

ORDINANCE OF THE OGLALA SIOUX TRIBAL COUNCIL
OF THE OGLALA SIOUX TRIBE
(An Unincorporated Tribe)

ORDINANCE OF THE OGLALA SIOUX TRIBAL COUNCIL OF THE OGLALA SIOUX TRIBE
AMENDING ORDINANCE NO. 16-25 AS AMENDED BY ORDINANCE NO. 20-56
ESTABLISHING THE OGLALA SIOUX TRIBE IN-HOUSE LEGAL DEPARTMENT.

WHEREAS, the Oglala Sioux Tribe organized in accordance with Section 16 of the Indian Reorganization Act of 1934 (25 U.S.C. § 5123) on December 14, 1935, by adopting a federally approved Constitution and By-laws, and the Tribal Council is the governing body of the Tribe, and

WHEREAS, Article IV, Section 1(b) of the Tribal Constitution empowers the Tribal Council to employ legal counsel for the protection and advancement of the rights of the Oglala Sioux Tribe and its members, and Article IV, Section 1 (w) empowers the Tribal Council to adopt laws promoting the health and general welfare of the Tribe and its members, and

WHEREAS, in order to fulfill its role in retaining legal counsel for the advancement and protection of the rights of the tribe and its members, the Tribal Council wants to create a Legal Department staffed with In-House attorneys and support staff to reduce the costs of retaining outside legal counsel while maximizing legal services available under a limited tribal budget and centralizing legal services under one department, and

WHEREAS, the Tribal Council enacted Ordinance No. 16-25 (August 30, 2016) as amended by Ordinance No. 20-56 (September 1, 2020) amending and rescinding Ordinance No. 14-20 establishing an Oglala Sioux Tribe In-House Legal Department, and

WHEREAS, the OST Legal Department is in need of updates and revision, and

WHEREAS, the Law and Order Committee believes that the proposed Ordinance will accomplish the objectives of the Tribe as set forth above and recommends to Tribal Council the adoption of the proposed Ordinance; now

THEREFORE BE IT ORDAINED, that the Oglala Sioux Tribal Council hereby adopts the following Ordinance amending Oglala Sioux Tribe Ordinance No. 16-25 as amended by 20-56 with regard to the Oglala Sioux Tribal Legal Department and shall read in its entirety:

SECTION 1. ESTABLISHED OF OGLALA SIOUX TRIBE LEGAL DEPARTMENT

- (a) There is hereby established a new Department to be known as the Oglala Sioux Legal Department ("Legal Department).

- (b) The Legal Department will be under the direct supervision of the Tribal Council and will answer only to the Tribal Council.

SECTION 2. LOCATION OF LEGAL DEPARTMENT

The Oglala Sioux Legal Department will be based out of Pine Ridge Agency in offices provided by the Oglala Sioux Tribe. Additional offices may be established throughout the original territorial boundaries of the Pine Ridge Indian Reservation as deemed necessary by the Oglala Sioux Tribal Council.

SECTION 3. COMPOSITION OF THE LEGAL DEPARTMENT

- (a) The Legal Department will be composed of the following personnel, subject to budgeted funds available and necessity:
 - (1) Three In-House Attorneys
 - (2) One Paralegal / Office Manager
 - (3) One Legal Secretary
 - (4) One Receptionist / File Clerk
 - (5) Interns as needed
- (b) The Office Manager will be the direct supervisor of all merit employees in the Department.
- (c) The Attorneys shall be political appointees eligible for all benefits and merit awards made available by the Tribal Council to regular employees of the Tribe and will serve for a two-year term that coincides with the term of the then-seated council.
- (d) They will be appointed by the Tribal Council by way of Resolution and this Ordinance shall serve as the scope of work and level of compensation.
- (e) All personnel of the Legal Department other than the Attorneys, will be merit employees and subject to hiring and discipline under the Tribal Personnel Policies and Procedures (Ordinance 18-22 as amended).
- (f) All interns working in the legal Department will be approved by the Attorneys following submission of a resume, writing sample, and references. If the departmental budget allows, the interns will be paid for their time at a rate approved by Council.

- (g) All equipment, office equipment and supplies, including internet connections, legal research tools, phones, website costs, drug test costs, travel expenses, and other expenses necessary for the operation of the Legal Department, will be provided with budgeted funds available.
- (h) Additional personnel may be necessary, such as paralegals. Such personnel may be added to the Legal Department as authorized by the Tribal Council upon recommendation of the majority of the In-House attorneys.

SECTION 4. PREFERENCE IN HIRING FOR THE OGLALA SIOUX TRIBE LEGAL DEPARTMENT.

- (a) Preference in hiring attorneys for the Legal Department will be as follows once basic qualifications for the position have been met:
 - (1) Enrolled Tribal Members
 - (2) Descendants of Tribal Members who have pending application for enrollment
 - (3) Enrolled members of other federally recognized tribes
 - (4) Enrolled member of non-federally recognized tribes; and
 - (5) Non-Indians

SECTION 5. QUALIFICATIONS OF ATTORNEY

- (a) All Attorneys will be drug and alcohol free and comply with the terms of the Tribe's Drug Free Workplace Act.
- (b) All Attorneys hired by the Legal Department will have a Juris Doctorate degree from an accredited law school and will be in good standing in at least one state in which they are licensed. A certificate of Good Standing shall be provided to the Tribal Council prior to any interview.
- (c) Additionally, the In-House Attorney must comply with the following conditions:
 - (1) Obtain a license to practice in the Oglala Sioux Tribal Court before accepting the position;

(2) Remain State and tribally licensed and in good standing during the term of the appointment. If the Attorney is subject to discipline by his/her perspective state and/or tribal bar association, and the result is suspension or disbarment from the practice of law, that Attorney cannot serve the Tribe during the period of suspension and will not be paid during that period of suspension. If disbarred, the Attorney will be deemed terminated by operation of law.

(d) The Attorneys will have a minimum of five (5) years of legal experience specializing in Indian law, and must have demonstrable litigation experience.

SECTION 6. GENERAL REQUIREMENTS AND DUTIES OF THE ATTORNEYS

(a) The Attorneys will work full-time for the Legal Department unless they are appointed on a temporary or part-time basis. They may work remotely; however, they are required to attend meetings as assigned and to be in the office for at least two other full working days each week.

(b) The Attorneys cannot take on outside work unless that work was started before their appointment and they owe an ethical duty to close the case(s) at issue.

(c) The Legal Department will not handle tax matters, retirement plans, patent or trademark matters, insurance claims, or other specialized areas of law that require the assistance of an outside expert unless the Attorney possesses the requisite expertise.

(d) The Attorneys will not represent or provide legal advice to the Tribal Gaming Commission or the Election Commission.

(e) The Attorneys will not represent or provide any legal services to any tribal officer or council member for actions taken outside the scope of his or her official duties.

(f) The Attorneys will not represent or provide legal services to any tribally chartered corporation or business.

- (g) The Attorneys will not represent or provide any legal advice to any individual Tribal member without authorization of the Tribal Council.
- (h) The Attorneys must notify both the Office Manager and the Tribal Council when a proposed assignment presents a time conflict or other conflict with that Attorney's pre-existing workload.
- (i) Each Attorney will serve two standing Tribal Council Committees. If an Attorney cannot attend a committee meeting, that Attorney must so notify the Committee Chair, Secretary and Office Manager, and arrange to obtain any assignments from the secretary along with any supporting documents and minutes.

SECTION 7. "WILL" SERVICES TO THE MEMBERS OF THE OGLALA SIOUX TRIBE OYATE

- (a) The Legal Department shall provide general wills services to the Oglala Sioux Tribe Oyate.
- (b) The Legal Department will host a WILL clinic in each district once a year.

SECTION 8. ASSIGNMENT OF WORK TO LEGAL DEPARTMENT

- (a) Only the following entities may assign cases and other work assignments to the Legal Department:
 - 1. OST President
 - 2. OST Tribal Council
 - 3. OST Standing Committees
 - 4. Executive Committee
- (b) All cases or work assignments will be referred directly to the Office Manager and the appropriate Attorney.

SECTION 9. ANNUAL FUNDING FOR THE OGLALA SIOUX TRIBE LEGAL DEPARTMENT

- (a) The Tribal Council finds that in order to promote a stable Legal Department staffed with qualified individuals, and because of the remoteness of the tribal offices and shortage of housing on the Pine Ridge Indian Reservation, the personnel will be paid as follows.

In-House Counsel:

Up to 150,000 per year per attorney, negotiable based upon experience.

Office Manager / Paralegal

\$70,000 per year plus fringe benefits (has been budgeted at this for the last 2 years.

Legal Secretary

\$45,000 per year plus fringe benefits

File Clerk / Receptionist

\$30,000 per year plus fringe benefits

- (b) The Office Manager will submit an operating budget for the Legal Department to the Finance Committee annually.

SECTION 10. AGREEMENTS WITH OUTSIDE LAW FIRMS AND ATTORNEYS

- (a) It is recognized that the Tribe will need to retain the specialized services of outside counsel to handle cases and other legal matters for the Tribe.
- (b) The In-House Attorneys will be the preferred option for staffing of Tribal Council and Standing Committee meetings and drafting Resolutions and Ordinances.
- (c) The Tribal Council may confer with the In-House Attorneys regarding workload capabilities and area of legal expertise requiring outside counsel before making an assignment to attorneys outside of the Legal Department, but not required to do so.

SECTION 11. REPEAL OF PRIOR INCONSISTENT, ORDINANCES AND RESOLUTION.

This Ordinance rescinds and supersedes Ordinance No. 16-25 as amended, and Ordinance 20-56 in its entirety; now

THEREFORE BE IT ORDAINED, that this Ordinance will become effective on the date it is approved by the Tribal Council, and

THEREFORE BE IT FURTHER ORDAINED, that the President, or in his absence the Vice President, is hereby authorized to sign any necessary documentation on behalf of the Tribe in order to carry out the terms of this Ordinance.


C-E-R-T-I-F-I-C-A-T-I-O-N

I, as undersigned Secretary of the Oglala Sioux Tribal Council of the Oglala Sioux Tribe, do hereby certify that this Ordinance was adopted by a vote of: 17 For; 1 Against; 0 Abstain; and 2 Not Voting; during a REGULAR SESSION held on the 27TH day of SEPTEMBER, 2022.



STACY L. TWO LANCE
Secretary
Oglala Sioux Tribe

A-T-T-E-S-T:



KEVIN KILLER
President
Oglala Sioux Tribe

RECEIVED
SEP 30 2022
BUREAU OF INDIAN AFFAIRS
OFFICE OF THE SUPERINTENDENT