

**MECHOOPDA INDIAN TRIBE
OF
CHICO RANCHERIA, CALIFORNIA**

AMICUS LENDING ORDINANCE

#30

Adopted: December 16, 2021

Amended:

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2 **MECHOOPDA INDIAN TRIBE OF CHICO RANCHERIA**
3 **AMICUS LENDING ENTERPRISE ORDINANCE**
4

5 **Section 1. Title**

6 This Ordinance shall be known as the “Amicus Lending Enterprise Ordinance.”
7

8 **Section 2. Authority**

9 This Ordinance is enacted by the Tribal Council pursuant to Article VIII, Section 3 of the
10 Constitution of the Mechoopda Indian Tribe of Chico.
11

12 **Section 3. Purposes**

13 The purposes of this Ordinance is to establish the Amicus Lending Enterprise and to define the
14 basic requirements of its operation (i) to establish and develop a consumer lending business, (ii)
15 to further the economic operation and program of the Tribe; (iii) to oversee and manage the
16 assets of the Enterprise (as defined in Section 4 herein); (iv) to be a party or assignee to contracts
17 that further the purposes of the Enterprise; and (v) to ensure Enterprise compliance with its legal
18 obligations.
19

20 **Section 4. Definitions**

21 In this Ordinance, the capitalized terms set for the below shall have the following meanings:

- 22 (a) “Board” means the governing board of the Amicus Lending Enterprise.
- 23 (b) “Person” means any natural person, partnership, joint venture, association, trust,
24 firm, estate, club, society, receiver, assignee, trustee in bankruptcy, political entity,
25 company, corporation or other group, however organized, and any owner, director,
26 officer or employee of any such entity or any group of individuals acting as a unit,
27 whether mutual, cooperative, fraternal, nonprofit, or otherwise, the government of
28 the Tribe, any governmental entity of the Tribe or any of the above listed forms of
29 business entities that are wholly owned or operated by the Tribe, or any other entity
30 whatsoever, who engages or seeks to engage in the business of consumer lending
31 pursuant to this Ordinance; provided, that the term does not include the Federal
32 Government or any agency thereof.

- (c) “Tribal Council” means the elected governing body of the Mechoopda Indian Tribe of Chico Rancheria as defined and described in Article VIII Section 3 of the Tribe’s Constitution and pursuant to Tribal law.
- (d) “Amicus Lending Enterprise” or “Enterprise” means the Amicus Lending Enterprise, a wholly owned, unincorporated entity of the Tribe operating as an arm of the Tribe and sharing the Tribe’s sovereignty and sovereign immunity from unconsented suit.
- (e) “Tribal Member” means a duly enrolled member of the Mechoopda Indian Tribe of Chico Rancheria.
- (f) “Tribe” means the Mechoopda Indian Tribe of Chico Rancheria.

Section 5. Creation of Enterprise

- (a) The entity is hereby created and shall be known as the Amicus Lending Enterprise.
- (b) The Enterprise is and shall be considered an unincorporated enterprise of the Tribe. The Enterprise shall be wholly owned by the Tribe and operated for the benefit of the Tribe, with the benefits of economic development inuring to the benefit of the Tribe and its Tribal Members.
- (c) The Enterprise shall all of the rights, privileges, and immunities concerning federal, state and local government taxes, regulation and jurisdiction to the same extent as the Tribe. For all purposes of the Enterprise, its ownership and operation, the Enterprise shall be considered a separate entity, with the rights and powers herein granted.
- (d) The Enterprise may operate one or more business(es), either as corporations, limited liability companies, divisions, subsidiaries or separate d/b/a’s and may operate under such business name(s) as it deems appropriate and upon resolution of the Board.

Section 6. Governing Board

- (a) The Enterprise shall be governed by a three-member Board of Directors, consisting of a Chairperson and two Directors, with the Board of Directors appointed by the Tribal Council. At least two (2) Directors shall be Tribal Members.
- (b) Directors shall serve for terms of three (3) years, and may be reappointed at the discretion of the Tribal Council.
- (c) The powers, duties and responsibilities of each Director shall be set forth in Bylaws of the Enterprise to be enacted by Resolution of the Board and approval

by the Tribal Council following the adoption of this Ordinance.

- (d) A Director may be removed from the Board by a majority vote of the Tribal Council for malfeasance, misfeasance, nonfeasance, misconduct in office, or for any conduct that threatens the best interests of the Enterprise or the Tribe. The decision of the Tribal Council concerning removal of a Director shall be final. If any Director is removed or is otherwise unable to serve in that position, the Tribal Council shall fill the position with another qualified person for the remainder of the Director's term.
- (e) During his or her tenure, each Director has a duty to the Enterprise and to the Tribe to act in the best interest of each. With regard to all activities of the Enterprise, each Director shall disclose any actual or potential conflict of interest between himself or herself and the purposes and actions of the Enterprise. No Director shall participate in any vote if he or she (based on his or her best judgment or on a majority vote of the remaining Directors or the Tribal Council) is unable, due to such conflict, to concurrently act in the best interest of the Enterprise and/or the Tribe.
- (f) Each Director may receive such compensation as deemed appropriate by the Tribal Council.

Section 7. Powers of the Enterprise

The Enterprise, acting through its Board of Directors, shall have the following powers, delegated by the Tribal Council, which powers shall be limited in accordance with Section 8 below:

- (a) To take such action it deems necessary and appropriate, not inconsistent with this Ordinance, to accomplish the Enterprise's purposes as set forth in Section 3 of this Ordinance;
- (b) To advise the Tribal Council regarding its responsibilities to oversee the development and operation of the lending business(es);
- (c) To operate the Enterprise or other consumer financial services business(es) as delegated by the Tribal Council on behalf of the Tribe and in compliance with applicable Tribal and federal law;
- (d) To promulgate bylaws and establish policies and procedures not inconsistent with this Ordinance or other applicable Tribal law;
- (e) To hold, purchase and convey real and personal property;
- (f) To manage the assets, revenues, accounts, property and other interests of the Enterprise, including but not limited to establishing bank accounts and applying for federal tax identification numbers;
- (g) When necessary to the transactions of the business, to borrow money, to issue promissory notes and other evidences of indebtedness and to secure the same by

pledging the assets of the Enterprise, or its division, as the Enterprise deems appropriate;

- (h) To purchase, hold, sell, exchange, lease, assign, pledge, transfer or deal in bonds, notes, shares, securities, accounts receivable or other investments;
- (i) To do any and all things necessary or desirable to secure expertise for the development, management and operation of the Enterprise and enter into contracts for the same;
- (j) To employ or contract for the services of advisors, experts, professionals and laborers, and to enter into any relationship with another person or entity in connection with any lawful activities of the Enterprise;
- (k) In relation to any contractual obligation of the Enterprise and subject to an express written authorization by the Tribal Council, to agree to a limited waiver of the Enterprise's sovereign immunity from suit, to consent to the jurisdiction of any court of competent jurisdiction over the Enterprise in conjunction with such limited waiver, and to consent to the levy of any judgment, lien attachment upon any property or income of the Enterprise in connection with such limited waiver, subject to the requirements within Section 16 below; and
- (l) To sue or be sued in its name, but not the name of the Tribe, in courts of competent jurisdiction within the United States, subject to Section 16 of this Ordinance and the limited waiver granted by the Enterprise and approved by the Tribal Council; provided, that in no instance shall a suit be brought by the Enterprise without the prior explicit written approval of the Tribal Council. Notwithstanding the foregoing, nothing in this Ordinance shall be construed as an intent or waiver of the Enterprise's sovereign immunity from suit.

Section 8. Limitations on Powers and Activities

The Enterprise shall at all times comply with all applicable Tribal and federal laws.

Section 9. Assets

The property, monies, funds, accounts and other assets of the Enterprise shall be held and maintained solely in the name of the Enterprise in segregated accounts separate from those of the Tribe and shall not be commingled with the assets of any person or entity. The Enterprise may distribute income to the Tribe for the benefit of providing essential government services or providing for the Tribe and its Tribal Members, and distributing such benefits to the Tribe shall not be inconsistent with this Section or the intent of the Enterprise and this Ordinance.

144 **Section 10. Meetings**

- 145 (a) Meetings. The Board of Directors may hold regular and special meetings at such
146 times and places as it deems convenient, but at least one regular meeting shall be
147 held quarterly. A majority of the Board of Directors shall constitute a quorum
148 necessary to conduct business at such meetings. Special meetings may be called by
149 the Chairperson independently or at the written request of the two other Directors.
- 150 (b) Closed Meetings. The Board of Directors may hold executive or closed meetings
151 for any of the following purposes:
- 152 (1) Consulting with experts and principals from the Tribe or the Enterprise
153 concerning matters of special and unique necessity.
 - 154 (2) Discussing business, marketing and pricing strategies of the Enterprise and
155 its activities.
 - 156 (3) Negotiating the terms of any agreement for the benefit of the Enterprise or
157 the Tribe.
 - 158 (4) Discussing personnel issues or other matters that a reasonable individual
159 of average sensibilities would deem a private matter.
 - 160 (5) Discussing and consulting on matters of importance with attorneys,
161 consultants and accountants.
 - 162 (6) Discussing any other matter that the Board deems confidential and/or
163 proprietary in nature.

164
165 **Section 11. Bank Accounts and Recordkeeping**

- 166 (a) Bank Account. A separate bank account shall be opened in the name and for the
167 benefit of the Enterprise and all revenues and receipts shall be deposited in that
168 account.
- 169 (b) Record Keeping.
- 170 (1) Accounting records of the Enterprise shall be kept on a double entry
171 system of accounting, maintaining detailed supporting and subsidiary
172 records.
 - 173 (2) The following records of the Enterprise shall be maintained for periods of
174 not less than three (3) years:
 - 175 A. Revenues, expenses, assets, liabilities and equity;
 - 176 B. Daily transactions;
 - 177 C. Contracts, correspondence and other transaction documents relating to
178 all vendors of the Enterprise;

- 179 D. Customer complaints and their dispositions;
- 180 E. Enforcement activities pertaining to the Enterprise by the Tribal
- 181 Consumer Financial Services Regulatory Authority;
- 182 E. Summary of projects pertaining to the Enterprise; and
- 183 F. All audits prepared by or on behalf of the Enterprise.
- 184 (3) The Enterprise's information and records are confidential and may not be
- 185 disclosed to any Person except the Tribal Council, the Tribal Consumer
- 186 Financial Services Regulatory Authority, and/or any other Person
- 187 authorized by applicable Tribal or federal law or contract to have access to
- 188 such information and records.
- 189 (4) The Board shall be responsible to ensure that the premises, books, and
- 190 records of the Enterprise are available for inspection during normal
- 191 business hours by the Tribal Consumer Financial Services Regulatory
- 192 Authority.

193

194 **Section 12. Notices to the Public**

195 A copy of this Ordinance shall be available for inspection by any Person upon request at the

196 Enterprise's business location.

197

198 **Section 13. Restrictions**

- 199 (c) No loan shall be made to any person under the age of eighteen (18).
- 200 (d) No person under the age of eighteen (18) shall be employed by the Enterprise.
- 201 (e) Subject to the Indian preference laws and policies of the Tribe, the Enterprise shall
- 202 not discriminate on the basis of sex, race, color, or creed in its employment or
- 203 lending practices.
- 204

205 **Section 14. Licensing**

206 The Enterprise shall obtain a duly authorized Financial Services License from the Tribal

207 Consumer Financial Services Regulatory Authority, as required by Tribal Consumer Financial

208 Services Regulatory Ordinance, before engaging in any Lending activities.

209

Section 14. Management

- (a) General Manager. The Board shall hire and appoint a general manager of the Enterprise.
- (b) Monthly Reports. The General Manager shall be responsible to prepare written reports, for information and/or approval by the Board, that documents without limitation: (i) the number of borrowers served, (ii) the amount of revenue generated, (iii) the number of individuals working for the Enterprise by employment or contract, (iv) a detailed description of any borrower complaints and/or any concerns or issues experienced by the Enterprise, (v) any substantive changes in management personnel or practices, and (vi) a listing of all bills that are thirty (30) days or more past due. The timing of the submission of these reports shall be monthly unless otherwise fixed by the Board to enable compliance with the reporting requirements of the Tribal Consumer Financial Services Regulatory Authority.
- (c) Annual Reports. The General Manager shall be responsible to prepare annual reports, for information and approval by the Board. Each annual report shall include, at a minimum, the following information. The timing of the submission of the annual report shall be fixed by the Board.
- (1) On an annualized basis, a description of the Enterprise business operated and gross revenue from that operation, number of borrowers served, a detailed description of any borrower complaints and/or other problems experienced by the Enterprise, and a description of any substantive changes in management personnel or practices;
 - (2) The number of full-time equivalent employees, on an annualized basis, employed by the Enterprise during the past twelve (12) months, together with a projection of the number of full-time equivalent people who are expected to be employed during the following year;
 - (3) The number of contractors or subcontractors, on an annualized basis, retained by the Enterprise during the past twelve (12) months, together with a projection of the number of contractors or subcontractors who are expected to be retained during the following year;
 - (4) The status and changes in insurance coverage of the Enterprise and its business(es);
 - (5) A sworn statement that the Enterprise has complied and will continue to comply with all applicable Tribal and federal laws; and
 - (6) The name, address, and signature of the general manager who will accept service of process on behalf of the Enterprise, whose address for purposes of service must be on the Tribe's Rancheria.
- (d) IRS Requirements. The General Manager shall be responsible to ensure that the Enterprise is managed in accordance with applicable Tribal and federal law

and that it complies with all reporting requirements of the Internal Revenue Service.

- (f) Annual Enterprise Audit. The General Manager shall obtain an independent audit of the Enterprise, annually or as directed by the Board, by a certified public accountant using the accounting standards of the American Institute of Certified Public Accountants.
- (g) Fees and Fines. The Enterprise shall pay all fees and file all reports required by applicable law within the time prescribed.

Section 16. Sovereign Immunity

- (a) As an unincorporated entity wholly owned by the Tribe, the Enterprise shall be cloaked by tribal and federal law with all the privileges and immunities of the Tribe, including sovereign immunity from suit in any state, federal, or tribal court. Nothing contained in this Ordinance including but not limited to Section 7 shall be deemed to be a waiver of sovereign immunity by the Enterprise or the Tribe, its directors, officers, employees or agents or any other instrumentality of the Tribe from suit, which may be waived only in accordance with this Section.
- (b) The Enterprise may waive its sovereign immunity when necessary, in the best business judgment of the Board, to secure a substantial advantage or benefit for the Enterprise or the Tribe. Any waiver shall become effective only upon the express written approval of the Enterprise and the Tribal Council. Any waiver of sovereign immunity shall be specific and limited as to (i) duration, (ii) the grantee, (iii) the scope of the waiver, (iv) the nature and description of the property or funds, if any, of the Enterprise, available to satisfy any order or judgment, (v) the particular court or courts having jurisdiction over the Enterprise, and (vi) the law that shall be applicable thereto.
- (c) Any express waiver of sovereign immunity by resolution or contract of the Enterprise shall not be deemed a waiver of the sovereign immunity of the Tribe, its directors, officers, employees or agents or any other instrumentality of the Tribe, and no such waiver by the Enterprise shall create any liability on the part of the Tribe or any other instrumentality of the Tribe for the debts and obligations of the Enterprise, or shall be construed as a consent to the encumbrance or attachment of any property of the Tribe or any other instrumentality of the Tribe based on any action, adjudication or other determination of liability of any nature incurred by the Enterprise. The acts and omissions of the Enterprise, its directors, officers, employees or agents shall not create any liability, obligation or indebtedness either of the Tribe or payable out of assets, revenues or income of the Tribe.

289 **Section 17. Indemnification**

- 290 (a) The Enterprise may indemnify a Director who was or is a party or is threatened to
291 be made a party to any threatened, pending or completed action, suit or
292 proceeding, by reason of the fact that he or she is or was a member of the Board.
- 293 (b) To the extent that a Director has been successful on the merits or otherwise in
294 defense of any action, suit or proceeding, or in defense of any claim, issue or
295 matter, brought by reason of the fact that he or she is or was a Director of the
296 Board, the Enterprise may indemnify him or her against expenses, including
297 attorneys' fees, actually or reasonably incurred by him or her in connection with
298 the defense.

300 **Section 18. Amendments**


301 This Ordinance may be amended or rescinded only by a duly enacted Resolution of the Tribal
302 Council.

304 **Section 19. Effective Date**


305 The Ordinance shall become effective upon its approval by the Tribal Council at a duly called
306 meeting.

308 **CERTIFICATION**

309 I, the undersigned, as Chairman, do hereby certify that the Tribal Council is composed of seven
310 members, of which six (6) were present, constituting a quorum, at a regular meeting thereof, duly
311 called, noticed and conducted on this 16th day of December, 2021, and that this Ordinance was
312 adopted by Resolution Number 21-77 by a vote of (5) in favor, and (0) opposed, and (0)
313 abstaining; and that since its adoption this Ordinance has not been rescinded, amended, or
314 modified in any way.

315 
316 DennisRamirez (Jan 14, 2022 09:46 PST)

317 Dennis Ramirez
318 Tribal Chairman


Roberta J Lewis (Jan 14, 2022 11:46 PST)

Roberta Lewis
Secretary









#30 Amicus Lending Ordinance

Final Audit Report

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