
**CHAPTER 2
TRIBAL COURT**

**TITLE 1
GWICHYAA ZHEE GWICH'IN TRIBAL COURT STRUCTURE**

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**SECTION 2.01.01
*Purpose***

The purpose of the Gwichyaa Zhee Gwich'in Tribal Court is to protect the health, safety and welfare of the Gwichyaa Zhee Gwich'in Tribal Members, and to help solve problems locally through the application of unwritten Gwichyaa Zhee Gwich'in cultural traditions and laws and written Tribal Ordinances. This Ordinance outlines the structure of the Gwichyaa Zhee Gwich'in Tribal Court.

**SECTION 2.01.02
*Authority***

Traditionally, laws and customs of the Gwichyaa Zhee Gwich'in Tribal Government were enforced without outside intervention. The governing body of the Gwichyaa Zhee Gwich'in Tribal Government has the authority to operate a Tribal Court under its inherent sovereignty as a Native Tribe and under Article 4 of the Gwichyaa Zhee Gwich'in Tribal Government, known as Native Village of Fort Yukon, IRA and under any power so delegated by Congress.

**SECTION 2.01.03
*Jurisdiction***

The jurisdiction of the Gwichyaa Zhee Gwich'in Tribal Court shall extend over all matters arising:

- A.** In the Gwichyaa Zhee Gwich'in Tribal Government's Traditional Territory; and/or
- B.** Over all tribal members within or outside Gwichyaa Zhee Territory; and/or

- C. Over all persons and entities who entered into consensual relations with the Tribe or Tribal Members or whose activities affect the political integrity or economic security of the Tribe or the health or welfare of the Tribe or tribal members; and/or
- D. Over any matters so delegated by Congress.
- E. Concurrent jurisdiction over matters subject to its jurisdiction where jurisdiction has been granted to state or federal courts under federal law.

SECTION 2.01.04 ***GZG Tribal Court Judges***

A. Structure

The Gwichyaa Zhee Gwich'in Tribal Members shall annually elect five (5) Judges to serve as the Gwichyaa Zhee Gwich'in Tribal Court. GZG Tribal judges shall serve for one (1) year terms.

To be eligible to serve as a judge of the Tribal Court, a person must:

- 1) Be the age of twenty-one years;
- 2) Never have been convicted or found guilty of a felony, or within one year, convicted of a misdemeanor involving moral turpitude;
- 3) Satisfy the Tribal Council that he or she is familiar with Tribal, federal and state laws applicable to the Tribe's land and members.
- 4) Be bonded in an amount determined by the Tribal Council.

B. Quorum

A quorum of no less than three Judges shall be necessary to hear a case.

C. Presiding Judge

The role of the Presiding Judge for the term of their office shall be to keep an orderly process in the Gwichyaa Zhee Gwich'in Tribal Court. The Presiding Judge shall be voted for by the membership at its regular annual election. All Judges elected shall be empowered to hear and decide all matters properly brought before the Court.

SECTION 2.01.05 ***Conflict of Interest***

Judges of the Gwichyaa Zhee Gwich'in Tribal Court shall remove themselves from hearing a case involving their parents, children, or spouses or significant others, and from any cases in which they have any significant, direct, personal, financial or other interest. Further, any party to any proceeding before the Tribal Court may, at any time, move to disqualify a judge that party believes is unable to fairly and impartially preside. A motion to disqualify a judge shall be accompanied by an affidavit stating the reasons supporting the motion. The Presiding Judge or a neutral judge if the Presiding Judge is challenged, shall grant or deny the motion upon notice and hearing.

SECTION 2.01.06

Decisions by Judges

A. Decisions by Judges

The Judges of the Gwichyaa Zhee Gwich'in Tribal Court shall reach decisions through consensus when possible and through a majority vote when consensus is not possible. Judges may refer cases to the GZG Tribal Council or to Justice Circles for decisions by consensus or majority vote. The judges shall administer justice and discharge all duties imposed by law and shall hear and decide cases and enter judgments of orders disposing of each case. The judges shall further make recommendation to the Tribal Council for the enactment or amendment of the Code to improve judicial procedures.

B. Advisors

The Judges may confer with Elders, Council members, or other appropriate consultants or advisors during hearings, and may call upon the Gwichyaa Zhee Gwich'in Elders to give written and/or oral answers to questions put to them, to be kept for future generations.

C. Visiting Judges

Additionally, the Court may use visiting judges from outside the Village when the Court determines that is in the best interest of the Tribe to do so. The Court may join with other tribal courts to form intertribal courts for specific cases involving persons who are members or eligible members from two or more tribes. The Court may use a Justice Circle format when it is appropriate to do so. The GZG Tribal Council may also establish specialty tribal courts such as a tribal youth court, in any configuration of the Gwichyaa Zhee Gwich'in Tribal Court System. Any such request shall be in writing and approved by the Tribal Council. Compensation of a visiting judge shall be determined by agreement between the judge and Tribal Council.

D. Legal Training

The Tribal Council may establish training requirements and programs for the Tribal Judges. Refusal of a judge to participate in any required training may be grounds for suspension or removal pursuant to Section 2 of this Title.

SECTION 2.01.07

GZG Tribal Court Clerk

The Gwichyaa Zhee Gwich'in Tribal Council shall hire the Tribal Court Clerk who shall be an employee of the GZG Tribe governed by the Tribe's personnel policies and procedures. The Court Clerk shall assist the Tribal Court, law enforcement officials and with any document incidental to the lawful functions of the Court. The Clerk shall attend and keep written records of all Court proceedings, administer oaths to witnesses, collect all fines paid, and pay out all fees required by this Code; and make an accounting thereof to the appropriate Tribal Official.

A. Court Administration

1. Records: The Tribal Court shall keep a record of all proceedings of the Court, including the title of each case, the names of the parties, the substance of the complaint, the names and addresses of all witnesses, the date of the hearing or trial, by whom conducted, the findings of the trier of fact and its verdict or judgment and any other facts or circumstances deemed important to the case. Subject to the availability of funds and equipment, the Court shall record by electronic, mechanical, or stenographic means all proceedings. Such recordings shall be preserved and kept by the Court Clerk.

2. Copies of the Law: The Tribal Court shall maintain a copy of the Tribal Ordinance of the Tribe and subject to the availability of funds, such other books and publications as are necessary for the proper administration of justice. All ordinances and regulations enacted or promulgated by the Tribal Council shall be appended to this Ordinance, which shall be available for inspection and copying.

SECTION 2.01.08

Oath of Confidentiality, Fairness, and Impartiality

Tribal Court Judges, the Tribal Court Clerk, and any other tribal employees or other officials who participate in a case shall take the following oath of confidentiality, fairness, and impartiality prior to all cases: "I _____, do solemnly swear and affirm that I will not discuss the proceedings of this case outside of the chambers of the Gwichyaa Zhee Gwich'in Tribal Courtroom. I shall maintain respect due the Gwichyaa Zhee Gwich'in Tribal Court by striving for fairness and impartiality in the Tribal Court proceedings that come before me."

Violators of this oath may be subject to removal under Section 9, below, of the Tribal Code, subject to termination from employment if they are tribal employees, or subject to contempt Tribal Court.

SECTION 2.01.09

Forfeiture, Removal, and Recall

A. Forfeiture

Any member of the Gwichyaa Zhee Gwich'in Tribal Court who submits a written resignation to the Gwichyaa Zhee Gwich'in Tribal Council, or is convicted of a felony of moral turpitude while in office shall automatically forfeit his or her office. The Tribal Council may decide to accept or reject the resignation. When sufficient notice has been provided for hearings, a Tribal Court Judge may be requested to forfeit their position if he or she is absent from three successive regular meetings of the Tribal Court without being excused by the Presiding Judge. A written warning must be given to the Tribal Court Judge before their seat is forfeited for missing hearings and an opportunity to become an active Tribal Court Justice again is provided.

B. Removal

A minimum of five (5) Gwichyaa Zhee Gwich'in Tribal Council Members must vote in favor of the removal. A Tribal Judge subject to removal shall first be given 10 days written notice of the charges against him or her and be given an opportunity to answer any such charges, before the GZG Tribal Council votes on the removal. If the person subject to removal fails to appear before the GZG Tribal Council, the GZG Tribal Council shall proceed with the vote as scheduled.

C. Recall

Any member of the Tribal Court found guilty by the Appellate Court of neglect of duty, gross misconduct, and offense involving dishonesty, or in serious violation of the Gwichyaa Zhee Gwich'in Ethics Standards for Tribal officials, may be removed from office by the Tribal Council. Any member of the Tribal Court may be recalled by the tribal voters through a petition and election process. A valid petition requesting such recall must be signed by at least thirty percent (30%) of the eligible voters. The Tribal Council shall call a special election to consider the recall of the named Tribal Court Justice within 60 days upon receiving the petition. If the majority of the total number of eligible voters votes in favor of the recall, the Official shall be removed. No Official may be subjected to recall proceedings more than once in the course of his or her term for the same incident. If the Tribal Council fails to call a special election to consider the recall, the Tribal Membership may hold a Tribal Membership Meeting to conduct such business, and a majority of the total number of eligible voters residing in Gwichyaa Zhee must vote in favor of the recall for it to take effect. It shall not be necessary to circulate a separate petition calling for the Tribal Membership Meeting however notice shall be posted at least 30 days prior to such a Meeting.

SECTION 2.01.10***Vacancies on the Tribal Court***

A. The Gwichyaa Zhee Gwich'in Tribal Council shall declare a GZG Tribal Court seat vacant when a seat is forfeited, or when a GZG Tribal Court Member is removed, recalled, or fails to qualify as a Tribal Member. Vacant court positions shall be filled by appointment made by a majority vote of the GZG Tribal Council Members. Persons so appointed shall serve the unexpired portion of the term they are filling.

B. In the event of a vacancy among the officers of the Tribal Court between elections, the Gwichyaa Zhee Gwich'in Tribal Council will appoint a new justice to fill the position until the next scheduled election.

SECTION 2.01.11
ACHIEVING THE COURT'S PURPOSE

- A. Whenever the tribal court has jurisdiction over a person and subject, it shall also have the power to use reasonable means to protect and carry out its jurisdiction. If the means to enforce its jurisdiction are not spelled out in these rules or in the tribal code, the court may use any appropriate procedure that is fair and consistent with the spirit of the tribal law which is being applied.
- B. The rules of procedure for the Gwichyaa Zhee Gwich'in Tribal Court shall be liberally interpreted and applied to achieve the following purposes: revealing the truth, treating all parties fairly and without prejudice, protecting individual rights guaranteed by the Indian Civil Rights Act and the Gwichyaa Zhee Gwich'in Tribal constitution, resolving disputes efficiently.
- C. As long as a party does not waive unknowingly a right or protection guaranteed by tribal law, the parties and the court may agree to depart from procedures established in these rules in order to save time and expense while achieving the purposes of these rules and the tribal laws.
- D. In a situation where the rules of the tribal court do not prescribe a procedure, the parties and the judge may agree on a procedure or the judge may determine the procedure which will be followed.
- E. Judges and the administrator of the tribal court have a duty to tell the Gwichyaa Zhee Gwich'in tribal Council which additional rules are needed to govern common procedural questions faced by the court.

SECTION 2.01.12
Justice Circles

The Justice Circles provides a structure that permits parents and their extended family the opportunity to actively participate in a decision-making and to take responsibility for developing a plan that will ensure safety, protection and permanency for their children.

A. The Gwichyaa Zhee Gwich'in Tribal Court may use a Justice Circle format for sentencing for any cases where the Circle format is appropriate. A quorum of at least three Judges shall decide who shall sit in such Circles and who shall sit as the Keeper of the Circle, provided that at least one Tribal Court Judge shall sit in the Circle.

B. Basic Rules of the Circle: The most basic rule of the Circle is that persons shall have respect for one another. Only one person shall speak at a time while the others respectfully listen. The Keeper of the Circle shall lead the Circle, but shall have no greater voice in the final consensus than anyone else in the Circle. Other rules may be established by the Circles themselves.

C. If a Circle fails to come to consensus on a case, the case shall be referred back to the regular GZG Tribal Court. Decisions of Circles: Decisions of Justice Circles shall be by consensus of the Circle and shall be written as written Orders of the GZG Tribal Court.

D. Follow-up on Circle Orders: Before a Circle adjourns a session it shall set a Justice Circle date to sit in the Circle again to examine the progress of a case if appropriate, or shall make a specific plan for how follow-up will be monitored

TITLE 2***GWICHYAA ZHEE GWICH'IN TRIBAL COURT PROCEDURES***

- SECTION 2.02.01: Purpose
- SECTION 2.02.02: Definitions
- SECTION 2.02.03: Sentences and Options for Orders
- SECTION 2.02.04: Bringing Cases to GZG Tribal Court
- SECTION 2.02.05: Petition to Use the GZG Tribal Court: General Procedures
- SECTION 2.02.06: Notice of Hearings
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- SECTION 2.02.09: Truthfulness
- SECTION 2.02.10: Testimony and Evidence
- SECTION 2.02.11: Orders, Request to Change Orders, and Proof of Compliance
- SECTION 2.02.12: Failure to Comply with an Order/Contempt of Court
- SECTION 2.02.13: Search Warrants
- SECTION 2.02.14: Juveniles
- SECTION 2.02.15: GZG Tribal Court Finances

SECTION 2.02.01***Purpose***

The purpose of the Gwichyaa Zhee Gwich'in Tribal Court Procedures is to provide a fair and equitable process for the operation of the Tribal Court that is consistent with the Gwichyaa Zhee Gwich'in Tribal Constitution and Ordinances, the requirements of the Indian Civil Rights Act, and compatible with the unwritten values and customs of the Gwichyaa Zhee Gwich'in Tribe.

SECTION 2.02.02***Definitions***

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

“Alcohol, Intoxicating Beverages, or Liquor” shall include all forms of alcohol which are manufactured, sold, and commonly used for human consumption.

"Banishment" means sending a person out of the Village for a period of time or permanently.

"Clerk" means the person who is designated the Clerk of the Tribal Court.

“Contempt” means misconduct in Tribal Court proceedings

“Controlled Substance” means, unless specifically excepted or listed elsewhere in this Chapter, any of the following substances whether produced directly or indirectly by

extraction from substances of vegetable origin, or independently by means of chemical synthesis. Or a combination of extraction and chemical synthesis:

- a) opium and opiate, and any of the following including salts, compounds, derivatives, or preparations of opium or opiate; heroin, black-tar heroin; codeine; morphine; methadone.
- b) any of the following hallucinogenic substances, and any of their salts, isomers, salts of isomers, compounds, derivatives or preparations: lysergic acid diethylamide (LSD); psilocybin and psilocin; the main compounds found in hallucinogenic mushrooms; peyote; provided that it shall not be unlawful for any member of the Church to transport peyote onto Tribal Lands or buy, sell, possess or use peyote in any form, in connection with the religious practices, sacraments, or services of the Native American Church; hashish and hashish oil.; mescaline; tetrahydrocannabinol, or any other synthetic substance made from extracts of marijuana, marijuana.
- c) cocaine or coca leaves and any salt, compound, derivative, mixture, isomer, ester, ether, or preparation of cocaine or coca leaves, including the substance commonly known as "crack", produce directly or indirectly by extraction from coca leaves.
- d) any material, compound, mixture, or preparation which contains any quantity of the following substances having stimulant effect on the nervous system: amphetamine, its salts, optical isomer, methamphetamine, its salts, isomers and salts of its isomers, 3-4 methylenedioxymetamphetamine (MDMA).
- e) any material, compound, mixture or preparation which contains any quantity of the following substances having depressant effect on the nervous system: amobarbital; pentobarbital; phencyclidine (PCP); secobarbital; Any substance which contains any quantity of a derivative of barbituric acid.
- f) Marijuana; which means the resins, oils, seeds, leaves, buds, and flowers of the plant of the genus Cannabis, whether growing or not.
- g) Opiate, which means a substance having an addiction-forming or addiction-sustaining capability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining capability.

"Defendant" means the person who a Complaint was filed against.

"Disobedience to Lawful Orders of Court-Contempt::

- a) any person who shall knowingly disobey any order, subpoena, warrant, or command duly issued, made or given by the Tribal Court or any officer thereof, or who shall knowingly fail to return to official detention following leave granted for a specific purpose or limited time, shall be deemed guilty of criminal contempt.
- b) For purpose of this section, "official detention" includes, but is not limited to, constraint incidental to release on bail.

"Drugs" means all those drugs and substances that are illegal to sell and possess under state and federal law.

"Intoxicated" means visible lack of body control and slurred speech.

"Parties" means the Plaintiff(s) and Defendant(s) listed in a Complaint and the Petitioner(s) and Respondent(s) listed in a Petition to use the Tribal Court.

“Perjury” any person who shall knowingly, in any judicial proceeding in the Tribal Court, falsely swear or interpret, or shall make a sworn statement or affidavit, knowing the same to be untrue, or shall induce or procure another person to do so, shall be deemed guilty of perjury.

“Petitioner” means the person, persons, or entity that files a petition to use the Court to address an issue.

"Plaintiff" means the person or party who files a Complaint or who requests a settlement of a dispute in the Gwichyaa Gwichin Tribal Court.

"Plea" means a statement of guilt, innocence, or no contest.

“Recklessly” means in disregard for the consequences of any act indifference to safety of life, limb or property.

"Respondent" means the person involved in an issue brought before the Court by a Petitioner or against whom a Complaint is filed.

"Restitution" means compensating a person who has been damaged or injured, by paying money or performing services to compensate for damage or injury. Restitution includes apologizing, payment of medical bills or other bills, repair of property, or replacement of property. The Tribal Court may also order people to do other things to provide restitution.

“Simulated Controlled Substance” means a substance that is not a controlled substance but which by appearance or representation would lead a reasonable person to believe that the substance is a controlled substance. Appearance includes but is not limited to color, shape, size, and markings of the dosage unit. Representation includes but is not limited to, representations or factors of the following nature:

- a) statements made by an owner or by anyone else in control of the substance concerning the nature of the substance or its use or effect
- b) statements made to the recipient that the substance maybe resold for inordinate profit; or
- c) whether the substance is packaged in a manner normally used for illicit controlled substances.

“Theft” any person who shall knowingly and intentionally obtain or exert unauthorized control over property of the owner; and:

- a) Has the purpose of depriving the owner of the property; or
- b) Knowingly uses, conceals or abandons the property in such manner as to deprive the owner of the property, shall be deemed guilty of theft.

“Threat” means a menace, however communicated, to knowingly and intentionally:

- a) inflict physical harm on the person threatened or by any other person or on property; or
- b) subject any person to physical confinement or restraint, or
- c) commit any criminal offense, or
- d) accuse any person of criminal offense; or
- e) expose any person to hatred, contempt, or ridicule; or
- f) harm the credit or business reputation of any person; or
- g) reveal any information sought to be concealed by the person threatened.

“Vehicle” means any motorized device that carries persons or property on land.

"Violation" means failing to comply with the rules of a regulated activity and involves conduct inappropriate to an orderly society, but is not a criminal offense, punishable by imprisonment. A person charged with a violation is not entitled to a trial by jury or a right to a public defender.

“Weapon” means any firearm, knife, explosives, metal knuckles, clubs, axe, or any other instrument that are dangerous when used against or to the disadvantage of any person or persons.

“Willfully” applied to the intent with which an act is done or admitted, means demonstrating a purpose or willingness to commit the act or make the omission referred to. It does not require any intent to violate law, or to injure another, or to acquire any advantage.

SECTION 2.02.03

Sentences and Options for Orders

The Tribal Court may issue individualized Orders concerning child custody arrangements and other domestic relations issues. All Hearings before the Court shall be heard without a jury. All rules and procedures applicable to the conduct of the hearings except those specifically applicable only to juries shall apply to the Tribal Court hearings.

Unless the Gwichyaa Zhee Gwich'in Tribal Code sets a specific penalty for a particular offense, the Gwichyaa Zhee Gwich'in Tribal Court Judges, either by themselves or through a Justice Circle format, shall determine the specific Orders for a particular case from the following options:

- A. Sentences:** A defendant who has pleaded guilty to an offense or who has been convicted by the Court shall be sentenced or fined or combination of sentence and fine not to exceed the limitations set forth in this Code. If a sentence is not provided as part of a specific offense or other provision, the sentence shall not exceed one year in jail and/or a \$5,000.00 fine.
- B. Reduction of Sentence for Labor:** Any person who is incarcerated shall have the option, with the permission of the Court, to perform labor for the Tribe to reduce the time of incarceration. The nature of the labor shall be disclosed to the Court prior to its determination. Two (2) days for each one (1) day of labor performed shall be

subtracted from the sentence. Labor shall be performed under the supervision of an authorized agent of the Tribal Court.

- C. Assistance from State or Federal Government:** The Tribal Court may seek assistance from employees of the state and federal agencies, particularly those who are engaged in Social Services, Health and Education work, in the determination of proper treatment of offenders.
- D. Fines:** The fines that the Tribal Court may order for violation of a Tribal Ordinance shall not exceed \$5,000 or equivalent work sentence. The Tribal Court shall order equal fines for equal violations. Fines shall increase for successive violations of the same ordinance by the same person. The Tribal Court may garnish wages, permanent fund or dividend checks, general assistance, or confiscate property in the case of unpaid fines.
- E. Community Work:** Work sentences may include, but are not limited to, cutting wood for needy people or the community center, hauling water for needy people or the community center, working in the school, building maintenance or repair, hauling and pumping fuel, and cleaning up trash in the Village of Gwichyaa Zhee. The work sentences shall benefit the needy, the village residents as a whole, the elders, the victim of an offense, or the youth. Tribal Court Judges shall not order work sentences that only benefit themselves personally or other Tribal Government Officials. Work sentences shall not displace persons employed in the Village or employment opportunities. Work sentences shall be completed within 30 days unless otherwise directed by the Tribal Court.
- a. Community work shall contribute \$10.00 per hour towards fines ordered by the Gwichyaa Zhee Gwich'in Tribal Court. Persons have the option of work sentences instead of paying a fine only if the Tribal Court specifically permits it. The Gwichyaa Zhee Gwich'in Tribal Court shall have the option of working with other Communities if a person moves to such Communities from Gwichyaa Zhee prior to completing a work sentence.
- F. Banishment:** An Order of temporary banishment shall only be used to protect the Village and/or Village residents from harm. Before banishments may be ordered, the person shall be given a Citation and a Notice to Appear in Tribal Court. A hearing shall be held that provides the person an opportunity to speak either in person or telephonically. The Gwichyaa Zhee Gwich'in Tribal Court shall notify the surrounding Villages when banishment orders are issued by the Tribal Court.
- G. Drug and Alcohol Treatment and Other Counseling:** The Tribal Court has the authority to order an assessment for drug and alcohol treatment and may require that the recommendations of the assessment be met; and other personal or family counseling as a sentence or as part of a sentence. The Tribal Court shall consider the cost to the person and possible waiting periods for getting in to treatment in ordering

such treatment. The Tribal Government shall only pay such costs if funding is available.

- H. Restitution:** The Tribal Court has the authority to order the defendant to pay restitution to his or her victims. Such payment shall go through the Gwichyaa Zhee Gwich'in Tribal Court Clerk.
- I. Counseling by Tribal Judges and Elders:** The Tribal Judges of the Gwichyaa Gwich'in Tribal Court may counsel persons brought before it in a helpful spirit. The Tribal Court may bring Elders into the Courtroom to counsel people.
- J. Traditional Activities:** The Gwichyaa Zhee Gwich'in Tribal Court may order a person found in violation of an ordinance to participate in seasonally appropriate traditional activities such as fish camps, trapping, hunting, spirit camps, and other tribally sponsored or approved traditional activities.
- K. Character and Duration of Sentences.** In determining the character and duration of the sentence, the Court shall take into consideration the previous conduct of the defendant, the circumstances under which the offense was committed, whether the offense was malicious or willful, and whether the offender voluntarily has attempted to make restitution. The Court shall give consideration to the extent of the defendant's resources and the needs of his/her dependents. The Court shall consider all of the circumstances of each case to determine whether a lesser penalty of the maximum is to be imposed.

SECTION 2.02.04

Bringing Cases to Tribal Court

- A.** All cases brought before the Gwichyaa Zhee Gwich'in Tribal Court shall begin in one of two general procedure: by filing a Complaint or Petition to Use the Tribal Court.
- 1.** Beginning a Case: A case involving a civil violation of Gwichyaa Zhee Gwich'in Tribal Ordinances is started by filing a Complaint with the Tribal Court Clerk.
 - 2.** Persons authorized to file Complaints with the Tribal Court: Persons authorized to file Complaints are the Village Public Safety Officer (VPSO), Village Police Officer (VPO), persons specifically designated by the Tribal Council, persons who witnessed a violation, and Council Members.

Serving the Complaint on the Respondent: Either before, or as soon as possible, after the Complaint is filed with the Clerk, a copy of the Complaint shall be given or mailed by the VPSO or by another designated person, to the person who is being charged with the violation. If the Complaint is personally delivered, a proof of service shall be filed with the Court. If the Complaint is mailed, it shall be done by certified mail and a proof of service filed.

Terminology for Parties involving a Complaint: The person who is being charged with a violation of an ordinance shall be called the "Respondent." The Tribal Court shall be the "Complainant."

B. Hearings when a case involves a Civil Violation: A hearing shall be held within 30 days after a Respondent has been served with a Complaint and notified of a hearing. At this hearing, the Presiding Judge shall open the hearing and shall read the Complaint into the record and shall make sure the Respondent understands the Complaint. The Respondent shall be asked how he or she pleads: guilty, not guilty, or no contest. The Respondent shall say what his or her plea is. If the Respondent pleads guilty or no contest, the Court may either sentence the person for a civil violation, or set a date for sentencing. 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. If the Respondent is present but chooses not say anything, the Court shall enter a plea of not guilty.

At the hearing, the law enforcement official or other spokesperson for the Complainant shall make a statement to the Court, and shall present any other evidence or witnesses to the Court. The Respondent may make a statement to the Court and may present other witnesses and evidence to the Court. Each party shall be entitled to question the other party's witnesses. Judges may question all persons in the Courtroom.

SECTION 2.02.05

Petition to Use the Tribal Court: General Procedures

A. Beginning a Case: All cases other than those involving a civil violation of tribal ordinances shall be started by filing a Petition to use the Tribal Court. The Petitioner shall briefly state the reason why he or she wants to use the Tribal Court in the Petition.

B. Terminology for Parties Involving a Petition: The party filing a Petition shall be called the "Petitioner." If the Petitioner wants the Court to resolve a dispute or problem involving some other entity or person, that entity or person shall be called the "Respondent."

C. Notice to Respondents: A copy of the Petition shall be personally given or mailed to each Respondent by the Tribal Court Clerk or by some other person designated by the Court. A proof of service shall be filed with the Court or otherwise noted in the Court records.

D. Hearings When a Case Involves A Petition: A hearing shall be set by the Court when a Petitioner requests the Tribal Court to settle a dispute or to perform an undisputed activity such as a marriage or uncontested adoption. The hearing shall be held no more than 30 days after a Respondent is served with a Petition, unless the Court decides there is good reason to have a hearing at a later time. At the hearing, the Presiding Judge shall read the Petition into the court record. Both Petitioners and Respondents may speak and

may present witness and evidence. Each party shall be permitted to question each other and all witnesses. Judges may question anyone in the Courtroom.

E. Proof of Service: Written proof that a Defendant or Respondent was given a Complaint or Petition, and a Notice to Appear in Tribal Court is called "Proof of Service". Proof that a Defendant or Respondent was given a Complaint or Petition, and a Notice to Appear in Tribal Court shall be made by filing of a Statement of Mailing with a return receipt attached, a Statement of Personal Service, or if allowed by the Tribal Court after a party requests it, an Affidavit of Publication. Costs involved in serving these papers shall be paid by a Petitioner in cases beginning with a Petition to use the Tribal Court, and by the Gwichyaa Zhee Gwich'in Tribal Government in cases beginning with a Complaint.

F. Representation of the Tribal and Council: The Tribal Council, as the representative of the Tribe, may use a tribal official, the tribal attorney, or other qualified person approved to practice before the Trial Court to represent it in any proceeding to which it is a party.

SECTION 2.02.06

Notice of Hearings

A. Notice for Regular Hearings: Parties shall be given reasonable notice for all regular Gwichyaa Zhee Gwich'in Tribal Court hearings. The Clerk, or some other person specifically designated by the Court, shall personally serve or mail Notice to all parties before hearings. A proof of service shall be filed or noted in the Court records. The Notice shall be delivered at least 10 days or mailed at least 14 days before a hearing except as otherwise provided for in this Code. If a hearing is rescheduled, notification may be made telephonically and noted in the case file. Each party shall be responsible for serving Notice to their own witnesses.

B. Notice for Emergency Hearings: Notice for emergency hearings shall be done as best as possible under the specific circumstances.

C. 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 change.

SECTION 2.02.07

Procedures for Hearings

A. Notice of Hearings: The Tribal Court Clerk, or other person designated by the Tribal Court, shall personally serve or mail Notice to all parties before each hearing. A proof of service shall be filed with the Tribal Court Clerk. The Notice shall be delivered at least 10 days or mailed at least 14 days before a hearing except as otherwise provided for in this Code. Each party shall be responsible for serving their own witnesses with a Notice of hearings.

B. Oath: All persons testifying in the Gwichyaa Zhee Gwich'in Tribal Court shall first swear that they will tell the truth, the whole truth, and nothing but the truth. If the Tribal Court has proof that a person violated this oath, the Tribal Court may hold the person in Contempt of Court.

C. Hearings when a Case Involves a Complaint: In cases where a Complaint has been filed against a Defendant charging that he or she violated a tribal ordinance, a hearing shall be held within 60 days after Notice has been given to the Defendant. At this hearing, the Presiding Tribal Judge shall open the hearing and shall read the Complaint into the record. The Presiding Tribal Judge shall read the pleas to the Defendant in Court on the record, and shall make sure the Defendant understands the pleas. If the Defendant needs an interpreter to understand the proceeding, the Tribal Court shall provide one. The Defendant shall say what his or her plea is. If the Defendant pleads guilty or no contest, the Tribal Court may either sentence the person or set a date for sentencing. If the Defendant pleads not guilty, the hearing shall be held at this time unless the Tribal Court finds good reason to delay.

At the hearing, the law enforcement official or other spokesperson for the Plaintiff shall make a statement to the Tribal Court, and shall present any other evidence or witnesses to the Tribal Court. The Defendant may make a statement to the Court and may present other witnesses and evidence to the Tribal Court. Each party shall be entitled to question the other party's witnesses.

D. Hearings in Cases Involving a Petition to Use the Tribal Court: A hearing shall be set by the Tribal Court when a Petitioner requests the Tribal Court to settle a dispute or to perform an undisputed activity such as a marriage or uncontested adoption, through filing a Petition to use the Tribal Court. The hearing shall be held no more than 60 days after the Respondent was served with the Petition, unless the Tribal Court determines there is a good reason to have a hearing at a later time. At the hearing, the Petitioner shall make a statement to the Tribal Court saying what he or she wants the Tribal Court to do. The Petitioner may present witnesses on his or her behalf and may present other evidence to the Tribal Court. The Respondent may make a statement to the Tribal Court saying what he or she wants the Tribal Court to do. The Respondent may present witnesses on his or her behalf and may present other evidence to the Tribal Court. Each party shall be permitted to question the other party's witnesses and shall be responsible for the expenses of their own witnesses. Judges may question all witnesses.

E. Changing the Time of a Hearing: If the Tribal Court changes the time of a hearing for any reason, the involved parties shall be given reasonable notice of the change.

F. Failure to Show for a Hearing: If a Defendant has been served with a Complaint and has been notified about the hearing but fails to show up at the hearing without a compelling reason, the Gwichyaa Gwich'in Tribal Court may proceed to hold the hearing and make a decision in the absence of the person, or the Tribal Court may set another hearing date.

G. Recesses: The Gwichyaa Zhee Gwich'in Tribal Court may recess and reconvene during hearings.

H. Records of Hearings: The Tribal Court shall keep a record of all cases consisting of a tape recording of all hearings, a copy of all documents filed with the Tribal Court, and all Orders entered by the Tribal Court.

I. Decision-Making: After both sides have presented their cases, the Judges may ask everyone to leave while the Tribal Court considers the case and evidence presented. If the Defendant pleads guilty, no contest, or is found guilty of a violation, the Tribal Court may either sentence the person immediately or set another hearing for a later date to sentence the person. The decision shall either be a consensus or by a majority vote. The Tribal Court shall issue a written Order of its decision.

J. Justice Circles: Instead of the Tribal Judges issuing a sentence, the Tribal Court may choose to design a Justice Circle, and send a case to the Circle. The Presiding Tribal Judge or that appointed shall be the Keeper of the Circle. If the Circle fails to come up with a consensus plan for a case, the case shall be referred back to the Tribal Judges of the Gwichyaa Zhee Gwich'in Tribal Court for sentencing.

K. Confidentially: All cases and hearings shall be confidential. Hearings involving adults may be open to the public if the parties and the Tribal Court Judges agree. Unless a case is appealed to the Gwichyaa Zhee Gwich'in Appellate Court, only the Tribal Court Judges and Tribal Court Clerk shall have access to the Tribal Court records without further Order of the Tribal Court. The Gwichyaa Zhee Gwich'in Appellate Court shall have access to all records involving cases that are appealed to it.

SECTION 2.02.08

Emergency Hearings

Emergency Hearings shall involve matters where harm or damage to a person or property may likely occur if the Court had to wait. In cases of emergencies, the Court may hold a hearing as soon as reasonable proof of imminent harm is provided to the Court. Notice of emergency hearings shall be given to parties who are reasonably available to receive Notice, but the Court may proceed without Notice if necessary. Orders issued during emergency hearings shall be written, and shall be of limited duration of up to no more than 30 days unless otherwise stated in the tribal code, or, shall stand only until a regular hearing is held within that 30 days and reasonable Notice has been given.

SECTION 2.02.09

Truthfulness at Hearings

All persons testifying in the Tribal Court shall commit to telling the truth. If the Court has reasonable proof that a person lies during a Court hearing, the Court may hold the person in Contempt of Court under Section 17 of this Ordinance.

SECTION 2.02.10***Testimony and Evidence***

A. Testimony: Witnesses may testify in person, or, with the Tribal Court's permission, by telephone. The Gwichyaa Zhee Gwich'in Tribal Court may summons witnesses to testify at the hearings by issuing a Summons to Testify. Witnesses may testify in person or telephonically. Any travel or telephone costs associated with the testimony of witnesses summoned by the Tribal Court shall be paid by the Gwichyaa Zhee Gwich'in Tribal Government.

B. Evidence by Subpoena: The Gwichyaa Zhee Gwich'in Tribal Court may Order evidence to be brought before the Tribal Court by issuing a Subpoena.

C. Affidavits: The Gwichyaa Zhee Gwich'in Tribal Court may accept sworn Affidavits as evidence in cases if the witness is not available to testify.

SECTION 2.02.11***Orders, Request to Change Orders, and Proof of Compliance***

A. Written Orders: All official judgments and determinations made by the Gwichyaa Zhee Gwich'in Tribal Court concerning cases shall be written on Order forms unless otherwise specified by Ordinance. All Orders shall be filed in the case records. The Tribal Court 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.

B. Time frame for Complying with Orders: For cases involving a Complaint, all sentences shall be accomplished within sixty (60) days after the Defendant has been notified of the Order unless the Tribal Court provides otherwise. For cases involving a Petition to use the Tribal Court, the Order shall specify the time frame in which actions shall occur.

C. Default Orders: If a party fails to appear at a hearing after being properly notified of the hearing, the Tribal Court may decide the case and issue an Order in his or her absence, after reviewing the Complaint or Petition and hearing from witnesses and/or examining other evidence in the case.

D. Request to Change Order: After an Order has been given, the person receiving the Order may request a change in the Order by filing a Request to Change Order form with the Tribal Court. The request shall state the reason the person believes a change should be made. The requesting person shall present new evidence to the Tribal Court to support the request. The Tribal Court may deny the request or set a hearing date.

E. Proof of Compliance with Orders: Records of proof of compliance with Orders of the Tribal Court shall be kept by the Tribal Court Clerk in the Tribal Court files. If a party is ordered to do something, proof that the action has been taken shall be supplied to the Tribal Court Clerk and certified by the Tribal Court Clerk within 14 days of completion of the act

unless otherwise specified by Tribal Court Order. Payment of a fine to the Tribal Court Clerk and a recording of the payment shall be proof in itself of payment. Restitution Ordered to another party shall be made through the Tribal Court Clerk of the Tribal Court and proof that the restitution has been completed shall be certified by the Tribal Court Clerk within 14 days of completion of the restitution. The Tribal Court Clerk shall report any failures to comply with Tribal Court Orders to the Tribal Court. Failure to comply with an Order of the Tribal Court shall be considered contempt of Court as described in Section 5 of this Chapter.

SECTION 2.02.12

Failure to Comply with an Order/Contempt of Court

Persons who fail to fully comply with an Order of the Gwichyaa Zhee Gwich'in Tribal Court, or who fail to pay a fine or otherwise carry out or comply with a sentence imposed on them by the Tribal Court shall be guilty of contempt of court. The Tribal Court shall apply an appropriate remedy in these situations. Remedies may include, but are not limited to, fines and/or confiscation of personal property. If the Tribal Court confiscates property, it shall remain confiscated and under the care of the Tribal Council until the person complies with the Tribal Court Order to the satisfaction of the Gwichyaa Zhee Gwich'in Tribal Court. If the person does not comply with the Tribal Court Order within a reasonable length of time, the Gwichyaa Zhee Gwich'in Tribal Court will transfer title of the confiscated property to the Tribal Government after providing notice of the proposed transfer of title to the owner.

SECTION 2.02.13

Search Warrants

A. Application for Search Warrants: In order to do searches of people, houses, cars, or other property, the Public Safety Officer or other person designated by the Tribal Court to conduct searches, shall fill out an Application for Search Warrant. The application shall state why he or she believes a search is needed and must state the name of the person who witnessed or have knowledge an illegal activity or item if it is the basis for reason to believe that a search is needed. The person applying for the search warrant shall swear that the statements in the application are true to the best of their knowledge.

B. Issuing a Search Warrant: Search Warrants may be issued by any two (2) of the Gwichyaa Zhee Gwich'in Tribal Court Judges. The Tribal Judges must be convinced that the person applying for the Search Warrant has "probable cause," meaning the existence of circumstances which would lead a reasonable person to believe that an offense was or is being committed. Suspicion unsupported by any facts is not sufficient. Search Warrants shall specifically state where the search may be done, what items are to be looked for, when the warrant expires, and whether or not the search may take place at night.

SECTION 2.02.14***Juveniles***

A. Application of Tribal Laws to Juveniles: The law and order laws of the Tribal Government and Tribal Court procedures generally apply to juveniles the same as they do to adults, provided that specific ordinances may apply solely to juveniles.

B. Attending Hearings by Parents of Guardians: In cases involving minor children, written notification shall be given to the child of an upcoming hearing and written notification also given to parents or guardians. The Gwichyaa Zhee Gwich'in Tribal Court may request a parent or guardian to be present at their child's hearing or the Tribal Court may request parents or guardians to leave a hearing.

The Tribal Court shall appoint a spokesperson for a minor child.

1. Tribal Custody of a Juvenile:
2. Tribal Custody

The Tribal Court Clerk will protect the child in custody and will hold the education, finances, health, safety, and all other aspects of the child's well-being, as custodial rights of the Tribal Court.

C. Tribal Court Children's Trust: The Tribal Court shall open a savings account for every child taken into Tribal Court Custody. All earnings accrued by the child shall be placed in the individual's fund, as well as all dividends, or inherited funds. The account will be held by the Tribal Court until the child's 18th birthday, with no funds being withdrawn from the account for any reason. Any real estate inherited by the child during the time of Tribal Custody will also be thus protected by the Tribal Court until the Child's 18th birthday. An inventory of the child's real estate will be conducted and any possible real estate held by the child's family that can possibly be inherited will be protected and restricted from sale or confiscation by any party.

SECTION 2.02.15***Tribal Court Finances***

A. Accounting System and Bank Account: The Tribal Council shall establish an accounting system and a separate bank account for the Tribal Court.

1. Deposits and Disposition of Fines: All fines and court costs collected shall be used to pay Tribal Court expenses. Such expenses shall include the payment of fees provide for in this Ordinance towards operations of court and payment to officers of the court. The fines assessed shall be paid to the Fiscal Officer of the Tribal Council and credited to the account of the Court.

B. Court Costs: The Gwichyaa Zhee Gwich'in Tribal Court may charge fees to use the Tribal Court; and shall be made known to Petitioners before disputes and other matters

come before the Court. Such fees shall be equal for equal types of cases, and shall be made know to Petitioners before disputes and other matters are heard. The Tribal Clerk shall keep a written list of standard Tribal Court Fees.

C. Fines or fees shall be paid in cash, or by check or money order. Checks or money orders shall be made out to the Gwichyaa Zhee Gwich'in Tribal Court. Costs involved in serving notices shall be paid by a Petitioner in cases beginning with a Petition to use the Tribal Court.

D. Community Service will be documented and enforced.

TITLE 3***GWICHYAA ZHEE GWICH'IN COURT OF APPEALS***

SECTION 2.03.01: Purpose

SECTION 2.03.02: Structure

SECTION 2.03.03: Clerk of the Gwichyaa Zhee Gwich'in Court of Appeals

SECTION 2.03.04: Beginning an Appeal

SECTION 2.03.05: Notice of Appeal

SECTION 2.03.06: Appellate Court Procedure

SECTION 2.03.01***Purpose***

The Gwichyaa Zhee Gwich'in Court of Appeals is established to assure a fair judicial process in the Gwichyaa Zhee Gwich'in Tribal Government system. The purpose of the Gwichyaa Zhee Gwich'in Court of Appeals is not to re-hear cases, but to review cases that are appealed for possible inconsistent application of tribal law and/or violations of fundamental fairness. The Gwichyaa Zhee Gwich'in Court of Appeals shall only take a case after reviewing records on the case from the Gwichyaa Zhee Gwich'in Tribal Court, reviewing the Appeal and making a preliminary determination that there is sufficient evidence that there may have been an inconsistent application of Tribal Law or a violation of fundamental fairness.

SECTION 2.03.02***Structure***

All seven Gwichyaa Zhee Gwich'in Tribal Council members shall serve as the Gwichyaa Zhee Gwich'in Court of Appeals. When a Tribal Council Member is involved with the Party or has a conflict of interest as described in Chapter 2, Title 1, Section 5 of this Code shall not be involved in the appeal process. Decisions shall be made by unanimous consent if possible or by an affirmative vote of at least five.

SECTION 2.03.03***Clerk of the Gwichyaa Zhee Gwich'in Court of Appeals***

The Tribal Court Clerk of the Gwichyaa Zhee Gwich'in Court of Appeals shall be the same person as the Gwichyaa Zhee Gwich'in Tribal Court Clerk.

SECTION 2.03.04***Beginning an Appeal***

Filing an Appeal: Person who wish to appeal a case may file an Appeal with the Tribal Court Clerk of the Gwichyaa Zhee Gwich'in Court of Appeals within 30 days after receiving an Order from the Gwichyaa Zhee Gwich'in Tribal Court. Appeals filed after 30 days from the receipt of an Order shall not be considered. A person who is appealing a case shall be called the "Appellant".

SECTION 2.03.05***Notice of Appeal***

The Appeal shall state the name and address of the person who is appealing the case, the name of the case, and case number. A copy of the written Order the Appellant is appealing shall be attached to the Appeal. The Appeal shall contain a statement of why the Appellant believes that the case deserves a hearing by the Gwichyaa Zhee Gwich'in Court of Appeals.

SECTION 2.03.06***Appellate Court Procedure***

A. Beginning a Case: The Tribal Court Clerk shall notify the Gwichyaa Zhee Gwich'in Tribal Court that an Appeal has been filed. The Tribal Court Clerk shall make copies of the Gwichyaa Zhee Gwich'in Tribal Court record of the case and the Appeal for the Tribal Court of Appeals. The Tribal Court Clerk shall set a date for the Tribal Court of Appeals to review these materials, and to determine if there is sufficient evidence that tribal law may have been inconsistently applied and/or if there may have been a violation of fundamental fairness. If the Gwichyaa Zhee Gwich'in Court of Appeals decides that there is not sufficient evidence, the decision of the Gwichyaa Zhee Gwich'in Tribal Court stands and no hearing is scheduled.

B. Setting a Hearing Date: Once the Gwichyaa Zhee Gwich'in Court of Appeals has completed a review of the case records and decided that it will hear a case, the Tribal Court Clerk shall set a hearing date and shall give all parties to the case Notice of the hearing. The Notice shall be personally delivered at least 10 days or mailed at least 14 days prior to a hearing, and proof of service filed in the case records. At the hearing, all parties may discuss the issues written in the Appeal concerning whether or not the Gwichyaa Zhee Gwich'in Tribal Court made a mistake in applying tribal law, or a mistake concerning fundamental fairness. The parties may present new evidence in the appeal only if the Appellate Court permits it.

C. Decisions of the Appellate Court: After the Gwichyaa Zhee Gwich'in Appellate Court hears a case, the Presiding Tribal Judge or Tribal Court Clerk shall fill out a Decision of Appeal that shall be filed with the Appeals Court and with the Tribal Court. The Tribal Court Clerk shall see that all parties in a case receive a copy of the Decision of Appeal, and file a proof of service in the case records.

Upon concluding a hearing or hearings on a case, the Appellate Court shall take one of the following actions:

1. Uphold the procedures and decision of the Gwichyaa Zhee Gwich'in Tribal Court;
2. Order the Gwichyaa Zhee Gwich'in Tribal Court to re-hear the case in a way that is consistent with specific instructions written in the Decision of Appeal;
3. Dismiss the case in the most serious of circumstances.

TITLE 4
LAW AND ORDER
(last Revised 11-20-97)

- SECTION 2.04.01: General Provisions
- SECTION 2.04.02: Amendment of Law and Order
- SECTION 2.04.03: Commencement of Civil Actions
- SECTION 2.04.04: Applicable Law in Civil Actions
- SECTION 2.04.05: Regulatory Infractions
- SECTION 2.04.06: Infractions
- SECTION 2.04.07: Recognition and Enforcement of Foreign Judgments

SECTION 2.04.01
General Provisions

The purpose of this Title is to provide a safe and peaceful environment for the people of Gwichyaa Zhee. It is the intention that anyone disturbing the peace and safety of the Gwichyaa Zhee Community be brought to the Tribal Court so long as the circumstance is under tribal jurisdiction. This Title shall be interpreted as civil in nature.

A. Constitutional Authority

This Code is adopted pursuant to the authority vested in the Tribal Council of the Gwichyaa Zhee Gwich'in Tribe, known as Native Village of Fort Yukon, IRA, under Article IV, Section 1-4, of the Constitution of the Native Village of Fort Yukon, IRA as duly adopted and ratified on January 02, 1939.

B. Sovereign Immunity

Except as required by federal law, the Constitution of the Native Village of Fort Yukon IRA, currently known as, Gwichyaa Zhee Gwich'in Tribe or by Ordinance, Resolutions or Agreements adopted or approved by the Tribal Council which contain express waivers, the Gwichyaa Zhee Gwich'in Tribe and their officers and employees shall be immune from any civil action or any liability arising from the performance of official duties. Nothing in any provision of the Code is intended or may be construed to waive such immunity.

C. Jurisdiction

The Tribal Court shall have jurisdiction of all civil suits wherein the defendant is a member of the Gwichyaa Zhee Gwich'in Tribe, a person who voluntarily comes on or lives within the jurisdiction of the Court or a person, business, corporation, association, or any other entity that does business with the Gwichyaa Zhee Gwich'in Tribal Government or its members and the cause of action arose within the jurisdiction of the Gwichyaa Zhee Gwich'in Territory, or the parties consent to Tribal Court Jurisdiction.

In addition to jurisdiction to hear any other action under this Ordinance, the Court shall have jurisdiction to hear any action brought by the Tribal Council of the Gwichyaa Zhee Gwich'in Tribe to collect any outstanding accounts, monies, or debts owed to it or the Tribe from any tribal member or any other person, corporation, partnership, or business entity under the lawful promise to pay made to the Tribe or Tribal Council on Gwichyaa Zhee Gwich'in Territory.

SECTION 2.04.02
Amendment of Law and Order

This Code may be amended in the manner provided for the adoption of ordinances. Amendments and additions to this Code shall become a part of this Ordinance for all purposes and shall be codified and incorporated herein in a manner consistent with the numbering and organization of the Code.

Adoption by Reference Not a Waiver of Sovereign Power

The adoption of any law, code or other document by reference into this Law and Order Code does not constitute a waiver or cession of any sovereign power of the Gwichyaa Zhee Gwich'in Tribal Government, or diminish such sovereign power, but shall result in the law, code and other document thus adopted becoming the Law of the Gwichyaa Zhee Gwich'in Tribe.

SECTION 2.04.03
Commencement of Civil Actions

A. Commencement

Civil actions may be commenced by the filing of a complaint with the Tribal Clerk, stating the names of the plaintiff and the defendant, accompanied by a simple statement of the facts giving rise to the cause for which relief is requested and the nature of such relief.

B. Signature of Complaint

Complaints shall bear the signature of the plaintiff.

C. Limitation of Filing

An action must be commenced within a period of three (3) years from the date of the events giving rise to the cause of action.

D. Tolling the Limitation

The three (3) year limitation on the commencement of civil actions shall not apply during the time a person entitled to bring a civil action under this Ordinance is incapacitated or under disability to bring suit by reason of being a minor under the age of eighteen (18) years or by reason of being mentally incompetent. Provided, however, that if the action is brought after the three year limitation has expired, a written statement of reasonable cause must be given why the person's parent, guardian or other available representative did not bring the action in behalf of the disabled or incapacitated person with the three year limitation. The statement shall be filed with the complaint and if attacked by the defendant or other party to the suit the Tribal Court shall consider the reasonable cause given and in its discretion decide whether it is sufficient to justify the tolling of the statute of limitations. The decision of the Presiding Judge in this respect shall be subject to appeal.

E. Filing Fee

The plaintiff shall pay a filing fee. All or part of the fee may be waived by the Court upon a showing of inability to pay.

F. Summons

Upon the filing of a complaint, the Court Clerk shall issue a summons requiring the defendant to file and serve a written answer to the complaint with the Court and the plaintiff not more than twenty (20) days after service of summons and complaint upon the defendant.

1. Service of Summons and Complaint

A summons with a copy of the Complaint attached shall be served upon the defendant by personal service, service by mail with return receipt, or publication or public notices located within at least two known places near the last known address. All answers and subsequent pleadings to be served by mail or other similar services.

2. Service of Summons and Complaint upon Minors, Wards, and Corporations

If the suit is against a minor under the age of 14 years, service may be made on the minor's immediate family members or person having custody of the minor, or with a person eighteen years of age or older with whom the minor resides.

G. Proof of Service

An affidavit of personal service shall be returned to the Court Clerk for filing. The Returned Receipt from service made by mail shall be part of the record. When service is made by publication, affidavits shall be obtained from the Court records from the individual posting the summons and complaint and from the newspaper publishing the notice.

H. Guardian Ad Litem for Minor or Incompetent

When a minor or incompetent is a party, he shall appear by guardian. If he/she has not guardian or his/her guardian is not proper or unable to act as such, the Court shall appoint one as follows:

a) if the party is a minor without a proper guardian, the Court shall appoint a guardian upon the minor's request if the minor is 14 years of age or older or upon the application of a relative or friend if the minor is under the age of 14 years of age.

b) if the party is incompetent other than by age and has no power guardian, the Court shall appoint one upon application of a friend or a relative or upon the Court's own motion.

SECTION 2.04.04

Applicable Law in Civil Actions

A. Applicable Law in Civil Actions

The Tribal Court shall apply the laws of the Gwichyaa Zhee Gwich'in Tribe, including its traditional laws and customs, unless such law has been specifically preempted by the laws of the United States. In the absence of applicable law, the Court may apply the laws of the United States or the regulations of the Department of the Interior as they may specifically relate to the issues in the case. As to any matters not covered by the above, the Tribal Court may be guided by the common law of the State of Alaska and/or United States Federal Laws.

B. Tribal Custom Advisor

In the event of a dispute of uncertainty regarding traditional Tribal law and customs, the Court may utilize advisors familiar with these laws and customs.

C. Judgments in Civil Actions

In all civil cases in which plaintiff prevails, judgment shall consist of an order of the Court directing payment to plaintiff of the monies found to be owned, awarding money damages to be paid to the injured party, or an order directing the performance of some other act for the benefit of the injured party.

D. Judgments in Cases Involving Injury

In cases involving injury to persons or property:

- 1) Where the injury inflicted is found to be the fault of the defendant, the judgment shall fairly compensate the injured party for the loss suffered.
- 2) If the injury was deliberately inflicted, an additional penalty may be imposed in favor of the injured party.
- 3) Where the injury is found to be the fault of both complainant and the defendant, the judgment shall compensate the injured party for the loss suffered minus an adjustment for the plaintiff's fault.

E. Default Judgment and Dismissal

Upon the failure of a defendant to answer in the time stated in the summons, the other party may proceed to offer evidence including proof that the defendant was served with a summons, and the Court may render a judgment granting such relief as the evidence warrants, provided that the defaulting party may apply in writing for a new trial within twenty (20) days of the default judgment, showing good cause for his/her failure to answer the summons. Upon failure of plaintiff to appear at the time set by the summons for the hearing, the Court may dismiss the case.

F. Costs

Unless the Court provides otherwise, Court cost incurred by the winning party shall be included in any judgment, including filing fees, service fees, expenses of witnesses, expert witness fees, compensation of jurors and other incidental expenses.

G. Estates

A judgment by this Court shall be considered a lawful debt for purposes of probate proceeding or other actions regarding decedents' estates.

H. Liens

An unsatisfied judgment shall be a lien against funds owing the judgment debtor by the Tribe upon the delivery of a copy of the judgment to the Court Clerk. Upon receipt, the Court Clerk shall arrange for payment of the amount specified in the judgment as funds become available to the credit of the judgment. If such funds are wages, twenty percent (20%) of the disposable earnings of defendant shall be exempt, such percentage to be computed for each interval wages are to be paid defendant.

I. Execution on Judgment

A judgment creditor may seek a writ of execution upon personal property of the judgment debtor to be sold in order to satisfy all or part of the judgment. A writ shall specify the amount of the judgment and property to be seized. A notice must be posted at two (2) public places within Tribal Jurisdiction for seven (7) days prior to the sale by the Court. The sale will be conducted by the Court Clerk. The property shall be sold to the highest bidder but not for less than its reasonable value. The proceeds of the sale shall first go to satisfy the cost of the sale, second to any unpaid court costs, next to satisfy any portion of the judgment still owing. Any amount remaining after the above has been paid shall be paid to the defendant.

J. Limitation

Limitation of Enforcement of Judgment: An uncollected judgment shall be void at end of five (5) years from the date of entry.

K. Satisfaction

Satisfaction of Judgment: It shall be the duty of the judgment creditor to notify the Court in writing that a judgment has been fully or partially satisfied.

L Evidentiary Standard

Preponderance of the Evidence: Judgment in civil cases shall be rendered upon a finding that the plaintiff has proved or fail to prove his case by preponderance of the evidence.

**SECTION 2.04.05
Regulatory Infractions****A. Purpose**

The purpose of this Section is to identify infractions of law that the Council has determined are not sufficiently harmful in the public interest to warrant criminal sanctions but are sufficiently serious to warrant the establishment of civil penalties to deter their commission.

B. Burden of Proof

The findings of a regulatory infraction shall be by a preponderance of the evidence, that is, by evidence that shows more probably than not, the infraction occurred.

C. Remedies

1. Available Remedies

In imposing civil penalties the Court should consider remedies meant to end infractions and deter people from committing them. These remedies include assessing money damages, not to exceed five thousand dollars (\$5,000), impounding property used to commit infractions, and ordering the wrongdoer to cease the conduct constituting the infraction and to repair or remove damage and offending property.

2. Limitation on Damages

Money damages or civil fines shall not exceed an amount necessary to pay for any inconvenience caused by the infraction and the Tribe's cost to bring the action unless it must use the property to collect money damages. Impounded property may be released by the Court if the alleged wrongdoer agrees in writing to pay any civil fines imposed.

SECTION 2.04.06

Infractions

A. Destruction of Public Property

It shall be unlawful for any person to intentionally or maliciously deface or destroy any public property located within the Gwichyaa Zhee Territory. Such property shall include all property of the Tribe, State of Alaska, and any governments of the United States.

B. Disorderly Conduct

A person shall be guilty of disorderly conduct if such person shall knowingly disturb the peace by:

- 1) Using threatening, profane or abusive language; or
- 2) Discharging firearms; or
- 3) Rendering vehicular or pedestrian traffic impassable; or
- 4) Rendering the fire ingress or egress to public or private places impassable.

C. Maintaining Public Nuisance

Any person who shall knowingly and intentionally create, conduct, or maintain a public nuisance commits an infraction. Upon the Court's finding against the person, the Court may direct the person to remove such nuisance. For purpose of this section, a "public nuisance" shall mean:

- 1) A condition which endangers safety or health, is offensive to the senses, or obstructs the free use of property by an entire community or neighborhood, or by any considerable number of persons; or

- 2) Any premises where person gather for the purpose of engaging in unlawful conduct;
or
- 3) A condition which renders dangerous for passage, any public roads, trails, or right-of-way, or waters used by public.

D. Sanitation and Public Health

- 1) Any person who violates any rules or regulations for the health and welfare of the Gwichyaa Zhee People as adopted by Ordinance commits a public health infractions.
- 2) The Presiding Judge may in his/her discretion, take any action deemed necessary, under the circumstances, to safeguard the health or well being of the community, a family or a person.

E. Traffic Violations

Every person operating a vehicle of any character on a public road within the Gwichyaa Zhee Territory shall drive in a careful and prudent manner, and at a rate of speed no greater than is reasonable and proper and so as not to unduly or unreasonably endanger the life, limb, property or other rights of any person entitled to the use of the streets and trails.

F. Littering

It shall be unlawful for any person to deposit upon any Tribal or private property within Gwichyaa Zhee boundary, any debris, paper, litter, glass bottles, glass, nails, tacks, cans, barbed wired, boards, trash, garbage, or other waste substances when not authorized to do so by the Gwichyaa Zhee Gwich'in Environmental Department, Tribal Government, or owner of such property.

SECTION 2.04.07

Recognition and Enforcement of Foreign Judgments

A. The Gwichyaa Zhee Gwich'in Tribal Court shall only recognize and enforce a foreign judgment if the proponent of the foreign judgment takes the following actions:

- 1) Submits proof that the person against whom the foreign judgment has been rendered is subject to the jurisdiction of the Gwichyaa Zhee Gwich'in Tribal Court.
- 2) Submit proof that the foreign judgment is based on valid subject matter jurisdiction.
- 3) States good cause why an attempt at enforcement of the foreign judgment in the jurisdiction in which it was rendered was unsuccessful or would be futile.
- 4) Submits proof that the government that issued the foreign judgment provides comity or full faith and credit to the others, decrees, and judgments of the Gwichyaa Zhee Tribe.
- 5) Submits proof that the foreign judgment is final and that is not under appeal.

B. The Gwichyaa Zhee Gwich'in Tribal Court need not recognize the foreign judgment if:

- 1) The person against whom the foreign judgment has been rendered is not subject to the jurisdiction of the Gwichyaa Zhee Gwich'in Tribal Court.
- 2) The defendant in the foreign court did not receive notice of the proceedings and sufficient time to allow preparation of a defense.
- 3) The foreign judgment would serve to violate any federal law or tribal law, custom or traditions.
- 4) The foreign judgment was obtained by fraud.

C. The Gwichyaa Zhee Gwich'in Tribe need not recognize the attorney's fees award in a foreign default judgment. The burden of proof will fall upon the proponent of the award to demonstrate its reasonableness.

D. Procedure for Recognition and Enforcement of Foreign Judgments

1. To be recognized and enforced, a foreign judgment must be filed by its proponent with the Gwichyaa Zhee Gwich'in Tribal Court within one year from the date of its issuance.
2. Proper filing with the Gwichyaa Zhee Gwich'in Tribal Court takes place when a proponent of the judgment delivers to the Court a certified copy of the foreign judgment, the date of its entry, record of any later entries affecting it, such as levies of execution and payments in impartial satisfaction, and a motion requesting that the Court recognize and enforce the foreign judgment. A properly filed foreign judgment shall be docketed and recorded in the Court in the same manner as other cases.
3. After reviewing all the relevant evidence concerning the foreign judgment, the Court shall issue an order granting or denying the motion to recognize and enforce the foreign judgment of the Gwichyaa Zhee Gwich'in Tribal Court and shall be enforceable as such.

E. Sovereign Immunity

Nothing in this Title shall be deemed to waive the sovereign immunity of the Gwichyaa Zhee Gwich'in Tribal Government (formally known as Native Village of Fort Yukon, IRA) to any extent.