

CHIPPEWA CREE TRIBE

TITLE 32

TRIBAL ORDINANCE NO.: 03-08

CODE OF THE JUDICIAL BRANCH

**ESTABLISHING THE COURT; JUDICIAL COMMISSION; JUDGES; COURT PERSONNEL**

**Section 1.1 Findings of the Business Committee**

(A) Recognizing that tribal self-sufficiency cannot be fully realized without first exerting control over such matters as may be vital to tribal interests, the Business Committee for the Chippewa Cree Tribe finds:

(1) That Article XII, Section 1 of the Constitution and By-Laws for the Chippewa Cree Tribe of the Rocky Boy's Reservation, as amended states that: "There shall be established a Judicial Branch within the tribal government to enforce ordinances and laws of the Business Committee, the Election Board and/or to administer justice through a tribal court."; and

(2) That the Chippewa Cree Tribe desires to appoint a Tribal Judicial Commission in support of the separation of powers between the executive, legislative and judicial branches of tribal government; and

(3) That the Chippewa Cree Tribe desires to deal fairly and equitably with all persons; and

(4) That the Chippewa Cree Tribe desires to administer in a just and impartial fashion, all applicable laws, ordinances, regulations and policies; and

(5) That the Chippewa Cree Tribe would best be served by a Judicial Branch separate and independent of the Tribal Business Committee except for the financial responsibilities of the Judicial Branch; and

(6) That the Chippewa Cree Tribe desires to preclude state infringement of tribal sovereignty in all matters essential to the tribe's goal of self-sufficiency; and

(7) The Tribal Judicial Commission shall have the authorities established under this Ordinance.

**Section 1.2 Jurisdiction**

(A) The Court shall exercise the general judicial jurisdiction of the Chippewa Cree Tribe and other additional jurisdiction where such is not prohibited by federal law:

(1) The Chippewa Cree Tribal Court shall exercise jurisdiction over all matters within the power and authority of the Chippewa Cree Tribe including controversies arising out of the Constitution and Bylaws of the Chippewa Cree Tribe; laws, statutes, ordinances, resolutions and codes enacted by the Tribal Business Committee; and such other matters arising under enactments of the Tribal Business Committee or the customs and traditions of the Chippewa Cree Tribe. This jurisdiction extends over the Chippewa Cree Tribe of the Rocky Boy's Reservation and its territory, persons who enter its territory, its members, and persons who interact with the Tribe or its members wherever found.

(B) To the extent that any existing or future tribal ordinances or codes state that the jurisdiction for the adjudication of claims under or violations of said ordinances or codes lies with the Tribal Business Committee, the jurisdiction for said ordinances and codes now lies with the Chippewa Cree Tribal Court.

**Section 1.3 Purpose and Construction**

(A) DECLARATION OF PURPOSE. This Code shall be interpreted and understood to accomplish the following tribal objectives:

(1) To exert jurisdiction over all matters essential to the Tribe's goal of self-determination and self-governance; and

(2) To provide orderly procedures for resolving conflicts that reflect tribal traditions as well as the prevailing community standards, and which afford all affected persons a fair, prompt and impartial hearing; and

(3) To establish a court system for the interpretation of Law and Order Code for the Chippewa Cree Tribe and such other laws as may properly come before the Court; and

(4) To ensure that all matters shall be conducted in a manner so as to afford all persons who appear before the Chippewa Cree Tribal Court all rights guaranteed by the Constitution and Bylaws of the Chippewa Cree Tribe; and

(5) To ensure that the sovereignty of the Chippewa Cree Tribe is recognized in all matters affecting the welfare of the Chippewa Cree Tribe and its members.

(B) CONSTRUCTION. This code is exempted from the rule of strict construction. It shall be read and understood in a manner that gives full effect to the purposes for which it is enacted. Whenever there is uncertainty or a question as to the interpretation of certain provisions of this code, the interpretation of the Tribal Judicial Commission shall be controlling utilizing tribal law and/or custom where appropriate.

**Section 1.4 Tribal Judicial Commission**

(A) There shall be established a Tribal Judicial Commission consisting of five (5) members. The Commission members shall be appointed by the Tribal Business Committee. The Commission

shall elect a Chairman and Vice-Chairman every two (2) years with Commission members terms to be staggered.

**Section 1.5 Functions of the Commission:**

(A) This Commission shall:

- (1) Oversee all administrative, personnel and judicial aspects of the Judicial Branch for the Chippewa Cree Tribe, including setting tribal holiday schedules for all tribal court employees;
- (2) Review all judges applications and make recommendations to the Tribal Business Committee;
- (3) The Chairman of the Judicial Commission shall have signature authority on all contractual matters for the Judicial Branch including but not limited to all fiscal matters for contracts for tribal court personnel, tribal court judges and appellate court judges;
- (4) At the discretion of the Commission and pursuant to the Procedure on Citizen Complaints against Judicial or Non-Judicial Staff, investigate complaints against the tribal court staff, tribal court judges, and appellate court judges;
- (5) Hear grievances and make final decisions regarding any complaints against tribal court judges, and appellate court judges;
- (6) Hire and/or appoint special judges and other court staff as needed;
- (7) Oversee the direction of the Tribal Judicial Branch under the management of the Court Administrator of the Tribal Judicial Branch; and
- (8) Enjoy the sovereign immune status of the Tribe as an entity of the Tribe when performing all duties under this Ordinance and shall be held harmless for all actions as the Judicial Commission under the Ordinance.

**Section 1.6 Court Funding**

- (A) The annual submitted budget reflects the amount of funding necessary to operate the Tribal Judicial Branch, Tribal Court and the Tribal Appellate Court;
- (B) The Business Committee shall make available to the Tribal Judicial Branch all court funds such as court fines, fees and any other such funds accrued by the tribal courts; and
- (C) The Judicial Commission shall administer and allocate all funding of the Tribal Judicial Branch.

**Section 1.7 Definitions**

(A) JUDGE PRO TEMPORE: A person, qualified to be a judge of the Chippewa Cree Tribal Court, who is appointed by the Business Committee to temporarily fill an unexpired judicial term of office or any portion thereof.

(B) SUBSTITUTE JUDGE: A judge of any tribal court, qualified through training, education or experience, who is appointed by the Business Committee to preside over a Chippewa Cree Tribal Court proceeding when all Tribal Court judges are unavailable due to absence or disqualification.

(C) LAWS OF THE CHIPPEWA CREE TRIBE OR TRIBAL LAW: The Chippewa Cree Tribal Constitution and all codes, ordinances, regulations and policies duly adopted by Business Committee resolution and tribal customs.

(D) AUTHORIZED ENFORCEMENT OFFICERS. Chippewa Cree tribal law enforcement officers and such other enforcement officers as may be recognized by the Tribe.

(E) VIOLATION NOTICE. An order, issued by authorized law enforcement personnel to a suspected violator in connection with a violation of tribal law, to appear before the Chippewa Cree Tribal Court at a later date; commonly known as a citation or notice of infraction.

(F) CHIPPEWA CREE TRIBE OR "TRIBE". The Chippewa Cree Tribe of the Rocky Boy's Reservation, unless the context in which "Tribe" is used clearly indicates otherwise.

(G) ROCKY BOY'S RESERVATION: Means all lands of the Chippewa Cree Tribe of the Rocky Boy's Reservation and members thereof, falling within the purview of 18 U.S.C. Section 1151, Indian Country defined.

(H) IMMEDIATE FAMILY shall include the spouse, parents, grandparents, foster parents, children, foster children, grandchildren, foster grandchildren, brothers, sisters, aunts and uncles or the person or person's spouse, son-in-law, daughter-in-law, father-in-law, mother-in-law, sister in-law, brother-in-law, nieces and nephews.

**Section 1.8 Tribal Prosecutor**

(A) The Tribal Prosecutor shall be under the direction of the Legal Department for administrative functions such as but not limited to payroll, leave, early pay or other related functions;

(B) The Prosecutor shall have the power to issue complaints on the basis of his/her own investigation or on the basis of information furnished by enforcement officers or others;

(C) The Prosecutor may decline to prosecute an action where he/she shall find that there is not sufficient justification for the complaint;

(D) The Prosecutor shall aggressively prosecute all cases in tribal court to the extent possible and not refer cases to other jurisdictions if they can be prosecuted under tribal law;

(E) The Prosecutor shall represent the people of the Chippewa Cree Tribe in all criminal proceedings of the Tribe in Tribal Court in which the Tribe is a party, acting on their behalf and in their best interests; and

(I) The Prosecutor shall be empowered to establish policies and procedures not inconsistent with tribal law necessary to carry out the duties of office.

**Section 1.9 Tribe as a Party**

(A) In any case where the Tribe has a significant interest in being a party, the Tribe may petition to be joined as a party and shall join the case as a party.

(B) The Tribe shall be deemed to have a significant interest in the following cases:

- (1) the prosecution of violations of tribal law;
- (2) in the defense of tribal administrative decisions which are being appealed;
- (3) where the constitutionality of a Tribal Business Committee action is being challenged in Tribal Court;
- (4) any case involving a Chippewa Cree tribal child who is under the age of 18, who is an enrolled member, who is enrollable as a member or who is considered a tribal member by the Tribe and/or Community for the purposes of enforcing the Indian Child Welfare Act;

(C) In all other situations other than those listed in (B), when the Tribe petitions to be joined as a party, the Court shall decide whether the Tribe has a significant interest in the case.

(D) In any case where the Tribe may have an interest, regardless if the Tribe or its employees, officers, agencies are named as a party, the Tribal Court shall provide written notice of the case to the Tribe's Legal Department, Legal Counsel and Tribal Business Committee before the matter may be heard and before any action can be taken.

(1) For the purposes of this section, interest means an issue or question involving Tribal sovereignty or jurisdiction, the validity of Tribal law, or other actions of the Tribe, its employees, officers and agencies.

**Section 1.10 Sovereign Immunity**

(A) The Chippewa Cree Tribe, the Judicial Commission, tribal programs and all tribal entities are immune from suit except to the extent that the Business Committee expressly waives sovereign immunity and except as authorized by this section.

(B) Any official or employee of the Chippewa Cree Tribe, the Judicial Commission, tribal programs and all tribal entities acting within the scope of their duties shall be immune from suit. Officials and employees who act beyond the scope of their duties and authority shall be subject to suit in law and equity for declaratory judgment and prospective injunctive relief in the Chippewa Cree Tribal Court by persons subject to the jurisdiction of the Chippewa Cree Tribal Court for purposes of enforcing rights and duties established by the Constitution or other applicable laws. No money damages shall be available in suits under this section.

(C) Persons subject to the jurisdiction of the Chippewa Cree Tribe shall exhaust all remedies available to them under the Constitution, laws and policies of the Chippewa Cree Tribe before seeking redress of grievance against the Tribe in the courts of the United States under any law of the United States granting those persons such rights, unless specifically agreed to otherwise by the parties.

**Section 1.11 Rule-Making Power**

(A) The Chippewa Cree Tribal Court may from time to time prescribe rules and regulations governing the affairs of the Tribal Judicial Branch; and

(B) The Tribal Court and/or the Tribal Appellate Court can add to or amend the rules and regulations of the Tribal Judicial Branch upon approval or ratification by the Tribal Judicial Commission.

**CERTIFICATION**

I, the undersigned, as Secretary/Treasurer of the Business Committee of the Chippewa Cree Tribe certify that the Business Committee is composed of nine (9) members of whom seven (7) members constituting a quorum were present at a meeting thereof, duly and regularly called, noticed, convened and held this 19th day of August 2008, and the foregoing Resolution was duly adopted at said meeting by the affirmative vote of six (6) members for and zero (0) members against, and that the Resolution has not been rescinded or amended in any way.

Philip C. Hawk  
Chairman, Business Committee

James Meyer  
Secretary/Treasurer, Business Committee

