SITKA TRIBAL CODE
TITLE 2 TRIBAL COUNCIL
CHAPTER 4 ORDINANCE UPDATING THE ESTABLISHMENT OF BARANOF ISLAND HOUSING AUTHORITY

December 13, 2017

TABLE OF CONTENTS

02.04.01 PURPOSE **3**

02.04.02 AUTHORITY **3**

02.04.03 DEFINITIONS **4**

02.04.04 ESTABLISHMENT OF BIHA **5**

(A) ESTABLISHMENT OF BIHA 5

(B) PURPOSE OF BIHA 6

(C) TRIBALLY DESIGNATED HOUSING ENTITY 6

02.04.05 RELATIONSHIP WITH SITKA TRIBE OF ALASKA **7**

(A) BIHA'S CONTINUED OBLIGATIONS TO STA 7

(B) STA'S ON-GOING SUPPORT OF BIHA 8

02.04.06 BOARD OF COMMISSIONERS **9**

(A) BOARD APPOINTMENT AND MEMBERSHIP 9

(B) TERM OF OFFICE 10

(C) REMOVAL FROM BOARD 10

(D) QUORUM OF THE BOARD 10

(E) OFFICERS 10

(F) BOARD MEETINGS 11

02.04.07 POWERS AND LIMITATIONS OF BIHA **11**

(A) POWERS OF BIHA 11

(B) LIMITATIONS OF POWERS OF BIHA 12

02.04.08 OBLIGATIONS **13**

02.04.09 CONFLICT OF INTEREST **13**

02.04.10 DATE OF ENACTMENT **14**

02.04.01 Purpose

The purpose of this ordinance is to confirm the establishment of a public body known as the Baranof Island Housing Authority (hereinafter referenced as the "BIHA") established by Sitka Tribe of Alaska (hereinafter referenced as "STA") and to clarify the relationship between STA and BIHA.

STA established BIHA through Ordinance 80-24, Resolution 82-2, and Ordinance 84-3, Ordinance 84-4, Ordinance 84-11, and Ordinance 84-24 (enacted November 4, 1980, March 18, 1982, May 1, 1984, May 8, 1984, respectively) in order to establish a Regional Housing Authority under Alaska State Statute, and Federal law (United States Housing Act of 1937, which provided assistance to Indian Tribes and Indian Housing Authorities at that time). The purpose of establishing BIHA was to create a public body to address unsanitary, unsafe and overcrowded dwelling accommodations, the shortage of decent, safe and sanitary dwelling accommodations available at rents or prices which tribal citizens of STA and other persons or families of low income could afford, and the circumstances which create such shortage where such persons must occupy unsanitary, unsafe and overcrowded dwelling accommodations. This ordinance supersedes and replaces all prior ordinances regarding the establishment of BIHA.

02.04.02 Authority

Pursuant to Article VII, Section 1(f), 1(k) and 1(p) of the Sitka Tribe of Alaska Tribal Constitution, the Tribal Council has the power and obligation by appropriate motion, resolution or ordinance:

> "(f) To authorize or direct subordinate boards, committees, Tribal officials, or Tribal employees to administer the affairs of the Tribe and to carry out the directives of the Tribal Council...
>
> (k) To administer any funds within the control of the Tribe... and
>
> (p) To organize and charter enterprises, corporations and associations, and to join or charter housing authorities."

Pursuant to Alaska Statute 18.55.995 and 18.55.996, Sitka Community Association (which is the former name of Sitka Tribe of Alaska) was authorized to create a public body to function within STA's area of operation to serve as a Regional Housing Authority, provided that SCA (now STA) declared that there was a need for the authority to function, gave it the authority to function and named five commissioners for three year terms. Such public body, established as BIHA, can continue to operate provided that STA continues to appoint the requisite number of commissioners to BIHA's Board each year.

Pursuant to the Native American Housing Assistance and Self-Determination Act of 1996, as amended, (NAHASDA), STA is authorized to directly receive federal assistance as a federally recognized Indian tribal government for the purpose of improving housing conditions, and providing affordable homes in safe and healthy environments.

Through this ordinance, STA Tribal Council exercises its Constitutional authority to reaffirm the establishment of BIHA as a regional housing authority under State law and a Tribally Designated Housing Entity under federal law.

02.04.03 Definitions

The following terms, wherever used or referred to in this ordinance, shall have the following respective meanings, unless a different meaning clearly appears from the context:

(a) "Area of Operation" means all areas within the jurisdiction of the Tribe as defined by the lands and waters composing the western side of Baranof Island, the greater reaches of Peril Strait, southwestern portions of Chichagof Island and the myriad of islands as well as the waters between these locations. Under Alaska Statute 18.55.996, STA's area of operation is Baranof and Japonski Islands.

(b) "BIHA" means the Baranof Island Housing Authority.

(c) "Board" means the Baranof Island Housing Authority Board of Commissioners.

(d) "Council" means the Sitka Tribe of Alaska Tribal Council.

(e) "Federal Government" includes the United States of America, the Department of Housing and Urban Development, or any other agency or instrumentality, corporate or otherwise, of the United States of America.

(f) "Housing project" or "project" means any work or undertaking to provide or assist in providing (by any suitable method, including but not limited to: rental, or sale of individual units in single or multi-family structures under conventional condominium, or cooperative sales contracts or lease-purchase agreements; loans; or subsidizing of rentals or charges) decent, safe and sanitary dwellings, apartments, or other living accommodations for persons of low income or that implements requirements of the funding source. Such work or undertaking may include buildings, land, leaseholds, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, for streets, sewers, water service, utilities, parks, community, health, recreational, welfare, or other purposes. The term "housing project" or "project" also may be applied to the planning of the buildings and improvements, the acquisition of property or any interest therein, the demolition of existing structures, the construction, reconstruction, rehabilitation, alteration or repair in connection therewith, and the term shall include all other real

and personal property and all tangible or intangible assets held or used in connection with the housing project.

(g) "Obligations" means any notes, bonds, interim certificates, debts, or other forms of obligation issued by BIHA pursuant to this ordinance.

(h) "Obligee" includes any holder of an obligation, agent or trustee for any holder of an obligation, or lessor demising to BIHA property used in connection with a project, or any assignee or assignees of such lessor's interest or any part thereof, and the Federal government when it is a party to any contract with BIHA in respect to a housing project.

(i) "Persons of low income" means persons or families who cannot afford to pay enough to cause enterprise in their locality to build an adequate supply of decent, safe and sanitary dwellings for their use, or another definition as defined by applicable law, or as defined by the BIHA Board of Commissioners.

(j) "Program Participant" means a person(s) who has executed any type of assistance agreement with BIHA, until the terms of the agreement have been met.

(k) "Sexual offense" means rape, sexual assault, sexual abuse of a minor, molestation, exploitation, sexual contact, prostitution, and any other sexual offenses as defined by applicable State, Federal or Tribal law under which the individual was convicted or pleaded guilty or no contest.

(l) "Tribe" or "STA" means the Sitka Tribe of Alaska, a federally recognized tribal government organized under Section 16 of the Indian Reorganization Act.

02.04.04 Establishment of BIHA

(a) Establishment of BIHA

(1) Sitka Tribe of Alaska Tribal Council hereby acknowledges that it has established a public body known as Baranof Island Housing Authority (hereinafter referred to as "BIHA") and enacts this ordinance which details the purposes, powers, and duties of BIHA.

(2) In any suit, action or proceeding involving the validity or enforcement of or relating to any of its contracts, BIHA shall be conclusively deemed to have been established and authorized to transact business and exercise its powers upon proof of the adoption of this ordinance. A copy of the ordinance duly certified by the Secretary of the Council shall be admissible in evidence in any suit, action or proceeding.

(3) Sitka Tribe of Alaska authorizes BIHA to do any and all things necessary or desirable to secure the financial aid or cooperation of the federal, state, or local

government or other non-governmental entity in the undertaking, construction, maintenance or operation of any BIHA project, which are consistent with the provisions of this ordinance.

(4) The Council hereby gives its consent to allow BIHA to sue and be sued in BIHA's name, upon any contract, claim or obligation arising out of its activities. Through this ordinance, STA and BIHA acknowledge that BIHA does not possess sovereign immunity. Nothing in this ordinance should be construed to waive STA's sovereign immunity. Therefore, STA shall not be liable for the debts or obligations of BIHA, or judgments against BIHA.

(b) Purpose of BIHA

BIHA operates as STA's Housing Authority, established under tribal law to function under state and federal law, and has the following purposes:

(1) To develop, maintain, and operate affordable housing in a safe and healthy environment for occupancy by Sitka Tribal citizens and other persons or families of low-income;

(2) To encourage and facilitate better access to private mortgage or other financing markets to promote private financing of affordable housing for Sitka Tribal Citizens, and other persons or families of low-income as allowed by applicable law;

(3) To coordinate the development of housing activities with other tribal economic and community development projects;

(4) To plan for and integrate infrastructure resources for construction of homes; and

(5) To promote employment opportunities through construction, reconstruction, improvement, extension, alteration or repair and operation of low income dwellings; and

(6) To create and implement other programs to fulfill the mission of BIHA.

(c) Tribally Designated Housing Entity

Through this ordinance, Sitka Tribe of Alaska acknowledges that via resolution it has appointed Baranof Island Housing Authority as its tribally designated housing entity under the Native American Housing Assistance and Self Determination Act of 1996 (NAHASDA, 25 U.S.C. §§4101 et seq.) for the purposes of formulating an Indian Housing Plan for the Tribe's area of operation, and to receive grant amounts and provide assistance under NAHASDA for affordable housing for Indians within STA's area of operation. This appointment may be rescinded by Sitka Tribe of Alaska via resolution at any time.

02.04.05 Relationship with Sitka Tribe of Alaska

(a) BIHA's continued obligations to STA

(1) BIHA shall submit an annual report, signed by the Chairperson of the Board, to the Council including the annual audit (with the management letter), Indian Housing Plan and Annual Performance Report.

(2) The Executive Director of BIHA shall submit monthly reports to the Tribal Council including an executive summary, a copy of Board Minutes from the most recent month's Board meeting, and complaints raised under 02.04.05(b)(6) of this ordinance; and

(3) The Board and the Council shall meet semi-annually. At the first meeting each year, the BIHA shall provide the Council with a written summary including

(A) a summary of the year's activities,

(B) a summary of the financial condition of BIHA,

(C) the condition of the properties,

(D) the number of units and vacancies,

(E) any significant problems and accomplishments,

(F) plans for the future, including those projects for which BIHA is seeking tribal support,

(G) a report on the number of evictions occurring the previous year, as well as an update on the resolution of complaints referred by the Council regarding BIHA, and

(H) such other information as BIHA or Council shall deem pertinent.

(4) The Board shall request assistance or support from STA, when necessary for the planning, undertaking, construction or operation of BIHA projects.

(5) BIHA projects funded under NAHASDA shall comply with applicable Indian preference requirements. STA recognizes the importance of addressing Indian preference goals and has adopted a Tribal Employment Rights Ordinance (TERO) to further its Indian preference efforts. BIHA will adopt an Indian preference policy and procedures to formalize its Indian preference process which at a minimum will (a) allow BIHA to respond to complaints regarding Indian preference and (b) allow complainants to appeal BIHA's decision regarding Indian

preference through STA's administrative process under the TERO ordinance. However, if BIHA has not adopted an Indian preference policy, STA's TERO Ordinance shall apply to BIHA's Indian preference activities.

(6) BIHA shall provide reports, as necessary, to update the Tribal Council as to any complaints brought to STA Tribal Council and redirected to BIHA Board, pursuant to 02.04.05(b)(5) and (b)(6) of this ordinance.

(7) BIHA shall enact and abide by a Code of Conduct no less stringent than that adopted by Sitka Tribe of Alaska Tribal Council, and shall attempt to address issues relating to ethics within BIHA before raising such issues to STA Tribal Council under 02.04.06(c) of this ordinance.

(b) STA's on-going support of BIHA

For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of projects, the Tribe hereby agrees that:

(1) It will treat BIHA's occupants the same as it will treat any other tribal citizens and it will provide BIHA similar treatment to any STA chartered organization.

(2) Insofar as it may lawfully do so, it will grant such deviations from any present or future building or housing codes of the Tribe as are reasonable and necessary to promote economy and efficiency in the development and operation of any project, and at the same time safeguard health and safety, and make such changes in any zoning of the site surrounding territory of any project as are reasonable and necessary for the development of such project, and the surrounding territory.

(3) Upon request from the Board, the Tribal Council will give due consideration to offer support, within its lawful powers, in the planning, undertaking, construction or operation of BIHA projects.

(4) The Board has final administrative authority to decide issues related to BIHA's implementation of projects, except for matters related to Indian preference which are governed by 02.04.05(a)(5) of this ordinance.

(5) Any complaint brought to STA on behalf of a program participant regarding BIHA will be re-directed to the Board for resolution. The Board shall report back to the Tribal Council regarding resolution of such complaints as provided in 02.04.05 (a)(2), (a)(3)(G), or (a)(6). Complaints regarding Indian preference shall be redirected according to 02.04.05(a)(5).

(6) Both the Tribal Court of the Sitka Tribe of Alaska and the State Court of Alaska shall have concurrent jurisdiction to hear and determine any contractual or tort dispute between BIHA and any program participant, including eviction matters.

Tribal citizens who have a dispute with BIHA have the right to bring such dispute to Sitka Tribal Court for resolution in lieu of state court. Prior to filing suit in any dispute with a Tribal Citizen, BIHA shall inquire whether the Tribal Citizen wishes to proceed in Tribal Court or State Court, and BIHA must file the action in the court chosen in writing by the Tribal Citizen, if the citizen makes a written choice of courts prior to the action being filed.

(c) The provisions of this section shall remain in effect with respect to any project, so long as (1) the project is owned by BIHA and is used for low income housing purposes, (2) any contract between BIHA and any federal, state, or local government or other entity for cash or annual contributions, or both, in connection with such project, remains in force or effect, or (3) any obligations issued in connection with such project or any monies due to any federal, state, or local government, or other entity in connection with such project remain unpaid, whichever period ends the latest. If at any time title to, or possession of, any project is held by any public body or governmental agency authorized by law to engage in the development or operation of low income housing including the Federal government; the provisions of this section shall inure to the benefit of and be enforced by such public body or governmental agency.

02.04.06 Board of Commissioners

(a) Board Appointment and Membership

(1) The affairs of Baranof Island Housing Authority shall be managed by a Board of Commissioners composed of five (5) persons, at least two of whom shall be members of the STA Tribal Council. Former members of the Tribal Council may be appointed as non-Council members of the Board.

(2) Prior to the end of the term of office for any Board of Commissioner, the Executive Director of BIHA shall forward a list of names of Board applicants, along with the individuals' letters of interest and criminal background check to the General Manager for referral to the Tribal Council.

(3) The Commissioners shall be appointed, and may be reappointed, by the Council. A letter signed by the Tribal Council Chair as to the appointments or reappointment of any Commissioners shall be conclusive evidence of the due and proper appointment of the Commissioner.

(A) A Commissioner may be a citizen or non-citizen of the Tribe, and may be a member or non-member of the Tribal Council, subject to the requirement that at least two Commissioners must be members of the Tribal Council. No person shall be barred from serving on the Board because he or she is a program participant of BIHA; and such Commissioner shall be entitled to fully participate in all meetings concerning matters that affect all of the program

participants, even though such matters affect him or her as well. However, no such Commissioner shall be entitled or permitted to participate in or be present at any meeting (except in his capacity as a program participant), or to be counted or treated as a member of the Board, concerning any matter involving his or her individual rights, obligations or status as a program participant.

(B) No person who has been found guilty of or entered a plea of no contest to any felony crime, or any crime, felony or misdemeanor, involving a sexual offense, as defined in 02.04.03(j), may be appointed as a Commissioner.

(4) The Council shall name one of the Commissioners as Chairperson of the Board annually.

(b) Term of Office

The Term of office shall be three years and staggered, with a year beginning October 1st and ending September 30th. Each member of the Board shall hold office until his successor has been appointed. The term of any member of the Board who was appointed from the Tribal Council shall expire whenever he or she ceases to be a member of the Tribal Council, but former members of the Tribal Council may be appointed as non-Council members of the Board.

(c) Removal from Board

Any member of the Board may be removed by the Sitka Tribe of Alaska Tribal Council for neglect of duty, gross misconduct in office, or any offense involving dishonesty, but only after a hearing before the Sitka Tribe of Alaska Tribal Council after the member has been given a written notice of the specific charges against him at least 10 days prior to the hearing. At any such hearing, the member shall have the opportunity to be heard in person or by counsel and present witnesses on his or her behalf. In the event of removal of any board member, a record of the proceedings, together with the charges and findings thereon, shall be filed with the Sitka Tribe of Alaska Tribal Council.

(d) Quorum of the Board

A majority of the full Board (i.e., notwithstanding the existence of any vacancies) shall constitute a quorum for the transaction of business, but no Board action shall be taken by a vote of less than a majority of such full Board.

(e) Officers

At the first meeting following new appointments each year, the Board shall elect from among its members a Vice-Chairperson, a Secretary, and a Treasurer; and any member may hold two of these positions. In the absence of both the Chairperson and Vice-Chairperson, the Secretary shall preside.

(f) Board Meetings

(1) Regular meetings of the Board shall be held at regular intervals as provided in the bylaws of the BIHA Board.

(2) The Chairperson of the Board may, when he or she deems it expedient, or shall, upon the written request of two members of the Board, call a special meeting of the Board for the purpose of transacting any business designated in the call. Actual notice must be given to each member of the Board at least 24 hours prior to the time of such special meeting. At such special meeting no business shall be considered other than as designated in the call and no action may be taken without the concurrence of three Commissioners.

(3) The Commissioners shall not receive compensation for their services but shall be entitled to reimbursement for expenses, including travel expenses, incurred in the discharge of their duties and an honorarium for attending Board meetings.

02.04.07 Powers and Limitations of BIHA

(a) Powers of BIHA

(1) BIHA shall have the powers, rights and conditions applicable to a Regional Housing Authority under Alaska Statute 18.55.995-18.55.996 and the powers, rights and conditions applicable to Tribally Designate Housing Entities under NAHASDA.

(2) BIHA shall also have the following powers it may exercise consistent with the purposes for which it is established:

(A) BIHA shall have perpetual succession in its name.

(B) To adopt and use a seal.

(C) To enter into agreements, contracts, and understanding with any governmental agency, Federal, state, tribal or local (including the Tribal Council) or with any person, partnership, corporation or Indian Tribe; and to agree to any conditions attached to any financial assistance.

(D) To agree for each project developed or operated under a contract providing for State, Federal or private financial assistance that such project will be developed and operated in compliance with all requirements of such contract and applicable law, and with all regulations and requirements prescribed from time to time by the applicable government in connection with such assistance.

(E) To employ an executive director, technical and maintenance personnel and such other officers and employees, permanent or temporary, as BIHA may

require; and to delegate to the Executive Director such powers or duties as the Board shall deem proper.

(F) To take such further actions as are commonly engaged in by public bodies of this character as the Board may deem necessary and desirable to effectuate the purposes of BIHA.

(G) To adopt such bylaws as the Board deems necessary and appropriate.

(H) To request that the Tribal Council exercise the Tribe's power of eminent domain.

(I) To create and maintain a written grievance policy for program participants and such other policies as the Board deems necessary.

(J) No ordinance or other enactment of the Tribe with respect to the acquisition, operation, or disposition of Tribal property is applicable to BIHA in its operations unless consistent with this ordinance.

(b) Limitations of Powers of BIHA

(1) Not for Profit and Public Status

(A) BIHA shall not operate for profit. Any income derived from BIHA projects will be reinvested into projects which fit BIHA's core purposes as listed in 02.04.01 of this ordinance.

(B) The property of BIHA is declared to be public property used for essential public and governmental purposes and such property and BIHA are exempt from all taxes and special assessments of the Tribe.

(C) All property including funds acquired or held by BIHA pursuant to this ordinance shall be exempt from levy and sale by virtue of an extension, and no execution or other judicial process shall issue against the same nor shall any judgment against BIHA to be a charge or lien upon the property. However, the provisions of this section shall not apply to or limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by BIHA on its rents, fees or revenues or the right of the Federal government to pursue any remedies conferred upon it pursuant to the provisions of this ordinance or the right of BIHA to bring eviction actions in accordance with 02.04.07(n).

(2) Insurance for cash handling

BIHA shall obtain or provide for the obtaining of adequate fidelity bonds for employees handling cash, or authorized to sign checks or certify vouchers.

02.04.08 Obligations

(a) BIHA may issue obligations from time to time in its discretion for any of its purposes and may also issue refunding obligations for the purpose of paying or retiring obligations previously issued by it. BIHA may issue such types of obligations as it may determine, including obligations on which the principal and interest are payable: (a) exclusively from the income and revenues of the project financed with the proceeds of such obligations, or with such income and revenues of the project financed with the proceeds of such obligations, or with such income and revenues together with a grant from the Federal government in aid of such project; (b) exclusively from the income and revenues of certain designated projects whether or not they were financed in whole or in part with the proceeds of such obligations; or (c) from its revenues generally. Any of such obligations may be additionally secured by a pledge of any revenues of any project or other property of BIHA.

(b) Neither the Commissioners of BIHA nor any person executing the obligations shall be liable personally on the obligations by reason of issuance thereof.

(c) The notes and other obligations of BIHA shall not be a debt of the Tribe and the obligations shall so state on their face.

(d) Obligations of BIHA are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefore, shall be exempt from taxes imposed by the Tribe. The tax exemption provisions of this ordinance shall be considered part of the security for the repayment of obligations and shall constitute, by virtue of this ordinance and without necessity of being restated in the obligations, a contract between (a) BIHA and the Tribe, and (b) the holders of obligations and each of them, including all transferees of the obligations from time to time.

(e) Obligations of BIHA shall be authorized by a resolution adopted by the vote of a majority of the full Board and may be issued in one or more series.

(f) Obligations of BIHA shall be fully negotiable. In any suit, action or proceeding involving the validity or enforceability of any obligation of BIHA or the security therefore, any such obligation reciting in substance that it has been issued by BIHA to aid in financing a project pursuant to this ordinance shall be conclusively deemed to have been issued for such purposes, and the project for which such obligation was issued shall be conclusively deemed to have planned, located and carried out in accordance with the purposes and provisions of this ordinance.

02.04.09 Conflict of Interest

During a Commissioner's tenure and for one year thereafter, no Commissioner, officer or employee of BIHA, or any member of any governing body of the Tribe, or any other

public official who exercises any responsibilities or functions with regard to the project, shall voluntarily acquire any interest, direct, or indirect, in any project or in any property included or planned to be included in any project, or in any contract or proposed contract relating to any project, unless prior to such acquisition, he discloses his interest in writing to BIHA and such disclosure is entered upon the minutes of BIHA, and the Commissioner, officer or employee shall not participate in any action by BIHA relating to the property or contract in which he has any such interest. If any Commissioner, officer or employee of BIHA involuntarily acquires any such interest, or voluntarily or involuntarily acquired any such interest prior to appointment employment as a Commissioner, officer or employee, in any such event, shall immediately disclose his interest in writing to BIHA; and such disclosure shall be entered upon the minutes of BIHA, and the Commissioner, officer or employee shall not participate in any action by BIHA relating to the property or contract in which he has any such interest. Any violation of the foregoing provisions of this section shall constitute misconduct in office. This section shall not be applicable to the acquisition of any interest in obligations of BIHA issued in connection with any project, or to the execution of agreements by banking institutions for the deposit or handling of funds in connection with a project or to act as trustee under any trust indenture, or to utility services the rates for which are fixed or controlled by a governmental agency, or to membership on the Board as provided in 02.04.06 of this ordinance.

02.04.10 Date of Enactment

This Ordinance was enacted on May 21, 2008, and amended on December 13, 2017. This Ordinance supersedes but does not replace the Organic Charter of Baranof Island Housing Authority, originally enacted November 4, 1980 by Sitka Community Association.

CERTIFICATION

This Ordinance was adopted after three readings by the Tribal Council of the Sitka Tribe of Alaska on December 13, 2017, by a vote of 6 in favor, 2 against, 1 absent and 0 abstentions.

KathyHope Erickson, Tribal Chairman

ATTEST:

Secretary