

CHITIMACHA TRIBE OF LOUISIANA

TITLE XXIV – IMMUNITY FROM LIABILITY FOR TRIBAL OFFICIALS AND EMPLOYEES

Section 1. Authority.

As the governing body of the Chitimacha Tribe of Louisiana (“Tribe”) established by Article V of the Constitution and Bylaws of the Chitimacha Tribe of Louisiana, the Chitimacha Tribal Council (“Tribal Council”) adopts this Title XXIV, Immunity from Liability for Public Entities, as an exercise of its inherent sovereign authority.

Section 2. Purpose.

The purpose of this Title XXIV is to provide for certain immunities that may be raised as a defense by the Tribe’s governmental entities, officers, and employees. This Title XXIV is not intended to waive, abrogate, or otherwise limit the Tribe’s inherent sovereign immunity, including the immunity possessed by its governmental entities and arms of the Tribe.

Section 3. Definitions.

(a) The term “**Public emergency**” includes any emergency in which there is a potential threat to life or property requiring immediate or remedial action, in order to insure the safety and health of persons and property, including an emergency created by apparent violation of the criminal laws of the Tribe and the State of Louisiana or an emergency created by fire.

(b) “**Public Emergency Entity**” means the Tribe or a governmental subdivision thereof that maintains a department responsible for fire protection, and its fire department, or a law enforcement agency, office, or department responsible for the prevention and detection of crime and the enforcement of the criminal laws of the Tribe and the State of Louisiana.

(c) “**Public Entity**” means the Tribe and its branches, departments, offices, agencies, boards, commissions, instrumentalities, officers, officials, employees, and political subdivisions, including a Public Emergency Entity, and the departments, offices, agencies, boards, commissions, instrumentalities, officers, officials, and employees of such political subdivisions.

Section 4. Immunity from Liability.

(a) Liability shall not be imposed on any officer or employee of a Public Entity exercising due care in the execution of a statute, ordinance, rule, or regulation or for the performance or failure to perform a policymaking or discretionary act when such acts or omissions are within the course and scope of their lawful powers and duties, except that the provisions of this Section 4(a) are not applicable to acts or omissions which constitute criminal, fraudulent, malicious, intentional, willful, outrageous, reckless, or flagrant misconduct.

(b) No person shall have a cause of action against any officer or employee of a Public Emergency Entity for personal injury at the site of a crime, accident, or fire, including without limitation bodily injury, death, or damage to property at the site of a crime, accident, or fire, including without limitation the destruction or deterioration of property, caused while the officer or employee was acting within the course and scope of his office or employment and while taking reasonable preventative or remedial action which is necessary to abate a Public Emergency, unless such person injury, death, or damage was caused by willful or wanton misconduct or gross negligence.

(c) This Title XXIV shall apply retroactively.

(d) This Title XXIV shall not be construed to abrogate, waive, preclude, or otherwise limit official, absolute, personal, qualified, or other immunity-based defenses, as they are recognized under the principles of the Tribe's common law, Louisiana case law, or federal common law.

(e) This Title XXIV shall not be construed to abrogate, waive, preclude, or otherwise limit the Tribe's inherent sovereign immunity, including the immunity possessed by its governmental entities and arms of the Tribe.

(Added by Ordinance #08-18; Adopted: June 21, 2018; Effective: June 21, 2018)