

TITLE 13
TRIBAL EMPLOYMENT RIGHTS ORDINANCE (TERO)

As adopted September 19, 2005
and amended November 8, 2005 [TCR 05-140; 06-14]

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TITLE 13
TRIBAL EMPLOYMENT RIGHTS ORDINANCE (TERO)

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ARTICLE 1
GENERAL PROVISIONS AND PURPOSE

13-101 Name.	13-103 Consistent with Federal Law.
13-102 Statement of Purpose.	13-104 Congressional Endorsement.

13-101 Name. This ordinance shall be known as the Winnebago Tribe of Nebraska “Tribal Employment Rights Ordinance.”

13-102 Statement Of Purpose. The Winnebago Tribe of Nebraska believes that it is important to create employment and training opportunities for Winnebago Tribe of Nebraska Tribal members and other Indians and to eradicate discrimination against Indian People. The Winnebago Tribe of Nebraska Tribal Council, in its duty to guarantee the unique employment rights of Indians, necessitates enactment of a Tribal Employment Rights Office through the Winnebago Jobs, Education, and Training (JET) program. Further, it establishes a Tribal Employment Rights Commission to ensure equal and effective application of the Ordinance.

13-103 Consistent With Federal Laws. Nothing contained in this Ordinance shall supersede or be inconsistent with Federal Law on Equal Employment Opportunity, namely:

a. Title VII of the Civil Rights Act, which prohibits preferential employment on the basis of race, color, sex, national origin, and religion. However, Title VII contains a special exemption that makes Indian Preference permissible. Section 703(i) of the 1964 Civil Rights Act states:

“Nothing contained in this title shall apply to any business or enterprise on or near an Indian Reservation with regards to any publicly announced employment practice of such business or enterprise under which a preferential treatment is to any individual because he/she is Indian and,”

b. The Office of Federal Contract Compliance Programs Executive Order issued in 1977, which states:

“Work on or near Indian Reservations. It shall not be a violation of the equal opportunity clause for construction or non-construction, to extend a publicly announced preference in employment to Indians living on or near an Indian Reservation. The use of the word “near” would include all that area where a person seeking employment could reasonably be expected to commute to and from in the course of a work day. Contractors or subcontractors extending such a preference shall not, however, discriminate among Indians on the basis of religion, sex, or tribal affiliation, and the use of such preference shall not excuse a contractor from employing with the other requirements contained in this chapter.”

c. The Indian Self-Determination Act. The Bureau of Indian Affairs in its regulation implementing the Indian Self-Determination Act, Public Law 93-638, 1975, Section 7(b), provides for Indian

Preference in employment and training, and contracting and subcontracting on all contracts negotiated or let on behalf of an Indian Tribe pursuant to the Act.

13-104 Congressional Endorsement. The United States Congress justified that Indian Tribes' powers to impose preferential requirements on the grounds that, "This exemption is consistent with the Federal Government's policy of encouraging Indian employment and with the special legal position of Indians."

TITLE 13
ARTICLE 2
DEFINITIONS

13-200 Definitions.

13-200 Definitions.

1. "Chairman" shall mean the Chairman of the Winnebago Tribe of Nebraska Employment Rights Commission.
2. "Commerce" shall mean the exchange of goods, services, and/or property without reference to the locality where carried on.
3. "Commission" shall mean the Winnebago Tribe of Nebraska Employment Rights Commission, who shall be members of the Winnebago Tribal Organization or entities of the Winnebago Tribe of Nebraska.
4. "Commissioner" shall mean the Commissioner of the Winnebago Tribe of Nebraska Employment Rights Commission.
5. "Council" shall mean the Tribal Council of the Winnebago Tribe of Nebraska.
6. "EEOC" means the Equal Employment Opportunity Commission of the United States.
7. "Employee on the Winnebago Indian Reservation" shall include any employee who, in a non-supervisory or non-managerial position, spends more than one-tenth of his/her working hours per month or per pay period, whichever is shorter, on the Winnebago Indian Reservation, and shall include any employee who, in a supervisory or managerial position, spends more than one-twentieth of his/her working hours per month or per pay period, whichever is shorter, on the Winnebago Indian Reservation.
8. "Employer" includes, but is not limited to, any person who engages in commerce through paid agents or servants, or who is hired through contracts for services, within the exterior boundaries of the Winnebago Indian Reservation. The term "employer" includes any person acting as an agent, contractor or subcontractor of any employer, directly or indirectly, but shall not include the United States or any wholly owned government corporation, or any state or political subdivision thereof; but shall include independent contractors and subcontractors of the United States or any wholly owned government corporation of any state or political subdivision thereof.
9. "Covered Employer" includes any employer who employs two or more employees on the Winnebago Indian Reservation for an aggregate of sixty (60) working days or more in any twelve-month period.
10. "Indian" means: Any member of any recognized Indian Tribe now under Federal jurisdiction.
11. "Indian Preference" means that Indians residing on the Winnebago Indian Reservation, without regard to tribal affiliation, are given preference over non-resident Indians in employment and training.
12. "Indian owned firm or entity" means any commercial, industrial or other business activity owned or entity provided that such Indian ownership constitutes not less than 51% of the enterprise.
13. "Located near the Reservation" shall mean any employer located within daily commuting distance of the reservation.
14. "Notice" shall mean as it is required to be given by the Winnebago Tribe of Nebraska Tribal Employment Rights Commission, shall be sufficient as to unnamed parties in an action, and in all instances, where a specific person is not addressed, if it is published and posted in a public area within the Winnebago Indian Reservation boundaries for not less than five working days and is on file in the Winnebago Tribe of Nebraska Tribal Employment Rights Office and open to public inspection.
15. "OFCCP" shall mean the Office of Federal Contract Compliance Programs of the United States.

16. "Person" shall include both natural persons and artificial persons, including, but not limited to, corporations, trusts, partnerships, unions, agents, societies, and sole proprietorship.
17. "Tribe" shall mean the Winnebago Tribe of Nebraska.
18. "Union or Labor Union" shall mean any organization of any kind, or any agency or employee representation committee or plan, associated or organized for the purposes of collective bargaining in which employees participate and which exist for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rate of pay, hours of employment, or conditions of work.
19. "Reservation" shall mean the Winnebago Indian Reservation, Nebraska and its allotted land outside the exterior boundaries.
20. "Secretary" shall mean the Secretary of Interior or his duly authorized representative.

TITLE 13
ARTICLE 3

THE WINNEBAGO TRIBE OF NEBRASKA TRIBAL EMPLOYMENT RIGHTS COMMISSION

13-301	Authority.	13-306	Duties of the Commission.
13-302	Quorum.	13-307	Powers of the Commission.
13-303	Commission Report.	13-308	Intergovernmental Relations.
13-304	Commission's Office.	13-309	Delegation of Authority.
13-305	Commission Expenses.		

13-301 Authority. By the inherent-sovereign powers vested in the Council, it has hereby created a Commission to be known as the Winnebago Tribe of Nebraska Employment Rights Commission; "hereinafter referred to as the Commission," which shall be composed of members of the Winnebago Tribal Organization or Entities of the Winnebago Tribe of Nebraska. The Chairman of the Commission shall be responsible on behalf of the Commission for the administrative operation of the Commission, and shall appoint, in accordance to the Commission By-laws or Procedures, such officers, agents and employees, as he/she deems necessary to assist the Commission to advise and assist the Commission in their duties and responsibilities.

13-302 Quorum. Three (3) members of the Commission shall constitute a quorum.

13-303 Commission Report. The commission shall at the end of each fiscal quarter, report to the Council concerning the action it has taken within the ending fiscal quarter; and shall make such other reports on the cause of and means of eliminating discrimination and make such recommendation for further resolutions/ordinances as may appear desirable.

13-304 Commission's Office. The Commission's Office shall be located on the Winnebago Tribe of Nebraska Reservation; however, it may meet or exercise any of its powers at any other place deemed appropriate by the Commission.

13-305 Commission Expenses. The commission shall not be compensated, but shall be reimbursed for any expenses incurred in connection with carrying out their duties under this Ordinance pursuant to Tribal operations.

13-306 Duties of the Commission. The Commission is empowered, as hereinafter provided, to prevent any person from engaging in any unlawful Indian Preference Employment Practice as set forth in the Winnebago Tribe of Nebraska Employment Rights Ordinance.

13-307 Powers of the Commission. The Commission has jurisdiction and authority to:

- a. Formulate, adopt, amend and rescind rules, regulations and guidelines reasonably necessary to carry out the provisions of this Ordinance;
- b. Hold hearings and subpoena witnesses and documents in accordance with this Ordinance;
- c. Prohibit covered employers from using qualification criteria or other personnel requirements that serve as barriers to Indians employment, unless the employer can demonstrate that such criteria or requirements are required by business necessity. In developing regulations to implement this requirement, the Commission shall adopt the EEOC guidelines on these matters to the extent that they are appropriate. The Commission shall have the right to impose its own requirements in addition to or in lieu of EEOC guidelines;

- d. Enter into agreements with unions to insure union compliance with this Ordinance. Such agreement shall in no way constitute recognition or endorsement of any union;
- e. Require employers to submit reports and take all actions deemed necessary by the Commission for the fair and vigorous implementation of this Ordinance.

13-308 Intergovernmental Relations. The Commission, acting through the TERO Officer, is authorized to enter into cooperative relationships with Federal Employment Rights Agencies, such as EEOC and OFCCP, in order to eliminate discrimination against Indians on and off the Winnebago Indian Reservation.

13-309 Delegation of Authority. The commission shall delegate such authority to the TERO Officer as is convenient or necessary for the efficient administration of this Ordinance, except that the Commission may not delegate its powers or duty to:

- a. Adopt, amend or rescind rules, regulations and guidelines;
- b. Conduct hearings or to impose sanctions pursuant to Section 8.

TITLE 13
ARTICLE 4
THE WINNEBAGO TRIBE OF NEBRASKA TRIBAL EMPLOYMENT RIGHTS OFFICE

- 13-401 Coverage.
13-402 TERO Officer.
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The Winnebago Tribe of Nebraska Tribal Employment Rights Office (herein referred to as “TERO”) is hereby established, with the supervisory authority to vest in the Winnebago Tribe of Nebraska Tribal Employment Rights Officer (hereinafter (TERO Officer)), who shall report directly to the Winnebago Tribe of Nebraska Employment Rights Commission.

13-401 Coverage. All employers are required to give preference to Indians in hiring, promotion, training, temporary reduction in work force and all other aspects of employment, contracting and subcontracting, and must comply with this Ordinance and the rules, regulations and orders of the Commission.

13-402 TERO Officer: Qualifications, Staff, and Duties.

- a. The TERO Officer shall have such administrative ability, education, and training as the Commission determines;
- b. The TERO Officer shall administer the policies, powers and duties prescribed for him/her by the Commission pursuant to Section 3.9. Included but not limited to:
 - The TERO Officer shall have the authority to hire staff, to expend funds appropriated by the Winnebago Tribe of Nebraska and obtain and expend funding from Federal, State, or other source to carry out the purpose of the Ordinance.
 - To impose numerical hiring goals and timetables specifying the minimum number of Indians an employer must hire by craft or skill level.
 - To require employers to establish or participate in such training programs as the Commission deems necessary to increase the pool of Indians eligible for employment on/off the Reservation.
 - To establish and administer a Tribal Hiring Hall.
 - To require that employers may hire non-Indians only after the Tribal Hiring Hall has certified that qualified Indians are unavailable to fill vacant job positions.
 - To require employers to give preference to Tribal and other Indians owned businesses in the award of Contracts and Subcontracts.
 - To facilitate support programs to assist Indians to retain employment.
 - To recommend actions as are necessary to achieve the purpose and objective of the Winnebago Tribe of Nebraska Tribal Employment Rights Office established in this Ordinance.

TITLE 13
ARTICLE 5
IMPLEMENTATION OF SPECIFIC INDIAN PREFERENCE REQUIREMENTS

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| 13-501 | Contractors and Subcontractors. | 13-505 | Counseling and Support Programs. |
| 13-502 | Minimum Numerical Goals and Timetables for Indian Employment. | 13-506 | Preference in Contracting and Subcontracting. |
| 13-503 | Training. | 13-507 | Lay-Offs. |
| 13-504 | Tribal Hiring Hall. | 13-508 | Promotion. |
| | | 13-509 | Summer Students. |
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13-501 Contractors and Subcontractors. The Indian preference requirements contained in this Ordinance shall be binding on all contractors and subcontractors or employers, regardless of tier, and shall be deemed a part of all resulting subcontractor specifications. The employer shall have the initial and primary responsibility for ensuring that all contractors or subcontractors shall be subject to penalties provided herein for violation of this Ordinance if the contractor or subcontractor fails to comply.

13-502 Minimum Numerical Goals and Timetables for Indian Employment. The Commission will establish the minimum number of Indians each employer must employ on his/her work force during any year that he/she or any of his/her employee(s) is/are located or engaged in work on or near the Winnebago Indian Reservation. Numerical goals shall be expressed in term of projects hours of Indian employment as a percentage of the total project hours worked by the employer's work force in the job classification involved. Numerical goals shall be based on a survey of the available Indian labor force and of project employment opportunities.

For a new employer, the goals shall be established for the entire work force. The employer shall meet with the Commission at least 60 days prior to beginning work and shall furnish the Commission with a precise list of the number and kinds of employees he expects to employ.

The Commission shall then set specific goals and timetables for the employer after considering any special factors or circumstances the employer wishes to present. The employer shall incorporate the goals into his plan for complying with this Ordinance and shall agree in writing to meet those goals by signing a compliance agreement. Any employer who fails to provide such a written statement will not be permitted to commence work on the Winnebago Indian Reservation.

For an existing employer on or near the Winnebago Indian Reservation the goals shall be a percentage of the new employees expected to be employed during the ensuing year by the employer. The employer shall incorporate the goals into his/her plan for complying with this Ordinance and shall agree in writing to meet these goals.

For both new and existing employers, the goals shall be reviewed by the Commission at least annually and shall be revised as necessary to reflect changes in the number of Indians available or changes in employer's hiring plans. Each employer shall submit a monthly report to the Commission on a form provided by the Commission, indicating the number of Indians in his work force, all persons employed or terminated, promotions, training, positions during the month, the job positions involved, and other information required by the Commission.

Should the Commission have reason to believe that an employer is violating this Ordinance by not meeting agreed-upon goals; it shall notify the employer of the alleged violation pursuant to Section 8 of this Ordinance. The Commission shall bear the initial burden of proving the employer has failed or is failing to meet its goals. Upon prima facie proof of such failure, the employer shall then bear the burden of proving that he/she has met or is meeting his/her goals or has made a good faith effort to meet his/her goal. It shall not be an excuse for such failure if the union with which the employer has a collective bargaining agreement providing for exclusive referral, failed to refer Indians.

13-503 Training. Every employer may be required by the Commission to participate in training programs to assist Indians to become qualified in the various job classifications used by the employer. Every employer shall employ Indian trainees or apprentices. The Commission shall set the ratio of Indian trainees to fully qualified workers after consultation with the employer. For construction projects, the number of Indian trainees shall be no less than the minimum ratio established by the Department of Labor. Every employer with a collective bargaining agreement with a union shall be required to obtain an agreement for the union to established an advanced journeyman upgrade and apprenticeship program.

13-504 Tribal Hiring Hall. The TERO Officer shall establish and administer a Tribal Hiring Hall to assist the TERO Office and employers in placing Indians. Employers may recruit and hire workers from whatever source, provided that no non-Indians are employed until a reasonable time period to locate qualified Indians has elapsed or the Tribal Hiring Hall has certified that a qualified Indian is unavailable to fill the vacant job position.

For purposes of this section, “reasonable time” shall be defined as follows: For construction jobs, the TERO Office shall be given 48 hours to locate and an additional 12 hours to refer a qualified Indian; for all other kinds of employment, the TERO Officer shall have a minimum of 5 working days to locate and refer a qualified Indian. The TERO Officer may grant a waiver of this time period upon a showing by the employer that such time period imposes an undue burden upon the project. An employer subject to a collective bargaining agreement with the union shall be exempt for this procedure if the union agrees to place in its referral list all names supplied to it by the TERO Officer. However, if any union fails to meet its obligation to refer Indians to an employer, the TERO Office may require the employer to accept Indian referrals from sources other than the union.

If any non-Indian worker is found to be employed in a job in violation of this section, the employer shall be required by the TERO Office to remove the employee summarily and shall be subject to the penalties provided in section 11 of this Ordinance. Removal of employees will be subject to the Commission’s due process.

13-505 Counseling and Support Programs. The TERO Office will establish counseling and other support programs to assist Indians to retain employment. Every employer shall be required to cooperate with the TERO Office regarding such counseling and support programs.

13-506 Preference in Contracting and Subcontracting. Every employer shall give preference in the award of any contract or subcontract to tribally-owned and Indian-owned businesses. The TERO Office shall register and maintain a list of tribally-owned and Indian-owned businesses, which shall be supplied to the employers for their use. Employers shall not be required to take any extraordinary measures to identify or locate tribally owned businesses.

13-507 Lay-Off. In all lay-offs and reduction in force, no Indian worker shall be terminated if a non-Indian worker in the same job classification is still employed; the non-Indian must first be terminated if the Indian possesses the qualification for the position at question. Qualified Indian workers shall be transferred to a crew to be retained so long as non-Indians in the same job classification are employed elsewhere on the job site.

13-508 Promotion. Every employer shall give Indian preferential consideration for all promotion opportunities and shall encourage Indians to seek such opportunities. For every supervisory position filled by a non-Indian, the employers shall file a report with the Commission stating what efforts were made to inform Indian workers about the position, how many Indians applied for the position, and the reason why an Indian was not hired for the position.

13-509 Summer Students. Every employer shall give Indians preferential consideration for summer student employment. The employer shall make every effort to promote after-school, summer and vacation employment for Indian students.

TITLE 13
ARTICLE 6
THE WINNEBAGO TRIBE OF NEBRASKA TRIBAL EMPLOYMENT RIGHTS FEE

13-601 Fee.

13-601 The Winnebago Tribe of Nebraska Tribal Employment Rights fee, to raise for the operation of the TERO Office, is imposed as follows:

- a. Every covered employer with a construction contract, in the sum of \$10,000.00 or more shall pay a one-time fee of x of 2 % of the amount of the contract. The fee may be paid in installments over the term of the contract;
- b. Every covered employer, other than construction contractors, with two or more employees working on the Winnebago Indian Reservation, or with gross sales on the Winnebago Indian Reservation of \$25,000.00 or more, shall pay an annual fee of x of 2% of his/her total employee's annual payroll;
- c. Such fees shall be paid to the Winnebago Tribe of Nebraska and shall be credited to the account of the Winnebago Tribe of Nebraska Tribal Employment Rights Office to meet its operating cost. The TERO Officer shall be responsible for collecting said fees pursuant to any rules and regulations adopted by the Ordinance and approved by the Commission. The TERO Officer shall distribute any surplus funds to the treasury of the Winnebago Tribe of Nebraska as a contribution to the overall economic development of the Winnebago Tribe of Nebraska. [TCR 05-140; 06-14]

TITLE 13
ARTICLE 7
COMPLIANCE BY UNIONS

- 13-701 Content of Union Agreement.
 - 13-702 Model Union Agreement.
 - 13-703 Recognition of Unions.
 - 13-704 Sovereignty.
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Every union with a collective bargaining agreement with an employer must file a written agreement stating that the union will comply with this Ordinance and the rules, regulations and orders of the Commission. Until such agreement(s) is/are filed with the Commission, the employer may not commence work on the Winnebago Indian Reservation.

13-701 Content of Union Agreement. Every union agreement with an employer, filed with the Commission must provide:

- a. Indian Preference. The union will give absolute preference to Indians in job referrals regardless of which union referral list they occupy;
- b. Cooperation with the Commission. The union will cooperate with the Commission and the TERO Officer in all respects;
- c. Registration. The union will establish a mechanism allowing Indians to register for the job referral list by telephone or mail;
- d. Training Program. The union will establish journeyman upgrades, and advanced apprenticeship programs that are registered with the Department of Labor;
- e. "Blanketing-In-Indians." The union will blanket-in all Indians who qualify for Journeyman status and wish to join the union;
- f. Temporary Work Permits. The union will grant temporary work permits to Indians who do not wish to join the union.

13-702 Model Union Agreement. The Commission shall provide a model union agreement for use by all unions who have a collective bargaining agreement with any employer. This may be used for reference in formulating an official agreement to be used for compliance purposes.

13-703 Recognition of Unions. Nothing herein or any activity by the Commission or TERO Officer authorized hereby shall constitute official tribal recognition of any union or tribal endorsement of any activities on the Winnebago Indian Reservation.

13-704 Sovereignty. Nothing contained in this Ordinance shall constitute a waiver of Tribal Sovereignty or limit the application of Trust Responsibility by the United States Government.

TITLE 13
ARTICLE 8
DUE PROCESS/HEARING

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| 13-801 Notice. | 13-806 Hearing Procedures. |
| 13-802 Commission Complaint Procedure. | 13-807 Appeals. |
| 13-803 Individuals Complaint Procedure. | |
| 13-804 Employers or Union Complaint Procedure. | |
| 13-805 Investigations. | |
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13-801 Notice. If a hearing is requested by the Commission, an individual, an employer, or union pursuant to this section, a written notice of the hearing shall be given to all parties concerned as to the nature of the hearing and shall advise such parties of their right to be present at the hearing, to testimony of witnesses and other evidence, to be represented by counsel at their own expense, and that the Commission may be represented by general counsel for the Winnebago Tribe of Nebraska.

13-802 Commission Complaint Procedure. If the Commission believes that an employer, contractor, subcontractor, or union has failed to comply with the Ordinance or any rules, regulations or orders of the Commission, it may file a complaint and notify such party of the alleged violation. The Commission will attempt to achieve an informal settlement of the matter, but if an informal settlement cannot be achieved, the Commission may request a hearing upon the matter pursuant to Section 8.1.

13-803 Individuals Complaint Procedure. If any person believes that an employer has failed to comply with this Ordinance or rules, regulation or orders of the Commission, or believes he/she has been discriminated against by an employer because he/she is an Indian, he/she may file a complaint with the Commission and/or the TERO Office who shall investigate and attempt to achieve an informal settlement of the matter. If an informal settlement cannot be achieved, the individual or Commission may request a hearing upon the matter pursuant to Section 8.1.

If any employer fires, lays off, or penalizes in any manner any Indian employee who utilizes the individual complaint procedure provided herein or exercises any right provided herein, the employer shall be subject to the penalties provided in Section 11 of this Ordinance.

13-804 Employers or Union Complaint Procedure. If any employer or union believes that any provision of this Ordinance or any rule, regulation or order of the Commission is illegal or erroneous, a complaint can be filed with the Commission specifying the alleged illegality or error. Upon receipt of the complaint, the Commission shall investigate and attempt to achieve an informal settlement of the matter. If an informal settlement cannot be achieved, the employer, union or Commission may request a hearing upon the matter pursuant to section 13-801.

13-805 Investigations. The TERO Officer or any field compliance officer designated by the Commission may make such public or private investigations within or without the exterior boundaries of the Winnebago Indian Reservation as he/she or the Commission deems necessary to determine whether any employer has violated any provision of this Ordinance or any rule or order hereunder, and may enter the place of business or employment of any employer for the purpose of such investigation.

13-806 Hearing Procedures. Hearing shall be governed by the following rules of procedures:

- a. All parties may present testimony of witnesses, and other evidence and may be represented by counsel at their own expense;
- b. The Commission may have the advice and assistance of the General Counsel of the Winnebago Tribe of Nebraska;
- c. The hearing shall be governed by the rules of practice and procedures, which may be adopted by the Commission. The Commission shall not be bound by technical rules of evidence in the conduct of hearing under this Ordinance, and no informality in any proceeding, as in the manner of taking testimony, shall invalidate any order, decision, rule or regulation made, approved or confirmed by the Commission;
- d. The Chairman of the Commission or the Vice-Chairman shall preside;
- e. Any matter to be proved must be proven to the satisfaction of the Commission by a preponderance of the evidence;
- f. At the final close of the hearing, the Commission may take immediate action or take the matter under advisement;
- g. The Commission's decision shall be in writing, shall be served on the charged party by registered mail or in person and shall be submitted no later than thirty days after the close of the hearing.

13-807 Appeals. An appeal to the Winnebago Tribe of Nebraska Tribal Court may be taken from any final order of the Commission by any party adversely affected thereby. Upon appeal, the case shall be tried de novo. The appeal shall be taken by serving a written notice of appeal on the TERO Officer within twenty days after the date of entry of the order. The notice of appeal shall:

- a. Set forth the order from which appeal is taken;
- b. Specify the grounds upon which reversal or codification of order is sought;
- c. The original order of the Commission shall abate pending the determination of the Winnebago Tribe of Nebraska Tribal Court. If the order of the Commission is reversed or modified, the court shall by its mandate specifically direct the Commission, to make appropriate Ordinance language recommendations to the Winnebago Tribe of Nebraska Tribal Council, for the purposes of revision or correction of the sections or words in question. All amendments, revisions or corrections shall be sent to employers, Federal agencies, and other affected parties, and shall be posted in public places for a period of thirty days on the Winnebago Indian Reservation.

TITLE 13
ARTICLE 9
TERO COMPLIANCE

13-901 Compliance.

13-901 As of the effective date of this Ordinance, no new employer may commence work on the Winnebago Indian Reservation without consulting with the Commission and the TERO Office, and signing an acceptable Compliance Plan and filing it with the Commission for meeting its obligation under this Ordinance.

TITLE 13
ARTICLE 10
REPORTING AND ON-SITE INSPECTIONS

13-1001 Reporting and On-site Inspections.

13-1001 Employers shall submit reports and other information requested by the Commission. The Commission shall have the right to make on-site inspections during regular working hours in order to monitor any employer's compliance with this Ordinance and rules, regulations and orders of the Commission. The Commission shall have the right to inspect and copy all relevant records of any employer, of any signatory union or subcontractor of any employer and shall have the right to speak to workers and conduct investigation on the job site. All information collected by the Commission shall be kept as confidential unless disclosure is required during a hearing or appeal as provided in Section 8.6 and, pursuant to the Compliance Plan.

TITLE 13
ARTICLE 11
PENALTIES FOR VIOLATIONS

13-1101 Penalties for Violations.

13-1101 Any employer, contractor, subcontractor or union who violates this Ordinance or rules, regulations or orders of the Commission shall be subject to penalties for such violations, including, but not limited to:

- a. Denial of right to commence or continue business inside the Winnebago Indian Reservation, suspension of all operations inside the Winnebago Indian Reservation, and/or prohibition from engaging in future operations on the Winnebago Indian Reservation;
- b. Payment of back pay and damages to compensate any injured party, an order to summarily remove employees hired in violation of this Ordinance or rules, regulation and orders of the Commission, and/or an order of the Commission, and/or requiring employment, promotion, and training of Indians injured by the violation;
- c. Imposition of monetary civil penalties;
- d. An order requiring changes in procedures and policies necessary to eliminate the violations;
- e. An order making any other provision deemed by the Commission necessary to alleviate, eliminate, or compensate any violation.

The maximum civil penalty, which may be imposed, is \$500.00 to \$5,000.00 for each violation. Each day during which a violation exists, shall constitute a separate violation.

TITLE 13
ARTICLE 12
ORDER TO THE WINNEBAGO TRIBAL POLICE

13-1201 Order to the Winnebago Tribal Police.

13-1201 The Winnebago Tribal Police are hereby expressly authorized and directed to enforce such cease and desist or related orders as may from time to time be properly issued by the Commission and the TERO Officer. Such orders shall require a judicial decree or order to render them enforceable. The police shall not be civilly liable for enforcing such orders so long as the Commission and the TERO Officer sign the order.

TITLE 13
ARTICLE 13
PUBLISHING THE ORDINANCE

13-1301 Publishing the Ordinance.

13-1301 The TERO Office and the Commission shall notify all employers of this Ordinance and their obligation to comply. All bid announcements issued by any Tribal, Federal, State, or other public or private entity shall contain a statement that the successful bidder will be obligated to comply with this Ordinance and all rules, regulations and orders of the Commission. The Commission and the TERO Office shall send a copy of this Ordinance to every employer operating on the Winnebago Indian Reservation and any amendments or revisions thereafter, within thirty days of the effective date of this Ordinance.

TITLE 13
ARTICLE 14
SEVERABILITY

13-1401 Severability.

13-1401 If any provision of this Ordinance, or its application to any person or circumstance is held invalid by the appropriate court of law, the remainder of the Ordinance, or the application of the provision to other persons or circumstance is not affected.

TITLE 13
ARTICLE 15
EFFECTIVE DATE

13-1501 Effective Date.

This Ordinance shall be effective and enforceable from the date of its approval by the Winnebago Tribe of Nebraska Tribal Council.