

RESOLUTION NO. § 7a -10
OF THE GOVERNING BODY OF THE
YAVAPAI-APACHE NATION

A Resolution to Correct Resolution No. 10-09 and the Yavapai-Apache Nation
Community Development and Financial Institution Code

- WHEREAS:** The Yavapai-Apache Tribal Council (“Council”) is empowered to represent the Yavapai-Apache Nation (“Nation”) and act on all matters that concern the health and welfare of the Nation, and to make decisions not inconsistent with or contrary to the Constitution of the Yavapai-Apache Nation; and
- WHEREAS:** The Council is the legislative body of the Nation empowered to enact laws, ordinances and resolutions incidental to the exercise of legislative powers as provided by Article V(v) of the Nation’s Constitution; and
- WHEREAS:** The Council is empowered pursuant to Article II and Article V sections (a)(p)(v) and (w) of the Constitution to enact a Yavapai-Apache Nation Community Development and Financial Institution Code; and
- WHEREAS:** By Resolution No. 10-09 dated January 15, 2009, the Council provided for a revised Yavapai-Apache Nation Community Development & Lending Corporation Code enacted as Title 34 of the Yavapai-Apache Nation Tribal Code; and
- WHEREAS:** Identification and use of the name “Yavapai-Apache Nation Community Development & Lending Corporation” in Resolution No. 10-09 and Title 34 of the Yavapai-Apache Nation Tribal Code needs to be revised to “Yavapai-Apache Nation Community Development and Financial Institution” to be correct and to comply with the requirements of the revised Title 34 of the Yavapai-Apache Nation Tribal Code; and
- WHEREAS:** Pursuant to Article II and Article V sections (a)(p)(v) and (w) of the Constitution, the Council has authority to mandate assumption, retroactive to January 15, 2009, by Yavapai-Apache Nation Community Development and Financial Institution of all contractual and other obligations of Yavapai-Apache Nation Community Development & Lending Corporation.

NOW THEREFORE BE IT RESOLVED that the Yavapai-Apache Tribal Council, in Council assembled, at which a quorum is present, revises Resolution No. 10-09 and Title 34 of the Yavapai-Apache Nation Tribal Code to change the name of the Yavapai-Apache Nation Subordinate Economic Organization from “Yavapai-Apache Nation Community Development & Lending Corporation” to “Yavapai-Apache Nation Community Development and Financial Institution” in order to be correct and to comply with the requirements of the revised Title 34 of the Yavapai-Apache Nation Tribal Code.

BE IT FURTHER RESOLVED that retroactive to January 15, 2009, the Yavapai-Apache Nation Community Development and Financial Institution shall assume all contractual and other obligations of Yavapai-Apache Nation Community Development & Lending Corporation.

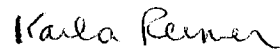
BE IT FINALLY RESOLVED that the Chairman, and Vice-Chairman, or either of them, are hereby authorized and approved to take such further action as deemed necessary or warranted to carry out the purposes and intent of this Resolution.

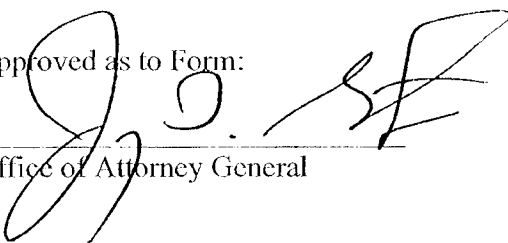
CERTIFICATION

I hereby certify that the foregoing resolution was adopted by an affirmative vote of the Tribal Council, with a quorum in attendance, presented for approval on May 6 2010, by a vote of 6 6 in favor, 0 opposed and 0 abstaining, pursuant to the authority contained under the Constitution of the Yavapai-Apache Nation as cited above.


Thomas Beauty, Chairman

ATTEST:


Karla Reimer, Council Secretary

Approved as to Form:

Office of Attorney General

TITLE 34

YAVAPAI-APACHE NATION COMMUNITY DEVELOPMENT & FINANCIAL INSTITUTION CODE

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Section 101. PURPOSE

To establish Yavapai-Apache Nation Community Development and Financial Institution, a Subordinate Economic Organization of the Yavapai-Apache Nation, define Yavapai-Apache Nation Community Development and Financial Institution's powers, its financial responsibilities, the composition and authority of its Board of Directors, and for other purposes.

Section 201. DEFINITIONS

- A. "Board" means the Board of Directors for Yavapai-Apache Nation Community Development and Financial Institution.
- B. "Council" means the Yavapai-Apache Nation Tribal Council.
- C. "Nation" means the Yavapai-Apache Nation.
- D. "SEO" means Subordinate Economic Organization.
- E. "YANCDFI" means the Yavapai-Apache Nation Community Development and Financial Institution.

Section 301. ESTABLISHMENT

A. There is established a Subordinate Economic Organization ("SEO") of the Yavapai-Apache Nation ("Nation") to be known as Yavapai-Apache Nation Community Development and Financial Institution ("YANCDFI"), an economic subdivision of the Yavapai-Apache Nation.

B. YANCDFI is an integral part of the Nation organized to perform an essential governmental function of the Nation, with all revenues restricted to public purposes and serving the Nation's interests as identified herein rather than for private gain. By virtue of its CDFI status, YANCDFI is specifically not subject to the ultimate financial and managerial control by the Nation's Tribal Council ("Council"). When exercising Council delegated powers, YANCDFI maintains the full measure of the Nation's sovereign immunity, the Nation's exemption from federal and state taxation, and the Nation's right to be treated as a state for the purposes of Section 7871 of the Internal Revenue Code of 1986, as amended from time to time.

C. YANCDFI promotes the economic self-sufficiency of the Nation by generating revenues through the business of being a financial institution and providing financial products and services for or on behalf of the Nation. YANCDFI performs such other duties and responsibilities as may be assigned periodically to YANCDFI by the Council

within the restrictions imposed by virtue of YANCDFI CDFI status. YANCDFI shall have no private shareholders.

Section 302. COUNCIL DELEGATED POWERS TO YANCDFI

A. YANCDFI shall have the power to administer and operate the business of being a financial institution and providing financial products and services for or on behalf of the Nation, including hiring and firing of YANCDFI staff, entering into agreements on behalf of YANCDFI and managing such assets as the Nation assigns to YANCDFI or YANCDFI generates through its own activities. In so doing, YANCDFI shall function autonomously on a day-to-day basis while remaining an SEO of, and accountable to, the Nation, and specifically to the Council, through the enactment of policies, resolutions, laws, or otherwise as provided for in this Code.

B. YANCDFI may enter into agreements without specific Council approval only when the following requirements of this Section 302, B and Section 302, C, below, are met:

1. For contracts, the transaction in question is: a) part of YANCDFI's ordinary and routine course of business; b) specifically beneficial to YANCDFI; and c) funded by and consistent with the specific allocations of a YANCDFI budget approved pursuant to Section 303, C below unless such transactions are funded by assets created by YANCDFI in the ordinary and routine course of business, i.e., loans.

2. For debt in leasing or purchasing equipment and using that equipment as collateral for such debt: a) the transaction must be authorized by a budget that has been approved pursuant to Section 303, C below; and b) the significant terms of such transaction must be included in YANCDFI's report to the Council for the quarterly period in which the transaction took place.

3. YANCDFI shall not enter into any agreement or partake in any transaction, without the approval of the Council, which requires expenditures or involves financial obligations in excess of YANCDFI's budget approved pursuant to Section 303, C below, unless such agreement or transaction is funded by assets created by YANCDFI in the ordinary and routine course of business, i.e., loans.

4. Council approval is required for any acquisition, conveyance, lease or other disposition of real property by YANCDFI. For any acquisition by YANCDFI of real property, the Council shall determine, by resolution, whether such land shall be owned in fee simple absolute by YANCDFI, in fee simple absolute by the Nation or by the United States in trust for the Nation.

5. Sovereign immunity shall not be waived in any agreement except as set forth under the requirements of this Section 302. YANCDFI is required to

regularly consult with the Nation's Attorney General or his/her designee to determine whether agreements entered into pursuant to this Section are consistent with this Section, the Nation's law and adequately protective of the Nation's assets. Any agreement that contains, appears to contain, or may be interpreted to contain, a waiver of sovereign immunity must be reviewed and approved by the Nation's Attorney General or his/her designee before the agreement is entered into. Any agreement purporting to waive sovereign immunity without the necessary reviews and approvals or otherwise not complying with the requirements of this Section 302 is void or voidable.

C. Except as provided in this Section 302, C, there shall be a limit to the liability and financial obligations that YANCDFI can incur without further specific Council approval through resolution.

1. YANCDFI's aggregate liability, obligation and financial exposure shall always remain limited solely and specifically to the assets of YANCDFI obtained through the operation of YANCDFI's designated business. Barring Council directive providing otherwise, such liability, obligation and financial exposure shall never include or obligate any real property, personal property or accounts or any other assets of the Nation, or of any other SEO, branch, program, department, affiliate, enterprise, authority, division, subdivision or entity of the Nation. Unless the Council provides otherwise, no liability, obligation, financial exposure or debt of YANCDFI shall extend to those assets transferred from the accounts or business of YANCDFI to the accounts of the Nation or to amounts payable to the Nation by YANCDFI.

2. All obligations incurred by YANCDFI in connection with the business of being a financial institution and providing financial products and services for or on behalf of the Nation shall be special obligations of YANCDFI payable solely from the assets of YANCDFI, separate and apart from the assets of the Nation.

3. YANCDFI's obligations are not general obligations of the Nation.

4. Unless specifically provided otherwise in a separate resolution adopted by the Council, YANCDFI can only assume responsibility and be liable only in its own name, and never in the name of the Nation, or any other SEO, branch, program, department, authority, affiliate, enterprise, division, subdivision or entity of the Nation.

5. No claim for liability or any other payment obligation in relation to the activities of YANCDFI may be brought against the Nation or the Nation's other assets or property, including those of other SEOs, branches, programs, departments, authorities, affiliates, enterprises, divisions, subdivisions or entities of the Nation. Unless a waiver is granted in accordance with this Section 302, nor shall any claim for liability or any other payment obligation be brought against YANCDFI.

6. Unless specifically provided otherwise in a separate resolution adopted by the Council, YANCDFI's liability for any project, undertaking or act shall always be expressly limited to actual unpaid contractual obligations (compensatory damages) and/or contractual specific performance and shall not include general, consequential, incidental, special or punitive damages.

7. No waiver of sovereign immunity may be implied. Any waiver of sovereign immunity that is approved under this Section 302 shall be: (a) express and unequivocal; (b) set forth in writing; and (c) narrowly construed.

8. Unless specifically provided otherwise in a separate resolution adopted by the Council:

a. YANCDFI may, subject to the limitations set forth in this Section 302, by simple majority vote constituting official Board action, waive its sovereign immunity from un-consented suit to resolve disputes (i) in tribal court or (ii) through arbitration, respectively. With unanimous vote constituting official Board action, YANCDFI may, subject to the limitations set forth in this Section 302, waive its sovereign immunity from un-consented suit in (iii) federal court or (iv) state court, respectively. Any waiver of sovereign immunity taken pursuant to this paragraph shall be in writing, reflected in the Board's minutes, and taken in the order of preference as set forth in this paragraph. Any authority to waive sovereign immunity delegated by the Board to the Chair of the Board or to the Executive Director of YANCDFI pursuant to Section 302, C, Subsection 11 below, shall also be reduced to writing and reflected in the Board's minutes.

b. The waiver of sovereign immunity contained herein shall extend solely to the parties (including applicable third-party beneficiaries thereto) executing the agreement with YANCDFI, as well as any approved successors and assigns thereof. Such waiver of sovereign immunity does not extend to: (i) any person or entity other than such parties, third-party beneficiaries, and approved successors and assigns; or (ii) any claims for general, consequential, incidental, special or punitive damages.

c. The preferential order for the choice of law YANCDFI shall use in resolving disputes shall be: (i) the law of the Nation; (ii) the law of the United States; or (iii) the law of the State of Arizona, respectively.

9. No provision herein and no action of YANCDFI shall be deemed or construed to waive the sovereign immunity of the Nation, or any other SEO, branch, program, department, authority, affiliate, enterprise, division, subdivision or entity by any other name or designation of the Nation.

10. Unless specifically provided otherwise in a separate resolution adopted by the Council and to the extent that YANCDFI obtains or provides

insurance, bonding or other third-party indemnification pertinent to any agreement, YANCDFI shall not have the authority to waive the sovereign immunity of YANCDFI pursuant to that agreement beyond the limits of the coverage of such insurance, bonding or third-party indemnification applicable thereto. YANCDFI's sovereign immunity is not, and shall not be, waived beyond the limits of such coverage. An insurer, bondsman or indemnitor retained by YANCDFI may not avoid its obligations by asserting the sovereign immunity of YANCDFI.

11. The Board may delegate the authority to enter into routine contracts to the Chair of the Board and/or to the Executive Director of YANCDFI without further Board review if the following conditions are met: (a) the routine contracts do not have a waiver of sovereign immunity or the routine contracts have a waiver of sovereign immunity the Board has already decided by appropriate Board vote to grant in a prior routine contract; (b) the dollar amount of the routine contract does not exceed the dollar amount set by the Board; and (c) the routine contract otherwise meets all the remaining requirements of this Section 302. Routine contract means a recurring written agreement entered into at least more than twice in any particular fiscal year between YANCDFI and the same person or entity whereby the terms of such agreement with the possible exception of price and/or quantity have not changed from the initial agreement approved by the Board of Directors for that same person or entity other than the date of the agreement and the quantity and/or price of the services or products provided therein.

12. Any waiver of sovereign immunity by YANCDFI, its Board of Directors, officers, agents, employees or representatives resulting through action outside the scope of authority of YANCDFI, its Board of Directors, officers, agents, employees or representatives not allowed under this Code is void or voidable.

D. YANCDFI's Board of Directors may seek permission from the Council for consent to enter into transactions that are not within the powers delegated to YANCDFI under this Section 302, Subsections A through C above, including the following:

1. Purchasing or leasing real property on behalf of the Nation or encumbering real property owned by the Nation, provided that the subleasing of real property may be conducted by YANCDFI without the Council's approval should a master lease or other document covering such real property approved by the Council so provide;

2. Entering into any contract or otherwise incurring any obligation in connection with an activity that is not within the ordinary course of YANCDFI's business such as, by way of example, construction of significant improvements in real property owned by the Nation;

3. Entering into any financial obligation, and executing any associated loan documents, which designate, as collateral or security, property other than that which is identified in Section 302, B, Subsection 2, above; and

4. Any transaction or act that involves liability, obligation or financial exposure in excess of that which is permitted under the terms of Section 302, B and C above.

E. Notwithstanding the provisions set forth in this Section 302, the Council retains the discretion to veto agreements and transactions, and to withhold any associated waivers of sovereign immunity, on a case-by-case basis, where specific questions are raised regarding certain agreements not already entered into by YANCDFI, but which are otherwise authorized under Section 302, A through C, above. Furthermore, the Council retains the sole discretion to prospectively limit, by resolution, the types of agreements in which sovereign immunity may be waived even if such agreements otherwise satisfy the requirements set forth herein.

Section 303. FINANCIAL DUTIES AND RESPONSIBILITIES OF YANCDFI

A. YANCDFI shall maintain financial books and records of account separate and apart from those of the Nation and shall generate and maintain reports accurately reflecting the financial position, revenues and disbursements of YANCDFI in accordance with generally accepted accounting principles and following the Nation's fiscal year. YANCDFI's business and financial records shall be available for inspection and copying by the Council and/or the Finance Director, or their designees. YANCDFI's books of account and financial reports shall be audited by an independent and reputable firm of certified public accountants, approved by the Council, and the corresponding audit reports shall be presented to the Council and to the Finance Director in such format as they may from time to time prescribe. The Council may order a special audit of YANCDFI to be performed either by an independent and reputable firm of certified public accountants or by the Nation's internal auditor(s) and/or Finance Director.

B. In order to properly track the assets of YANCDFI, YANCDFI shall maintain a separate tax identification number issued by the United States Internal Revenue Service.

C. Consistent with the Nation's fiscal year, YANCDFI shall adopt an annual operating budget of revenues and expenditures and a capital expenditures budget. These budgets shall be in such form as may be prescribed from time to time by the Council and/or the Finance Director. The capital expenditures budget shall identify and define YANCDFI's plans for capital investments, including material operating leases, and shall state whether the planned investments are intended to be made from cash flow accumulations, borrowing, or otherwise. The budgets shall be approved by YANCDFI's Board of Directors before such budgets are presented to the Council for approval. The Council must approve the budgets and, if applicable, appropriate money before YANCDFI can expend such funds. Any amendments to an approved budget that would

exceed the total amount of the approved budget shall also be approved by the Council before YANCDFI can expend such funds.

D. YANCDFI shall account for and utilize cash flow accumulations that exceed YANCDFI's operational and capital expenditure requirements for the business of being a financial institution and providing financial products and services for or on behalf of the Nation.

E. The highest dollar amount of indebtedness or liability, direct or contingent, to which YANCDFI may at any time subject itself, either in the aggregate or for a specific transaction or undertaking, shall be determined and directed from time to time by the assets within the independent control of YANCDFI. Review and approval by the Council shall be required only for any transaction or undertaking in excess of such amount.

F. The Council may, in its sole discretion, require YANCDFI to utilize the services of one or more accountants, which accountant(s) may also provide accounting services to the Nation's other SEOs.

G. At least twice each fiscal year and consistent with Section 309 below, YANCDFI shall appear before and report to the Council YANCDFI's activities.

Section 304. YANCDFI'S BOARD OF DIRECTORS

A. The operation of YANCDFI shall be governed by a Board of Directors.

B. The Board of Directors shall be comprised of ____ () voting members.

1. The qualifications of Board members shall be as follows:

a. One (1) Director shall be a member of the Council.

b. At least one (1) Director shall be an enrolled member of the Yavapai-Apache Nation who is not a member of the Council or an employee of YANCDFI.

c. At least one (1) Director shall be a person who has extensive professional or management experience in the business of being a financial institution and providing financial products and services, business, experience in banking and finance and/or experience in a field beneficial to the business of being a financial institution and providing financial products and services for or on behalf of the Nation and who is not a member of the Council or an employee of YANCDFI. The Council shall give preference to qualified enrolled Tribal members in making this appointment.

2. Other than the Council representative appointed pursuant to Section 304, Subsection B. 1. a., and with the exception of the initial Board

members who shall be selected by Council, Board members shall be selected only after an application and interview process to be conducted and supervised by no less than two (2) voting Board members. Based on such process, the remaining voting Board members, by absolute majority, shall appoint new Board members whose identity shall be made known to Council.

3. A Board member serves for a period of three (3) years; provided however, that the Council may adjust the term of an appointee for the purpose of staggering Board of Director terms and for other purposes the Council deems fit; and provided further, that the Council reserves the right to remove and replace any Board member at any time in the Council's sole discretion.

4. Any Board member may resign at any time by giving written notice to the Chair of the Board and to the Council. Resignations shall become effective at the time specified in writing therein. The acceptance of such resignation shall not be necessary to make the resignation effective. The Board shall notify the Council of any resignation or vacancy. Any vacancy on the Board due to death, resignation, removal, or otherwise shall be filled for the unexpired portion of the term of the vacated Board member position in accordance with the requirements of this Section 304.

5. In the event a Board member becomes temporarily incapacitated or otherwise unable to perform his or her duties as defined herein, the remainder of the Board, by a simple majority vote, may recommend an interim Board member to serve as a replacement. An interim Board member may serve no more than six (6) months, at which point the temporarily replaced Board member must reassume his or her position, or the position shall be declared vacant and filled for the unexpired portion of the term in accordance with this Section.

6. A Board member may be removed involuntarily from the Board prior to the expiration of his or her term in accordance with the following procedures:

a. A request for removal of a Board member may be made by submitting to the Chair of the Board a written notice specifying the cause for removal signed by not less than three other Board members.

b. The cause for removal shall be limited to the following:

i. Conviction or judgment of liability in any federal, state, or tribal court of a felony or of any of the following offenses as defined in the Yavapai-Apache Nation Criminal Code: extortion, theft, possession of stolen property, fraud, refusing to aid law enforcement officers, false reporting, obstruction of justice, criminal contempt of court, perjury, possession of dangerous drugs, bribery, or tampering with physical evidence;

ii. Gross neglect of duty;

iii. Malfeasance in office or conduct which amounts to gross and intentional disregard of any laws and procedures applicable to the affairs of YANCDFI; or

iv. Any other conduct, act or omission that could reasonably be characterized as posing a significant risk to the health, safety, welfare, reputation, integrity and/or prosperity of the Board of Directors, YANCDFI and/or the Nation.

c. Not less than fifteen (15) nor more than thirty (30) days following receipt of a written request for removal, the remaining voting Board members shall discuss the matter, taking into account the statements of applicable witnesses, if warranted, and then vote on the removal or retention of the Board member. Before any vote is taken, the applicable Board member shall be given a full opportunity, either in person or through a representative of his or her choice, to answer or otherwise respond to any and all accusations against him or her.

d. To remove a Board member for cause, the affirmative vote of at least a simple majority of the remaining voting Board members present at a duly convened Board meeting, where a quorum is present, shall be required.

7. Regular meetings of the Board of Directors shall be held at least once every three (3) months for the purpose of reviewing YANCDFI's recent operations, making plans for ensuing operations, and conducting such other business as may come before the Board. The first regular meeting in each fiscal year shall also be the Annual Meeting of the Board of Directors. At the Annual Meeting, the Board of Directors shall review the preceding year's operations to identify areas needing improvement and shall transact such other business as may come before the Board, including the election of Board officers. Regular Board meetings shall be held at the time and place specified by the Chair of the Board in accordance with properly adopted Board by-laws. Recorded minutes must be kept for all Annual and Regular meetings.

8. Special meetings of the Board may be called by the Chair of the Board or jointly by any three (3) Board members. Meetings shall be held at the time and place specified by the person or persons calling such meeting. Written minutes must be kept for all Special meetings.

9. A simple majority of the Board members appointed must be present at a Board meeting in order to constitute a quorum for the transaction of business at that meeting.

10. The act of a simple majority of the Board members present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required elsewhere by this Code. Each Board member, including the Board Chair or other presiding Board member at the meeting of the Board of Directors, shall be entitled to one vote.

11. Any action that may be taken at a Board meeting may be taken without a meeting if written consent setting forth the action taken is signed by all voting Board members. Such written consent must be initiated by the Chair of the Board and all Director signatures for the consent must be in the hands of the Board Chair within thirty (30) days following the initiation of such action, otherwise such action shall be null and void.

12. Board meetings shall be held in person or by telephonic means, provided that members participating telephonically can hear and communicate with the other Board members collectively. Board members may not act by proxy.

13. The Board of Directors shall adopt:

a. By-laws and other policies for the governance of YANCDFI consistent with this Code;

b. Personnel policies that include procedures for the resolution of grievances of non-probationary employees, which policies must be approved by the Board; and

c. An ethics policy for Board members including a conflict of interest statement in a form approved by the Office of Attorney General and the Council. The conflict of interest form is to be signed by all Board members after receipt of the form. No Board member may participate in any Board action until the form is signed once the form is received by such Director.

14. Board fees or stipends shall be set by the Board of Directors, but shall at all times be subject to any Council policy with respect to Board fees and stipends and shall be identified as such in the annual budget. For Nation employees who are also members of the Board, the Board of Directors shall be subject to the Nation's Human Resources policies regarding work hours and attendance of such employees to Board meetings during the work hours of the Nation. The Board may request from the Council a variance of the Human Resource policies at any time, but in no event more often than one variance request per fiscal year.

15. Board members shall not be deemed employees of YANCDFI for tax or other purposes unless a Board member performs employment duties outside of and in addition to his or her duties as a member of the Board. In that case, the

Board member's duties shall be segregated between Board and employment duties.

Section 305. YANCDFI'S OFFICERS

A. The officers of YANCDFI shall include a Chairperson, a Vice-Chair and such additional officers as deemed necessary by the Board of Directors. YANCDFI officers shall be elected during the Annual Meeting of the Board. Unless otherwise indicated below, the Board of Directors shall elect each officer from among its voting members. Unless approved by a unanimous vote of the Board of Directors, or unless temporarily holding an office on an emergency basis, no person may simultaneously hold more than one office. All officers elected by the Board shall hold office for a period of one (1) year, or until their successors are elected, unless removed from office by the Board as provided in the Board's by-laws.

B. In the event an officer becomes temporarily incapacitated or otherwise unable to perform his or her duties as defined herein, the remainder of the Board, by a simple majority vote, may appoint an interim officer to serve as a replacement. An interim officer may serve no more than six (6) months, at which point the temporarily replaced officer must reassume his or her position. Should the temporarily replaced officer not resume his or her position, the Board must elect a permanent replacement officer for the remainder of the vacated term.

C. Chair of the Board. If present, the Chair of the Board shall preside at the meetings of the Board of Directors. Together with the Executive Director and Council representative, the Chair shall act as YANCDFI's primary liaison to the Nation and to the Council. As such, the Chair shall be responsible for presenting reports and requests to the Council as necessary. Subject to the Board of Directors' control, the Chair shall supervise the business and affairs of YANCDFI, and together with YANCDFI's administrative and fiscal staff, all assets of YANCDFI. The Chair shall sign any contract, purchase order, check or other instrument which the Board of Directors has authorized the Chair to execute, except in cases where the signing and execution thereof shall be especially delegated by the Board of Directors or by this Code to some other employee, officer or agent of YANCDFI, or shall be required by law to be otherwise signed and executed. The Chair of the Board shall perform such other duties as from time to time may be prescribed by the Board of Directors and/or set forth in YANCDFI's by-laws.

D. Vice-Chair. In the absence of the Chair of the Board, or in the event of the Chair's death, inability or incapacity to act, the Vice-Chair shall perform the duties of the Chair of the Board and, when so acting, shall have all the same powers and be subject to the same restrictions the Chair of the Board otherwise has. The Vice-Chair shall perform such other duties as from time to time may be prescribed by the Board of Directors and/or as set forth in YANCDFI's by-laws.

E. Treasurer. Among the officers that may be appointed upon a determination of need by the Board of Directors is a Treasurer, who shall perform such duties as from time to time may be prescribed by the Board of Directors and/or set forth in YANCDFI's by-laws.

Section 306. EXECUTIVE DIRECTOR

YANCDFI's Board of Directors, by vote of a majority of all Board members, shall appoint and retain an Executive Director to act as the high-ranking full-time employee of YANCDFI. The Executive Director is the Chief Administrative and Executive Official of YANCDFI, subject to the authority of the Board of Directors, and shall perform such duties as are designated in a position description approved by the Board of Directors, as well as such further duties as are assigned/delegated to him or her by the Board of Directors. The Executive Director shall consult monthly with YANCDFI's administrative and fiscal staff to prepare monthly reports on YANCDFI's income, expenses and operations. The Executive Director shall also oversee the preparation of YANCDFI's budgets. The Executive Director shall supervise YANCDFI's efforts in connection with all audits and insure that all financial reports and records are timely submitted to the entities or persons having a legitimate right to receive such reports and records or to whom such reports and records are legitimately due. The Executive Director shall attend meetings of the Board of Directors and serve as an *ex officio* (non-voting) member of the Board. While in service for YANCDFI, the Executive Director shall be ineligible to sit on the Board of Directors for any other SEO.

Section 307. FINANCIAL INTERESTS IN YANCDFI

No Board member, officer or employee of YANCDFI may have any direct or indirect financial interest that conflicts with, or appears to conflict substantially with, their responsibilities or duties as YANCDFI Board members, officers or employees. No Board member, officer or employee of YANCDFI shall engage in financial transactions for private gain as a result of, or otherwise make use of for private gain, information and/or influence obtained through his or her status as a Board member, officer or employee of YANCDFI. In addition, no Board member, officer or employee of YANCDFI shall solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan or any other thing of monetary value, from any person, corporation, group or entity that has interests in or any relationship with, or is seeking to obtain any contractual or other business or financial relationship with YANCDFI, or that conducts or seeks to conduct operations or activities that are regulated by YANCDFI, or that has interests that may be affected by a Board member's, officer's or employee's performance or non-performance of his or her official duties for YANCDFI. However, Board members, officers and employees may accept, within the bounds of good taste, social

amenities and tokens of negligible monetary value as are consistent with generally prevailing customs. Board members, officers and employees may not use any YANCDFI property for purposes other than officially approved activities.

Section 308. INDIAN PREFERENCE IN EMPLOYMENT

YANCDFI shall maintain effective policies for giving preference in hiring, promotion, and training to qualified enrolled Nation members in all levels of employment, including specifically in the employment of officers and other management employees. Effective preference policies shall be developed and adopted by YANCDFI consistent with the Nation's law and policies. YANCDFI shall, in furtherance of the policies so developed, advise Nation employment officials of job openings as soon as possible and give full consideration to any enrolled Nation member referred to YANCDFI for any job opening. The Indian preference policies shall provide for and require training programs to prepare enrolled Nation members for hiring and promotion in all levels of employment.

Section 309. REPORTS TO THE COUNCIL

A. YANCDFI shall provide written reports to the Council on its operations and significant activities and events in each calendar quarter within forty-five (45) days after the close of the quarter. At least two of these written reports shall be accompanied by oral presentations to the Council on a fiscal year basis. The reports shall include at least the following information as well as any other information the Council may request:

1. Financial statements showing revenues and disbursements for the quarter and for the fiscal year to date with comparisons to the operating and capital expenditure budgets, as well as the status of any and all outstanding loans made.
2. A description of all waivers of sovereign immunity given in connection with any transaction entered into by YANCDFI pursuant to Section 302 above.
3. A list and brief description of any claims asserted against YANCDFI by way of lawsuit. The report shall also advise of any threats of lawsuit.
4. An assessment of the impact of YANCDFI's activities on the Nation's sovereign political status and on the Nation's cultural preservation objectives.
5. The report shall state the number of persons employed by YANCDFI, the number of employees who are enrolled members of the Nation, the number of employees who are enrolled members of other Indian tribes and the

number of enrolled Nation member employees who left employment during that period.

B. Prior to the end of each fiscal year, YANCDFI shall present to, and obtain approval from, the Council for YANCDFI's operational and capital expenditure budgets for the next fiscal year. Before seeking approval from the Council, YANCDFI's Board of Directors shall approve YANCDFI's budgets. The Council presentation shall be made both verbally and in writing. Any amendment to the budgets following the budgets' original adoption shall be approved by the Board and subsequently by the Council before such amendment is authorized and approved.

C. YANCDFI's report for the fourth quarter of each fiscal year shall be submitted in writing containing the financial statements for the concluded fiscal year. However, if requested by the Council, a verbal presentation shall also be made.

D. From time to time the Nation's Finance Director may provide formats for the quarterly presentations and may request that additional information be included.

E. The Council may request additional or supplemental reports or presentations at any time.

Section 310. MISCELLANEOUS

A. The Nation's Attorney General or his/her designee shall serve as legal counsel to YANCDFI. The Attorney General or his/her designee should be present during all Board meetings. Outside legal counsel may be retained by YANCDFI with approval of the Council and the Nation's Attorney General and in accordance with an approved budget.

B. The Board of Directors is responsible for determining management's compensation based upon the goals of YANCDFI.

C. The Board of Directors shall cooperate with the Nation's Finance Director in working with the Nation's external auditors to complete YANCDFI's annual audit. At least one Board Member and the Executive Director shall meet with the external auditors of YANCDFI prior to the beginning of the audit to advise the auditors of any concerns or areas of emphasis for the audit, as well as after the audit is completed to receive and review the audit report.

D. The Board of Directors, officers and employees of YANCDFI shall not be liable for the debts of YANCDFI. The private property of YANCDFI Board members, officers and employees shall be forever exempt from YANCDFI's debts and the Yavapai-Apache Nation indemnifies and holds harmless YANCDFI Board of Directors, officers, and employees from liability or other claims arising out of their duties or functions as YANCDFI Board members, officers, or employees. This indemnity and protection from personal liability shall not extend to those actions or activities of the Board members,

officers and employees of YANCDFI who create liability in relation to their intentionally wrongful acts or omissions, and/or who create liability for themselves or YANCDFI by exceeding the scope of their official duties, responsibilities or obligations.

E. The Council hereby determines that all actions taken by YANCDFI and all rights and obligations of YANCDFI which have been established as a result of YANCDFI's powers derived from YANCDFI's original creation enactments are not to be invalidated by the adoption of this Code and this Code shall be controlling as to future actions, rights and obligations of YANCDFI beginning with the effective date specified below.

Section 311. REPEAL OF YAN COMMUNITY DEVELOPMENT & LENDING CORPORATION____

Upon the passage of a subsequent Council Resolution, which acknowledges the transfer and assignment of all YAN Community Development & Lending Corporation's assets and liabilities to YANCDFI, the Tribal Resolution No. 81-04 creating YAN Community Development & Lending Corporation, dated September 23, 2004, is hereby repealed and YAN Community Development & Lending Corporation is hereby dissolved.

Section 312. EFFECTIVE DATE

This Code will take effect on February 1, 2009, except that any change in the composition of the Board of Directors that may be required by Section 304 shall become effective at such time as the Council may direct.