11.01 Appeals

With the exception of any appeals taken under Chapter 10 of this Title, any appeals under this Code shall be handled in accordance with the White Earth Court of Appeals Rules of Appellate Procedure.

WHITE EARTH RESERVATION BUSINESS COMMITTEE
WHITE EARTH BAND OF CHIPPEWA INDIANS

Resolution No. 019-19-007

WHEREAS, the White Earth Reservation Business Committee is the duly elected governing body of the White Earth Reservation pursuant to Article VI, Section 1, of the revised constitution of the Minnesota Chippewa Tribe, as amended, and organized under Section 16, of the Act of June 18, 1934 (48 Stat. 984), and

WHEREAS, the White Earth Reservation Business Committee is the duly authorized governing body of the White Earth Band, and

WHEREAS, the White Earth Reservation Business Committee owns and manages rental property and is responsible for establishing the rules regarding the interactions between members within the Reservation, and

WHEREAS, the Reservation Business Committee finds that the proposed Housing, Tribal Property and Unlawful Detainer and Mortgage Foreclosure Code is necessary to facilitate its and its members owning and leasing of residential property, and

WHERAS, the White Earth Reservation Business Committee repeals and replaces the current Housing, Tribal Property and Unlawful Detainer and Mortgage Foreclosure Code enacted on November 13, 1998, now

THEREFORE BE IT RESOLVED, that the White Earth Reservation Business Committee hereby adopt the following Housing, Tribal Property and Unlawful Detainer and Mortgage Foreclosure Code to simplify, clarify, modernize and revise the law governing the occupation of dwelling units and accommodations, and the rights, obligations, and remedies of the owners, sellers, lessors, landlords, lessees, tenants and occupiers of such structures.

We do hereby certify that the foregoing resolution was adopted by a vote of 4 for, 0 against, 0 silent, a quorum being present at a special meeting of the White Earth Reservation Business Committee held on September 9, 2019 in White Earth, Minnesota.

Michael A. Fairbanks, Chairman

Leonard Alan Roy, Secretary/Treasurer