

DRAFT
REVISED NORTHERN CHEYENNE LAW
& ORDER CODE

TITLE 1
GENERAL PROVISIONS

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GENERAL PROVISIONS CODE

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TITLE 1
GENERAL PROVISIONS CODE

Chapter 1. ESTABLISHING AUTHORITY AND COURTS

1-1-1. Constitutional Authority. The Northern Cheyenne Law and Order Code is adopted pursuant to the authority vested in the Northern Cheyenne Tribal Council under Article IV, Section 1(h), (i), (k), (m), (o), (p), (q) and (n) of the Northern Cheyenne Constitution.

1-1-2. Inherent Sovereignty. The Northern Cheyenne Tribe retains inherent sovereign powers that have existed since time immemorial. The inherent sovereign powers include those authorities delegated to the Tribe's government in the Northern Cheyenne Constitution. All other inherent sovereign powers are retained and reserved and will cease to exist only when the Northern Cheyenne Tribe and its members cease to exist.

1-1-3. The Northern Cheyenne Law and Order Code Supersedes Prior Inconsistent Ordinances and Resolutions Repealed. The enactment of the Northern Cheyenne Law and Order Code supersedes any and all ordinances, resolutions and policies inconsistent with or in conflict with or contrary to the spirit and purpose of the contents of this Code. Any and all ordinances, resolutions and policies are hereby repealed and have no effect.

1-1-4. Ordinance Requirement for Amendments, Modifications, Additions to Northern Cheyenne Law and Order Code. The Northern Cheyenne Tribal Law and Order Code may be amended by the enactment of an ordinance consistent with Article IV (1)(i) of the Northern Cheyenne Constitution. The adoption of Tribal ordinances which effect modifications, additions or deletions to the Northern Cheyenne Law and Order Code must be codified and incorporated in a manner consistent with the numbering and organization of this Code on an biannual basis.

1-1-5. Courts Established.

A. The Northern Cheyenne Tribal Court is hereby established pursuant to the Northern Cheyenne Constitution, Article XI., Section 1. (C); wherein it provides:

“Three Branches of Tribal Government. The power of the government of the Tribe shall be divided into three distinct branches -- Legislative, Executive and Judicial. No person or entity charged with the exercise of power of one branch shall exercise a power belonging to another branch unless expressly authorized to do so in this Constitution and Bylaws, Tribal law, or applicable federal law.

(c) The Judicial Branch shall consist of all courts established by ordinance under Article IV, Section 1 (i) or any other provision of this Constitution and Bylaws.”

B. Judicial Branch a Distinct Branch of Tribal Government. Under the above Northern Cheyenne Constitutional provisions: The Judicial Branch is one of the three distinct branches of Tribal government. Once the Tribal Council establishes the Judicial Branch, neither the Legislative Branch nor the Executive Branch may exercise powers granted to the Judicial Branch, except as otherwise provided in the Northern Cheyenne Constitution and Bylaws, or Tribal or federal law.

C. Composition of the Judicial Branch. The Judicial Branch of the Northern Cheyenne Tribe, otherwise known as the Northern Cheyenne Tribal Court will be comprised of the Trial Court, Supreme Court and Office of the Clerk of Court.

1-1-6. Northern Cheyenne Tribal Court as a Court of Record.

A. Court of Record. As a Court of Record, the Northern Cheyenne Tribal Court will keep a record of all proceedings, showing the title of the case; the names and addresses of the parties, attorneys and witnesses; the substance of the proceeding; the dates of all hearings or trials; the name of the judge; the findings of fact; conclusions of law; verdict of the jury and judgment; the preservation of testimony for perpetual memory by electronic recording, or otherwise; and any other facts or circumstances deemed of importance to the case.

B. The Records of the Northern Cheyenne Tribal Court Will Be Available to the Public. The Northern Cheyenne Tribal Court records, maintained in accordance with Section 1-1-6A, will be open and available to the public, except where information must be kept confidential to protect identities of minor individuals, confidentiality agreements and other appropriate circumstances deemed appropriate by the Court. The Northern Cheyenne Tribal Court will establish procedures and reasonable fees associated with processing public requests for records.

C. Criminal Records. In criminal cases, only upon application, may the Court furnish the name of the offender, the offense, and the sentence imposed. The applicant must disclose the identity of the person seeking the information and the purpose for which the information will be used.

1-1-7. Availability of Code. Copies of the Revised Northern Cheyenne Law and Order Code and any amendments will be kept available for public inspection during regular business hours at the office of the Clerk of Court. The Northern Cheyenne Tribal Court may offer copies of the Revised Northern Cheyenne Law and Order Code for a fee determined by the Chief Judge.

Chapter 2. JURISDICTION

1-2-1. General. The Northern Cheyenne Tribal Court has jurisdiction defined in the Northern Cheyenne Constitution and in this Chapter. Any and all persons that enter the Northern Cheyenne Reservation consent to the jurisdiction of the Northern Cheyenne Tribe and the authority of the Northern Cheyenne Tribal Court. The Northern Cheyenne Tribal Court is vested with jurisdiction to enforce all provisions of this Code against any person found to be within the boundaries of the Northern Cheyenne Reservation or on any other land, property controlled by the Northern Cheyenne Tribe, except those matters where limited by federal law.

1-2-2. Criminal Jurisdiction Over Non-Indian Domestic or Dating Violence. The Northern Cheyenne Tribal Court is vested with jurisdiction to enforce all provisions of this Code against a non-Indian who has committed an act of dating violence or domestic violence against an Indian victim within the exterior boundaries of the Northern Cheyenne Reservation provided the non-Indian has sufficient ties to the Northern Cheyenne Tribe.

A. A non-Indian has sufficient ties to the Northern Cheyenne Tribe for purposes of jurisdiction if the non-Indian:

1. Resides on the Northern Cheyenne Reservation;
2. Is employed on the Northern Cheyenne Reservation; or

3. Is a spouse, intimate partner, or dating partner of either:
 - a. A member of the Northern Cheyenne Tribe, or
 - b. A non-member Indian who resides on the Northern Cheyenne Reservation.

1-2-3. Criminal Jurisdiction Over Non-Indian Protection Order Violations. The Northern Cheyenne Tribal Court is vested with criminal jurisdiction to enforce all provisions of this Code related to violations of protection orders against a non-Indian who has sufficient ties to the Northern Cheyenne Tribe as identified in Section 1-2-1(b)(1) and who has violated a protection order within the Northern Cheyenne Tribes Reservation provided the protected person is an Indian, and the following conditions are met:

- A. The protection order was issued against the non-Indian,
- B. The protection order is consistent with 18 U.S.C. 2265(b), and
- C. The violation relates to that portion of the protection order that provides protection against violent or threatening acts or harassment against sexual violence against, with contact or communication with, or physical proximity to, the protected person.

1-2-4. Civil Jurisdiction. The Northern Cheyenne Tribal Court has jurisdiction over all civil matters arising within, or affecting persons or property within, the Northern Cheyenne Reservation, and lands within the control of the Northern Cheyenne Tribe. Any person who enters the Northern Cheyenne Reservation or lands within control of the Northern Cheyenne Tribe will be deemed to have consented to the civil jurisdiction of the Northern Cheyenne Tribe and its Courts. All property held or controlled by the Northern Cheyenne Tribe including the territory of Northern Cheyenne Reservation as well as acquired property whether held in fee or trust are within the civil jurisdiction of the Northern Cheyenne Tribal Court. The Northern Cheyenne Tribal Court has personal jurisdiction over all members of the Northern Cheyenne Tribe, their spouses and children as to any civil matter arising under the Northern Cheyenne Law and Order Code.

1-2-5. Jurisdiction Over Persons Outside Reservation. The Northern Cheyenne Tribal Court may exercise personal jurisdiction over any person who does not reside on the Northern Cheyenne Reservation if such person, personally or through an agent:

- A. has engaged in matters with sufficient effect on: the Northern Cheyenne Reservation; resident of the Northern Cheyenne Reservation; or of interest or matter of the Northern Cheyenne Tribe to legally justify the assertion of such civil jurisdiction;
- B. has engaged in matters with sufficient minimum contacts with: the Northern Cheyenne Reservation; a resident of the Northern Cheyenne Reservation; an interest or matter of the Northern Cheyenne Tribe to legally justify the assertion of such civil jurisdiction;
- C. that has entered into a consensual relationship with any business on the Northern Cheyenne Reservation, or has agreed to supply goods or services on the Northern Cheyenne Reservation;
- D. that has engaged in conduct on the Northern Cheyenne Reservation that causes injury.

1-2-6. Subject Matter Jurisdiction. The Northern Cheyenne Tribal Court will hear civil claims and

criminal matters within their jurisdiction arising under: the Northern Cheyenne Constitution and Bylaws; Northern Cheyenne Tribal Law and Order Code; Tribal Ordinances and Resolutions; and where authorized, tribal policies and regulations.

1-2-7. Sovereign Immunity of the Tribe from Suit. The Tribe will be immune from suit. Nothing in the Code will be construed as consent of the Tribe to be sued.

1-2-8. Jurisdiction over Suits commenced by Tribe. Notwithstanding any other provision of this Code, the Tribal Court will have jurisdiction of all civil actions commenced by the Northern Cheyenne Tribe of the Northern Cheyenne Reservation, or by any agency or officer thereof expressly authorized to file suit by the Northern Cheyenne Tribal Council.

1-2-9. Suits Against Tribal Officials. The Tribal Court will have jurisdiction over all suits in which Northern Cheyenne tribal officials or employees are defendants, except habeas corpus proceedings authorized by 25 U.S.C. 1303. (a) Suits for money damages. No elected official or judge of the Northern Cheyenne Tribe will be subject to suit for any action taken in the course of his/her official duties, or in the reasonable belief that such action was within the scope of his/her official duties. (b) No employee of the Northern Cheyenne Tribe will be subject to suit for money damages for any action taken in the course of his/her official duties, or in the reasonable belief that such action was within the scope of his/her official duties, unless it is clearly established that such action was taken with malicious intent and in bad faith. The Tribal Court will have jurisdiction over actions seeking declaratory and equitable relief against tribal employees, but the Court will grant any relief against tribal employees except after service of process has been made as prescribed in this Code and proof of service has been received by the Tribal Court.

1-2-10. Jurisdiction Over Suits Concerning Ownership of Trespassing Livestock. The Tribal Court will have jurisdiction over any action under the Grazing Ordinance, to resolve ownership of trespassing livestock.

1-2-11. Review of Administrative Decisions.

A. The Tribal Court will have exclusive jurisdiction over all appeals from actions by agencies or offices of the Tribe, where such appeals are authorized by this Code.

B. Notwithstanding Section 1-2-7 of this Title, the Northern Cheyenne Tribe hereby waive their immunity from suit in Tribal Court for appeals under subsection (A). Relief against the Tribes will be limited to that specified in the provisions of the Code authorizing the appeal. In no event will the Tribes be liable for money damages, except that the Tribal Court may order refunds of taxes or fees erroneously collected where such relief is specifically authorized by the provision of the Code under which the appeal is taken.

1-2-10. No Jurisdiction over Traditional and Customary Matters. The Northern Cheyenne traditional societies maintain exclusive authority over traditional and customary matters of the Northern Cheyenne Tribe. The Northern Cheyenne Tribal Court does not have jurisdiction over traditional and customary matters.

1-2-11. Adoption by Reference Not a Waiver of Sovereign Power of the Northern Cheyenne Tribe. **Sovereignty.** The adoption of any law, code or other document by reference into this Code will in no way constitute a waiver or cession of any sovereign power of the Northern Cheyenne Tribe to the jurisdiction whose Law or Code is adopted or in any way diminish such sovereign power, but will result in the Law or Code thus adopted becoming the law of the Northern Cheyenne

Chapter 3. TRIAL COURT AND TRIAL JUDGES

1-3-1. Court of General Jurisdiction. The Trial Court will be a trial-level court of general civil jurisdiction and criminal jurisdiction, including without limitation jurisdiction over matters arising under the Northern Cheyenne Law and Order Code. The scope of the Trial Court's jurisdiction is set forth in this Title.

1-3-2. Trial Judges. The Trial Court will have at least two full-time Trial Judges, including a Chief Trial Judge and one or more Associate Trial Judges. Each Trial Judge must:

A. **Certification of Qualifications.** A person elected or appointed to serve as Trial Judge or Pro Tem Judge must (i) meet the qualifications of the candidate for appointment have been carefully investigated and (ii) certify in writing that such an investigation has been performed and that the candidate possesses the requisite qualifications.

B. **Age.** Trial Judges must be at least 30 years old.

C. **Tribal Membership.** A Trial Judge must be enrolled as a member of the Northern Cheyenne Tribe.

D. **Education and Bar Membership.** A Trial Judge must be a high school graduate or hold a G.E.D. certificate or its equivalent. Graduation from an accredited law school and a member of a state bar, are desirable credentials, but not mandatory for Trial Judges.

E. **No Felony Conviction.** A Judge cannot have been convicted of a felony in any tribal, federal or state court, whether after a plea of guilty or nolo contendere, a trial, or other procedure. The foregoing does not include convictions that have been vacated.

F. **No Serious Misdemeanor Conviction Within 10 Years.** Within the 10-year period preceding the date set for the primary election or the date of appointment to office, as the case may be, and at all times thereafter through the end of the term of office, a Judge cannot have been convicted of a Misdemeanor Involving Moral Turpitude in any tribal, federal or state court, whether after a plea of guilty or nolo contendere, a trial, or other procedure. The foregoing does not include convictions that have been vacated.

G. **No Removal Within Three Years.** Within the three-year period preceding (A) the date set for the primary election (and through the date of the general election) or (B) the date of appointment to office, as the case may be, a candidate for Judge cannot have been removed as a Judge.

H. **Domicile.** All Trial Judges must be domiciled on the Northern Cheyenne Reservation throughout the Term of Office. As used herein, the term "domicile" means the residence in which a person customarily and actually resides during the applicable time period

I. **Legal Knowledge.** All Judges must be familiar with the Northern Cheyenne Constitution, the Tribal Law and Order Code, civil and criminal procedures and federal Indian law generally.

J. **Legal Skills.** All Judges must have ability and competence to: conduct efficient and organized proceedings; research and apply applicable law; timely decide or otherwise resolve disputes; and set forth clear and reasoned decisions and orders in writing.

K. Deal with Conflict. All Judges must be able to deal effectively with people in highly emotional, adversarial and confrontational situations.

L. Familiarity with Cheyenne Language. It is desirable, but not mandatory, that all Judges have some familiarity with the Cheyenne language.

1-3-3. Primary and General Elections; Filing Fee. Trial Judges will be selected through a primary election followed by a general election, both conducted at-large, and otherwise generally conducted on the same conditions and under the same procedures as those applicable to the selection of the Tribal President and Vice President, as more particularly set forth in the Revised Tribal Election Ordinance, Title 17. All persons filing to run for Trial Judge must pay a non-refundable \$200 filing fee, provided that the Tribal Council may adjust the filing fee.

1-3-4. Four-Year Terms. There will be a four-year Term of Office for all Judges.

1-3-5. Serve Until Successor Elected or Appointed. Each Trial Judge must serve until his or her Term of Office expires and continue to serve until the election and swearing-in of his or her successor. The person whose term has expired may be re-elected to office.

1-3-6. Filling Vacancies. If the office of Trial Judge becomes vacant due to death, resignation, removal, or other cause, there must be an at-large primary election followed by an at-large general election to fill the vacancy for the remainder of the Term of Office. However, if the vacancy in office occurs when there is less than 365 days remaining in the Term of Office, the Tribal Council in its discretion may choose not to hold the election, whereupon the Tribal Council must appoint a qualified person to the office.

1-3-7. Selection of Chief Trial Judge. The Tribal President with the concurrence of the Tribal Council must designate one Trial Judge as the Chief Trial Judge. The designee will serve as Chief Trial Judge through his or her Term of Office as Trial Judge, provided that the Tribal President with the concurrence of the Tribal Council, in their absolute discretion, may at any time designate another Trial Judge as the Chief Trial Judge.

1-3-8. Authority of Chief Trial Judge.

A. The Chief Trial Judge will have overall administrative authority over the Trial Court, including without limitation authority to assign cases among the Trial Judges, assign Judges Pro Tem to Trial Court proceedings, manage the Trial

B. The Chief Trial Judge has authority to establish additional associate judge positions for the trial court, subject to available resources, and with concurrence with the Tribal Council. The new associate judge position must be filled in accordance with the Section 1-3-6.

1-3-9. Pro Tem Judges. The Tribal President with the concurrence of the Tribal Council must appoint and maintain a panel of Judges Pro Tem available to temporarily fill-in for a sitting Judge who is recused, disqualified, or otherwise temporarily unavailable to serve in a particular case or for a discrete period of time. The Tribal President with the concurrence of the Tribal Council, in their absolute discretion, may at any time remove a Judge Pro Tem from the panel provided that such removal will not be effective with respect to any Trial Court, or Supreme Court matter which has been assigned to the Judge Pro Tem unless the removal has been concurred in by the Chief Trial Judge or Chief Supreme Court Judge making the assignment.

1-3-10. Pro Tem Judge Qualifications. To serve as a Judge Pro Tem in a particular Court, one must possess the qualifications set forth in this Title for Judges of Northern Cheyenne Tribal Court.

1-3-11. Pro Tem Judge Assignment. For the temporary purpose described the Chief Trial Judge may assign a qualified Judge Pro Tem to serve in the Trial Court. However, in removal proceedings directed at a Supreme Court Judge, only the Chief Trial Judge may assign a Judge Pro Tem to sit on the panel.

1-3-12. Removal of Tribal Judge. Exclusive Method – The Supreme Court has exclusive authority to hear and decide the removal of any Judge. There are two types of removals: Automatic Removal and Removal by Complaint. Both are administered and decided by the Supreme Court. If the removal is directed at a Chief Trial Court Judge and if there are fewer than three other available sitting Supreme Court Judges, the Respondent's seat on the Supreme Court will be filled in the removal proceedings by an Associate Trial Judge or a qualified Judge Pro Tem designated by the Chief Supreme Court Judge.

1-3-13. Automatic Removal. A Judge must forfeit and be removed from office for:

A. **Conviction of Felony.** Automatic Removal must occur if the Judge, while holding his or her current position as Judge, is convicted of any felony in any tribal, federal or state court, whether after a plea of guilty or nolo contendere, a trial, or other procedure, irrespective of whether the conduct on which the conviction is based occurred before or during the Judge's current term of office.

B. **Conviction of Misdemeanor Involving Moral Turpitude.** Automatic Removal must occur if the Judge, while holding his or her current position as Judge, is convicted of any misdemeanor or gross misdemeanor in any tribal, federal or state court, whether after a plea of guilty or nolo contendere, a trial, or other procedure, which the Supreme Court determines is a Misdemeanor Involving Moral Turpitude, irrespective of whether the conduct on which the conviction is based occurred before or during the Judge's current term of office.

C. **Lack of Qualifications.** Automatic Removal must occur if the Judge does not possess a qualification for office set forth in this Title, irrespective of whether the lack of qualification arises from events that occurred before or during the Judge's current term of office.

D. **Confirmation by Supreme Court.** An Automatic Removal will not take effect until it is confirmed by the Supreme Court as provided in this subsection:

1. Upon receiving information it deems reliable that indicates that a Judge stands convicted of a felony as described in subsection (A) above or a Misdemeanor Involving Moral Turpitude as described in subsection (B) above, or lacks any qualification for office as described in subsection (C) above, the Supreme Court must, as a matter of highest priority, proceed immediately to determine whether such ground for Automatic Removal in fact exists, and if it does, to confirm the Automatic Removal of the Judge, in the following manner. Such proceedings cannot be delayed or suspended because judicial proceedings to reconsider, vacate or appeal a conviction described in subsection A or B are pending.

2. The Supreme Court must issue a written notice to the Judge, Tribal President and Tribal Secretary advising that the Supreme Court will convene a hearing to determine whether the Automatic Removal of Judge from office must be confirmed. The notice must

state the date, time and place of the Supreme Court hearing, and summarize the indicated grounds for Automatic Removal, and must include a copy of this Title. The hearing must be held as promptly as possible but no sooner than 10 days from the date of issuance of the written notice.

3. At the hearing, the Judge/Respondent must be afforded an adequate opportunity to be heard on the matter, and may be represented by an attorney or lay advocate at his or her own expense. Conviction of a felony or a Misdemeanor Involving Moral Turpitude must be evidenced either by a copy of the judgment of conviction certified by the court in which the Respondent was convicted or by Respondent's sworn admission to such conviction. The Supreme Court may consider any additional factual or legal materials; information or submissions it deems relevant.

4. After considering the materials, information and submissions before it, the Supreme Court must decide, whether the Respondent stands convicted of a felony as described in subsection (A); or a Misdemeanor Involving Moral Turpitude as described in subsection (B); or lacks any requisite qualification for office as described in subsection (C). If the Court decides that such ground for Automatic Removal in fact exists, it must immediately confirm Respondent's Automatic Removal from office, effective immediately. The Supreme Court's decision must be in writing.

5. The decision of the Supreme Court on Automatic Removal will be final and binding. The decision is not subject to review in any court.

6. While Automatic Removal proceedings are pending, the Supreme Court may suspend or otherwise limit Respondent's status or authority as a Judge.

E. Effect of Subsequent Vacation of Conviction. If the Automatic Removal was based on a conviction described in subsection 1-3-13 (A) or (B), and the conviction was subsequently vacated; then the Supreme Court must determine whether the vacated conviction existed at time the respondent was elected or appointed to serve as a Judge. If the Judge's conviction was not vacated at the time of election or appointment, the Judge's removal is proper, however the Judge would not be precluded from serving as a Judge whether elected or appointed. Otherwise, the Judge should be held to the qualification standards as set out in this Title.

1-3-14. **Removal by Complaint.** In addition to Automatic Removal under section 1-3-13 any Judge may be removed from office by complaint:

A. Complaint. Proceedings for Removal by Complaint will be initiated by a written complaint ("Complaint") seeking removal of a single Judge only ("Respondent"). The Complaint must specify the grounds for removal, allege the facts supporting such grounds in reasonable detail, and be sworn to and signed by one or more enrolled members of the Tribe who are at least 18 years old ("Complainants"), provided that any Judge, irrespective of tribal membership, may be a Complainant. The Complaint, accompanied by a filing fee, must be filed with the Court Clerk ("Filing"), who promptly must provide a true copy thereof to the Respondent, each member of the Supreme Court, the Tribal President, and the Tribal Secretary. The Supreme Court will have continuing authority to adjust the filing fee.

B. Grounds. Removal by Complaint may be sought and effected on the ground that the Respondent:

1. has grossly or repeatedly failed to competently perform the duties of office;
2. while performing the duties of office, has used alcohol, drugs or other mind-altering substance, or engaged in immoral behavior, unethical, conduct, or corruption or abuse of power, provided that where such misconduct has resulted in a conviction as described in 1-3-13 (A) or (B), the convicted Judge will be Automatically Removed in the manner described in section 1-3-13;
3. suffers from physical or mental incapacity preventing the competent performance of the duties of office, including the loss of essential physical or mental capabilities due to illness, injury, or addiction to alcohol, drugs or other mind-altering substance; or
4. has grossly or repeatedly violated the Code of Judicial Conduct.

C. Withdrawal of Complaint. At any time prior to the commencement of a hearing under subsection G below, any Complainant may withdraw his or her signature on the Complaint by filing with the Court Clerk a signed and sworn certificate of such withdrawal. If all signatures on a Complaint are so withdrawn, all further proceedings on the Complaint must be terminated. The Court Clerk promptly must provide true copies of any signature withdrawal(s) to the Respondent, any other Complainant(s), each member of the Supreme Court, the Tribal President, and the Tribal Secretary.

D. Review by Tribal Secretary. Within 7 days after the Filing of the Complaint, the Tribal Secretary must determine the validity and sufficiency of all signatures on the Complaint, and report the results of this review in writing to the Court Clerk.

E. Review by Supreme Court. If the Complaint is supported by valid signature(s), the Supreme Court, must:

1. Promptly review the Complaint and determine if it:
 - a. meets the formal and procedural requirements of this Code;
 - b. alleges grounds and sufficient supporting facts which, if proven to the satisfaction of the Court, would justify Removal by Complaint; and
2. Report its determinations within 21 days after the Filing of the Complaint on items (1)(a) &(b) in writing to the Respondent and Complainant(s).
3. Dismiss the Complaint if the Court reports negatively on either items (1)(a) or (b) and no further action is necessary; or
4. Schedule a hearing to commence within 35 days after the filing of the Complaint if the Court reports positively on items (1) (a) and (b).
5. Determine whether to suspend or otherwise limit Respondent's status or authority as a Judge pending the hearing.

F. Timelines. On a case-by-case basis, the Supreme Court may adjust any time period specified in subsection D or E above, as it deems warranted.

G. **Hearing.** If the Supreme Court determines to hold a hearing on the Complaint, the hearing will be conducted as follows:

1. At least 10 days before the hearing, the Court Clerk must issue a written notice to the Respondent, Complainant(s), Tribal President and Tribal Secretary which states the date, time, place and purpose of the hearing, and includes a copy of this Title.
2. The hearing will be conducted in accordance with such procedures and evidentiary standards as the Supreme Court considers necessary to afford fair and reasonable opportunity to the Complainant(s) and the Respondent to support and refute the Complaint, and to enable the Court to make an informed and fair decision on the Complaint. The Complainants collectively and the Respondent may each be represented by an attorney or advocate at the hearing at their own expense.
3. The hearing will be conducted in public and on the record. A verbatim stenograph or electronically recorded transcript of the hearing will be maintained.

H. **Decision.** After the hearing, the Supreme Court will issue a decision on the Complaint. The decision must be in writing and must set forth findings of fact, conclusions of law as to whether grounds for Removal by Complaint have been established, and the Court's decision with respect to such removal. The Supreme Court may dismiss the Complaint; or may decide that Respondent is to be removed as Judge; or that Respondent's status as Judge will be suspended for no more than 90 days; and/or may impose conditions on Respondent's continued status or activities as Judge. The decision of the Supreme Court will be final, binding on the Tribe and all branches of Tribal government, and not subject to judicial review in any court.

1-3-15. Effect of Removal on Future Eligibility for Judge.

A. **Automatic Removal - Felony.** A Judge automatically removed from office due to a felony conviction as provided in this section will not be eligible for election or appointment as a Judge unless the conviction has been vacated and otherwise person meets all other qualifications set forth in this Title.

B. **Automatic Removal - Misdemeanor Involving Moral Turpitude.** A Judge Automatically Removed from office due to conviction of a Misdemeanor Involving Moral Turpitude as provided in this section will not be eligible for election or appointment as a Judge during the 10-year period following such conviction, unless the conviction has been vacated and such person possesses all other qualifications for such office set forth in this Title.

C. **Removal by Complaint.** A person who has been removed as a Judge by Complaint as provided in this section will not be eligible for election or appointment for a three-year period following such removal.

Chapter 4. LIMITATIONS ON ACTIONS

1-4-1. Civil Actions. Unless otherwise specifically provided in the Code, the following limitations on the bringing of civil actions will apply:

A. Any action against the Tribe, its Instrumentalities or Tribal Representatives or employees arising from the performance of their official duties must be commenced within one year of the

date the cause of action accrued.

B. Any other action must be commenced within three years of the date the cause of action accrued, provided, however, that any cause of action based on fraud or mistake will not be deemed to have accrued until the aggrieved party has discovered or reasonably should have discovered the facts constituting the fraud or mistake.

1-4-2. Criminal Actions.

A. A prosecution for any offense must be commenced within the period specified:

Class A Offenses 5 years
Class B Offenses 2 years
Class C Offenses 1 year

B. The period of limitations does not run during any period in which the offender is not physically located on the Reservation or when a prosecution is pending in another jurisdiction against the offender for the same conduct.

Chapter 5. PRINCIPLES OF CONSTRUCTION

1-5-1. When applied.

A. The following principles of construction will apply to all of the Code unless a different construction is obviously intended:

1. Masculine words will include the feminine, and singular words will include the plural, and vice-versa.
2. Words will be given their plain meaning and technical words will be given their usually understood meaning where no other meaning is specified.
3. Whenever a term is defined for a specific part of this Code, that definition will apply to all parts of this Code unless contrary meaning is clearly indicated.
4. This Code will be construed as a whole to give effect to all its parts in a logical, consistent manner.
5. If any provisions of this Code or the application of any provision to any person or circumstance is held invalid, the remainder of this Code will not be affected thereby and to this end the provisions of this Code are declared to be severable.
6. Any typographical errors or omissions will be ignored whenever the intended meaning of the provision containing the error or omission is otherwise reasonably certain to the Court.
7. Any other issues of construction will be handled in accordance with generally accepted principles of construction giving due regard to the underlying principles and purposes of this Code.

Chapter 6. JUDICIAL BRANCH FUNDING, ANNUAL REPORT AND AUDIT

1-6-1.

A. The Tribal Council will provide funding for the operations of the Judicial Branch in the regular Tribal budget, after consulting with the Chief Trial Judge, the Chief Appellate Judge, and the Court Clerk about funding needs.

B. All monies collected for fines imposed for the commission of offenses against ordinances passed by the Tribal Council of the Northern Cheyenne Reservation, or imposed under this Code will be in the nature of an assessment for the support of the Northern Cheyenne Tribal Court and for such other expenses as the Tribal Council may decide. Such expenses include but are not limited to the payment of fees provide for in the code or ordinances, to jurors and to witnesses answering subpoenas, to counselors and court officials, and expenses of the Judicial System.

C. The fines assessed will be deposited by the Clerk of Court with the Tribal Treasurer. The Tribal Treasurer will deposit the funds in an appropriate account of the Tribe. The Tribal Treasurer will make expenditures from said account in accordance with the existing budget.

D. The Tribal Treasurer and the Clerk of Court must keep an accounting of all such deposits and withdrawals.

E. Remittance of Court Revenues to Treasurer. Northern Cheyenne Court filing fees, copying charges and other charges, fines and penalties, and other sums paid to the Tribal Court, must be remitted to the Tribal Treasurer for administration for the benefit of the Tribal Court and for accountability.

F. The Judicial Branch may independently raise funds for its operations, provided that funds will not be sought from parties who have, or reasonably may in the future have, matters in litigation within the Judicial Branch.

1-6-2. Annual Report. Within 90 days after the close of each fiscal year, the Chief Trial Judge must provide a written report to the Tribal President and Tribal Council on the operations of the Judicial Branch regarding the preceding fiscal year. The report may also include recommendations for action by the Tribal Council or others with respect to the future operations or needs of the Judicial Branch.

1-6-3. Annual Audit. The annual tribal financial audit should include a financial audit of the Judicial Branch.

Chapter 7. NORTHERN CHEYENNE COURT BAR ASSOCIATION RULES

1-7-1. Qualifications for admissions as Attorney or Lay Counselor.

A. **Attorneys.** No person may practice as an attorney before the Tribal Court or Supreme Court unless admitted to practice and enrolled as an attorney of the Tribal Court upon written application. Any attorney at law who is a member in good standing of the bar of any state or federal court will be eligible for admission to practice before the Tribal Court upon approval of the Chief Supreme Judge, and successful completion of a bar examination administered as prescribed by the Supreme Court.

B. **Lay Counselor.** Any person who meets qualifications established in this Section will be

eligible for admission to practice before the Court as a lay counselor upon written application and approval of the Chief Supreme Judge. To be eligible to serve as a lay counselor, a person

1. Must be at least twenty-one (21) years of age;
2. Must be of high moral character and integrity;
3. Not have been dishonorably discharged from the Armed Services;
4. Must have successfully completed a bar examination administered as prescribed by the Supreme Court;
5. Must not have been convicted of a felony in any jurisdiction.

C. Denial and Review by Supreme Court. Any person whose application to practice as an attorney or lay counselor is denied by the Chief Supreme Judge may appeal that determination to the Supreme Court within fifteen (15) days of the denial. The Northern Cheyenne Supreme Court will provide a statement of the reasons for the denial from the Chief Supreme Judge, and after receiving such statement will review the application and any other record which was before the Chief Supreme judge and may, in its discretion, hear oral argument by the applicant. The Supreme Court will determine de novo whether the applicant is to be admitted, and its determination will be final.

1-7-2. Roll of attorneys and lay counselors. A roll of attorneys and lay counselors admitted to practice before the Court will be maintained by the clerk of court.

1-7-3. Right to Counsel. Any person at his/her own expense may have assistance of counsel in any proceeding before the Tribal Court. The Tribal Court in its discretion may appoint counsel to defend any person accused of a crime.

1-7-4. Procedure for Admission.

A. The Admission Fee of \$100.00 will be tendered with the application, subject to return if the admission to the Northern Cheyenne Bar is denied.

B. Upon receipt of an application fee for admission to practice before the Northern Cheyenne Tribal Court, the Chief Supreme Judge will review the application and may, but need not, investigate to verify the contents of the application. If the contents are verified, the Chief Supreme Judge may administer the Northern Cheyenne Tribal Court Bar Exam for the person seeking admission. At a minimum the Chief Supreme Judge should administer at least one bar exam per calendar year.

C. Upon a successful bar exam result, the individual must take the oath of Lay Counselors and Attorneys. A Judge of the Court will issue a certificate, evidencing the admission of the Lay Counselor or Attorney to practice before the Northern Cheyenne Tribal Courts.

1-7-5. Disbarment and Discipline.

A. **Disbarment.** The Tribal Court or the Supreme Court may disbar an attorney or lay counselor from practice before the courts, or impose suspension from practice for such time as the Court deems appropriate, pursuant to rules adopted by the Court, provided that the Court will give such

attorney or lay counselor reasonable prior notice of the charges against him/her and an opportunity to respond to them. The rules will include significant violations of the Code of Ethics of the Northern Cheyenne Tribal Court as grounds for disbarment.

B. Appeals. Any person who is disbarred or suspended by the Tribal Court may appeal that determination to the Supreme within fifteen (15) days of the disbarment or suspension. The Supreme Court will request a statement of the reasons for the disbarment or suspension from the Chief Judge, and after receiving such statement will review the record which was before the Tribal Court and may, in its discretion, hear oral argument by the applicant. The Supreme Court will determine de novo whether the applicant is to be disbarred or suspended and its determination will be final.

C. Readmission. Any person who has been disbarred or suspended in excess of one (1) year from the practice of law before the Northern Cheyenne Tribal Courts may reapply for admission before the Chief Supreme Judge of the Northern Cheyenne Tribal Court. If the Chief Supreme Judge had previously disbarred or suspended the applicant, then the application will be filed with an Associate Judge of the Supreme Court. The person must submit a statement for readmission to the appropriate judge of the Supreme Court. After receiving such statement, the appropriate judge will determine whether there is good cause for the applicant to be readmitted to practice before the Northern Cheyenne Tribal Courts. If the applicant for readmission is denied by the judge, the applicant may appeal such decision to the Supreme Court within ten (10) working days from receipt of such denial in writing. The decision of the Supreme Court will be final.

1-7-6. Tribal Council Not To Practice. Members of the Tribal Council are not permitted practice as attorneys or lay counselors or attempt to influence Tribal Court decisions. No member of the Tribal Council will practice before or in any manner attempt to influence any decision of the Tribal Court or Supreme Court during his/her term of office. Attempts to influence Tribal Court decisions will be grounds for removal from office under Section 2, Article VII, of Northern Constitution and bylaws.

1-7-7. Contempt of Court – Appeal.

A. Power of the Court. The Court has the power to punish contempt to protect the rights of the parties; and to protect the public's interest to ensure the administration of justice is not frustrated. The trial judge has the power to cite and punish anyone appearing or failing to appear, in court, or who obstructs a court judicial proceeding.

B. Admonition and Warning. Any judge during a proceeding should admonish and warn any individual appearing in court of their contemptuous conduct. A Lay Counselor or Attorney may be sanctioned for contempt when:

1. it is clear the offender and the character demonstrate disruptive conduct and willful contempt; or
2. the judge provided a clear warning that the conduct was impermissible and that repeating conduct would be punishable.

C. Notice of Intent to Use Contempt Power; Postponement of Adjudication. Upon the observation of misconduct in the courtroom the trial judge should inform the offender of the intention to institute contempt proceedings. The trial judge should consider deferring the contempt proceeding until completion of the main proceeding or until after the trial, unless prompt punishment is necessary.

D. Notice of Charges and Opportunity to be Heard. Before imposing any punishment for contempt, including a fine and/or confinement, the judge will give the offender notice of the charges and at a minimum an opportunity to summary rebut the evidence or argument relevant to guilt or punishment.

E. Referral to Another Judge. The judge before whom Courtroom misconduct occurs may impose appropriate sanctions, including punishment for contempt. However, the judge should refer the matter to another judge, if the contemptuous conduct involved the judge, whereby objectivity can reasonably be questioned.

F. Appeals. Orders of Contempt can be appealed to the Supreme Court in accordance with this Code.

1-7-8. Oath. Upon the admission to practice, a Lay Counselor or Professional Attorney must take the following oath, either verbally before the Court, or subscribe his signature to such oath:

"I, _____, do solemnly swear:

- (1) "I have read the Northern Cheyenne Law and Order Code and am familiar with its contents."
- (2) "I will respect and obey the Northern Cheyenne Constitution and laws of the Tribe in all respects.
- (3) "I will abide by the Northern Cheyenne Tribe and the Northern Cheyenne Tribal Court:
- (4) "I will at all times maintain the respect due the Northern Cheyenne Tribal Court and its officers."
- (5) "I will not counsel or peak for any suit or proceeding which appears to me to be unjust, or any defense except such as I believe to be honestly debatable under the law of the Reservation, unless it be in defense of a person charged with a public offense."
- (6) "I will employ means which are consistent with truth and honor and will not seek to mislead a judge or jury by any false statements."
- (7) "I will abstain from offensive conduct in the Northern Cheyenne Tribal Court."
- (8) "I hereby submit to the jurisdiction and recognize the jurisdiction of the Northern Cheyenne Tribal Court in regard to its ability to fine and/or detainment of my person if found in Contempt of Court."

1-7-9. Annual Northern Cheyenne Court Bar Fees. A Lay Counselor or Professional Attorney admitted to practice before the Northern Cheyenne Tribal Court must pay an annual fee to maintain the privilege. An annual fee of no less than \$100.00, payable to the Northern Cheyenne Tribal Court must be paid or any Lay Counselor or Attorney. Failure to pay the annual fee within 30 days after the anniversary date of admission will forfeit the Lay Counselor or Attorney's privilege to practice before

the Northern Cheyenne Tribal Court. Annual Northern Cheyenne Bar fees may be adjusted by the Supreme Court.

1-7-10. Waiver of Admission Fees. The admission fee may be waived for a Lay Counselor or Attorney that represents the Northern Cheyenne Tribal Court in the Judge's discretion. The admission fee may be waived for Lay Counselors or Attorneys who appear without charge to their clients.

1-7-11. Reservation Court Bar Roster. The Clerk of the Northern Cheyenne Court will maintain a roster of all Lay Counselors and Attorneys admitted to the Northern Cheyenne Tribal Court Bar.

Chapter 8. DEFINITIONS

1-8-1. Number and Gender. When using this Code, the singular may include the plural, and the plural may include the singular, and the masculine may include the feminine, and the feminine may include the masculine, except where there is a contrary intent.

1-8-2. Signature, Written Instrument, Electronic Signature. When utilizing this Code, "signature" means any written signature, any mark, including electronic signature accomplished through verification, or thumbprint witnessed by the written signature of at least one witness to the act. Wherever this Code refers to a "written instrument," that will be construed to mean an instrument typed, printed, or written out in hand, and signed by that person; or an electronic signature accomplished through verification.

1-8-3. Oath. When used in this Code "oath" will mean "oath" or "affirmation," and "sworn" will mean "sworn by oath or affirmation."

1-8-4. Court Day. When used in this Code, "Court Day" means any and every day of the week, except: Saturday, Sunday, federal holidays, and tribal holidays, provided, that whenever a legal holiday falls on a Monday, the Saturday preceding that Monday will also be a Court Day.

1-8-5. Counsel and Legal Representative. When used in this Code, "Counsel" and "Legal Representative" means Lay Advocate or Attorney that is appearing, speaking, or acting for another in any criminal or civil proceeding. Unless appearing Pro Se and representing oneself, other persons or individuals are prohibited from appearing, speaking or acting on behalf of another person in any criminal or civil proceeding.

1-8-6. Code. When used in this Code, "Code" means the Northern Cheyenne Law and Order Code.

1-8-7. Council. When used in this Code, "Council" means the Tribal Council of the Northern Cheyenne Tribe.

1-8-8. Enrolled Member. When used in this Code, "Enrolled Member" means any person currently listed on the official membership roll of the Northern Cheyenne Tribe of Indians.

1-8-9. Title. When used in this Code, "Title" means the particular Title of the Northern Cheyenne Law and Order Code.

1-8-10. Tribal Council. When used in this Code, "Tribal Council" and "Member of Council" means any person eligible to vote at meetings of the Tribal Council.

1-8-11. District. When used in this Code, "District" means any of the five political districts of the

Northern Cheyenne Reservation, which include: Busby, Muddy, Lame Deer, Birney and Ashland.

1-8-12. Jail, Juvenile Detention Facility, Detoxification Facility, Overnight Facility. When used in this Code “Jail,” “Adult Detention Facility,” “Juvenile Detention Facility,” “Detoxification Facility,” and “Overnight Facility” means building and/or facilities that are designated for those purposes by the appropriate authorities of the Northern Cheyenne Tribe, and those purposes as set forth in this Code.

1-8-13. Person. When used in this Code, a “Person” means be an enrolled citizen of the Northern Cheyenne Tribe or any other federally recognized Indian tribe; a citizen of any state or territory; includes but is not limited to, natural persons, corporations, partnerships, trusts, unincorporated business associations and any other organization or entity involved in private or commercial activity.

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