

TITLE I JUDICIARY

Santee Sioux Nation Judiciary Act of 2000

Chapter 1. Santee Sioux Nation Tribal Court

To establish the Santee Sioux Nation Judiciary introduced before the Tribal Council of the Santee Sioux Nation.

Findings.

The Tribal Council finds that:

- A. The Constitution of the Santee Sioux Nation establishes the Santee Sioux Judiciary;
- B. The Constitution of the Santee Sioux Nation gives the Tribal Council the power to establish forums of special jurisdiction for traditional dispute resolution;
- C. The Constitution of the Santee Sioux Nation gives the Tribal Council the power to enact qualifications for the Justices and Judges of the Judiciary and to appoint a Chief Judge and any Associate Judge to the Trial Court;
- D. The Constitution of the Santee Sioux Nation gives the Tribal Council the power to remove Judges for good cause and appoint Justices or Judges pro tempore to fill any vacancy due to recusal; and
- E. The Constitution of the Santee Sioux Nation gives the Tribal Council the power to appropriate and administer funds.

Section 1. Name and Establishment

The Santee Sioux Nation Judiciary is hereby created comprised of one Chief Judge of the Tribal Court and other Associate Judges as deemed necessary by the Tribal Council all of whom shall meet as often as circumstances require. The Justices employed by the Judiciary and acting pursuant to the authority vested by the Constitution of the Santee Sioux Nation shall exercise the powers of the Judiciary in accordance with Article IV § 1 (s) of the Constitution of the Santee Sioux Nation.

Section 2. Constitutional Authority

This Code is adopted pursuant to the authority vested in the Santee Sioux Tribal Council under Article IV, Section 1 (s) of the Constitution of the Santee Sioux Nation.

Section 3. Prior Inconsistent Codes and Ordinances Repealed

Any Code or Ordinance of the Tribes which conflicts in any way with the provisions of this Code is hereby repealed to the extent that it is inconsistent with or is contrary to the spirit or purpose of this Code.

Section 4. Definitions

A. Adult

The term "adult" as used in this Code shall mean a person 18 years of age or older.

B. Agency

The term "Agency" as used in this Code shall mean the Santee Sioux Indian Agency of the United States Department of the Interior, Bureau of Indian Affairs, Santee, Nebraska.

C. Bodily Injury

The term "bodily injury" as used in this Code shall mean any physical pain, illness or any impairment of physical condition.

D. Child or Minor

The term "child" or "Minor" as used in this Code shall mean any human of less than 18 years of age unless a lesser age is specified.

E. Code

The term "Code" or "CTC" as used in this Code shall mean this Code and all Ordinances and other enactments of the Council.

F. Tribes

The term "Tribes" as used in this Code shall mean the Santee Sioux Nation of the Santee Sioux Indian Reservation, Santee, Nebraska.

G. Council.

The terms "Tribal Council", "Council" or "SSTC" as used in this Code shall mean the Tribal Council of the Santee Sioux Nation of the Santee Sioux Indian Reservation, Santee, Nebraska.

H. Court

The terms "Court" and "Tribal Court" as used in this Code shall mean the Santee Sioux Tribal Court.

I. Member

The term "member" or "tribal Member" as used in this Code shall mean any enrolled member of the Santee Sioux Nation.

J. Officer, Police

The terms "Officer", "Tribal Officer", "Police Officer", "Police", "Tribal Police", and "Tribal Law Enforcement Officer" as used in this Code shall mean qualified law enforcement personnel of the Tribes or the Bureau of Indian Affairs.

K. Person

The term "person" as used in this Code shall mean any natural person, corporation, trust, unincorporated association, partnership, and federal, state, or local governments, agencies or subdivisions thereof.

L. Reservation

The term "Reservation" as used in this Code shall mean the Santee Sioux Indian Reservation set apart by Executive Order

M. Indian

For purposes of this Code, an Indian shall be defined as the following:

1. An enrolled member of the Santee Sioux Nation.
2. An enrolled member of any federally recognized tribe in this United States and its territories; and
3. A person who is recognized by an Indian Tribe as a member of that Tribe or is a descendant of such member; and
4. Any resident of the Santee Sioux reservation who is considered an Indian by the traditions, customs, culture and mores of the Santee Sioux Nation.

N. Indian Tribe

The term "Indian Tribe" means any Indian Tribe, band, nation or other organized group or community including Alaska Native village, or regional village, corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act 43 U.S.C §§ 1606-1628 which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

O. Signature

The term "signature" as used in this Code shall mean the written signature, official seal or the thumb print or mark of any individual.

P. Time

In computing any period of time prescribed under this Code, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, a Sunday, nor a legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

Section 5. C. F. R. No Longer Applicable

Any provision of the Code of Federal Regulations, Title 25, Part 11, as presently constituted or hereafter constituted which deals with the subjects covered in this Code or is otherwise inconsistent with or contrary to the spirit or purpose of this Code is declared to be no longer applicable to the Reservation.

Section 6. Sovereign Immunity

- A. Except as required by a federal law, or the Constitution of the Santee Sioux Nation, or as specifically waived by a resolution or ordinance of the Council specifically referring to such, the Santee Sioux Nation shall be immune from suit in any civil action, and their officers and employees immune from suit for any liability arising from the performance of their official duties. In any action otherwise authorized by or against the Tribe its officers or employees arising from the performance of their official duties, the following modifications to the rules and procedures set forth in this Code shall apply:
1. Neither the Tribe nor its officers or employees when involved in a civil action arising from the performance of their official duties shall be liable for the payment of the costs or expenses of the opposing party.
 2. Neither the Tribe nor its officers or employees when involved in a civil action arising from the performance of their official duties shall be required to post a security bond or otherwise for any purpose.
- B. The adoption of any law, code or other document by reference into this Law and Order Code shall in no way constitute a waiver or cession of any sovereign power of the Santee Sioux Nation to the jurisdiction whose law or code is adopted or in any way diminish such sovereign power, but shall result in the law or code thus adopted becoming the law of the Santee Sioux Nation.

Section 7. Principles of Construction

- A. The following principles of construction will apply to all of the Law and Order Code unless a different construction is obviously intended:
1. Masculine words shall include the feminine, and singular words shall include the plural, and vice versa.
 2. Words shall be given their plain meaning and technical words shall be given their usually understood meaning where no other meaning specified.
 3. Whenever a term is defined for a specific part of this Code, that definition shall apply to all parts of this Code unless a contrary meaning is clearly intended.
 4. This Code shall be construed as a whole to give effect to all its parts in a logical, consistent manner.

5. Whenever the meaning of a term used in this Code is not clear on its face or in the context of the Code, such term shall have the meaning given to it by the laws of the State of Nebraska, unless such meaning would undermine the underlying principles and purposes of this Code.
6. If any provision of this Code or the application of any provision or any person or circumstance is held invalid, the remainder of this Code shall not be affected thereby and to this end the provisions of this Code are declared to be severable.
7. Any typographical errors or omissions shall be ignored whenever the intended meaning of the provision containing the error or omission is otherwise reasonably certain to the Court.
8. Any other issues of construction shall be handled in accordance with generally accepted principles of construction giving due regard for the underlying principles and purposes of this Code.
9. In the event that typographical, citational, reference or other errors appear in this Code as a result of recodification, reorganization, amendment or other changes to this Code, and where, as a result of such changes, it is clear that the legislative intention differs from the literal language in the Code, the Court shall reasonably interpret and follow the general intent of the provision(s) in question in order to avoid unlikely, inconsistent, or strained consequences which may result from a literal reading.
10. Any references to this Code in any statute, regulation, policy, resolution, Tribal Court opinion or other material adopted or produced by any department or entity of the Santee Sioux Nation existing before any duly adopted re-codification, reorganization or other changes in the material referenced shall be deemed to conform to and reflect such changes to the extent necessary and practical.

When there is a conflict between one provision of this Code which treats a subject in a general way and another which treats the same subject in a specific manner, the specific provisions will prevail.

Section 8. Jurisdiction

- A. The Santee Sioux Tribal Judiciary shall exercise jurisdiction over all matters to the fullest extent consistent with self-determination and the sovereign powers of the Tribe over all matters within the power and authority of the Santee Sioux Nation including controversies arising out of the Constitution of the Santee Sioux Nation; laws, statutes, ordinances, resolutions and codes enacted by the Tribal Council; and such other matters arising under enactments of the Tribal Council or the customs and traditions of the Santee Sioux Nation. This jurisdiction extends over the Santee Sioux Nation and its territory, persons who enter its territory, its members, and persons who interact with the Santee Sioux Nation or its members wherever found.

B. Santee Sioux Tribal Court Jurisdiction" Defined

The jurisdiction of the Tribal Court and the effective area of this Code shall include all territory within the Reservation boundaries, and the lands outside the boundaries of the Reservation held in trust by the United States for Tribal members of the Tribes, and it shall be over all persons therein; provided, however, that criminal jurisdiction of the Court shall not extend to trial of non-Indians. It shall include jurisdiction over all persons subject to the jurisdiction of the Tribes when fishing or hunting under Tribal authority. To the greatest extent permissible by law, the jurisdiction of the Tribal Court shall apply to all persons on reservation lands and on other lands were the Santee Sioux Nation may be authorized to enforce its interests or rights and members asserting rights held by the Tribe without regard to location.

C. Concurrent Jurisdiction

The jurisdiction invoked by this Code over any person, cause of action or subject shall be exclusive and shall preempt any jurisdiction of the United States, any state, or any political, subdivision thereof; except in those instances in which federal law provides otherwise or in instances where there is pending subject matter of the same jurisdiction in another competent court. This Code does not recognize, grant, or cede jurisdiction to any other political or governmental entity in which jurisdiction does not otherwise exist in law.

D. Territorial Jurisdiction

The Jurisdiction of the Courts of the Santee Sioux Tribe of Nebraska shall extend to the territory within the exterior bounds of the Santee Sioux Indian Reservation and such lands as may be added thereto by Congress or the Tribe or reaffirmation of the title of lands through the courts to the Tribe, except as otherwise provided by law. This definition of territorial jurisdiction includes all rights of way, waterways, streams, lakes, highways, railroad rights of way, mineral rights, etc.

The Santee Sioux Tribe shall have jurisdiction over any Indian Child Welfare Act proceedings or other juvenile matter falling within the jurisdiction conferred on the tribal courts by Article IV, Section 1 (s) of the Santee Sioux Tribal Constitution and Bylaws and/or contemplated by the Indian Child Welfare Act of 1978, 25 U.S.C. section 1901, et seq. whether arising on or off the Santee Sioux Reservation.

E. Personal Jurisdiction

As used in these jurisdiction provisions the word "personal" shall include any individual, firm, company, association or corporation. Subject to any limitation expressly stated elsewhere in this Code, the Courts of the Tribe shall have the civil jurisdiction over the following persons:

Acts Submitting Person to Jurisdiction of Tribal Court
The Santee Sioux Nation shall have civil jurisdiction over:

1. Any person residing, located or present within the reservation for any civil cause of action. Any person residing or present within the Reservation or Lands outside

the boundaries of the Reservation held in trust by the United States for Tribal members of the Tribes;

2. Any person who transacts, conducts, or performs any business or activity within the Reservation by being present on the Reservation or by mail, phone, broadcast, cable either in person or by an agent or representative; for any civil cause of action or contract in quasi contract or by promissory estoppel or alleging fraud.
3. Any person who owns, uses or possesses any property within the reservation, for any civil cause of action prohibited by this Code or other law of the Tribe arising from such ownership use or possession.
4. Any person who owns, uses or possesses any real or personal property situated within the Reservation, for any civil cause of action arising from such ownership, use or possession;
5. Any person who commits a tortious act or engages in tortious conduct within the Reservation; either in person or by agent or representative, for any civil cause of action arising from such act or conduct.
6. Any person who damages a natural resource of the Santee Sioux Nation or any individual member of the Tribes;
7. Children who are members of the Tribe or eligible for membership in the Tribe and their parent(s), guardian, legal custodians or other persons who are members of the Tribe, wherever they are located, with responsibility for or control of the child who leave the exterior boundaries of the Reservation and over whom the Court had jurisdiction at the time they left;
8. Persons living in a marital relationship within the Reservation notwithstanding subsequent departure from the Reservation, so long as the petitioning party has continued to reside on the Reservation;
9. Persons engaging in the act of sexual intercourse within the Reservation with respect to which a child may have been conceived;
10. Any real or personal property located on the Reservation, the determination of ownership thereof or rights therein or to determine the application of such property to the satisfaction of a claim for which the owner of the property may be liable;
11. All causes of action which involve either the Tribe, its officers, agents, employees, property or enterprises, a member of the Tribe, a member of a federally recognized tribe, or any other matter which effects the interest or rights of the Tribe;
12. Any child custody proceeding as defined in the Indian Child Welfare Act, 25 USC § .903(1);

13. Person who commit a civil infraction as currently defined under this Code, or as may otherwise be adopted by the Santee Sioux Nation.

None of the foregoing bases of jurisdiction is exclusive, and jurisdiction over a person may be established upon any one or more of them as applicable.

F. General Subject Matter Jurisdiction

The Santee Sioux Tribal Court shall have subject matter jurisdiction over civil disputes and civil causes of action of any kind. The Santee Sioux Tribal Court shall also have subject matter jurisdiction over any and all Indian Child Welfare Act proceedings defined in 25 U.S.C. Section 1901, et seq. or successor statute, with regard to the child's residence or domicile or the location of any incidents giving rise to the proceedings. The Santee Sioux Tribal Court shall also have jurisdiction over probate proceedings to the extent permitted by federal law over all the real property located within the boundaries of the jurisdiction of the court at the time of death. The Santee Sioux Tribal Court will not take jurisdiction over cases which are currently pending in another competent court.

G. Civil Jurisdiction

The Santee Sioux Tribal Court shall have general civil jurisdiction over all civil actions arising under the Constitution, laws, or treaties of the Tribe, including the tribal common law, over all general civil claims which arise within the tribal jurisdiction, and over all territorial claims in which the defendant may be served within the territorial jurisdiction of the courts, or served anywhere in cases arising within the territorial jurisdiction of the tribe, and all persons consenting to such jurisdiction. The act of entry within the territorial jurisdiction of the courts shall be considered consent to the jurisdiction of the courts with respect to any civil action arising out of such entry. The act of entry upon the territorial jurisdiction by an extraterritorial seller, merchant, or their agent or representative shall be considered consent by the seller or merchant or their agent or representative to the jurisdiction of the courts for any dispute arising out of any sale or commercial transaction regardless of where the sale or transaction took place. The Court of Appeals in all cases shall be the Northern Plains Intertribal Court of Appeals.

H. Juvenile Jurisdiction

The juvenile division of the Santee Sioux Tribal Court shall have exclusive original jurisdiction in all proceedings and matter affecting dependant or neglected children, children in need of care, child in need of supervision, or children under the age of eighteen years of age, or any juvenile offenders when such children are found within the jurisdiction of the court, or when such jurisdiction is transferred to the court pursuant to law. The Court of Appeals in juvenile matters shall be the Northern Plains Intertribal Court of Appeals.

I. Exclusive Original Jurisdiction

1. The Santee Sioux Nation shall have original jurisdiction over:

- a. All Crimes enumerated in this Code and committed within the territorial jurisdiction of Santee Sioux Nation by Indians.
 - b. All Civil Actions arising under this Code or tribal laws, in which the defendant found within the territorial limits of the Santee Sioux Nation and is served with process or who is found outside of the territorial limits of the Santee Sioux Nation and who is validly served with process as provided in this Code.
 - c. All persons who reside within or conduct business within territorial limits of the Santee Sioux Nation for whatever purposes.
 - d. All territory, including but not limited to lands, waters, roadways, trails or right-of way within the Santee Sioux Nation, and all territory made a part of the territory of Santee by any other Acts of Congress, Executive Orders or Federal Court decisions adding lands to the territory of the Santee Sioux Nation now or in the future and also extraterritorial jurisdiction for the purpose of protecting the rights of the Santee Sioux Nation and its members guaranteed by the 1868 Treaty of Fort Laramie.
 - e. The jurisdiction invoked by this Code over any person, cause of action or subject matter shall be concurrent with any valid jurisdiction over the same by the Courts of the United States; provided, however, this Code does not recognize, grant or cede jurisdiction to any other political or governmental entity in which jurisdiction does not otherwise exist in law.
2. The Courts of the Santee Sioux Nation shall have exclusive original jurisdiction in all matters in which the tribe or its officers or employees are parties in their official capacities, except as other limited by federal law.
 - a. Nothing in the preceding paragraph or elsewhere in this Code shall be construed waiver of sovereign immunity of the Santee Sioux Nation, its officers or enterprises.

J. Implied Consent

Entrance by any person or his property into the Reservation or Tribal Court jurisdiction as defined in this Code, shall be deemed equivalent to and construed to be a consent to the civil jurisdiction of the Tribes and the Tribal Court, and a consent to criminal jurisdiction of the Tribes concerning any legal action pursuant to this Code, and shall further be deemed a consent to service or summons or process by registered mail with return receipt requested at his last known address; provided, however, that criminal jurisdiction of the Tribal Court shall not extend to trial of non-Indians.

K. Means to Carry Jurisdiction Into Effect

When jurisdiction is vested in the Court, all the means necessary to carry into effect are also given; and in the exercise of this, jurisdiction, if the course of proceeding is not specified in this Code, any

suitable process or mode of proceeding may be adopted which appears most conformable to the spirit of Tribal Law

Section 9. Personal Service off the Reservation

- A. Service of process upon any person who is subject to the jurisdiction of the Courts of the Santee Sioux Nation Reservation as provided in Chapter 1, Section 8 of this Title may be made by personally serving the defendant within or outside to the Reservation; if service is made on the defendant outside the Reservation, the defendant shall have thirty (30) days in which to appear and answer the complaint.
1. Only causes of actions arising from acts enumerated in Chapter 1, Section 8(F)(1)(a)-8(F)(1)(l) maybe asserted against a defendant in an action in which personal jurisdiction is based upon service outside of the Reservation.
 2. Nothing in this section shall limit or affect the right to serve any process in any other manner now or hereafter provided by law.

Section 10. Rules and Procedure

A. Court Proceedings

Proceedings of the Judiciary shall be conducted in a public place suitable for the purpose, but not necessarily in Santee Sioux Tribal territory. Decisions of the Judiciary shall be in writing and shall be submitted to the parties. The Judiciary shall keep a complete and permanent record of all proceedings and decisions, absent protective orders granted for good cause or Legislative enactment to the contrary. These records shall be open to the public.

B. Rules of the Court - Procedures

The Judiciary shall have exclusive authority and responsibility to employ personnel and to establish written rules and procedures governing the use and operation of the courts.

The time and place of court sessions and all other details of judicial procedure not prescribed by the regulations of this Code shall be governed by Rules of Court promulgated as herein provided in Appendix A. All matters shall be tried in accordance with the Santee Sioux Tribal Rules of Procedure and the Santee Sioux Tribal Rules of Evidence which shall be written by the Chief Judge published, and made available to the Public.

C. Notice to Parties

All cases at issue shall be set for trial on their merits at the time and place to be designated by the Court and written notice of not less than five (5) days shall be given counsel and/or to the parties.

D. Extension of Time

The court may grant an extension of time to answer or otherwise plead to a complaint or amended complaint, if a written request is timely filed.

E. Court Decorum

The following rules shall govern Court decorum not allowing any interference or disturbance with the proceedings before the Court:

1. A Law Enforcement or other Santee Sioux Officer may be appointed Court Bailiff by the Judge and the Bailiff will open each session of the Court and be present to keep order in the courtroom at all times and to carry out orders of the presiding Judge to remove persons violating these rules.
2. The public will be permitted to the courtroom during trial sessions except that presence of spectators in the courtroom may be prohibited by the Judge during taking of certain testimony of a highly sensitive nature.
3. All men in the courtroom shall remove their hats. All persons shall be dressed in a clean, neat manner, and no persons shall smoke or chew gum in the courtroom.
4. Loud or unusual noises, the use of profane language or disturbance of any kind will not be tolerated in the courtroom.
5. No one shall be allowed in the courtroom who appears to be under the influence of intoxicating liquor or drugs.
6. Respect and courtesy shall be shown to the Judge, parties, and court officers at all times.
7. A flag of the United States and the Santee Sioux Nation shall be displayed in the courtroom at all times.
8. No sketches, photographs shall be taken during proceedings of the court.

F. Exhibits

All separate documents, photographs, papers, written or printed instruments of any nature shall be given separate exhibit numbers with exhibits for the plaintiff numbered numerically and exhibits for the defendant marked alphabetically after being admitted into evidence. In civil cases, all exhibits in the custody of the Clerk, after judgment becomes final or after final disposition of the action, shall be delivered or mailed by the Clerk to the parties offering the same or to their counsel. Any exhibit's refused by a party or counsel may be destroyed or otherwise disposed of by the Clerk upon order of the Judge.

G. Rules of Evidence.

Except as otherwise expressly provided under this Code, the Rules of Evidence shall follow the Federal Rules of Evidence as guidelines in the criminal or civil proceedings of this Court.

H. Default on Fine.

When a defendant defaults in the payment of a fine or any installment thereof, the Court, on its own motion, shall order the defendant to show cause why he is not in contempt and may issue a summons or an arrest warrant for the defendant's appearance. If good faith is shown or the defendant is indigent, the Court may allow additional time for payment or revoke all or part of the unpaid fine or require labor on behalf of the Santee Sioux Nation or upon refusal of the defendant to cooperate, the Court may order imprisonment until the defendant agrees to cooperate. The Court also may order the seizure and sale of any personal property of the defendant found within the exterior boundaries of the Santee Sioux Nation to satisfy the fine assessed pursuant to this Code.

I. Disposition of Fines, Fees, and Other Payments Made to the Court.

Any funds paid to the Court of the Santee Sioux Nation, other than funds collected for other persons, as a result of the provisions of this Code or other lawful orders of the Court, shall be paid to the Clerk of the Court who shall issue a receipt therefore and shall deposit those funds due the Santee Sioux Nation to the accounts of the Santee Sioux Nation Tribal Court. The funds shall be recorded upon the accounts of the Santee Sioux Nation and shall be available for expenditure upon appropriation by the Tribal Council for such purposes as the Council may direct.

J. Disposition of Equipment and Property Confiscated by the Court.

Any property, including equipment, which may have been confiscated by lawful order of the Court in a criminal proceeding, after disposition of the case and an order as to the property, under the provisions of this Code shall be sold at public auction after five (5) days notice to the owner and the proceeds thereof deposited by the Clerk of the Court into the general Santee Sioux Treasury. The funds shall be recorded upon the accounts of the Santee Sioux Nation and shall be available for expenditure by appropriation of Council for such purposes the Tribal Council may direct.

K. New Trial.

The grounds for a new trial in a criminal proceeding as set by the Courts of the Santee Sioux Nation are as follows:

1. Receipt by the jury of evidence not authorized by the Court.
2. Determination by the jury of a verdict by lot, through intimidation or without a fair expression of opinion.

3. When the Court has failed to instruct the jury correctly as to the law or has improperly admitted prejudicial material as evidence or has made other errors at law prejudicial to the defendant.
4. When for other prejudicial cause the defendant has not received a fair and impartial trial.
5. New evidence discovered and not available at time of original trial.
6. On such other grounds that will provide due and proper justice as determined by the Judge.

In the case of death, illness, or incapacity of the Judge during the course of a trial, the Chief Judge shall order a new trial and designate another Judge who shall have the same power, authority and jurisdiction as the original Judge.

L. Dismissal of Cases on File

All cases now pending or on the docket of the Court, both civil and criminal, upon which no action has been taken for a period of three (3) years after filing shall be and are dismissed, with the approval of this Code, with prejudice, except that any party to a civil case within six (6) months after final approval of this Code, may move to have the case renewed or reinstated.

M. Cooperation by Federal and State Employees.

Employees of the Bureau of Indian Affairs and the State of Nebraska, particularly but not limited to those who are engaged in law and order, social services, health and educational work, may be requested by the Court to assist the Court in carrying out its duties but no such employee shall obstruct, interfere with or, in any manner attempt to influence the functions of the Court.

N. Amendment of the Rules of the Courts of the Santee Sioux Nation.

1. These rules may be amended by the Santee Sioux Nation Judiciary with the consent of the Governor and final approval of the majority of the Tribal Council.
2. Any amendments to these rules of the Court shall be posted at the Santee Sioux Tribal Office and published in any local circular as notice to the public.

Section 11. Pre-Trial Conference

- A. The procedure established in this Section are intended to establish a means whereby both civil and criminal disputes can be settled in the traditional and customary manner by discussion between the parties before a trusted, impartial tribal authority prior to resorting to formal trial procedures and are incorporated as a part of the Code. The procedures require that formal Court authority be invoked by the filing of a complaint, but anticipate that a great percentage of cases can be settled by traditional and customary means, administered

thereafter by the Tribal Court. The procedures set forth herein shall not be interpreted or applied to deny any person any right otherwise guaranteed by Santee Sioux Nation or Federal law, including the Indian Civil Rights Act.

B. Applicability

The procedures established in this Section shall apply in all cases, both civil and criminal, if, at the appropriate times referred to herein, there are two (2) or more judges of the Tribal Court holding office on either a temporary or permanent appointment and one is available to participate as provided herein.

C. Civil Case

A pre-trial conference as provided herein may be held in all civil cases once the case is at issue.

D. Criminal Cases

A pre-trial conference as provided herein shall be held in all criminal cases in which the defendant agrees to participate, testify or otherwise cooperate, once the case is at issue by virtue of the defendant entering a plea of not guilty and request for jury to a complaint.

E. Time

At such other time prior thereto as the Chief Judge shall order a pre-trial conference shall be held as provided herein.

F. Attendance- Civil Cases

All plaintiffs and all defendants shall be required to attend the pre-trial conference in a civil case. The parties may, upon obtaining the advance consent of the Tribal Judge assigned to conduct the pre-trial conference, bring with them such other persons, including their attorney, advocate or lay counselor, as will tend to further the resolution of the issues of the case.

G. Attendance- Criminal Cases

The defendant, complaining witness, arresting officer and such other witnesses as either side may desire to summon, shall be required to attend the pre-trial conference in a criminal case. Upon obtaining the advance consent of the Tribal Judge assigned to conduct the pre-trial conference, either side may summon other persons, including the prosecuting or defense attorneys, advocates or lay counselors, as will tend to further the resolution of the issues of the case and the proper disposition of the defendant, should guilt be admitted. Such other persons may, but need not include the defendant's spouse, other family members, and any social workers, probation officers or similar persons having professional training.

H. Conduct of Pre-Trial Conference

There shall be no record or transcript made of the proceedings at the pre-trial conference nor shall any statements made therein by any person be used for any purpose should the case ultimately come to trial. If agreement is reached on some or all of the issues presented in the case, such agreement shall be recorded by the Tribal Judge conducting the pretrial conference, or Court Clerk at the Tribal Judge's direction, and may be embodied in a final or interlocutory order or judgment or in a pretrial order prepared to govern the conduct of any trial subsequently held.

I. Public and Attorneys

Pre-trial conference as provided herein shall not be open to the public, but professional attorneys, advocates or lay counselors or other parties may be allowed by the Tribal Judge to attend as representatives of the parties or otherwise (unless parties themselves).

J. Judge's Function.

The Tribal Judge conducting the pre-trial conference shall listen to the positions of the parties and attempt to work out a settlement of all or some of the issues of the case. Such settlement shall not be inconsistent with the laws, ordinances, customs, and traditions of the Tribe.

K. Disposition of Cases.

In the event a settlement of the case is worked out, the Tribal Judge conducting the pretrial conference shall cause a record to be made of such settlement by means of an order or judgment entered in the record of the case. In the event that some of the issues are not agreed to, the Tribal Judge shall cause a pre-trial order to be prepared stating what issues have been settled and what issues remain to be tried and such pre-trial order shall supersede the pleadings for purposes of framing the issues for trial.

The pre-trial order may also contain agreements, stipulations, or orders by the Court as to the production of witnesses and evidence and the conduct of discovery before trial. If trial appears necessary, the Court Clerk shall, at the time of the pre-trial conference, obtain the names of all persons to be subpoenaed as witnesses and prepare and arrange for service of the necessary subpoenas.

L. Voluntary Agreements

No settlement of the issue in a civil case should be made at the pretrial conference except with a voluntary agreement of all parties involved and a determination of the issue, as taken and affirmed by the Judge conducting the pre-trial conference. No settlement of any criminal charge in a criminal case shall be made at the pre-trial conference except with the voluntary agreement of the defendant, as taken and affirmed by the Judge conducting the pre-trial conference. The defendants in criminal cases shall be afforded the opportunity to consult with counsel of their choosing (at their own expenses) if they so desire, prior to agreeing to any judgment or order settling the case or any issue thereof or agreeing to a pre-trial order.

M. Criminal Defendants

A defendant in a criminal pre-trial conference shall not be required to testify, cooperate or otherwise participate in the pre-trial conference. The Judge conducting the pre-trial conference in a criminal case shall explain these matters to the defendant at the beginning of the conference and shall, if a settlement involving an admission of guilt is reached, determine the voluntariness of the agreement and determine that the defendant understands the rights being given up to the same extent as would be determined by the Court if a guilty plea had been offered originally.

N. Unsettled Cases

All cases not settled either in whole or in part at the pre-trial conference shall be scheduled for trial and a trial held before a Judge, other than the Judge conducting the pre-trial conference, as if no such pre-trial conference had been held, except that any pretrial order agreed to by the parties prior to the trial shall be controlling at the trial.

Section 12. Jury Trials

In all matters other than criminal matters punishable by imprisonment, there shall be no right to trial by jury unless and until provided by legislative enactment.

A. Eligibility of Jurors

A list of eligible jurors shall be prepared by the Court Administrator each year. The Rules of Court shall make provision for the drawing of names eligible for service as jurors. Any person who is at least eighteen (18) years of age and who has resided on the Reservation for at least one-year shall be eligible to be a juror. A person may decline jury duty upon good cause shown to the judge.

Sitting members of the Santee Sioux Tribal Council shall be prohibited from serving as jurors because of the potential for conflict of interest.

In emergency situations where there is a shortage of jurors the Tribal Court may use on campus tribal employees as prospective jurors.

B. Number of Jurors

In any case a jury shall consist of six jurors drawn from the current list of eligible jurors by the Court clerk or judge.

C. Challenges

Any party to the case may challenge and have dismissed not more than three jurors selected from the list of eligibles without cause, but there shall be no limit to challenges for cause. The judge shall decide as to the sufficiency of a challenge for cause.

D. Instructions

The judge shall instruct the jury in the laws governing the case, and the jury shall decide in accordance with this Code. The judge will render judgment in accordance with the verdict and existing law.

E. Fees

Every person who is required to attend Court for selection or service as a juror shall be entitled to a fee of \$10.00 (ten dollars) a day for each day his services are required in Court, plus the current approved tribal mileage rate for traveling to and from the Court.

F. Jury Trial.

When a demand for trial by jury is contained within a pleading instead of being separately filed, the demand shall be brought to the attention of the Clerk by the pleader, either orally or in writing, at the time of the filing of the pleading, which shall be made within the prescribed time limit, and the Clerk shall call this demand to the attention of the Tribal Judge.

G. Rules Governing Jury Trial.

1. In any criminal case where there is a probable jail sentence upon conviction, a trial jury may be requested by the defendant at the preliminary hearing or arraignment or by written application to the Court within three (3) days thereafter.
2. A jury shall consist of six (6) persons seated by the Chief Judge, from a list of twenty (20) resident members of the Santee Sioux Nation sworn in prior to questioning, with the agreement of counsel.
3. When the jury has been seated, the jurors' oath shall be administered by the Tribal Judge.
4. Verdict of the jury may be rendered by a majority vote of four (4) jurors in a civil case and five (5) jurors in a criminal case. If the plaintiff in a civil case or prosecution in a criminal case shall fail to win the required number of juror votes, judgment shall be entered for the defendant and case dismissed.
5. Each juror shall be entitled to a fee for each day of jury service plus mileage for travel to and from Court payable by the Santee Sioux Nation pursuant to a schedule established by the Court and approved by the Tribal Council.

H. Jury Duties

The Court may order the jury to view the premises where the offense or other material facts occurred. The Court may order the discharge of a juror who becomes sick or is otherwise unable to perform his duty and substitute an alternate juror. In the absence of an alternate and the

failure of the parties to stipulate to continue the trial with five (5) or less jurors, the jury shall be discharged and a new jury shall be formed to hear the case.

Section 13. Subpoenas

Any judge of the trial court and, if authority is delegated by the chief judge of the trial court, then the clerk of court shall have the authority to issue subpoenas to compel the attendance of witnesses or the production of documents or things. The failure to comply with a subpoena shall subject the person not complying to the contempt power of the court. A person present in court may be required by the court to testify in the same manner as if a subpoena were issued.

A. Witnesses

A judge of the Court or the court administrator shall issue subpoenas for the attendance of witnesses either on his or her own motion or on the request of the police chief or officer, or any of the parties to the case which subpoena shall bear signature of the judge or court administrator issuing it. Service of such subpoena shall be by a regularly acting member of the police department or by a person appointed by the Court for that purpose.

Witnesses who testify voluntarily shall be paid their actual traveling and living expenses incurred in the performance of their function by the party calling them. The fees of witnesses in civil actions shall be paid by the party calling them.

B. Subpoenas - Continued Trial/Hearing

If a trial/hearing is continued, for any reason, counsel and/or the defendant must submit to the Court the names of witnesses they wish subpoenaed prior to each time a new trial/hearing is set.

Section 14. Appointment and Recall of Judges

The Chief Judge and Associate Judges of the Trial Court shall be selected and confirmed by at least a majority of the Tribal Council no more than thirty (30) days after the candidates for office are nominated. Nominations may be made and seconded in the normal course of business at any duly convened meeting of the Tribal Council. If a majority of the Tribal Council does not approve a nominee within thirty (30) days after nomination, such nomination shall be deemed to be rejected. Once confirmed, judges shall be subject to removal or recall only in accordance with this Code.

A. Chief Judge and Associate Judges, Bonding

The Santee Sioux Tribal Court shall consist of one Chief Judge whose duties shall be regular and permanent and other Associate Judges as deemed necessary by the Tribal Council, all of whom shall meet as often as circumstances require. Among other duties assigned by the Tribal Council and this Chapter, Associate Judges shall preside over court proceedings as assigned by the Chief Judge, sign court documents, complete case dispositions monitor court officer conduct to maintain respect due to the Court and continually meet the minimum competency requirements established in this Code. All judges shall be bonded.

B. Appointment, Compensation and Term

Each judge shall be appointed by the Council and shall be compensated on a basis to be determined by the Court Administrator. Each judge appointed by the Council shall hold office for a period of three years, unless sooner removed for cause as provided in this Subchapter or by reason of the abolition of the office, but shall be eligible for reappointment.

C. Judicial Cooperation

All judges and personnel of the Tribal Court shall cooperate with all branches of the BIA, with all federal, state, county and municipal agencies, when such cooperation is consistent with this Code, but shall ever bear in mind that their primary responsibility is to the people of the Tribe.

D. Removal of Judges

During tenure in office, a judge may be suspended, dismissed or removed for cause by a majority vote of the Tribal Council. Copies of a written statement setting forth the facts and the reasons for such proposed action must be delivered to the judge and to members of the Council at least ten days before the meeting of the Council before which he is to appear. A hearing shall then be held by the Council wherein the accused judge shall be given an adequate opportunity to answer any and all charges. Causes judged sufficient for removal shall include, by way of example and not limitation: excessive use of intoxicants, immoral behavior, conviction of any offense other than minor traffic violations, use of official position for personal gain, desertion of office, or failure to perform duties. The decision of the Council shall be final.

E. Appellate Judges

All appeals will be to the Northern Plains Intertribal Court of Appeals. Criteria for Appellate Judges will be governed by the Northern Plains Intertribal Court of Appeals Corporate Bylaws, Uniform Code and Rules of Appellate Procedure.

F. Magistrates

In addition to judges provided by this Chapter, the Tribal Council may appoint, up to two magistrates to exercise the powers provided for herein. Such person must meet all the requirements of this Chapter and shall be bound by all the provisions herein, provided however, that such persons need be over twenty one (21) years of age. Such persons shall have the power to issue search or arrest warrants, receive bail, set the amount of bail where no amount has been set by tribal law or the Chief Judge, and set and continue trial dates. Magistrates shall exercise these powers when assigned to them by a Tribal Judge or at any time a Tribal Judge is not reasonably available. Any such action of a magistrate shall be subject to review and modification by any judge of the Tribal Court. The term of office, compensation, and removal of magistrates shall be governed by the provisions of this Chapter applying to judges.

G. Judges Pro-Tem

In emergency situations, where a judge from the Tribal Court cannot be available, a judge, from an established Tribal Court, or an Indian Reservation may hear cases and attend to other court

duties until a Santee Sioux Tribal Judge again becomes available. Such Judge Pro-tem shall be selected by the Tribal Council. Payment for the judge Pro-tem shall be as provided by the Court Administrator.

Section 15. Extraordinary Appointment of Temporary Judges

If the Tribal Council fails to fill any vacancy on the Trial Court within ninety (90) days of its occurrence, the Chief Judge shall have the authority and the duty to appoint a qualified person to fill the vacancy. Such extraordinary appointments shall be effective upon delivery of written notice to the President of the Santee Sioux Nation and such appointee shall serve until the Tribal Council appoints a judge for the vacancy.

Section 16. Qualifications of Justices and Judges

All Justices and Judges shall meet at least the minimum qualifications as specified in this Code.

A. Disqualification of Judge

Any party to any legal proceeding hereunder, including trials and appeals may accomplish a change of assignment of his case from one judge to another upon filing an Affidavit of Prejudice with the Court, giving satisfactory reasons for the change. The Affidavit shall be in written form and must be filed with the Court before any trial action whatever has been taken by the initial judge. The initial judge shall refer the affidavit to another judge for decision.

Such an order of the Trial Court may be appealed immediately under the procedures established in the Subchapter on Appellate Proceedings of this Chapter, and all further actions in the case will be stayed pending outcome of the appeal. Only one such change will be allowed. Such an order of the Appellate Court shall not be appealable.

Section 17. Funding

A. Regular Funding

The Judiciary shall be funded by general appropriations from the Tribal Council; from filing fees, penalties, and assessments for costs to persons before the Judiciary; from federal appropriations or grants; and from such other sources of revenue as the Judiciary and Tribal Council deem appropriate.

B. Extraordinary Funding

In order to ensure the continued existence and independence of the Judiciary and the reasonable compensation of Justices and Judges provided for in Article IV section 1 (s) of the Constitution of the Santee Sioux Nation, the following extraordinary funding is authorized. If, in the discretion of the Chief Judge of the Trial Court, the Tribal Council, or any agent or employee of the Santee Sioux Nation, fails to authorize, appropriate or disburse sufficient funds for the normal and efficient operation of the Judiciary, the Chief Judge of the Trial Court shall have complete authority to file and execute liens and judgments upon the funds or other assets of the Santee Sioux Nation, its businesses and subsidiary corporations on and off its lands. This authority shall be limited to a maximum of \$150,000.00 (One hundred fifty thousand dollars) annually, exclusive of costs and attorneys fees, which shall also be recoverable. This maximum authorized amount shall be adjusted for inflation annually, with 2003 being the base year.

C. Budgets

The Court Administrator shall publish a budget, and make available upon request, for the operation of the Judiciary within (45) days of approval by the Tribal Council. If additional appropriations are deemed necessary by the Court Administrator, the request shall be made to the Tribal Council through written notice.

Section 18. Appeals

The Northern Plains Intertribal Court of Appeals shall be the Appellate Court for the Santee Sioux Nation Tribal Court. The Appeals Court shall hear appeals from final judgments, sentences and other final orders of the Santee Sioux Tribal Court.

A. Limitations

There may be established by Rules of Court the limitations, if any, to be placed upon the right of appeal, as to the type of cases which may be appealed, as to the grounds of appeal, and as to the manner in which appeals may be granted, according to the needs of the Tribes.

B. Grounds for Appeal

Grounds for requesting a new trial or limited appeal on issues of law and/or fact shall be limited to one or more of any of the following:

1. Receipt by the jury of any evidence, paper, document or book not allowed by the Court;
2. Misconduct of the prosecution, judge or jury;
3. Newly discovered evidence material for the defendant, which he could not have discovered with reasonable diligence and produced at the trial;
4. Accident or surprise;
5. Irregularity in the proceedings of the court, jury, or prosecution, or any order of the Court, or abuse of discretion, by which the defendant was prevented from having a fair trial;
6. Error of law occurring at the trial and excepted to at the time by the defendant;
7. That the verdict or decision is contrary to law and the evidence;
8. That substantial justice has not been done. When the motion is based on matters outside the record, the facts shall be shown by affidavit.

C. Notice of Appeal

Within ten days (10) from the entry of judgment, the aggrieved party may file with the Trial Court written notice of appeal, and upon giving proper assurance to the Court, through the posting of a bond or any other way that will satisfy the judgment if affirmed, shall have the right

to appeal, provided the case to be appealed meets the requirements established by this Code or by Rules of Court.

D. Notice of Appeal; Contents

A notice of appeal must:

1. Be titled a Notice of Appeal;
2. Specify the party or parties seeking the review;
3. Designate the decision or part of decision which the party wants reviewed, and/or be accompanied by a motion and affidavit which shall state with particularity:
 - a. the grounds therefore pursuant to this Section 18(B) found in this chapter
 - b. the relief or order sought; and
 - c. the governing rules and/or laws of the Santee Sioux Nation.

E. Stay of Execution

Unless otherwise provided by this Chapter, in any case where a party has perfected his right of appeal as established by this Code or by Rules of Court, a stay of execution of judgment shall be granted and the sentence shall not be carried out unless and until affirmed by the Appellate Court without good cause to the contrary as determined by the Appellate Court.

F. Appellate Court Trial; Procedure

All rules of procedure of the Appellate Court shall be governed by the Northern Plains Intertribal Court of Appeals Rules of Procedure, Uniform Code and Corporate Bylaws.

G. Tax Appeals

Any party contesting the assessment of any taxes owed to the Tribes, or any party appealing a judgment for taxes owed or a judgment for any other remedy with regard to taxes validly assessed in accordance with the Constitution and By-Laws of the Santee Sioux Nation, must pay the assessed tax or judgment before he may appeal under this Subchapter. Upon the payment of such taxes and upon the posting of 25% (twenty-five percent) of the judgment award as bond for costs, the appealing party may be granted a stay of execution as to the part of the judgment other than the taxes found to be owing, and that part of the judgment shall not be carried out unless and until affirmed by the Appellate Court. Any forfeiture of seized goods shall be stayed pending the appeal, and the Tribes shall hold the goods in a safe place until the final resolution of the case. If the goods are perishable or threaten to decline quickly in value, the Tribes may sell such goods in a commercially reasonable manner and hold the amount realized until the final resolution of the case.

Section 19. Forum for Traditional Dispute Resolution

The Court Administrator is hereby directed to seek the assistance of the elders of the Santee Sioux Nation to establish a traditional forum to provide guidance and to assist the Judiciary whenever possible with the resolution of cases or controversies involving members. The Court Administrator shall submit a written report to the Tribal Council on the formation of the Forum for tradition dispute resolution within 12 (twelve) months of the passage of this Act.

Section 20. Amendment and Repeal

This Code shall remain in full force and effect and no amendment or resolution of repeal shall be effective unless such amendment or resolution of repeal is approved by a majority of the Tribal Council.

This Code may be amended in the manner provided in the Santee Sioux Tribal Council Rules of Procedure. Code parts shall be adopted, amended or repealed by resolution of the Tribal Council. Each resolution shall be numbered chronologically, the first number to be the final two of the fiscal year in which the resolution is adopted, and the last numbers to reflect the resolution's place in the sequence of the numbering of all resolutions adopted in that fiscal year. The number of the resolution adopting, amending, or repealing each code section shall appear in brackets following each section. All changes to the code, which are technical and intended to have no substantive effect, including changes in numbers or names of code titles, article, sections, or subparts thereof shall become effective when said commission, committee, department or program having oversight in the matter treated in such parts of the body of tribal law.

Chapter 2

Administration of the Santee Sioux Nation Tribal Court

Section 1. General Court Procedures

- A. Sessions of the Court for the trial of cases shall be held by the Chief Judge, or in case of his disability, absence or unavailability, by an associate judge, provided, however, that an associate judge may be called in to hear cases at any time for any reasonable cause by the Chief Judge.
- B. In the case of disability, absence or unavailability of both the Chief Judge and the associate judges, the Chief Judge shall appoint a trial judge from the current list of pro tem judges.
- C. In the case of recusal of the Chief Judge, an Associate Judge may be called to hear the case or the Court Administrator may select a name from the above-referenced list.

Upon the assignment of a case to a judge other than a Chief Judge or associate judge, notice shall be given to all parties of the assignment. The parties will then be given the opportunity to file written objections, within seven days after receipt of notice, stating:

- 1) the party seeking the objection;
 - 2) the reason for the objection; and
 - 3) a request for reassignment.
- D. If recusal is made by an associate, the Chief Judge shall review the matter and make a determination. If recusal is made by the Chief Judge, an associate shall make a

determination. If recusal is made by both the Chief Judge and the associate judges, the Court Administrator shall automatically reassign the matter to another pro tem on the list. The determination of whether or not to assign to another pro tem judge is within the sole discretion of the reviewing judge. Each party is limited to one such objection per case.

- E. The Chief Judge of the Court shall designate, in writing, one associate judge to act as Chief Judge whenever the Chief Judge is absent from the Reservation, is on vacation, ill or otherwise unable to perform the duties of his office. The acting Chief Judge may exercise all the powers of the Chief Judge. The duly appointed Chief Judge may at any time change his designation of the judge empowered to act as Chief Judge. In the event that the Chief Judge fails to designate a judge to act in his absence, the Council shall designate an associate judge as acting Chief Judge.

Section 2. Court Administrator

- A. There is within the Santee Sioux Tribal Court an Office of the Court Administrator whose duties shall be:
1. Shall be responsible for drafting and monitoring all the budgets for the Court, including the submission of reports to the appropriate departments required by contract or policy;
 2. Shall be responsible for receipting and depositing money paid to the Court for fines, bar fees, restitution, bail, judgments, and any other money that shall be paid pursuant to the Court order;
 3. Shall be responsible for the calendaring of the Court cases and scheduling of appointments for the judges of the Court;
 4. Shall maintain a Tribal Court Bar roster and provide annual updates on Code revisions to members in good standing of the Tribal Court Bar;
 5. Shall be the designated Code Revisor of the Law & Order Code and, when necessary, shall assist in the drafting of new legislation or amendments to current legislation in the Law & Order Code;
 6. Shall draft and/or assist in the drafting of forms to be used by the public and others in proceedings heard by the Tribal Court;
 7. Shall assist and/or give the general public information pertaining to court matters, filing of documents and procedures without giving legal advice;
 8. Shall keep the timekeeping and personnel records for the Court staff;
 9. Shall be a designated signer for subpoenas;

10. Shall maintain and submit disposition records to appropriate departments/agencies as required by contract or policy;
11. Shall attend meetings in absence of the Chief Judge;
12. Shall be responsible for the administration of the Courts, shall assign cases and manage the Court's calendar and business;
13. Shall exercise the powers and perform the duties conferred and imposed upon the Court Administrator elsewhere by statute;
14. Shall be responsible for the day-to-day operations of the Court;
15. Shall perform his/her duties to conform to the directions of the Court;
16. Shall have the authority to create a schedule of fines and court costs as necessary for the proper administration of the court.

Section 3. Clerk and Records

A. Clerk

The Chief Judge with the concurrence of the Court Administrator shall appoint a Clerk of the Court. The clerk shall be under the supervision of the Court Administrator. The clerk shall render assistance to the Court, to police officers and to individual tribal members in the drafting of complaints, subpoenas, warrants, and commitments and any other documents incidental to lawful court functions. It shall be the further duty of the clerk to attend and to keep a written record of all court proceedings, to administer oaths to witnesses, and to performing such other duties as the Chief Judge and the Court Administrator shall designate. The clerk, before entering upon his duties, may at the discretion of the Court Administrator be required, at Tribal expense, to post bond in an amount determined by the Tribal Council, or shall be covered by the blanket bond provided for all Tribal employees.

B. Selection, Qualification and Duties.

1. The Court Clerk shall be appointed by the Chief Judge, with the concurrence of the Court Administrator, and as provided in the Santee Sioux Nation personnel policies and procedures.
2. The Court Clerk shall meet the following qualifications:
 - a. Is twenty-one (21) years of age or older and of good moral character;
 - b. Has never been convicted of a felony;
 - c. Has demonstrated competence in the skills essential to the preparation and maintenance of court records, and;

d. Has completed twelve (12) years of education or equivalent experience.

3. The duties of the Court Clerk are:

- a. To supervise and keep all records, files, dockets, or other records required by this Code;
- b. To keep a record of all proceedings of the court;
- c. To administer oaths;
- d. To collect and account for all fines, bail or bond money, fees or other funds which come to the Court, to deposit and account for all such monies in the manner prescribed by the Tribal Council;
- e. To assist the Court, Court Officials, and residents of the reservation in the filing of complaints, subpoenas, warrants, and any other documents necessary to the functions of the Courts; and
- f. To perform all other functions which may be required by this Code or as may be directed by the Chief Judge.

C. Records

The Court shall keep for its own information and, unless otherwise provided in this Code, for inspection by the general public, a record of all Court proceedings, which shall in each case reflect the title of the case; the names of the parties; the subject matter of the complaint; the names and addresses of all witnesses; the date of the hearing and trial; by whom conducted; the findings of the Court or jury; and the judgment, together with any other facts or circumstances deemed of importance to the case;

Provided that the records of proceedings involving juveniles, adoptions, and proceedings deemed by written order of the Court, after an open hearing on the issue, to be of a sensitive or personal nature to the parties and not of public interest, shall not be open to inspection without Court Order.

D. Copies of Laws

The Court shall be provided with copies of this Code, all other enactments of the Council, Rules of Court and all other regulations which may be applicable to the conduct of business of the Court.

E. Scope, Copies, Ordinances, Etc.

The Court Clerk shall keep the Court Docket which shall consist of:

1. Names of each plaintiff and defendant in any civil or criminal proceeding;
2. Character and number of the proceeding;
3. Date of issuance of return date of any process issued therein;
4. Appearance or default of parties summoned;
5. Date and amount of any judgment or any other decision in the proceeding;
6. Any appeal therefrom;
7. Final disposition; and
8. Any other information as may be provided in this Code or directed by the Chief Judge.

F. Copies of Proceedings

Any party involved in the proceedings may obtain a certified copy of the Court proceedings from the Clerk upon payment of the fee contained on the schedule established by the Court Administrator, unless expressly prohibited by this Code.

G. Santee Sioux Nation Laws, Ordinances, Etc.

The Santee Sioux Nation Judiciary shall be provided with copies of this Code, any amendments thereto, including ordinances adopted by the Tribal Council, and copies of other Federal and State Laws and regulations deemed by the Judiciary necessary, proper and applicable to the rights and conduct of persons subject to the jurisdiction of the Santee Sioux Nation Judiciary and its judicial power and responsibilities.

H. Court Sessions.

Regular sessions of the court shall be held as established by order of the Court at the Santee Sioux Nation Court in Santee, Nebraska or as designated by the Courts.

I. Official Station.

The Santee Sioux Nation Court at Santee, Nebraska is designated as the place where current records of the Court shall be kept and the official station of the Court Clerk shall be designated by the Tribal Court.

J. Location of Filing.

All pleadings, motions, and other papers shall be filed with the Santee Sioux Nation Court at Santee, Nebraska, or any other place which will be designated by the Tribal Council.

K. Copies of Documents.

Records or documents in the files of the Courts shall not be taken from the office or custody of the Court Clerk, except upon the consent of the Clerk. Only parties litigant or counsel for parties will be allowed the right to remove documents and only for good cause shown and after giving proper receipts to the Clerk.

Section 4. Tribal Court Bar

A. Tribal Court Bar Roster

The Clerk of the Court will maintain a roster of all spokesmen admitted to practice before the Court. The clerk will also keep on file the signed oaths of all such persons.

B. Tribal Court Admission Fee/Annual Fee

Every person wishing to appear as a spokesman in the Court will pay an admission fee of \$ 50.00 (fifty dollars) and an annual fee thereafter of \$25.00 (twenty-five dollars). The annual fee is to be used for the purpose of maintaining a Tribal Court Law Library, covering copying and handling costs for updates to the Law and Order Code and to maintain a current bar roster. A judge may waive or lower the Tribal Court bar admission fee and/or annual fee for good cause shown.

C. Contempt of Court

Any spokesman failing to maintain the respect due the Tribal Court or engaging in offensive conduct in the courtroom shall be deemed guilty of contempt of court and subject to immediate sentencing by the judge to imprisonment for a period not to exceed six months, or a fine not to exceed \$500.00 (five hundred dollars), or both the jail sentence and fine.

D. Appeal

Any person denied admission to the Tribal Court Bar or any spokesman found guilty of contempt of court by the judge may appeal in accordance with Chapter 1, Section 18 of this Title.

Section 5. Other Officers of the Court

A. Selection, Duties and Authority.

1. The Court Administrator, in accordance with tribal personnel policy and procedures, shall appoint Probation and Parole Officers, Juvenile Officers, traditional and other officers.

2. The Tribal Council shall approve the qualifications, terms of employment, and compensation of such officers.
 3. The Tribal Council shall approve the duties of such officers including their authority to make arrests for violations of this Code or any others issued there under, and to carry out official orders of the Court.
 4. With the approval of the Tribal Council, personnel such as Law Enforcement Officers, Probation and Parole Officers, Juvenile Officers, and other officers of the Court may accept deputy commissions from city, county, state and Federal agencies.
 5. The Tribal Council may issue commissions with power of arrest for violations of this Code to city, county, state and Federal officers, and may deputize Law Enforcement Officers of the State, County; Municipality, and other individuals as traditions, customs and the law of the Santee Sioux Nation dictate.
- B. Bonding of Santee Sioux Nation Judiciary and Court Personnel.

All Judges, Clerk, and other Court personnel may be required to be bonded at the expense of the Santee Sioux Nation, in amounts determined by the Court Administrator.

CHAPTER 3 JUDICIAL POWER/ JUDGES OF THE SANTEE SIOUX NATION JUDICIARY

Section 1. Scope and Extent.

The Judicial Power of the people of the Santee Sioux Nation shall be vested in the Tribal Judiciary of the Santee Sioux Nation shall extend to all cases and controversies in law and equity arising under the duly enacted laws of the Tribal Council under provisions as set forth by the Santee Sioux Tribal Council and on the traditions and customs of Santee Sioux Nation.

Section 2. Selection, Removal, Disqualification, Duties.

- A. The Santee Sioux Nation Tribal Court shall consist of one Chief Judge and one Associate Judge, as the Santee Sioux Tribal Council any appoint by a majority vote. The Associate Judge or the Chief Judge may be designated as Judge of the Children's Court by the Chief Judge.
- B. Tribal Judges of the Santee Sioux Nation Judiciary shall be compensated at a rate determined by the Court Administrator and approved by the Tribal Council.
- C. Tribal Judges of the Santee Sioux Nation Judiciary shall be appointed for a three year term and shall continue in office unless removed or declared by the Tribal Council incapable of serving by absence, illness or other incapacity, and in accordance with the traditional practices and customs of the Santee Sioux Nation.

- D. Tribal Judges of the Santee Sioux Nation Judiciary shall meet the following requirements:
1. Must be in good standing within the community of the Santee Sioux Nation.
 2. Never convicted of a felony.
 3. Must be at least twenty-five (25) years of age.
 4. Should but not required to have knowledge of the language, customs, traditions and laws of the Santee Sioux Nation.
 5. Must be a graduate of an A.B.A. accredited law school.
 6. Must be in good standing and a member of the bar of any State or U.S.Territory
- E. The Chief Judge, with the consent of the parties in any action pending before the Santee Sioux Nation Tribal Court, any appoint a Judge Pro Tempore to hear and adjudge a particular case notwithstanding the requirements set forth in (D) above.
- F. The Court Administrator shall establish educational and in service training requirements for Santee Sioux Nation Tribal Judges and set up programs therefore, or require Tribal Judges to attend other available training sessions. Refusal of a Tribal Judge to participate in these required educational and in-service training programs may warrant suspension or removal.

Section 3. Removal of Judges of the Santee Sioux Nation Judiciary

- A. Tribal Judges of the Santee Sioux Nation Judiciary may be removed upon the grounds of gross misconduct involving moral turpitude or neglect of duty by the following procedures:
1. Notice of charges served personally on the tribal judge;
 2. A public hearing before the Tribal Council ten (10) days after service of notice.
 3. An opportunity for the Tribal Judge to appear at the hearing and to answer all charges and to present evidence in defense.
 4. A vote for removal by an affirmative majority vote of the full Tribal Council.

Section 4. Disqualification of Judges of the Santee Sioux Nation Judiciary.

- A. A Tribal Judge shall recuse himself from acting in any judicial proceedings in which he has any direct interest or when any party in the proceeding is a relative by marriage or blood in the first or second degree.
- B. Disqualification of a Tribal Judge may be petitioned by any party to a proceeding by filing a request with the Tribal Judge giving the reasons for disqualification. The Tribal Judge shall

rule upon the disqualification or refer the petition to the Santee Sioux Governor and/or Tribal Council for a decision.

Section 5. Duties and Powers of Judges of the Santee Sioux Nation Judiciary.

- A. The Chief Judge, Associate Judge or Judge of the Children's Court shall hear and determine all matters which are duly and regularly filed in the Santee Sioux Tribal Court.
- B. The Tribal Judges of the Santee Sioux Nation Judiciary shall have the power:
 - 1. To issue any order or writ necessary and proper to the complete exercise of their powers;
 - 2. To issue subpoenas to compel attendance of witnesses on their own motion or on the motion of any party in the proceeding before him and may punish for failure to comply with such subpoena;
 - 3. To administer oaths to persons in proceedings before him and where necessary to carry out judicial duties;
 - 4. To sentence, administer fines, hold in contempt, defer sentence or prosecution; and
 - 5. To retain jurisdiction over the subject matter for a period of two (2) years.
 - 6. The Court, as a condition of any other granting probation to a defendant, may require the defendant:
 - a. To meet family responsibilities.
 - b. To undertake specific employment or occupation.
 - c. To undergo available medical or psychiatric treatment and to attend rehabilitation programs and to enter and remain in a specified institution when required.
 - d. To pursue a prescribed course of study or vocational training, including attendance at a Driver Training School.
 - e. To attend or reside in a facility established for the instruction, recreation, and residence of person on probation.
 - f. To refrain from frequenting unlawful or disreputable places or consorting with disreputable persons.
 - g. To possess no firearm or other dangerous weapon unless granted written permission from the Court.

- h. To make restitution or reparation for the loss or damage of any unlawful acts of commission or omission as may be directed by the Court.
- i. To remain within the jurisdiction of the Court and not to leave that jurisdiction without permission of the Court and to notify the Court or an officer thereof of any change in address or employment.
- j. To report as directed to the Court to a probation officer or other person designated by the Court.
- k. To post a bond, with or without surety, conditioned on the performance of any of these conditions.
- l. To satisfy any other conditions imposed by the Court reasonably related to the rehabilitation of the defendant.

Section 6. Relations with the Court

A. Contempt of Court

Any person failing to maintain the respect due the Tribal Court or engaging in offensive conduct in the courtroom shall be deemed guilty of contempt of court and subject to immediate sentencing by the judge to imprisonment for a period not to exceed six months, or a fine not to exceed \$500.00, or both the jail sentence and fine.

B. Acts or Failures to Act Which Constitute Contempt of Court

Any person may be held in contempt of Court for any of the following reasons:

1. Disorderly, contemptuous, or insolent behavior, committed in immediate view and presence of the Court while in session;
2. Any breach of the peace, noise or other disturbance which interrupts the proceedings of the Court;
3. Willful disobedience or resistance to any process, judgment, summons, or order lawfully issued by the Court;
4. Deceit or abuse of process of the Court by a party or attorney to a judicial proceeding;
5. Acting as an attorney, officer spokesman, or official of the Court without authority;
6. Refusing to be sworn or answer as a witness; and
7. Any other interference with the process, proceedings, or dignity of the court or a judge of the Court while the Court is in session.

C. Civil Contempt

A civil contempt consists of the willful refusal to perform an act that is yet in the person's power to perform after being ordered by the Court to perform the act, or the failure, in the presence of the Court, to comply with an order of the court or Court rule. Relief in a civil contempt may include:

1. A fine payable to the Court; or
2. The imposition of a fine or imprisonment for the purpose of coercing performance. Imprisonment shall remain in effect for so long as the party in contempt has the ability to comply with the Court order or directive, and refuses. Persons incarcerated under this statute shall be brought to Court on a regular basis for the Court to determine if the contemnor continues in his refusal to purge of the contempt. A person shall not be entitled to reimbursement of a fine for the reason that he subsequently complies with the Court order.

Compliance with the Tribal Court's order prior to a contempt hearing held in relation to such order shall be a full defense to prosecution for civil contempt for refusal to comply with such order.

D. Criminal Contempt

1. Criminal contempt is a past act where a person knowingly or willfully violates a Tribal Court rule or order of the Court.
2. Criminal contempt is a Class B offense as provided by the Criminal Offenses provisions of the the Santee Sioux Law and Order Code.

E. Contempt Procedure

1. Any person may be charged in contempt of court for any of the following reasons:
 - a. Disorderly, contemptuous, or insolent behavior, committed in immediate view and presence of the Court and directly tending to interrupt its proceedings or to impair the respect due to its authority.
 - b. Any breach of the peace, noise, or other disturbance directly tending to interrupt the proceedings of the Court.
 - c. Willful disobedience of any process or order lawfully issued by the Court.
 - d. Resistance willfully offered by any person to the lawful order or the process of the Court.
 - e. The unlawful refusal of any person to be sworn or affirmed or refusal to answer any material questions except where refusal is based on grounds

specified in the Indian Civil Rights Act of April 1, 1968 (82 Stat. 77), (25 U.S.C. 1301).

- f. The publication of a false or grossly inaccurate report of the proceedings of the Court.
 - g. Any person who shall request a jury trial and fails to appear on the date jury trial is scheduled.
 - h. The Court may sentence a person found to be in contempt of court to confinement at labor for a period of not more than six (6) months or to pay a fine of not more than \$500.00 (five hundred dollars) or both, with costs, and may also issue such orders as are necessary to enable the person to purge himself of the contempt. There is no right to a jury in a civil contempt hearing.
2. A direct contempt is one committed in the presence of the Court or so near thereto as to be disruptive of the Court proceedings, and as such may be adjudged and punished summarily as provided in this Subchapter.
 3. All other contempts shall be determined at an outside hearing. Notice of the hearing shall be given orally by the judge in open Court in the presence of the defendant, upon the filing of a complaint by the prosecutor, by an order to show cause or the issuance of an arrest warrant. The notice shall state:
 - a. The time and place for the contempt hearing, allowing a reasonable time for the preparation of the defense;
 - b. The exact contempt charges and the essential facts constituting such charges;
 - c. Whether the contempt proceedings are civil or criminal as provided by this Chapter; and
 - d. The sanctions which may be imposed against the defendant.
 4. In proceedings involving other than direct contempt cases if the charge involved disrespect to or criticism of a judge, such judge is disqualified from presiding at the trial or hearing except with the defendant's consent. If the defendant does not consent the case shall be presided over by any other available Tribal Judge.

CHAPTER 4 Rules for Admission to Practice in the Courts of the Santee Sioux Nation

Section 1. Purpose

The Judiciary Branch of the Santee Sioux Nation has legitimate interests in protecting prospective clients and in the quality of justice within this Nation's system of government. Furthermore, pursuant to Article IV, Section 1(s) of the Constitution of the Santee Sioux Nation is charged with

establishing written rules regarding qualifications to practice before the Tribe's Courts. Accordingly, these Rules of Admission to Practice impose requirements on anyone seeking to represent clients in the Santee Sioux Nation.

Section 2. Lay Counsel.

Lay Counsel may practice in the Courts of the Santee Sioux Nation.

- A. Each litigant in a civil case and every defendant in a criminal proceeding shall have the right to have lay counsel or spokesmen of their choice to represent them at their own expense.
- B. If a defendant in a criminal proceeding has no such representation and cannot afford to obtain representation, then where conviction could result in confinement in a jail, the Tribal Judge may appoint lay counsel to represent the defendant at no expense to the defendant.
- C. Admission of Lay Counsel or Spokesmen. All lay counsel or spokesmen who wish to be admitted to the practice before the Court of the Santee Sioux Nation may be admitted to practice upon approval of application in writing by order of the Chief Judge, as follows:
 1. Any person who is an enrolled member of the Santee Sioux Nation, eighteen (18) years of age or older, is of good moral character, and demonstrates to the Court a thorough knowledge of this Code, the Rules of the Tribal Judiciary and knowledge of the culture, traditions, and laws of the Santee Sioux people, is eligible to apply for admission to general practice as lay counsel or lay advocate or spokesman.
 2. No lay counsel or spokesman in a case may testify as a witness of the trial thereof, except upon permission of the court.
 3. Lay counsel or spokesman may be disbarred by the Chief Judge for cause upon notice and a hearing and a finding of violation by the Chief Judge.
 4. All lay advocates or spokesman applicants must meet the applicable criteria for admission established on Section 3, Rules 1-9 of this Title.

Section 3. General Requirements

RULE 1. Qualifications

An applicant who meets the qualifications described below shall be admitted to practice in the courts:

1. At least eighteen (18) years of age;
2. Demonstrates their competency to represent clients as described in Rule 2;
3. Demonstrates their good character and fitness to represent clients as described in Rule 3; and
4. Takes the oath prescribed in Rule 9.

The burden of proof is on the applicant to establish that they meet the requirements for admission. Refusal to furnish available information or answer questions relating to the qualifications is a sufficient reason to deny the application for admission to practice.

RULE 2. Competence Requirements

An applicant shall demonstrate their competency by:

1. Proof of admission to practice law and be in good standing in any state or U.S. territory; or
2. Proof of satisfactorily completing a course of study for lay advocates sponsored or certified by a Nationally Recognized Legal Education Program; or
3. Proof of satisfactorily completing a degree program in criminal justice systems or lay advocacy which has at least thirty semester credits of course work, including substantive and procedural law and skills development; or
4. Submission of proof of admission to practice lay advocacy before a tribal court of a federally recognized tribe which extends a similar admission to practice to Santee Sioux advocates; or
5. Being a Santee Sioux Tribal Member selected as a spokesperson to represent a Santee Sioux party for the purposes of that action only. For persons under this section, an oral application on the date of the appearance is sufficient;
6. Law students may appear as advocates in some cases. The requirements are:
 - a. Student must attend an ABA accredited law school and be in good standing;
 - b. Student must have completed at least one academic year of credits;
 - c. Student must be supervised by an attorney;

RULE 3. Character Requirements

An applicant shall demonstrate their good character and fitness to represent clients by:

1. Submitting supporting affidavits from two people familiar with their integrity, honesty, moral character, judgment, courtesy and self-reliance;
2. Providing background information and permission to contact other references as requested by the Court;
3. Submitting to a fingerprint check if requested by the Court;
4. Submitting Santee Sioux Tribal identification number if requested by the Court for verification pursuant to Rule 2, subsection 5. Santee Sioux spokespersons are not required to comply with Parts 1 through 3 of this section.

Any applicant who knowingly makes a false statement or fails to disclose a fact necessary to correct a mistaken understanding by the Court in connection with their application shall not be admitted to practice.

An applicant who is not in good standing or who has been suspended from practice in another jurisdiction may be refused admission.

RULE 4. Application Process

The applicant shall submit their request for admission to practice, affidavits, releases of information, the application processing fee, telephone numbers, and home and any business address in one filing. Failure to submit this documentation will result in no action taken on the request for admission. The applicant shall respond to any additional requests from the Court within twenty (20) days, or else within the time allowed by the Court.

The Court will grant or deny the application, or request additional information concerning the admission within thirty (30) days of receiving the request.

For persons under Rule 2, subsection 5, an oral application on the date of the appearance is sufficient.

RULE 5. Adverse Decision

An applicant who is denied admission to practice will receive a written notice of the reason for the denial. A request for review and any additional information the applicant wishes to have considered must be submitted within twenty (20) days of the date of the notice of the reason for the denial.

Any personal interviews of the applicant or others in connection with an evaluation of the request for review of a denial is solely within the Court's discretion.

There is no further appeal.

RULE 6. Waiver of Requirements

The Court, in its discretion, may waive any requirements in these rules, except those of Rules 2 and 3, for good cause and where to do otherwise would be unjust.

RULE 7. Confidentiality

All information received by the Court in connection with an application for admission is confidential and will be released only upon written authorization of the applicant or by Order of this Court.

RULE 8. Fees

The processing and admission fee is fifty dollars (\$50.00 US) and is non-refundable. Except that,

1. For persons under Rule 2, subsection 5, the admission fee will be waived.
2. For persons under Rule 2, subsection 6, the admission fee will be waived.

Each applicant or person admitted to practice before the Santee Sioux Nation Tribal Court will be required to renew admission to practice on an annual basis. The renewal of admission to practice requires a fee of twenty-five dollars (\$25.00 US) to be paid to the court and the submission of an updated Attorney Data form, if any information has changed. These fees do not cover the expense of furnishing a copy of the Santee Sioux Nation Judicial Code, Law and Order Code, or any other ordinance. Codes will be available for purchase for a fee established by the Court Administrator.

RULE 9. OATH

The oath or affirmation to be taken to qualify for admission to practice before the Courts of the Santee Sioux Nation shall be in substantially the form shown below. It may be submitted in writing, containing the signatures of the applicant and two witnesses or it may be a spoken oath before any Judge or Justice of the Santee Sioux Nation.

I do solemnly swear:

I am familiar with and will support the Constitution and laws of the Santee Sioux Nation.

I will maintain the respect due to the courts and judicial officers and consent to the Court's jurisdiction, including the jurisdiction to sanction attorneys.

I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, or present any defense, except as I believe to be honestly debatable under the laws of the Nation or of the United States of America.

I will employ for the purpose of maintaining the causes confided to me, such means only as are consistent with truth and honor, and will never seek to mislead the courts by any artifice or false statement off act or law.

I will maintain the confidence and preserve inviolate the secrets of my client and will accept no compensation in connection with my client's business except from my client or with my client's knowledge and approval

I will abstain from all offensive personality and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged

I will never reject from any consideration personal to myself, the cause of the defenseless or oppressed, or delay any person's cause for personal financial gain or animosity.

I agree to accept appointments from the courts to represent low-income clients without charging a fee for the representation. I understand this obligation will not exceed twenty hours per year.

Oath will be waived for Santee Sioux spokesperson pursuant to Rule 2, subsection 5.

RULE 10. SUSPENSION OR DISBARMENT

Any party licensed to practice who violates their oath or demonstrates misconduct will lose their privilege to practice in the Santee Sioux courts. The length and severity of the loss of privilege will be invoked at the discretion of the court.

For persons under Rule 2, subsection 5, the administration of the Oath will be waived.

Admission; Adopted _____

By the Santee Sioux Nation of the Santee Sioux Nation

Adopted this _____ day of _____, 20____.