

# **CHITINA VILLAGE COUNCIL**

## **Tribal Court Codes**

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## Title 1 General Court Codes

### Chapter 1 Authority and Jurisdiction

#### **Section 1 Authority**

Under Article XIV of the Bylaws of the Chitina Traditional Indian Village and its inherent authority as a sovereign nation, the Chitina Tribal Council creates this Tribal Court, with all of the powers given to it in these codes.

#### **Section 2 Purpose**

The Purpose of these codes is to create a Tribal Court that allows Chitina to provide justice in a way that follows its own traditions and values, with as little outside intervention as possible.

#### **Section 3 Jurisdiction**

- A. **Jurisdiction Over Civil and Criminal Cases:** The Chitina Tribal Court may decide on all civil cases under Chitina tribal law that is written, unwritten, or established by custom. The Chitina Tribal Court's jurisdiction is not limited to the specific types of civil cases currently included in this code. The Chitina Tribal Court has full criminal jurisdiction, but may only decide on criminal cases with the permission of the Council, or with an amendment to the tribal court codes.
  
- B. **Jurisdiction Over Members and Non-Members:** The Chitina Tribal Court has civil and criminal jurisdiction over all members of the Tribe, including those who are eligible for membership. It also has jurisdiction over all non-member Natives who are members of any other Tribe. It also has civil jurisdiction over all non-members when their actions affect the health, safety, or well-being of a member of Chitina, or Chitina's ability to self-govern, as well as anyone who consents to jurisdiction. The Chitina Tribal Court has full criminal jurisdiction, but may only decide on criminal cases involving a non-member with the permission of the Council, or with an amendment to the tribal court codes.

#### **Section 4 Priority of the Laws the Chitina Tribal Court Follows**

Passed by Chitina Village Council on September 17, 2022

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

- 1) Chitina's Constitution
- 2) Chitina's Tribal laws and customs, whether written or oral.
- 3) Traditional laws and customs of the region.
- 4) United States Federal Law, to the extent it is consistent with the laws listed above.
- 5) Alaska State Law, to the extent it is consistent with the laws listed above.

## **Section 5 Severability**

If any provision of this Code, or their application to any person or legal entity or circumstances, is held invalid, the remainder of the Code or the application of the provision to other persons or legal entities or circumstances shall not be affected. This means that even if one section of this Code is found to be invalid, the rest of the Codes are still valid.

## Chapter 2 Judges

### **Section 1 How Judges Are Elected**

Judges are selected at the annual meetings, by a process decided by the Council.

### **Section 2 Number of Judges and Length of Terms**

- A. **Number of Judges:** The Chitina Tribal Court has three judges, and all three are required to hear each case, unless the Council gives the Court permission to hear a case with less than three judges. The Court must have one judge who is a member of the Council, one other judge who is an elder, and one other judge who is a citizen of the Tribe and not a member of the Council.
- B. **Chief Judge:** The three judges must choose a Chief Judge among themselves. That person will be the Chief Judge until the end of that person's term.
- C. **Length of Terms:** Every judge serves on the Court for two (2) years. There is no limit to how many terms the judges can serve, but they must be re-elected to serve another term.

### **Section 3 New Court Rules**

The Chief Judge can create court rules and practices that are necessary for the court to run fairly and efficiently. The Chitina Tribal Court judges are in charge of how new court rules

are made, but the rules must be consistent with these tribal court codes, and if the Council disagrees with a court rule, it may reject it. If a court rule is rejected, it is not valid.

#### **Section 4   Conflicts of Interests**

If a judge has conflict of interest with the other people involved in a case, the Council may decide to have that judge not hear the case. The judge can also decide not to hear the case on their own. A conflict of interest exists when the judge's relationship, either by blood or otherwise, with the other people involved in the case makes it so the judge cannot make a fair and unbiased decision. It is ultimately up to the Council to decide whether there is a conflict of interest or not. Anyone involved in the case can raise an issue of a conflict by sending a letter to the Council, and the Council must make a decision on the conflict, and notify the person and the Court of their decision in writing.

### Chapter 3 Bringing a Case to Chitina Tribal Court

#### **Section 1   Definitions**

- A. *Clerk* means the person who is designated as Clerk of the Chitina Tribal Court. Any actions that the tribal code requires the Clerk to do can be done by a tribal employee under the Clerk, or anyone the Chitina Tribal Court or Council designates.
- B. *Jurisdiction* describes what the Chitina Tribal Court has the authority to decide on, whether that is jurisdiction over certain types of people or certain types of cases.
- C. *Person* means an individual person, and also any organization or entity.
- D. *Serve* means to provide someone with documents. There are many forms of service, and this code specifically outlines all of the forms of service that give people proper due process.

#### **Section 2   General Rules for Beginning a Case**

- A. **How to Begin a Case:** To begin a case in Chitina Tribal Court, a person must file a “Petition to Use Chitina Tribal Court.” The person starting the case will be called the *Petitioner*. The Petitioner needs to briefly state the reason why they want to use the Chitina Tribal Court, and follow all instructions on the form Petition, if there is one available. If the Petitioner wants the Chitina Tribal Court to resolve a dispute involving another person or entity, the other person or entity will be called the *Respondent*.
- B. **Court's Decision to Hear the Case:** The Chitina Tribal Court can decide not to hear a case if it finds that it does not have jurisdiction over the people involved or the subject of the case, or for any reason according to the judges' discretion. If the Chitina Tribal Court

denies a case, it must provide a denial notice to the Petitioner, stating the reason why the case was denied.

- C. **Referring a Case to a regional or intertribal court:** The Chitina Tribal Court can refer a petition to a regional or intertribal court, with permission from the Council. If the Tribal authorizes the referral, the Clerk will send all documentation it has on the case, including the Council's authorization, to the regional or intertribal court with a request for that court to hear the case. The Clerk must also provide a notice to the Petitioner, and anyone already involved in the case, that the case has been referred to the regional or intertribal court, with instructions on how to contact that court.
- D. **Case Number:** If the case is accepted, the Clerk must give the case a number, and include that on all documents filed in the case.
- E. **Case File:** The Clerk must also keep a file of the case, keeping everything filed by the people involved, and any other record of the case.
- F. **Setting a Hearing and Notice:** The Clerk must then set a hearing date and serve the Respondent with notice. To give enough notice, the Clerk must provide the Respondent with a copy of the Petition and the following information: a) a Petition was filed and the Respondent has a right to respond in writing and in-person at the hearing, b) the date, time, and location of the hearing, and c) the Respondent has a right to present their own evidence and have witnesses present, and to question the Petitioner's witnesses. The Clerk must provide this notice no less than 20 days before the hearing. This service can be done by personal service or by other means, (such as registered mail, leaving the documents with a person at the Respondent's residence who is believed to be a responsible adult, publication in a newspaper, informal communications methods: such as verbal notice, email, Facebook or other social media message, or posting in a public place in the community, including Chitina's website), as long as these other means are reasonably designed, in light of all the circumstances, to notify the Respondent of the case.
- G. **Timing of Notice:** Notice must be served on the Respondent more than 20 days before the hearing. If the Clerk cannot serve the Respondent more than 20 days before the hearing, the Clerk must change the hearing to a date and time that is at least 20 days from when the Clerk is able to serve notice.
- H. **Proof of Notice:** The Clerk must file a statement explaining how the Respondent was served. The Chitina Tribal Court may decide that this is not required if it finds that the Respondent was provided actual notice of the proceeding already, in some way other than

the Clerk's efforts. The Chitina Tribal Court must make this decision in writing, and explain how notice was served.

- I. **When the Respondent Cannot Be Found:** If the Clerk is unable to confirm that the Respondent has been served, the Clerk must file a statement of all of the steps they took to try to serve the Respondent. If the Chitina Tribal Court finds that the Clerk made a sufficient effort to give due process to the Respondent, it can continue without the Respondent's involvement. The Chitina Tribal Court must make this decision in writing, and include its findings that the Clerk made enough of an effort.
- J. **Changing the Time of a Hearing:** The time for a hearing may be changed if the Chitina Tribal Court determines there is a good reason for having the hearing at a different time than it had already scheduled, including when the Clerk is not able to serve the Respondent more than 20 days before the hearing. The Clerk must send notice of any rescheduled hearings to everyone involved in the case.

### **Section 3   Transferring Cases**

- A. **Authority:** The Chitina Tribal Court has the authority to accept transfer of jurisdiction from other courts or government agencies, and to transfer cases to other courts.
- B. **Accepting Transferred Cases:** After the Chitina Tribal Court receives a request to transfer from a parent, social services, or a Tribe, the Chitina Tribal Court must decide whether to accept or deny the case. After making its decision, the Chitina Tribal Court must issue an order to the person or entity that requested the transfer stating its decision, and include signatures from the judges and the Chitina Tribal Court's seal. If the case is transferred, the Clerk must ensure that all people, Tribes, and entities that were already receiving notice in the case before it was transferred receive notice of the transfer and of any upcoming hearings. If the case is being transferred from state court, the Clerk can find out who was receiving notice before by contacting the state court clerk. The Clerk must schedule a hearing no more than thirty (30) days after the case is transferred, and no more than ten (10) days for Child in Need of Aid and Child Protection cases.
- C. **Transferring Cases:** The Chitina Tribal Court may transfer a case after receiving a request to transfer from someone involved in the case. The person requesting the transfer must obtain a confirmation from the other court that the case will be accepted, if it is transferred. Anyone involved in the case may challenge the transfer, and the Chitina Tribal Court must decide whether to approve or deny the transfer according to its discretion. The Chitina Tribal Court cannot approve of a transfer until it receives confirmation that the other court will accept the case. To transfer the case, the Chitina Tribal Court must issue an order stating that the case is transferred to the new court. The

Court Clerk must serve this order on anyone who was already receiving notice in the case.

#### **Section 4   Hearings**

- A. **Hearing Process:** The Chief Judge must open the court, read a summary of the petition to the Respondent, and ask the Respondent how they answer. The Petitioner and Respondent have a right to be heard, to present evidence, and to have witnesses make statements for them during the hearing. The Petitioner and Respondent may ask questions to their own witnesses, and the witnesses of the other. After both sides have presented their cases, the Chief Judge may give the decision or may make everyone leave so that the Chitina Tribal Court can discuss the case and come to a decision. The decision can be presented during the hearing or another hearing can be set to present the decision. The Chitina Tribal Court may also issue a written Judgment or Order without having another hearing. If the Respondent is found to have violated a code, the Chief Judge may either decide on the consequences immediately or at a later hearing.
  
- B. **Hearings Without the Respondent:** If the Clerk has served a Respondent with the Petition and notice of hearing, and filed the Proof of Service, a hearing can continue even if the Respondent does not attend, and the Chitina Tribal Court can rule against the Respondent if it decides to.
  
- C. **Confidentiality and Requests for Copies:** All cases and hearings confidential, except where this tribal code or the Chitina Tribal Court states that information can be shared, after it is requested. If the tribal code does not specify that a certain type of case is confidential, then it is public. Here, public means that anyone, even people not involved in the case, can request to see copies of anything in the file of the case. If a request for copies is made, the Chitina Tribal Court can still decide not to allow it, if it is necessary for the safety of someone involved in the case.
  
- D. **Records of Hearings:** The Clerk must keep a record of all hearings. The record may be a tape recording of the hearing, or a transcript, or a summary of what was said and decided. This record must be added with the Case File.

#### **Section 5   Judgments and Orders**

- A. **Judgments:** When the Chitina Tribal Court makes a final decision in a case, it must write a judgment stating its decision. The Clerk must file the judgment and share it with everyone involved in the case.

- B. **Orders:** An order is a decision by the Chitina Tribal Court while a case is still ongoing. It is different from a Judgment because it is not the final decision of a case. Orders have the same force of law as a Judgment, meaning they must be followed.
- C. **Consequence of Not Following Judgment or Order:** Failing to follow a judgment or order and provide proof of completion to the court is a violation of this code, and the Chitina Tribal Court can impose a consequence it finds appropriate and necessary for achieving the goals of the case and Chitina's traditions and values.

## **Section 6   Appealing a Decision**

Appealing a decision by the Tribal Court means to request that the decision be reviewed by a different set of judges or the Council. A decision can only be appealed by a Petitioner, Respondent, or intervening person or Tribe in the case, and the person appealing is called the Appellant. To appeal a decision, the Appellant must send a request for appeal to the Council within fifteen (15) days of getting notice of the decision. The Council will then decide whether or not to accept the appeal, and how to make the decision.

If the Council takes the appeal, it must give the Petitioner, Respondent, and any intervening person an opportunity to be heard. If the Council decides that the Tribal Court decision must be changed in any way, the Council must include its instructions to the Tribal Court in an Appeal Order, and provide a copy to everyone involved in the case.