



**LAC COURTE OREILLES BAND
OF
LAKE SUPERIOR CHIPPEWA INDIANS**

TRIBAL CODE OF LAW

**TITLE X
PUBLIC HEALTH AND SAFETY**

TITLE X – CHAPTER 2
SOLID WASTE DISPOSAL AND RECYCLING CODE
OF THE
LAC COURTE OREILLES BAND OF LAKE SUPERIOR CHIPPEWA INDIANS

Preamble

This ordinance is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, to promote and protect the land, water, health, safety, and well-being of the Lac Courte Oreilles tribal community and surrounding area and to ensure that efficient and environmentally safe solid waste management procedures are practiced on the Lac Courte Oreilles Reservation, which predates its Treaties of 1825, 1826, 1837, 1842, 1847 and 1854 with the United States Government. In the implementation of this inherent sovereign authority, Article V, § 1(s) of the Amended Constitution and Bylaws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, empowers the Tribal Governing Board to: “To promulgate and enforce ordinances...providing for the maintenance of law and order and the administration of justice...” Pursuant to this inherent sovereign authority, the Tribal Governing Board hereby regulates solid waste and recycling by providing procedural guidelines and planning for the administration and enforcement of ordinance violations. This ordinance applies to the disposal and recycling activities of citizens (members) on the Lac Courte Oreilles Reservation. Further, this ordinance applies to residences, tribal programs and tribal enterprises located within the exterior boundaries of the reservation.

Table of Contents

SUBCHAPTER 2.1 - GENERAL PROVISIONS

§ 2.101	Title.
§ 2.102	Authority.
§ 2.103	Purpose.
§ 2.104	Territorial Applicability.
§ 2.105	Effective Date.
§ 2.106	Interpretation.
§ 2.107	Severability and Non-Liability.
§ 2.108	Repeal of Inconsistent Tribal Ordinances.

SUBCHAPTER 2.2 – DEFINITIONS

§ 2.201	General Definitions.
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SUBCHAPTER 2.3 – GENERAL

§ 2.301	Transfer Station Site.
§ 2.302	Disposal of Solid Wastes, Recyclables, Hazardous.

- § 2.303 Administration.
- § 2.304 Fees.
- § 2.305 Penalties.

SUBCHAPTER 2.4 – GENERAL

- § 2.401 Hearings in Tribal Court.
- § 2.402 Enforcement by Conservation Wardens.
- § 2.403 Enforcement by Other Law Enforcement Officers.
- § 2.404 Investigations.
- § 2.405 Issuance of Citations.
- § 2.406 Penalties.
- § 2.407 Enhancement of Forfeiture and Penalties.
- § 2.408 Schedule of Money Penalties; No Contest.
- § 2.409 Collection of Money Penalties.
- § 2.410 Parties to a Violation.
- § 2.411 Interference with Department.

SUBCHAPTER 2.1 - GENERAL PROVISIONS

§ 2.101 Title.

This ordinance shall be known as the Solid Waste Disposal and Recycling Code of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

§ 2.102 Authority.

This ordinance is enacted pursuant to the inherent sovereign authority of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians. In the implementation of this inherent sovereign authority, Article V, §§ 1(s) of the Amended Constitution and Bylaws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, empowers the Tribal Governing Board to: “To promulgate and enforce ordinances...providing for the maintenance of law and order and the administration of justice...”

§ 2.103 Purpose.

The purpose of this ordinance is to promote and protect the land, water, health, safety, and well-being of the Lac Courte Oreilles tribal community and surrounding area. Further, to ensure that efficient and environmentally safe solid waste management procedures are practiced on the Lac Courte Oreilles Reservation: to regulate solid waste and recycling by providing procedural guidelines and planning for the administration and enforcement of ordinance violations. This ordinance applies to the disposal and recycling activities of citizens (members) on the Lac Courte Oreilles Reservation. Further, this ordinance applies to residences, tribal programs and tribal enterprises located within the exterior boundaries of the reservation.

§ 2.104 Territorial Applicability.

This ordinance shall govern the practice of solid waste management procedures subject to the provisions of this ordinance by members and non-members within Lac Courte Oreilles Reservation lands as well as off-reservation lands under the jurisdiction and purview of the Lac Courte Oreilles Tribe.

§ 2.105 Effective Date.

Except as otherwise provided in specific sections, the provisions of this ordinance shall be effective on the date adopted by the Tribal Governing Board.

§ 2.106 Interpretation.

The provisions of this ordinance:

(1) Shall be interpreted and applied as minimum requirements applicable to the Housing Authority activities subject to this ordinance;

As Approved and Adopted by Resolution No. 16-31

(2) Shall be liberally construed in favor of the Tribe;

(3) Shall not be deemed a limitation or repeal of any other tribal power or authority.

§ 2.107 Severability and Non-Liability.

If any section, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby. The Tribe further asserts immunity on its part and that of its agencies, employees, and/or agents from any action or damages that may occur as a result of reliance upon and conformance with this ordinance.

§ 2.108 Repeal of Inconsistent Tribal Ordinances.

All ordinances and resolutions inconsistent with this ordinance are hereby repealed. To the extent that this ordinance imposes greater restrictions than those contained in any other tribal law, code, ordinance or regulation, the provisions of this ordinance shall govern.

SUBCHAPTER 2.2 – DEFINITIONS

§ 2.201 General Definitions.

Any term not defined in this Section shall be given its ordinary meaning. The following terms, wherever used in this ordinance, shall be construed to apply as follows, except where the context indicates otherwise:

(1) **“Citizen”** means an enrolled member of the Lac Courte Oreilles Lake Superior Band of Chippewa Indians.

(2) **“Collector”** means any person or business who collects and transports solid waste and recyclable materials.

(3) **“Garbage”** means animal and vegetable waste resulting from the handling, preparation, cooking, and/or consumption of foods.

(4) **“Hazardous Solid Waste”** means any substance or combination of substances including any waste of a solid, semi-solid, liquid, or gaseous form which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or which may pose a substantial present or potential hazard to human health or the environment because of its quantity, concentration, or physical, chemical or infectious characteristics. This term includes, but is not limited to, substances which are toxic, radioactive, corrosive, flammable, irritants, strong sensitizers, pesticides, and explosives.

(5) **“Incinerator”** means a facility where the process of burning solid, semi-solid or gaseous combustible wastes to an inoffensive gas or a residue containing little or no combustible material.

(6) **“Non-Recyclable Material”** means pyrex glass, window glass, light bulbs, mirrors, broken glass, china, styrofoam and melamine type plastics, waxed paper, waxed cardboard, envelopes with gummed labels, glossy paper, magazines, envelopes with plastic windows, garbage, rubbish, telephone directories, bottle or jar caps and any materials for which there is no destination point for reclamation or processing.

(7) **“Open Burning”** means any fire wherein the products of combustion are emitted directly into the outdoor atmosphere and are not directed through a stack or chimney, incinerator, or other similar device.

(8) **“Public Nuisance”** means the disposal of solid waste materials in such a manner which is offensive to the surrounding community which affects the general health, welfare, and peace.

(9) **“Recyclable Material”** means brown, clear, and green container glass, aluminum cans, plastic containers with #1 or #2 inside a triangle on the bottom, corrugated cardboard,

newspaper, and any material for which there is a destination point named for reclamation or processing.

(10) **“Regulations”** means any conservation regulation contained within this ordinance.

(11) **“Reservation” or “Reservation Lands”** means those lands, including the beds of any streams and flowages, located within the exterior boundaries of the Lac Courte Oreilles Reservation lands as well as off-reservation lands under the jurisdiction and purview of the Lac Courte Oreilles Tribe.

(12) **“Rubbish”** means combustible and non-combustible refuse, including paper, wood, metal, glass, cloth, litter, yard waste, ashes, lumber, and concrete.

(13) **“Tribe”** means the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(14) **“Tribal Attorney(s)”** means the tribal attorney(s) employed by the Lac Courte Oreilles Legal Department, whom are in charge of and responsible for the prosecution of citations relating to Conservation.

(15) **“Tribal Conservation Department” or “Department”** means the conservation department of the Tribe.

(16) **“Tribal Court”** means the court of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(17) **“Tribal Governing Board”** means the Tribal Governing Board of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

(18) **“Solid Waste”** means all garbage, refuse, rubbish, trash, construction and demolition materials, yard waste, dead animals, and solid materials generated from residential, commercial, and industrial activities. Solid waste does not include hazardous waste and human body waste.

(19) **“White Goods”** means household appliance such as refrigerator, stove, air conditioner, washing machine, dryer, dishwasher, etc.

SUBCHAPTER 2.3 – GENERAL

§ 2.301 Transfer Station Site.

The Lac Courte Oreilles Solid Waste Transfer Station and Recycling Center is located at the closed landfill site on County Highway NN. The Lac Courte Oreilles Solid Waste Transfer Station and Recycling Center, as such facility is now or may hereafter be expanded or revised, shall be the only location upon which non-hazardous solid wastes and recyclables shall be dropped off. No other site, unless opened and managed by the Lac Courte Oreilles Conservation Department, as directed by the Tribal Governing Board, shall be utilized on the Lac Courte Oreilles Reservation.

§ 2.302 Disposal of Solid Wastes, Recyclables, Hazardous.

(1) Waste and General Provisions.

(a) Solid Waste Disposal. Solid Waste disposal of non-recyclable materials shall be disposed of in the designated compacting bin at the Lac Courte Oreilles Solid Waste Transfer Station and Recycling Center, according to sorting guidelines stated in the Lac Courte Oreilles Plan of Operation and posted at the Transfer Station Site. Solid Waste generated by non-tribal members who reside or operate businesses within the reservation boundaries may use the Lac Courte Oreilles Transfer Station and Recycling Center, provided that such waste is placed in “LCO” labeled bags.

(b) Disposal of Recyclables. All recyclable materials as stated in § 2.201 (9) of this ordinance shall be sorted, according to guidelines posted at the Transfer Station site, and placed in an unlabeled, clear plastic bag. Recycled materials shall be dropped off in the designated bin at the Transfer Station.

(c) Hazardous Waste. Materials designated as hazardous waste or hazardous substance by this Ordinance or subsequent regulations passed by the Tribal Governing Board shall not be transported for disposal or accepted for disposal at the Lac Courte Oreilles Solid Waste Transfer Station.

(d) General Provisions. Solid Waste generated outside the reservation boundaries of Lac Courte Oreilles may be disposed at the LCO Transfer Station and Recycling Center, at scheduled and posted fees.

(i) It shall be illegal to dispose of solid waste on tribal or allotment lands where disposal of these wastes will cause a public nuisance or health hazard or by causing foul odors to escape or by infestation of rodents.

(ii) Solid waste and recyclable materials may be disposed of by private collectors who haul waste off the LCO Reservation. Such private collectors shall be subject to this Ordinance for proper transfer of waste.

(iii) Vehicle batteries shall not be disposed of on any lands within the Lac Courte Oreilles Reservation. Batteries shall be properly disposed of at a designated business within or outside the reservation.

(iv) Used engine oil shall not be disposed at the LCO Transfer Station and Recycling Center. Proper disposal of engine oil shall be designated through the assistance and cooperation of tribal and private businesses located within and outside the reservation.

(v) Vehicle tires, yard waste, and white goods (household appliances) shall be deposited and stored at the LCO Transfer Station and Recycling Center, at a scheduled and posted fee for certain items.

(vi) It shall be illegal to burn solid waste materials in residential burning barrels and business incinerators on the Lac Courte Oreilles Reservation, except by issuance of burning permit.

(vii) It shall be illegal to scavenge/salvage any waste materials to retrieve recyclable materials deposited at the LCO Transfer Station and Recycling Center.

(viii) It shall be illegal to hunt wild animals in the immediate vicinity of the LCO Transfer Station and Recycling Center, where "No Hunting" signs are posted.

(ix) All solid waste, not collected by private collectors and transferred away, shall be disposed at the LCO Transfer Station and Recycling Center in accordance with the stated provisions under § 2.303 of this ordinance, below.

(x) It is unlawful for any person to fail to dispose of solid waste, which may be or may accumulate upon property owned or occupied by him, in a sanitary manner as often as may be necessary to keep said premises in an orderly and sanitary condition. Failure to keep said premises in an orderly and sanitary condition constitutes a public nuisance.

§ 2.303 Administration.

(1) Solid waste shall be disposed at the LCO Solid Waste Transfer Station and Recycling Center where an attendant shall monitor the final disposal of sorted waste.

(2) Solid waste shall be disposed in clear plastic bags which are marked "LCO" for non-recyclable material.

(3) Solid waste disposed in "LCO" plastic bags shall include all non-recyclable materials defined in § 2.201 (3) and § 2.201 (6) of this ordinance.

(4) All other waste which is recyclable shall be disposed of in clear, unlabeled plastic bags.

(5) The LCO Housing Authority shall sell “LCO” labeled clear plastic bags at its offices for convenience of its tenants.

(6) Clear plastic bags labeled with “LCO” shall be available for sale at designated locations, including the LCO Transfer Station and Recycling Center and LCO Commercial Center.

§ 2.304 Fees.

Solid waste clear plastic bags shall be labeled “LCO” for use at the Transfer Station. Such fees for the sale of bags shall be adjusted when necessary, with posted notice to the tribal community. Recyclable waste requiring clear plastic bags shall not be subject to a fee schedule. Such plastic bags must be purchased or obtained by the tribal consumer on an individual basis.

§ 2.305 Penalties.

(1) Warning.

(a) The first time a citizen or non-citizen is suspected of violating any provisions of this ordinance, the person shall be given a written warning and advised of the general requirements of this chapter and that a subsequent violation may result in the application of a penalty or forfeiture as provided in this section.

(b) Notwithstanding the provisions of subs. (a) above, if an identified name or address is found on mail, a prescription bottle, or any other identifiable article in solid waste discarded in in violation of this ordinance, the citizen or non-citizen is hereby in violation of this ordinance subject to a rebuttable presumption and shall be issued a citation pursuant to § 2.405 of this ordinance and shall clean up the unlawfully discarded solid waste within three (3) days of the issuance of a citation.

(2) Prosecution.

(a) Any person who has been warned in the manner provided in subs. (1) above, and who thereafter violates any provisions of this ordinance shall, upon conviction thereof, forfeit not less than Twenty and 00/100 Dollars (\$20.00) nor more than Five Thousand and 00/100 Dollars (\$5000.00), together with the cost of prosecution.

(b) A citizen found guilty of violating this ordinance, whom has failed to pay a fine within the timeframe established by the Tribal Court or whom has failed to properly clean up the unlawfully discarded solid waste within three (3) days of the issuance of a citation pursuant to § 3.801 (2) of this ordinance shall have their hunting, fishing, trapping, and gathering rights (both on-reservation and off-reservation) revoked for the period of one (1) year from the date of the issuance of a citation.

(3) The LCO Transfer Station and Recycling Center shall not accept solid waste which is not properly placed into “LCO” clear plastic bags for non-recyclables and ordinary clear plastic bags for recyclable materials.

(4) Sanctions for dumping of hazardous solid waste materials shall be the suspension of the privilege to use the LCO Transfer Station and Recycling Center for a time period designated by the Tribal Court.

(5) Costs of clean-up, prosecution, and court fees shall be assessed upon conviction in the Lac Courte Oreilles Tribal Court, in addition to penalties for violating provisions of the Ordinance.

SUBCHAPTER 2.4 – GENERAL

§ 2.401 Hearings in Tribal Court.

Jurisdiction over all matters arising under this ordinance shall be with the tribal court which shall adjudicate in accordance with Title II of the Lac Courte Oreilles Tribal Code of Law all questions, complaints and alleged violations involving the provisions of this ordinance.

§ 2.402 Enforcement by Conservation Wardens.

Any provision of this ordinance may be enforced by wardens of the tribal conservation department or officers of the tribal law enforcement department. Said tribal law enforcement officers are hereby deputized by the Tribe as tribal conservation wardens for the purpose of enforcing this ordinance. The Conservation Department shall develop and implement department rules to administer daily responsibilities pursuant to this Ordinance.

§ 2.403 Enforcement by Other Law Enforcement Officers.

The Tribal Governing Board has the discretion to allow other state, local or federal law enforcement officers the authority to enforce the provisions of this ordinance and to institute proceedings in the tribal court by use of citation forms of the tribal conservation department or to refer the matter to appropriate tribal wardens or the tribal prosecutor for further investigation or action.

§ 2.404 Investigations.

(1) Any person authorized to enforce the provisions of this ordinance may:

(a) Investigate complaints regarding alleged violations of this ordinance within the Lac Courte Oreilles Reservation lands as well as off-reservation lands under the jurisdiction and purview of the Lac Courte Oreilles Tribe.

(b) Execute and serve warrants and other process issued by the tribal court in accordance with applicable law;

(c) Exercise reasonable discretion and judgment in enforcing and applying any provision of this ordinance.

§ 2.405 Issuance of Citations.

Any person authorized to enforce this ordinance may issue a citation when any violation of this ordinance occurs in the presence of the enforcement authority or the enforcement authority investigating a report of a violation of this ordinance finds probable cause to believe that a violation has occurred, provided:

(1) The citation is issued on a form approved by the Tribal Governing Board or tribal

court to any person whose conduct is regulated by the provisions of this ordinance upon reasonable belief that such person has violated or breached a provision of this ordinance; and

(2) The citation states the nature of the violation, the location of the violation, the date and time of the violation (or the date and time when the violation was discovered) and the section(s) of this ordinance that were violated;

(3) The citation states the date of the initial hearing before the tribal court which shall be no sooner than ten (10) days after the service of the notice;

(4) The citation states the amount of the fine which may be paid by the violator to the tribal court in order to avoid the initial hearing;

(5) The citation states that the failure to pay the amount of the fine or appear before the tribal court on the date set for hearing, shall result in entry of a default judgment and an award of relief in accordance with this ordinance.

§ 2.406 Penalties.

(1) If the tribal court finds that any member or duly authorized non-member who, for himself or herself, or by his or her agent, servant or employee, or who as an agent, servant or employee of another, violates this ordinance, the member or non-member shall be liable as follows:

(a) For all violations for which no other amount is specified, a civil remedial forfeiture of not more than \$5,000.00;

(b) For any violation, attendance of cultural education classes;

(c) For all violations, appropriate court costs within the discretion of the court.

(2) Any member or duly authorized non-member who fails to pay any fine assessed by the tribal court within thirty (30) days after the fine has been assessed and who fails to make other arrangements regarding payment of the fine, shall owe, in addition to the fine imposed, \$10.00 for each thirty (30) Day period that the fine is overdue.

§ 2.407 Enhancement of Forfeiture and Penalties.

Upon conviction of any member or duly authorized non-member for a violation of this ordinance when such person has been convicted of a previous violation of this ordinance within a period of one year, the court may enhance any civil remedial forfeiture or other penalty as the court deems appropriate.

§ 2.408 Schedule of Money Penalties; No Contest.

The Tribal Court, in consultation with the Tribal Governing Board, may adopt a schedule

of forfeitures to be imposed by the Court upon the receipt of an admission that a violation of this ordinance has occurred, or a plea of no contest, which may be done either in person or in writing. This schedule shall not bind the Court as to forfeitures assessed by the Court after adjudicating a violation where the defendant has entered a plea of not guilty.

§ 2.409 Collection of Money Penalties.

Enforcement of the money penalties imposed pursuant to this ordinance may be had through the collection of penalties from funds of the violator held by the Tribe, through the imposition of community service work requirements in lieu of money payment, through debt collection mechanisms of the courts of other jurisdictions, or through any other method authorized by law.

§ 2.410 Parties to a Violation.

(1) Whoever is concerned in the commission of a violation of this ordinance shall be deemed a principal and may be charged with the violation although he or she did not directly commit it and although the member or non-member who directly committed it has not been convicted of the violation.

(2) A member or duly authorized non-member is concerned in the commission of the violation if the member or duly authorized non-member:

(a) Directly commits the violation;

(b) Aids or abets the commission of it; or

(c) Is a party to a conspiracy with another to commit it, or advises, hires, or counsels or otherwise procures another to commit it.

§ 2.411 Interference with Department.

No member or non-member shall knowingly interfere with or hinder or restrict wardens of the tribal conservation department or officers of the tribal law enforcement department or any other law enforcement department or agency from which the tribal conservation department has sought assistance, in the exercise of authority or performance of duties under this ordinance.



Pride of the Ojibwe

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RESOLUTION NO. 16-31

**ESTABLISHMENT OF TITLE X, CHAPTER 2
OF THE
LAC COURTE OREILLES BAND OF LAKE SUPERIOR CHIPPEWA INDIANS TRIBAL
CODE OF LAW
SOLID WASTE DISPOSAL AND RECYCLING CODE**

- WHEREAS,** the Lac Courte Oreilles Band of Lake Superior Chippewa Indians (“Tribe”) is a federally recognized Indian tribe organized pursuant to the provisions of the Indian Reorganization Act of 1934, 25 U.S.C. § 461, *et seq.*; and
- WHEREAS,** the Tribal Governing Board serves as the governing body of Lac Courte Oreilles Band of Lake Superior Chippewa Indians pursuant to Article III, Section 1 of the Amended Constitution and Bylaws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians; and
- WHEREAS,** pursuant to Article V, §1 (s) of the Amended Constitution and By-laws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians empowers the Tribal Governing Board: “To promulgate and enforce ordinances governing the conduct of members of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin and providing for the maintenance of law and order and the administration of justice by establishing a tribal court and defining its duties and powers; and
- WHEREAS,** the Tribal Governing Board duly enacted the Lac Courte Oreilles Band of Lake Superior Chippewa Indians – Solid Waste Disposal and Recycling Code pursuant to Lac Courte Oreilles Tribal Governing Board Resolution No. 92-22 as amended pursuant to Lac Courte Oreilles Tribal Governing Board Resolution No. 11-20 and as further amended pursuant to Lac Courte Oreilles Tribal Governing Board Resolution No. 15-32; and
- WHEREAS,** the Tribal Governing Board has determined that it is in the best interests of the Tribe to consolidate the amendments of the Solid Waste Disposal and Recycling Code and establish Title X, Chapter 2 of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians Tribal Code of Law in accordance with the foregoing.


NOW THEREFORE BE IT RESOLVED that the attached and establish Title X, Chapter 2 of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians Tribal Code of Law – Solid Waste Disposal and Recycling Code shall be, and hereby is, enacted as an ordinance of the Tribe, pursuant to Article V,

§ 1(s) of the Amended Constitution and By-laws of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

NOW THEREFORE BE IT FINALLY RESOLVED that the “Lac Courte Oreilles Band of Lake Superior Chippewa Indians Solid Waste Disposal and Recycling Code” as it exists at this time along with Lac Courte Oreilles Tribal Governing Board Resolution No. 92-22 as amended pursuant to Lac Courte Oreilles Tribal Governing Board Resolution No. 11-20 and as further amended pursuant to Lac Courte Oreilles Tribal Governing Board Resolution No. 15-32 are hereby repealed in their entirety.

CERTIFICATION

I, the undersigned, as Secretary/Treasurer of the Lac Courte Oreilles Tribal Governing Board, hereby certify that the Tribal Governing Board is composed of seven (7) members, of whom **4** being present, constituted a quorum at a meeting thereof, duly called, convened, and held on this **11th day of April, 2016**; that the foregoing Resolution was duly adopted at said meeting by an affirmative vote of **3** members, **0** against, **0** abstaining, and that said Resolution has not been rescinded or amended in any way.



Norma Ross, Secretary/Treasurer
Lac Courte Oreilles Tribal Governing Board