

CHITINA JUDICIAL CODE

Native Village of Chitina

Chitina, Alaska

Adopted by the Native Village of Chitina on August 17, 2024

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CHAPTER 1

NATIVE VILLAGE OF CHITINA TRIBAL COURT

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Section 1. Authority of Native Village of Chitina Tribal Government

Traditionally, laws and customs of the Native Village of Chitina Tribe were enforced and practiced by the Native Village of Chitina people without outside intervention. In modern times the Native Village of Chitina Tribal Council establishes and operates a tribal court under the inherent sovereignty of a federally recognized Indian tribe, under any delegated or implied authority by the state and federal Governments, and under Article VII of the Native Village of Chitina Constitution.

Upon adoption on August 8, 2024, this Code replaces Title 1: General Court Codes adopted on September 17, 2022 and any other previously adopted codes or ordinances on these subjects.

The judicial power of the Native Village of Chitina Tribe shall be vested in the Native Village of Chitina Tribal Judicial System which shall consist of the Native Village of Chitina Tribal Court, Native Village of Chitina Court of Appeals, Native Village of Chitina Justice Circles and other Courts and Intertribal Courts as deemed necessary by the Native Village of Chitina Tribal Council. This Chapter outlines the structure and organization of the Native Village of Chitina Judicial System.

Section 2. Purposes of the Native Village of Chitina Tribal Court

The purposes of the Native Village of Chitina Tribal Court are to address internal affairs, domestic relations, and to protect the health, safety, and welfare of the Native Village of Chitina people and Tribe by addressing problems through a fair and consistent application of written tribal codes and unwritten Native Village of Chitina cultural values and traditions.

Section 3. Jurisdiction of the Native Village of Chitina Tribal Court

The Native Village of Chitina Tribal Court shall be a court of general jurisdiction and have the authority to exercise the inherent judicial powers of a federally recognized tribe. The Native Village of Chitina Tribal Court Judges shall have the authority to decide whether they shall hear a case filed with the Court, except when Citations are filed with the Court. The Court shall hear all cases initiated by Citations made by Officers of the Native Village of Chitina Department of Public Safety.

The Native Village of Chitina Tribal Court may develop written rules for practices and procedures, provided that they do not conflict with the Native Village of Chitina Tribal Constitution or Tribal Codes.

Section 4. Priority of the Laws the Chitina Tribal Court Follows

The Chitina Tribal Court shall apply the laws in this order of priority:

1. Chitina's Constitution;
2. Chitina's tribal laws, written and customs;
3. Traditional laws and customs of the Region;
4. United States Federal Law, if consistent with the laws listed above;
5. Alaska State Law, if consistent with the laws listed above.

Section 5. Native Village of Chitina Tribal Court Judges

A. Pool of Judges: There shall be a pool of up to 6 Judges of the Native Village of Chitina Tribal Court.

B. Qualifications: The qualification to serve as a Chitina Tribal Judge shall be:

- a. Be an enrolled tribal member;
- b. Be least 18 years of age; and
- c. Have not been convicted of felonies or misdemeanors listed in the Indian Child Protection and Family Violence Prevention Act of 1990 as amended, except by an express waiver by resolution of the Native Village of Chitina Council.

C. Appointed by the Council: Chitina Tribal Judges shall be appointed by the Chitina Tribal Council by a minimum of 4 affirmative votes. The date of appointment shall be kept in the records of the Tribal Court.

D. Term Length: Judges shall serve for 3-year terms. There shall be no term limits for Tribal Judges.

E. Criminal Background Check: All Judges shall get a criminal background check prior to fulfilling the role of a Native Village of Chitina Tribal Court Judge. If the background check shows convictions listed in the Indian Child Protection and Family Violence Prevention Act of 1990 as amended, the person may not serve as a Judge without an express waiver of the Native Village of Chitina Tribal Council. A listing of such crimes is provided in an addendum to this Code.

Section 6. Quorum to Hear Tribal Court Cases

A minimum of 3 Judges shall be required to hear cases. Visiting Judges, as described in Section 12 of this Chapter, may be used to make a quorum of 3 if needed. Under emergency circumstances only, a minimum of 2 Judges shall be required to take actions, hold hearings, or make formal decisions.

Section 7. Presiding Judges of Hearings

A Presiding Judge shall be assigned to each case until that case is closed.

1. Presiding Judges shall be determined by the pool of Judges prior to the first hearing on a case.
2. Presiding Judges shall control the Native Village of Chitina Courtroom in a fair manner. People in the Court may only speak at the direction of the Presiding Judge for that case.
3. The Presiding Judge shall sign all orders and documents for cases they are serving on.
4. If a Presiding Judge is not available for a hearing on any case to which they are assigned, an Alternative Presiding Judge shall be selected by the Judges to preside over such hearings. The Alternative Presiding Judge shall generally assume the

duties of the Presiding Judge, managing the court room and signing documents for the cases they are Presiding over.

Section 8. Judicial Ethical Standards

All Judges and Court personnel of the Native Village of Chitina Tribal Court have a responsibility through their judicial duties for the health and welfare of the Tribe, tribal members, and the community of Native Village of Chitina. In order to comply with the trust and responsibility of their positions, tribal Judges and Court personnel are expected to live their lives with high ethical standards, and shall follow these guidelines:

- A. Comply with Applicable Law:** Judges and Court personnel shall respect and comply with all applicable laws of the Native Village of Chitina Tribe, as well as applicable state and federal laws.

- B. Alcohol, Marijuana, and Illegal Drugs:** Tribal Court Judges and personnel shall not participate in court hearings, attend any meetings, conferences, trainings, or other events where they are representing the Native Village of Chitina Tribe while under the influence of alcohol, marijuana, or illegal drugs. Additionally, Tribal Court Judges shall not hear cases when under the influence of prescribed pain or other medication which specifies that persons shall not drive motor vehicles while under its influence.

- C. Conflict of Interest:** Tribal Court Judges and personnel shall not participate in hearings or court decisions when they have a conflict of interest including:
 - 1. Relatives and Relationships:** Judges of the Native Village of Chitina Tribal Court shall remove themselves from hearing a case involving persons with whom they have a conflict of interest including his or her spouse, parents and parent in-laws, grandparents, grandchildren, siblings, children, persons living in the same household or with whom a romantic relationship exists.

 - 2. Personal Interest:** Judges shall remove themselves from any cases in which they have any significant, direct, personal financial or other interest.

3. **Cannot be fair:** Judges shall remove themselves from hearing a case in which they cannot be fair for any reason.
4. **Emergency Circumstances:** Only in emergency situations where temporary decisions are made, may Judges be so related or conflicted such as an emergency placement of a child that is in imminent danger.

D. Confidentiality:

1. Judges and court personnel shall maintain confidentiality on all cases that come before them.
2. Confidential information received in the course of judicial duties includes information that is not public and is not authorized to be made public.
3. Confidential information includes but is not limited to information on pending cases that is not already a matter of public record and information concerning the work product of any Judge, Clerk, or other court personnel including, but not limited to files, notes, papers, discussions, and memorandums.

E. Ex Parte Communication: Judges and court personnel shall not initiate, permit, consider, or in any way discuss cases with any persons outside the Native Village of Chitina Tribal Courtroom, or disclose any information regarding cases through any private or public forums outside the Courtroom.

F. Nepotism and Favoritism: Tribal Court Judges shall not hear cases that fall under the conflict-of-interest provisions of this Section and shall not otherwise exert influence over other Tribal Court Judges, witnesses, Clerks or Parties to a case to their friends or their family's benefit. Judges shall not allow family or other relationships to influence their conduct or judgment.

G. Violation of Ethical Standards: Judges who are in violation of these Ethical Standards may be found in contempt of court and subject to forfeiting their seat

or removal. Court personnel may be subject to disciplinary action or termination under the provisions of the tribal personnel policy.

Section 9. Oath of Fairness, Impartiality, and Ethical Standards

All Judges and court personnel serving in the Native Village of Chitina Tribal Court shall take an oath of fairness, impartiality, and ethical standards prior to assuming duties as Judge or court personnel.

“I _____, do solemnly swear and affirm that I will uphold the Constitution, Codes, Resolutions, Customs and Values of the Native Village of Chitina Tribe. I shall maintain respect due to the Native Village of Chitina Tribal Court by striving for fairness and impartiality in the tribal court proceedings that come before me. I will follow ethical standards and maintain confidentiality of the Court and will not discuss the proceedings of cases outside of the chambers of the Native Village of Chitina Tribal Courtroom.”

Judges who violate this oath may be subject to forfeiture of their seat, or removal by the Council. Court personnel may be subject to disciplinary action or termination.

Section 10. Judicial Immunity

As a sovereign nation, the Native Village of Chitina Tribe enjoys immunities from suit available to all federally recognized tribes, except to the extent that the Native Village of Chitina Tribal Council expressly waives the Tribe’s sovereign immunity in writing, according to the Constitution and Codes of the Native Village of Chitina Tribe. Any Native Village of Chitina Tribal Court Judge or court personnel acting within the scope of his or her authority shall have judicial immunity from suit.

Section 11. Forfeitures, Removal, Vacancies

A. Forfeitures: Native Village of Chitina Tribal Court Judges shall forfeit their seats if they resign from being a Judge or are convicted of crimes felonies or misdemeanors listed in the Indian Child Protection and Family Violence Prevention Act of 1990 as amended.

B. Removal:

1. Native Village of Chitina Tribal Court Judges may be removed from their position as a Judge by the Native Village of Chitina Tribal Council when they have been found in violation of the Judicial Ethical Standards provided in Section 8 of this Chapter, gross violation of the written laws of the Native Village of Chitina Tribal Government, when they refuse to step off a case in a situation of conflict of interest, or when the Tribal Council determines that it is in the best interest of the Native Village of Chitina Tribe to do so.
2. The Judge being considered for removal shall be given an opportunity to speak to the Tribal Council in an executive session of the Council, prior to a vote of the Council on the removal.
3. The decision to remove a Judge must be affirmed by a minimum of 4 Tribal Council Members. If there are not 4 members of the Council who do not have a conflict of interest as provided in Article IV in the Native Village of Chitina Constitution (father, mother, brother, sister, wife, husband, son or daughter) the conflict of interest provision shall be waived for this vote.

C. Vacancies: Vacancies among the Tribal Court Judges may be filled through appointment of the Chitna Tribal Council.

Section 12. Visiting Judges

The Native Village of Chitina Tribal Court may use Visiting Judges when it is necessary and in the best interest of the Tribe to do so. The Native Village of Chitina Tribal Court may use Judges from other tribal courts, intertribal courts, state court Judges, or attorneys licensed by the Alaska or other Bar Associations to hear cases in situations where the Native Village of Chitina Judges have significant conflicts of interest, or when a case has extreme legal complications.

- A. Qualifications for Visiting Judges:** Visiting Judges shall sign a statement certifying that they have never been convicted in a state, tribal, or federal court of a crime involving murder, sexual offences, or child abuse ever in their lives or have had felonies or misdemeanors under the Indian Child Protection and Family Violence Prevention Act of 1990 as amended.
- B. Comply with Ethical Standards:** Visiting Judges shall agree in writing to comply with the Judicial Ethical Standards provided in this Chapter.
- C. Financial Agreement in Writing:** When Visiting Judges are used, there shall be an agreement in writing made as to the terms of any financial arrangements made.
- D. Applying the Laws of the Native Village of Chitina Tribe:** Visiting Judges shall also agree in writing that they shall apply the laws of the Native Village of Chitina Tribe to the fullest extent possible.
- E. One Judge from the Native Village of Chitina Tribal Court:**
1. When Visiting Judges serve on a case there shall be at least one Judge from the Native Village of Chitina Tribal Court, if possible, to make a quorum of 3.
 2. If there are no Native Village of Chitina Tribal Court Judges who are able to serve on a case, the Tribal Court Clerk shall make a note in the court record for that case stating the circumstances.
- F. Serving as Visiting Judges:** When Native Village of Chitina Tribal Court Judges are asked to serve as Visiting Judges in other Tribal Courts, there shall be an agreement in writing about any financial agreements made, whose codes and rules will be used, and any other special arrangements that need to be made.

Section 13. Intertribal Courts

A. Temporary Intertribal Courts:

1. The Native Village of Chitina Tribal Court may join with other tribal courts to form intertribal courts for specific cases involving persons who are members or eligible for membership in the Native Village of Chitina Tribe and also in another tribe.

2. The Court shall draft an agreement in writing regarding the relationship with the other tribe, such as which tribes' laws shall apply if joining jurisdictions together, and what will be used for appeals if the case is Appealed.

B. Permanent Intertribal Courts:

1. The Native Village of Chitina Tribal Court may participate in a permanent intertribal court, provided that the Native Village of Chitina Tribal Council determines it is in the best interest of the Native Village of Chitina Tribe to do so.
2. The relationship between the Native Village of Chitina Tribal Court and such intertribal court shall be clearly described in written documentation.

Section 14. Tribal Court Administration

A. Ethical Standards: All Native Village of Chitina Tribal Court personnel shall follow the judicial ethical standards provided in Section 8 of this Chapter.

B. Tribal Court Personnel: The Council may hire court personnel as needed. Each position shall have a job description outlining the basic duties of their position.

c. Tribal Court Records

1. **Maintaining Files:** The Court shall maintain case files for all proceedings of the court including electronic, hard copy, or digital recordings of Court hearings. The Court shall establish a policy for court records retention.

2. **Access to Records:**

- a. Only the Court Judges who served on that case and current tribal court personnel shall have access to the Court records without specific authorization of the Native Village of Chitina Court.

- b. Parties shall have access to the court generated documents pertaining to their specific cases.

- c. The Native Village of Chitina Appellate Court shall have access to all records involving cases that are appealed to it.

3. Tribal Court Records Security:

- a. All hard copies of tribal court records shall be kept behind at least 2 locks such as a locking file cabinet within a locked office.
- b. Files shall not be left on desks or other places where they are not secure.
- c. Tribal Court files shall not leave the Native Village of Chitina Tribal Office.
- d. All electronic files shall be password protected and access provided only to the Tribal Court Clerk and others who may be specifically authorized by the Council.

D. Tribal Court Finances. The financial affairs of the Tribal Court and its personnel shall comply with the Native Village of Chitina financial policies.

CHAPTER 2

NATIVE VILLAGE OF CHITINA TRIBAL COURT

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Section 1. Purpose and Rulemaking of the Native Village of Chitina Tribal Court

A. Purpose: The purpose of this Chapter is to provide a fair and equitable process for the operation of the Native Village of Chitina Tribal Court that is consistent with the Constitution of the Native Village of Chitina Tribe, tribal codes, due process, and the requirements of the Indian Civil Rights Act, and compatible with the customary practices and values of the Native Village of Chitina Tribe.

B. General Guidelines: The procedures provided in this Chapter shall be the general guidelines for the Native Village of Chitina Tribal Court unless otherwise specifically provided for in other places in Native Village of Chitina tribal codes.

C. Court Rules: In addition to the procedures outlined in this Chapter, the Native Village of Chitina Tribal Court may make additional policies and rules of procedure that compliment but do not conflict with the Constitution or other Tribal Codes or Policies.

Section 2. Definitions

The following words and phrases, whenever used in this Code, shall have the following meanings:

“Emergencies” are matters where harm or damage to a person or property may likely occur if the Court had to wait. The standard of proof the Judges shall use to determine if a situation is an emergency is ‘probable cause’. In matters that are not emergencies the Judges shall use the standard of ‘preponderance of the evidence.’

“Parties” are those persons the Native Village of Chitina Tribal Court Judges specifically identify as Parties to a case. The Court may, or may not, choose to make Petitioners Parties to a case. Parties to a case are entitled to notice of hearings, documents filed with the court, court generated documents, and the right to appeal final orders of the Native Village of Chitina Tribal Court to the Native Village of Chitina Court of Appeals.

“Petitioner” is the person or entity filing a Petition to Use the Tribal Court.

“Preliminary conference” is a conference of the Judges held in a number of circumstances such as making decisions on whether or not to take a case, deciding which judges shall hear a case, whether a written motion shall be considered, and whether a case shall be sent to a justice circle.

“Preponderance of the evidence” This is the standard of proof needed to make decisions and orders when situations are not emergencies. It requires that the evidence presented convinced the Judges that something was more likely than not to have happened. The evidence provided reflects that the evidence presented that something

happened and is of greater weight or more convincing than the evidence offered in opposition to it.

“Probable cause” This is the standard of proof needed to make decisions when emergency situations exist. It means that upon review of a petition, affidavit, and/or testimony, a reasonable person would believe that emergency action is needed to protect people and/or property.

“Proof of Service” means written or otherwise documented evidence that Parties have been notified of an action of the court, such as notification of a hearing.

“Respondent” is the person involved in an issue brought before the Court by a Petitioner or against whom a Citation is filed.

Section 3. How Cases Come Before the Court

Cases may come before the Native Village of Chitina Tribal Court in a variety of ways including:

1. A Petition to Use the Tribal Court is filed with the court clerk;
2. A Citation by a Native Village of Chitina Public Safety Officer is filed with the court clerk;
3. A referral or diversion is made through another tribe, or federal or state entity; or
4. The Native Village of Chitina Council requests a case to be transferred from a state, federal, or tribal court.

Section 4. Deciding Whether or not to take a Case

For non-emergencies, a decision by a minimum of 3 Native Village of Chitina Tribal Court Judges is necessary to decide whether or not to take cases. For emergencies, a minimum of 1 Judge shall decide to take an emergency action such as to remove a child in imminent danger.

A. Emergencies:

1. Upon the receipt of a Petition to Use the Native Village of Chitina Tribal Court where danger or harm to a person or property is likely imminent, the Clerk or alternate designee shall contact available Tribal Court Judges and meet with a minimum of 2 Judges to take temporary actions.
2. The conflict-of-interest provision of the Judicial Ethics section of this Chapter does not apply to emergency decisions, but judges for subsequent hearings on the case shall comply with the conflict-of-interest guidelines for subsequent hearings on the case.
3. The Native Village of Chitina Tribal Codes may provide further guidance on actions that may or may not be taken by tribal staff in emergency situations without the consent of the Court.

B. Non-Emergencies: In non-emergency circumstances, the Native Village of Chitina Tribal Court Judges who do not have a conflict of interest with a potential case may meet on a case-by-case basis to consider Petitions, citations, referrals, or transfers from another jurisdiction to determine whether or not to take the case.

C. Decision to Take a Case:

1. If the decision is made to take the case, the Judges shall decide which Judges shall hear the case and appoint a Presiding Judge to serve the entirety of the case.
2. If the Judges decide that the matter should go to a Circle, they shall direct how the Circle will be organized.
3. The Clerk shall schedule the hearing or Circle and give proper notification to Parties.

D. Decision Not to Take a Case: If the Judges decide not to take a case, the Clerk shall write a letter of denial to the Petitioner, or referring entity, within 10 business days after the decision is made.

E. Deferring a decision to Take a Case:

1. In some situations, the Native Village of Chitina Tribal Court Judges may defer a decision to take a case when more information is needed, or other such circumstances apply.
2. These cases shall be considered ‘pending’ and Petitioners shall be notified in writing with an explanation.

F. Citations: The Native Village of Chitina shall accept all cases made by citations issued by Officers of the Native Village of Chitina Department of Public Safety.

Section 5. When a Case Begins

A case formally begins when the Judges decide to take a case and the Petition or other documents requesting the Native Village of Chitina Tribal Court to hear a case are stamped ‘accepted’ by the Court Clerk. Cases initiated by Citations begin when the Citations are stamped ‘received’ by the Tribal Court.

Section 6. Notice

A. Notice for Hearings:

1. Parties shall be given reasonable notice for all scheduled Native Village of Chitina Tribal Court hearings.
2. Notice may be provided through the most appropriate method for each case. Preferred methods are certified mail, return receipt requested or through personal service. Notice may also take place telephonically, through email, social media, or through newspaper legal sections when necessary.
3. The Clerk, or designee, shall be responsible for serving notice to all Parties.
4. Native Village of Chitina subject matter codes may specify the length of time notice shall be given for specific subjects and types of hearings.

5. If the codes are silent on notice requirements, notice shall be personally delivered, emailed, provided through social media at least 10 business days, or hard copies mailed at least 15 business days before a hearing.
6. Proof of service for all notices shall be filed or noted in the Court file.

B. Notice When Hearings are Rescheduled: If the Court changes the time of a hearing for any reason, the involved Parties shall be given reasonable notice of the rescheduled hearing. If a hearing is rescheduled, notification may be made telephonically, or through the most appropriate method for that case and noted in the case file.

C. Notice for Emergency Hearings: Notice of emergency hearings shall be given to Parties who are reasonably available to receive notice. If Parties are not reasonably available to receive notice, the Court may hold a hearing without notice being given.

D. Notice for Witnesses: Parties shall be responsible for serving notice to their own witnesses and giving the Native Village of Chitina Tribal Court Clerk reasonable notice that they have asked witnesses to attend a hearing. The Clerk shall be responsible for serving notice to witnesses the Court summons.

Section 7. Recording Hearings

The Court shall keep a record of all cases by digital recording or written notes of all hearings.

Section 8. Opening Hearings

Presiding Judges may use a script appropriate for each type of hearing that they preside over. The Presiding Judge may ask that a prayer or words from an Elder be given prior to opening the hearing. The Presiding Judge may follow these guidelines when opening a hearing:

1. Ask the Clerk to begin recording by digital recording or written notes;

2. State the case number and the date, time, and place of the hearing;
3. Ask all persons in the courtroom or at any teleconference sites to state their full names and relationship to the case for the record;
4. Ask each of the Parties how they were notified of the hearing;
5. Determine if there are any Parties who were notified but are not at the hearing;
6. If a Party was notified but is not at the hearing, the Court may either proceed with the hearing or reschedule;
7. Determine if there are any Parties who should have been notified but were not notified;
8. If it is determined that there is a Party that was not notified, the hearing shall be rescheduled to allow reasonable notification;
9. State the rights of all Parties including the:
 - a. Right to be notified of court hearings;
 - b. Right to copies of documents submitted to the Court and court generated documents;
 - c. Opportunity to be heard;
 - d. Opportunity to present witnesses and evidence;
 - e. Opportunity to question any witnesses;
 - f. Right to a fair hearing;
 - g. Right to request a Change of Order if new evidence or circumstances change in the case; and
 - h. Right to appeal the final decision to the Native Village of Chitina Appellate Court within 30 days after receiving the written order
10. State the relationship of the Judges to the conflict-of-interest language for the Native Village of Chitina Tribal Court and ask if Parties have a major concern with any Judges. If so, the Judges shall determine the course of action to take in response, including replacing a Judge with another Native Village of Chitina Tribal Court Judge;
11. Ask all Parties to sign or swear an oath of truthfulness;
12. In cases that are closed to the public, all present at the hearing shall be instructed to maintain confidentiality outside the Native Village of Chitina courtroom proceedings; and

13. The Presiding Judge shall then read the Petition to the Court.

Section 9. Opening Hearings for Civil Violations:

In cases of civil violations, the Court shall follow the provisions provided in Section 8 of this Chapter and then ask the Respondent how he or she pleads: guilty, not guilty, or no contest. The Presiding Judge shall make sure the Respondent understands the pleas. The Respondent shall say what his or her plea is.

A. Guilty or No Contest: If the Respondent pleads guilty or no contest, the Judges may question the Respondent and any participants in the courtroom to gain information that will help them create an appropriate sentence during their deliberations. They may also counsel the Respondent at that time.

B. Not Guilty: If the Respondent pleads not guilty, the hearing shall be held at this time unless the Court finds it appropriate to delay in order for Parties to gather witnesses and evidence.

Section 10. General Hearing Procedures

The Presiding Judge shall generally maintain order in the courtroom and direct the order of events.

A. General Order:

1. The Presiding Judge may first ask to hear from the Petitioner and then from the Respondent.
2. Petitioners and Respondents may present witness and evidence in the order chosen by the Presiding Judge.
3. Each Party shall be permitted to question each other and all witnesses. Judges may question anyone in the Courtroom.
4. When the Judges determine that all Parties have had sufficient opportunity to speak and present all testimony and evidence they feel is relevant to the case, they shall ask everyone to leave the courtroom while they deliberate.

B. Telephonic Connections:

1. If anyone is connected to the hearing by teleconference, they shall state their name prior to speaking, and any visual evidence presented to the court shall be described.
2. They shall also disclose the name of any other person who may be in the room with them.

C. Presenting Witnesses and Evidence:

1. Petitioners and Respondents may present witness and evidence in the order chosen by the Presiding Judge.
2. Each Party shall be permitted to question each other and all witnesses and review all presented evidence.
3. Judges may determine that witnesses may only be in the courtroom while they are speaking to the Court.

D. Judges Questioning: Judges may question anyone in the courtroom or on teleconference.

E. Concluding Hearings: When the Judges determine that all Parties have had sufficient opportunity to speak and present all testimony and evidence they feel is relevant to the case, they shall ask everyone to leave the courtroom while they deliberate.

F. Deliberations and Decision Making:

1. Judges shall take all testimony and evidence presented into consideration during their deliberations and make their decision by consensus if possible.
2. If consensus is not possible, the decision may be made by majority vote.

G. Decisions in Writing: All formal decisions made by the Native Village of Chitina Tribal Court regarding cases shall be written on Order forms unless otherwise specified in the Tribal Code.

Section 11. Emergency Hearings

- A. Definition:** Emergency hearings shall involve matters where harm or damage to a person or property may likely occur if the Court had to wait.
- B. Hearing upon Probable Cause:** In cases of emergencies, the Court may hold a hearing as soon as Probable Cause of imminent harm is provided to the Court.
- C. Notice:** Notice of emergency hearings shall be given to Parties who are reasonably available to receive notice, but the Court may proceed without notice if Parties are not available to receive it.
- D. 2 Judge Minimum:** A minimum of 2 Judges is necessary to conduct the emergency hearing and may be connected telephonically if they are not physically able to meet in the Native Village of Chitina Courtroom under short notice.
- E. Orders of Short Duration:** Orders issued during emergency hearings shall be written and of limited duration as stated in the subject matter tribal codes.

Section 12. Rights of Parties

Parties appearing before the Court shall have the following rights, which include those provided by the Indian Civil Rights Act of 1969 as amended:

1. Parties shall have the right to be notified of court hearings, except in cases of emergency circumstances when a Party is not reasonably available to be notified;
2. Right to copies of Petitions, Citations, and court generated documents;
3. Opportunity to be heard;
4. Opportunity to present witnesses and evidence;

5. Opportunity to question any witnesses;
6. Right to a fair hearing;
7. Right to hire an attorney at their own expense;
8. Right to request a Change of Order if new evidence or circumstances change in the case; and
9. Right to appeal the final decision to the Native Village of Chitina Appellate Court within 30 calendar days after the Party has received a final written Order.

Section 13. Open or Closed Courtroom

1. **Closed:** The Native Village of Chitina Courtroom involving domestic relations cases and/or children under 18 shall be closed to persons other than the Parties and those persons approved by the Native Village of Chitina Tribal Court, except in Circles.
2. **Open:** Civil violation hearings involving persons 18 and over shall be open unless specifically closed by the Native Village of Chitina Tribal Court.

Section 14. Recesses

The Court may recess during any type of court hearing.

Section 15. Failure to Appear for a Hearing

If Parties have been given reasonable notice of a hearing but fail to appear for the hearing, the Court may proceed with the hearing as scheduled and make a decision in the absence of the Party, or the Court may reschedule the hearing.

Section 16. Attorneys in the Native Village of Chitina Tribal Courtroom

1. Parties may hire attorneys at their own expense;
2. Attorneys may submit written documents to the Court;
3. Attorneys shall be allowed into the Native Village of Chitina Tribal Courtroom in person or telephonically;
4. Attorneys may speak with their clients, but may not speak directly to the Court without express permission by the Native Village of Chitina Tribal Court Judges; and
5. Attorneys may be asked to leave the Courtroom if they are disrupting the court proceedings.

Section 17. Motions

1. Motions are a request to the Court to ask for an action to be taken or decision to be made.
2. All motions to the Native Village of Chitina Tribal Court shall be in writing.
3. Motions may be made by Parties, attorneys for Parties, or by persons asking to be made a Party to a case.
4. The Native Village of Chitina Tribal Court Clerk shall receive motions and shall schedule a meeting of the Judges serving on that case to consider them.
5. The Judges may decide whether to grant the motion, to deny the motion, or to schedule a hearing on the motion.

Section 18. Witnesses and Associated Costs

1. The Native Village of Chitina Tribal Court may summon witnesses to testify at the hearings by issuing a Summons to Testify. Any associated costs with the testimony of witnesses summoned by the Court shall be paid by the Native Village of Chitina Tribal Government.
2. Parties may ask their own witnesses to testify on their behalf. The Parties shall notify the tribal court in advance of witnesses they intend to call upon during a hearing and shall pay any associated costs with the witnesses' testimony.
3. Witnesses shall take an oath of truthfulness.
4. Witnesses may testify in person, or, with the Court's permission, by telephone.

5. Witnesses may or may not be asked to only be in the courtroom during their testimony.

Section 19. Evidence and Affidavits

1. The Native Village of Chitina Tribal Court shall hear all evidence it finds proper.
2. Hearsay evidence given under oath may be considered proper evidence if the Judges believe it to be reasonably true.
3. The Native Village of Chitina Tribal Court may Order evidence to be brought before the Court by issuing a subpoena.
4. The Native Village of Chitina Tribal Court may accept sworn Affidavits as evidence in cases if the witness is not available to testify.

Section 20. Tribal Court Orders

1. All Orders made by the Native Village of Chitina Tribal Court shall be written on Order forms unless otherwise specified by Code.
2. All written Orders shall be filed in the case records.
3. The Clerk or other designated person shall personally give or mail a copy of the Order to all Parties to the case and file a proof of service.

Section 21. Request to Change Order

1. Parties may request the Court for a hearing to consider changing an Order.
2. To make such a request, a Party shall file a Request to Change Order form with the Native Village of Chitina Tribal Court Clerk.
3. The request shall state the reason the person believes a change should be made. The requesting person shall present new evidence or information to the Court to support the request.
4. Upon receipt of a Request to Change Order, the Clerk shall schedule a meeting with the tribal court Judges to decide whether to hear the Request or not.
5. A minimum of 3 Judges is necessary to make this decision.

6. The Court may deny the request or set a hearing date to consider it and notify all Parties.

Section 22. Contempt of Court

A. Reasons Persons may be found in Contempt of Court: A person may be found in contempt of court if he or she:

1. Fails to fully comply with an Order of the Native Village of Chitina Tribal Court;
2. Lies to the Court;
3. Disrupts Court proceedings;
4. Violates the Oath of Confidentiality, Fairness, and Impartiality, and/or
5. Violates the Native Village of Chitina Judicial Ethical Standards.

B. Parties or Others in the Courtroom in Contempt: Penalties for being found in contempt of court may result in orders to leave the courtroom, change in orders for their case, or other penalty as deemed suitable by the Judges to the case.

C. Failure to Comply for Civil Violation: Failure to comply with an Order of the Court for a civil violation may result in confiscating of personal property, referral to the State for prosecution, or withholding tribal services with the exception of health or general assistance services.

D. Confiscating Personal Property:

1. The Tribal Court may seize a person's personal property if that person is found in contempt of court by the Native Village of Chitina Tribal Court, for not doing what the Native Village of Chitina Court has ordered.

2. The property shall remain confiscated and under the care of the Tribal Court until the person complies with the Court Order to the satisfaction of the Native Village of Chitina Tribal Court.
3. If the person does not comply with the Court Order within the time limits set by the Native Village of Chitina Tribal Court, Native Village of Chitina Tribal Court may sell the confiscated property after providing at least 30 calendar day notice of the proposed sale to the person.

E. Refer for prosecution under State or Federal Law: If a person fails to comply with an Order of the Native Village of Chitina Tribal Court on a case diverted from the state, or federal government, the case may be referred to state or federal courts for prosecution.

F. Withholding Tribal Services: If a person fails to complete a Court Ordered sentence for being found in Contempt, the Native Village of Chitina Tribal Council may withhold tribal services, with the exception of health services and general assistance.

G. Judges in Contempt:

1. Judges shall be in contempt of court for violating the reasons listed in A of this Section.
2. Additionally, Judges may be found in Contempt of Court if found in violation of the Judicial Ethical Standards in Chapter 1, Section 7 of this Code.
3. The Tribal Council shall determine how to handle the matter based on the facts of the situation.
4. Judges may be temporarily or permanently removed from the Native Village of Chitina Tribal Court by a minimum of 4 affirmative votes of the Tribal Council, under procedures outlined in Chapter 1, Section 10 of this Code.

H. Tribal Employees in Contempt: Tribal employees shall be in contempt of court for violating any of the reasons listed in A of this Section. Employees may be subject to disciplinary action under the Native Village of Chitina personnel policy, including termination of employment.

CHAPTER 3

NATIVE VILLAGE OF CHITINA COURT OF APPEALS

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Section 1. Purpose and Jurisdiction of the Native Village of Chitina Court of Appeals

The Native Village of Chitina Court of Appeals was established to assure that a fair judicial process is provided by the Native Village of Chitina Tribal Court. The Native

Village of Chitina Court of Appeals shall have jurisdiction to hear appeals of final orders from the Native Village of Chitina Tribal Court, unless restricted by express provision of the Native Village of Chitina Tribal Codes.

Section 2. Definitions

“Appeal” An appeal is a legal process to ask a higher court to review the procedures and decisions of a lower court because you believe the court made a mistake.

“Appellant” An Appellant is a person who files an appeal.

“Appellee” A person against whom an appeal is filed is called an appellee.

Section 3. Appellate Court Case Review of Records

The Court of Appeals shall not re-hear cases but shall review Petitions to Appeal and the Tribal Court Records of cases that have been appealed. The review shall look for:

- A. Violations of Due Process:** The Court of Appeals shall determine if there may or may not have been a failure to give sufficient notice to Parties, whether Parties had sufficient opportunity to be heard, and whether the Tribal Court provided fair and impartial Judges.

- B. Inconsistent Application of Tribal Law:** The Court of Appeals shall determine if the laws of the Native Village of Chitina Tribe were or were not properly interpreted or applied in a consistent manner.

- C. Lack of Jurisdiction to Hear a Case:** The Court of Appeals shall determine if the Tribal Court has or does not have jurisdiction to hear the case being appealed.

Section 4. Composition of the Native Village of Chitina Court of Appeals

A. Tribal Council: The Native Village of Chitina Tribal Council shall serve as the Native Village of Chitina Court of Appeals, except that Council members may not serve on the Appellate Court under these circumstances:

1. They served on the case that is under Appeal;
2. They have a conflict of interest with the case being Appealed as described in Chapter 1, Section 8 (Judicial Ethical Standards) of this Code; or
3. They have been convicted of crimes listed in the Indian Child Protection and Family Violence Prevention Act of 1990 as amended.

B. Panel of 3: The Native Village of Chitina Court of Appeals shall be composed of a panel of 3 Judges.

C. Visiting Judges: If there are not 3 Council Judges who are available and qualified to hear an Appeal, the Council may use Visiting Judges as specified in Chapter 1, Section 12 of this Code.

Section 5. Clerk of the Native Village of Chitina Court of Appeals

The Clerk of the Native Village of Chitina Court of Appeals shall be the same person as the Native Village of Chitina Tribal Court Clerk, unless there is a conflict of interest. Under those circumstances the Council shall designate another person to serve as the Appellate Court Clerk on that case.

Section 6. Filing a Petition to Appeal

A. Who May Appeal a Final Order of the Tribal Court: Only a Party recognized by the Native Village of Chitina tribal court may file an Appeal. A person who files an Appeal shall be called the Appellant.

B. What Orders may be Appealed: Only final Orders issued by the Native Village of Chitina Tribal Court may be Appealed.

C. 30 Calendar Day Timeframe to File a Petition to Appeal:

1. A Party who wishes to Appeal a final decision of the Native Village of Chitina Tribal Court may file a Petition to Appeal with the Clerk of the Native Village of Chitina Court of Appeals within 30 calendar days after the Party has received a final written Order from the Native Village of Chitina Tribal Court.
2. Appeals filed after 30 calendar days from receipt of the Order shall not be considered, unless there are extenuating circumstances that Council deems sufficient to allow an Appeal after 30 calendar days.
3. Under no circumstances may the Council allow an Appeal to be filed more than 60 calendar days after a final Order has been received.

D. Information on the Petition to Appeal:

1. The Petition to Appeal shall state the name and address of the Party who is appealing the case, the name of the case, and case number.
2. The Petition to Appeal shall contain a statement of why the Appellant believes that the case should come before the Native Village of Chitina Court of Appeals. The Appeal should describe how the Native Village of Chitina Tribal Court made a mistake in providing due process, did not appropriately interpret or apply tribal law, or does not have jurisdiction to hear their case.
3. A copy of the written final Order the Appellant is appealing shall be attached to the Notice of Appeal.

A. Receiving and Notifying the Court and Parties of an Appeal: When a Party has filed a Petition to Appeal with the Tribal Court Clerk, the Clerk shall notify the Tribal Court that a Petition has been filed. The Clerk shall notify all Parties that an Appeal has been filed and shall give a copy of the Appeal to all Parties.

B. Seating the Appellate Court Judges and Clerk: The Tribal Council shall determine who the 3 Judges for the case shall be, and if Visiting Judges need to be used. The Council shall also determine if the Tribal Court Clerk shall serve on the appellate case or whether they should select an alternate Clerk.

C. Tribal Court Case Records: The Clerk shall assemble all documents, recordings, and transcripts of the case being Appealed. The Clerk shall prepare the records for review by the Appellate Court Judges.

D. Reviewing an Appeal: The 3 Judges shall meet to discuss the Appeal and the tribal court record of the case.

E. Accepting an Appeal:

1. After reviewing the Appeal and Court Record, the Appellate Court shall accept appeals only if there is sufficient reason to believe that the Appellant's due process rights were violated, that the Tribal Court inappropriately or inconsistently applied the Native Village of Chitina Tribal Law; or that the Native Village of Chitina Tribal Court lacked jurisdiction to hear their case.

2. The Clerk shall then notify all Parties of their decision.

3. A hearing shall be set within 30 business days of their decision.

4. Notice to all Parties regarding an appellate hearing shall be given at least 20 business days in advance.

5. If the Appellate Court accepts an Appeal, the Court shall follow the same hearing procedures as outlined for the Native Village of Chitina Tribal Court in Chapter 2 of this Code.

F. Denying an Appeal: After reviewing the Appeal and Court Record, the Appellate Judges may deny an Appeal if they decide that due process was not violated, tribal law was appropriately applied, and that the Native Village of Chitina Tribal Court had jurisdiction over the case. The Clerk shall then notify all Parties of their decision and file a record of their decision in the case file.

Section 8. Options for the Appellate Court

The Native Village of Chitina Court of Appeals may:

- A. Let the Tribal Court Decision Stand:** If the Appellate Court determines that there was no violation of due process, no inconsistent application of tribal law, and that the Tribal Court had jurisdiction to hear the case, the Appellate Court shall dismiss the Appeal and the Tribal Court decision shall stand; or
- B. Send the Case Back to the Tribal Court:** If the Appellate Court determines that there was a violation of due process, or inconsistent application of tribal law the Appellate Court shall send the case back to the Tribal Court to rehear. The Appellate Court shall give specific instructions to the Tribal Court to correct the violation of due process or inconsistent application of tribal law; or
- C. Dismiss the Case:** If the Appellate Court finds that the Tribal Court lacked jurisdiction to hear the case, the Appellate Court may dismiss the case. The Appellate Court may only dismiss a case if it finds that the Tribal Court lacked jurisdiction.

Section 9. Appellate Court Decisions After Hearings

After the Native Village of Chitina Appellate Court hears a case, the Appellate Court designee shall write a Decision of Appeal that shall be certified by the Appellate Court and filed in the Native Village of Chitina Tribal Court records. The Clerk shall make sure that all Parties in a case receive a copy of the Decision of Appeal and shall file proof of service in the case records.

CHAPTER 4
NATIVE VILLAGE OF CHITINA JUSTICE CIRCLES
Healing to Wellness

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Section 1. Native Village of Chitina Justice Circles

- A. Purposes:** The purposes of Native Village of Chitina Justice Circles are to encourage responsible behavior and choices among our tribal members and residents of Native Village of Chitina, to empower our people to participate in decision-making and problem solving when problems arise, and to preserve and promote the cultural practices and values of the Native Village of Chitina Tribe.

- B. Restorative Justice:** The decisions and sentences designed by the Native Village of Chitina Justice Circle shall be designed as restorative, to help and heal victims, offenders, families, the Native Village of Chitina Tribe and Village of Native Village of Chitina.

- C. Fair Process:** This Chapter outlines the basic procedures of Native Village of Chitina Justice Circles and is intended to provide fair and equitable processes that are consistent with the Tribal Constitution, Tribal Codes, the requirements of the Indian Civil Rights Act, and compatible with the traditional customs and values of the Native Village of Chitina Tribe.

Section 2. Jurisdiction and Use of the Native Village of Chitina Justice Circle

- A. Jurisdiction:** The Native Village of Chitina Justice Circle shall hear cases referred to it by the Native Village of Chitina Tribal Court.

- B. Restorative Sentencing:** Justice Circles may be used for restorative sentencing involving juvenile delinquency, status offenses, civil violations, misdemeanors by persons of any age as so listed in the Native Village of Chitina Tribal Code or referred from the governments of a state, the federal government, or another from another tribe.

- C. Resolve Disputes:** The Justice Circle may be used to resolve disputes.

- D. Family Mediation:** The Justice Circle may be used for family mediation.

Section 3. Deciding to use Justice Circles

The Native Village of Chitina Tribal Court may decide to use the Justice Circle on a case-by-case basis. An affirmative vote of at least 2 Tribal Court Judges shall be necessary to decide to use the Justice Circle.

Section 4. Justice Circle Clerk

The Court Clerk for the Native Village of Chitina Tribal Court shall also serve as the Clerk of the Native Village of Chitina Justice Circle, unless the Tribal Council specifically designates another person.

Section 5. Notification of Justice Circles

A. Notifying Parties: The Tribal Court Clerk shall notify the Parties about the date, time, and place of Justice Circles. Notice shall be given at least 7 days in advance, unless the Court finds a good reason to hold a Circle in less than 7 days.

B. Content of Notification:

1. The notice to the Parties shall include a copy of the Petition or the reason they are being brought to the Justice Circle.
2. For civil violations, the notice shall state that if the Party believes they are being wrongly accused that they may immediately notify the Tribal Court Clerk who will schedule a hearing before the regular Native Village of Chitina Tribal Court or forward the case for prosecution under the State of Alaska or Federal Court System.

C. Notifying Circle Participants: The Clerk shall also notify specific people the Court identifies who they wish to sit in the Circles, or, notify the Native Village of Chitina Community if the Court wishes the Circle to be open for all residents to participate.

Section 6. Circle Facilitator and Participants

A. Circle Facilitator: The Facilitator of each Native Village of Chitina Justice Circle shall be chosen by the Native Village of Chitina Tribal Court Clerk in consultation with at least 2 Native Village of Chitina Tribal Court Judges.

B. Circle Participants:

1. In general, participants of Justice Circles may include family, friends, teachers, council members, tribal court Judges, law enforcement, residents and youth who are in the Village at the time of the Circle.
2. Victims may decide if they wish to participate in the Circle or not.
3. The Tribal Court Clerk, or another specifically designated person, shall be present at Justice Circles in order to write the decision of the Circle on an Order form. They may choose whether or not to participate in the Circle.

Section 7. General Procedures of Native Village of Chitina Justice Circles

1. The Facilitator of the Circle may begin the Circle process by opening the Circle which may include a prayer or special comments from an Elder, the Facilitator, or someone in the Circle.
2. The Facilitator may outline the rules of the Circle and ask participants if there are any additional rules they would like to see the Circle go by. The most basic rule of the Circle is that people shall have respect for one another. Only one person shall speak at a time, which shall be the person with the talking stick, or as directed by the Facilitator of the Circle. Personal matters shared in the Circle shall stay in the Circle and shall not be discussed outside of the Circle.
3. The Facilitator may then ask the participants to agree to an Oath of Confidentiality and Fairness and to agree to the rules of the Circle.

4. The Facilitator may explain the general process of the Circle, introductions, talking about the situation, then talking about the solution/sentencing
5. The Facilitator may emphasize the severity of the situation and what the consensus might be if the case was tried in the State of Alaska Court System.
6. The Facilitator shall state what the situation is that the Circle will be hearing.
7. The Facilitator shall begin the Circle by passing the talking stick or other special object. Participants shall speak only when they hold the stick. If a person chooses not to speak, they may pass the stick on to the next person in the Circle. The discussion of the Circle shall continue in this manner unless the Facilitator directs otherwise.
8. The Facilitator may conduct various rounds of the Circle such as introductions, general thoughts and advice regarding the situation, specific sentencing recommendations or solutions to the situation, and closing of the Circle.
9. The Facilitator may summarize the highlights of what has been said after each round of discussion.
10. The Facilitator or other designee may write sentencing suggestions or solutions to the situation on a flipchart for all to see.
11. The Facilitator shall summarize the final consensus of the Circle, and make sure that it is an accurate representation of the Circle's recommendations.
12. The Facilitator shall give the recommendations from the Circle to the Tribal Court Clerk or Judge to draft an Order form for the Tribal Court to certify.

Section 8. Follow-up on Circle Recommendations

A. Civil Violations:

- 1. Specific Sentencing Order:** The Clerk or Judge shall draft an Order with a plan containing specific sentencing activity, timeframe guidelines, who shall monitor each of the assigned activities, and proof of compliance with the Order.
- 2. Signing the Order:** At least 2 Tribal Court Judges shall approve and sign off on the Order, provided that they may make changes to the Order before signing.
- 3. Mentors:** Specific adult mentors may be assigned to oversee the progress of offenders in completing their sentences. Mentors shall sign off on proof of compliance forms when an offender completes tasks assigned in Orders. Mentors shall report to the Tribal Court Clerk if an Offender fails to complete assignments made in Orders within the allowed timeframe.
- 4. Failure to Comply:** If an offender is not complying with an Order of the Circle, the person may be brought before the Circle again, ordered to appear before the Native Village of Chitina Tribal Court, or the case may be referred to the State of Alaska or Federal Court System for prosecution.

B. Dispute Resolution: For Circles used in dispute resolution, the recommendations of the Circle shall be forwarded to the Tribal Court which may draft a plan or Order for resolving the dispute.

C. Family Mediation: For Circles used in family mediation, the recommendations of the Circle shall be forwarded to the Tribal Court which may draft a plan or Order for resolving the family issues.

Section 9. Failure to Appear for a Justice Circle

If a Party was served with a Notice to Appear for a Justice Circle but fails to show up, the Native Village of Chitina Justice Circle may discuss the case and make sentencing or other recommendations in the absence of the person, or set another Circle date.

Section 10. Proof of Compliance with Circle Orders and Failure to Comply

- A. Proof of Compliance Form:** If an offender is ordered to do something, the offender shall sign a Proof of Compliance form for the Tribal Court Clerk or assigned mentors within the timeframes specified in the Order.

- B. Notify the Court for failure to Comply:** The Court Clerk or assigned mentors shall notify the Court in the event the person they are monitoring does not complete the requirements of an Order within the specified timeframes.

- C. Follow-up Circle or Hearing:** The Clerk may schedule another Circle or a Court hearing and provide notice to the Party of the hearing.

- D. Forwarding Charges:** Failure to comply with a Native Village of Chitina Justice Circle Order may result in the charges being filed in the State of Alaska or Federal Court System for prosecution.

Section 11. Appeals

The Native Village of Chitina Tribal Appellate Court shall serve as the Appellate Court for the Native Village of Chitina Justice Circle. A person who wishes to appeal a case may file a Notice of Appeal with the Tribal Court Clerk within 30 calendar days after receiving a written Order from the Native Village of Chitina Tribal Court.

CERTIFICATE OF ADOPTION

Native Village of Chitina

Judicial Code

The Native Village of Chitina Judicial Code was adopted by the Chitina Tribal Council on Saturday, August 17, 2024. This Code was duly adopted by a vote of five (5) in favor of adoption and zero (0) against adoption. This Code and the Chapters within shall take immediate effect and shall supersede and replace the Chitina Village Council Tribal Court Codes adopted by the Council on September 17, 2022, and any other codes or ordinances on these subjects.

Corina Ewan President
Corina Ewan (Aug 27, 2024 14:03 AKDT)

Elizabeth Orszewska Vice President
Elizabeth Orszewska (Aug 27, 2024 15:46 AKDT)

27/08/2024 Date

CERTIFICATE OF ADOPTION Chitina Judicial Code

Final Audit Report

2024-08-28

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