

**WYANDOTTE NATION
TITLE 4
COURT ADMINISTRATION CODE
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**WYANDOTTE NATION
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INTRODUCTION

Section 1. Authorization.

There is hereby established, ordained, and activated pursuant to the Constitution of the Wyandotte Tribe of Oklahoma the Judicial Branch of the Government of the Tribe with an inferior Court known as the District Court and a superior Court known as the Supreme Court.

Section 2. Definitions.

The following words have the meanings given below when used in this Title, unless a different meaning is obvious from the context:

- (a) "Clerk" shall mean the Clerk of the Court.
- (b) "Code" shall mean the statutory laws of the Wyandotte Nation.
- (c) "Court" shall mean the District Court or Supreme Court of the Wyandotte Nation.
- (d) "Common Law" shall mean the common law of the Wyandotte Nation unless otherwise indicated. This term shall include traditional tribal customs and usages.
- (e) "Community Court" shall mean the Wyandotte Nation Community Court created under Chapter 3 of this Title.
- (f) "Constitution" shall mean the Constitution of the Wyandotte Tribe of Oklahoma unless otherwise indicated.
- (g) "District Court" shall mean the lower or general trial Court operating within the jurisdiction of the Nation, created pursuant to the Wyandotte Constitution Article 6, § 6.
- (h) "Nation Council" shall mean the Nation Council of the Wyandotte Nation.
- (i) "Board of Directors" or "Business Committee" shall mean the Officers of the Wyandotte Nation.
- (j) "He", "him", and "his" shall mean the masculine, feminine and neuter forms as appropriate unless a particular masculine, feminine or neuter form is necessary for the phrase to have meaning.
- (k) "Judicial Office" shall mean generally any Judge or Justice appointed by the Board of Directors pursuant to this Title.

(l) "Jurisdiction" shall mean the Indian Country within the territorial jurisdiction of the Wyandotte Nation.

(m) "Nation" or "Tribe" and variants thereof, both uppercase and lowercase, shall mean the Wyandotte Nation unless otherwise indicated.

(n) "Statute" shall mean any law duly adopted by the Board of Directors of the Wyandotte Nation unless otherwise indicated.

(o) "Supreme Court" shall mean the Court of last resort to which appeals may be taken from the District Court. The judicial decisions of the Supreme Court are final and are not subject to further appeal.

(p) "Tribe" – *see* "Nation."

Section 3. Territorial Jurisdiction

The Territorial Jurisdiction of the Courts shall extend to all territory described as Indian Country within the meaning of Section 1151 of Title 18 of the United States Code over which the Nation has authority, including tribal or individual, trust, non-trust and restricted land, and including all land owned by agencies of the Nation in their own name, all waters, minerals and wildlife, and any other such land, or interest in land, which may be subsequently acquired by virtue of Executive Order, a declaration or regulation of the United States Department of Interior, a declaration or order of a court of competent jurisdiction, by purchase, gift, relinquishment, or by any other lawful means.

Section 4. Civil Jurisdiction.

The Courts shall have general civil jurisdiction over all civil actions arising under the Constitution, laws, or treaties of the Nation including common law, over all general civil claims which arise within the Nation's jurisdiction, and over all transitory claims in which the defendant may be served within the Nation's jurisdiction. Personal jurisdiction shall exist over all defendants served within the territorial jurisdiction of the Court, or served anywhere in cases arising within the territorial jurisdiction of the Court, or served anywhere in cases arising within the territorial jurisdiction of the Nation, and over all persons consenting to such jurisdiction. The act of entry within the territorial jurisdiction of the Court shall be considered consent to the jurisdiction of the Court 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(s) shall be considered consent by the seller or merchant to the jurisdiction of this Court for any dispute arising out of any sale or commercial transaction regardless of where the sale or transaction was entered into or took place.

Section 5. Criminal Jurisdiction.

The Courts shall have original jurisdiction over all criminal offenses enumerated and defined in any ordinance adopted by the Nation insofar as not prohibited by federal law.

Section 6. Juvenile Jurisdiction.

The Juvenile Division of the District Court shall have the exclusive original jurisdiction in all proceedings and matters affecting dependent or neglected children, children in need of supervision, or children under the age of eighteen (18) accused of crime, when such children are found within the jurisdiction of the Court, or when jurisdiction is transferred to the Court pursuant to law. The Supreme Court shall hear appeals in juvenile cases as in other civil actions.

Section 7. Law to Be Applied.

The Courts shall apply the Constitution and the provisions of all statutory law heretofore or hereafter adopted by the Nation. In matters not covered by Statute, the Court shall apply traditional tribal customs and usages, which shall be called the Common Law. When in doubt as to the Common Law, the Court may request the advice of counselors and tribal elders familiar with them. In any dispute not covered by the Constitution, Statutes, or Common Law, the Court may apply any laws of the United States or any State which would be cognizable in the court of general jurisdiction therein, and any regulation of the Department of Interior which may be of general or specific applicability. Upon this Code becoming effective, neither Part 11 of Title 25 of the Code of Federal Regulations, except those Sections thereof which are effective when the Nation receives certain funding from the Bureau of Indian Affairs, nor State law shall be binding upon the Court unless specifically incorporated into tribal law by Statute or be a decision of the Tribal Courts adopting some federal or state law as Common Law.

Section 8. Amendments.

The Board of Directors shall have the authority to alter, amend, or repeal any provision of this Title or to add new sections to this Title in its discretion.

CHAPTER ONE DISTRICT COURT

Section 101. District Court Judges.

Pursuant to the Constitution Article 6, § 6, there is hereby created a District Court which shall consist of the Chief Judge, and such District Judges, Special Judges, and Magistrates as may be appointed according to law.

Section 102. Minimum Qualifications of Judge of the District Courts.

A Judge shall:

- (a) be a licensed attorney who
 - (i) is in good standing with the licensing authorities where licensed; and
 - (ii) who possesses a demonstrated background in tribal court practice, and
- (b) have demonstrated moral integrity and fairness in his business, public and private life, and
- (c) have never been convicted of a felony or an offense punishable by banishment, whether or not actually imprisoned or banished, and have not been convicted of any offense, except traffic offenses, for a period of two years next preceding his appointment. The two year period shall begin to run from the date the person was unconditionally released from supervision of any sort as a result of a conviction.
- (d) have regularly abstained from the excessive use of alcohol and use of illegal drugs or psychotoxic chemical solvents.
- (e) be not less than twenty-five (25) years of age.
- (f) not be a member of the Board of Directors, or the holder of any other elective Office of this Nation, provided, that a candidate who is a member of the Board of Directors, or the holder of some other elective Office of the Nation, may be confirmed as a Judge subject to his resignation. Upon resignation from his office, he may be sworn in as and assume the duties of judicial office.
- (g) When selecting candidates for appointment pursuant to Section 103 of this Title, preference shall be given first to qualified members of the Nation, next to enrolled members of other Indian Tribes, and last to non-Indians.

Section 103. Manner of Selection of Justices and Judges.

Judges and Justices shall be selected in a manner consistent with the Constitution.

(a) Within thirty days of the approval of this Title, or after a vacancy occurs the Board of Directors shall cause a notice of the vacancy to be published once in the Nation's newspaper and once each week for two (2) consecutive weeks in a newspaper of general circulation in the Nation's Jurisdiction. The notice shall state the minimum qualifications, salary, and any other pertinent information. Copies of the notice shall be posted at the Nation's Office, the nearest Agency of the Bureau of Indian Affairs, the Nation's Housing Authority office, and such other places as the Judicial Review Committee shall direct. The notice shall direct that inquiries, nominations and applications be directed to the Board of Directors who shall keep a permanent record of responses to such notices.

(b) No sooner than twenty (20), nor more than thirty (30) days after the date on which last required notice was published or posted, the Board of Directors shall convene to review all nominations and applications for the Judicial Office. The Board of Directors shall conduct any in person interviews it deems necessary or advisable.

(c) No later than 60 days after the date on which the last required notice was published or posted, the Board of Directors shall forward to the Chief the names of no more than three qualified candidates for each vacant Judicial Office. The Chief shall, in turn, place consideration of the candidate(s) on the agenda of the next regular or special meeting of the Board of Directors.

(d) The Board of Directors shall review the qualifications of the nominees, and may interview nominees at their meetings at their discretion. The Board of Directors shall select one nominee for approval or disapproval at the next scheduled Board of Directors meeting. In making a selection, the Board of Directors shall give preference to those candidates who:

- (1) are members of the Nation;
- (2) have formal education and experience in the legal field.
- (3) have demonstrated that they are familiar with the Constitution, Code and Common laws of the Nation.
- (4) have demonstrated decision making ability.

(e) If the nominee for the Judicial Office is confirmed by the Board of Directors, the nominee shall be sworn into office by the Chief Justice, or the next ranking available Justice of the Supreme Court. For purposes of the initial appointee(s) under this Title, in the event members of the Supreme Court have not yet been appointed, the nominee may be sworn into office by the Chief.

(f) If the nominee(s) is not confirmed, the Board of Directors shall either republish the notice and establish a new list of eligible candidates for the Board of Director's

consideration, or they may reconsider the candidates on the list gathered from the previous notice. The nomination/confirmation process shall continue until a nominee is confirmed.

(g) The first Justices and District Judge(s) selected shall take office immediately upon taking the oath of office. The terms of the first Justices shall be selected by lot, which lot shall recite the term for that office. One shall end on September 30, XXXX; one shall end on September 30, XXXX; and one shall end on September 30, XXXX. Thereafter, each Justice and District Judge shall serve for a four-year term, commencing on October 1 of the year in which the prior term expires. A Judge or Justice shall continue to serve past the expiration date of his or her term until a successor is confirmed and qualified unless the Judge or Justice is reconfirmed by the Board of Directors.

(h) Upon the expiration of the initial appointments under this title, all sitting Judges and Justices shall be eligible to seek reappointment to their respective Judicial Office.

Section 104. Term of Office.

Except as provided in Section 103 of this Title, all Judges of the District Court shall serve four (4) year terms of office beginning from the date of their confirmation and until their successors take office, unless removed for cause, or by death or resignation.

Section 105. Oath of Officer.

Before assuming office each Judge, Special Judge, and Magistrate shall take an oath to support and protect the Constitution of the Nation and to administer justice in all causes coming before him with integrity and fairness, without regard to the person before him, to be administered by the Chief Justice or the next ranking available Justice of the Supreme Court as soon after confirmation as may be practical.

Section 106. Duties and Powers of Judges.

All Judges of the District Court, and Special Judges in cases within their authority, shall have the duty and power to conduct all court proceedings, and issue all orders and papers incident thereto, in order to administer justice in all matters within the jurisdiction of the Court. In doing so the Court shall:

(a) Be responsible for creating and maintaining rules of the Court, not in conflict with the Wyandotte Nation Code of Laws or the Rules of the Supreme Court regulating conduct in the District Court, for the orderly and efficient administration of justice. Such rules must be filed in the office of the Tribal Secretary and the District Court Clerk before becoming effective.

(b) Hold Court regularly at a designated time and place.

(c) Have the power to administer oaths, conduct hearings, and otherwise undertake all duties and exercise all authority of a judicial officer under the law.

- (d) Hear and decide all cases properly brought before the Court.
- (e) Enter all appropriate orders and judgments.
- (f) Issue all appropriate warrants and subpoenas.
- (g) Keep all Court and other records as may be required.
- (h) Perform the duties of the Clerk in his absence.
- (i) The Judges shall annually elect from among themselves a Chief Judge.

Section 107. Trial Panel.

In any case to be tried by a Trial Panel, the Chief Judge shall assign by random lot at least three Judges to try the case, one of whom shall be designated as the Presiding Judge. The Presiding Judge assigned to the case shall have the duty before, during and after trial of making procedural and evidentiary rulings on issues raised by the case, after conferring with the other assigned Judges when he feels it necessary to do so. All assigned Judges shall have an equal vote on the merits of each case. The panel's deliberations on the merits shall be held in strict privacy and no one shall disclose anything said during the deliberation. A majority of the assigned Judges may take action on the merits of any matter, but no one shall reveal the vote of any of the Judges on the panel or the final numerical vote of the panel; the decision should simply reflect that it is the decision of the Court.

Section 108. Special Appointments.

Whenever, due to vacancies in office, disqualification of Judges, or other cause, a trial panel cannot be convened from the available Judges, or an additional Judicial Officer is need to efficiently dispense with the business of the District Court, due to vacancies in office, disqualification of Judges, or other cause, the Supreme Court may request the Board of Directors to appoint one or more duly qualified Magistrates or Justices to sit:

- (a) on the trial panel, or
- (b) make one or more special appointments from among the members of the Bar of the court to act as a Special Judge to hear specific named cases, or
- (c) cases filed prior to the date a trial panel of regular Judges can be convened.
- (d) No special procedure need be followed in making such appointments and such Special Judges need not meet the qualification of Section 102 (a) or (g) of this Title. Whenever a Justice of the Supreme Court sits on the trial panel, that Justice may not participate in any appeal of the case to the Supreme Court. Special Judges may be compensated from the Court fund in such reasonable amounts as the Board of Directors shall order.

Section 109. Compensation of Judges.

(a) The compensation of all Judges of the District court shall be set by appropriate legislation of the Board of Directors. No Judge shall have his compensation reduced during his term of office, except that if funds be unavailable for appropriation, the compensation of all judicial officers may be reduced proportionally to the availability of funds.

(b) Nothing in this section shall prohibit the Board of Directors from contracting or agreeing with the Bureau of Indian Affairs or any other government, agency, or organization that such government, agency, or organization shall provide all or part of the compensation of a Judge or Magistrate of the District Court, and shall in return have control over the compensation of such Judges or Magistrate. In such situations the Board of Directors shall recommend to the funding party the compensation of District Judges and Magistrates.

(c) Subsection (a) of this Section shall not apply to Magistrates. The compensation of all Magistrates shall be set by order of the Board of Directors from available appropriated funds, or from funds made available pursuant to an agreement entered into according to Subsection (b) of this Section.

Section 110. Removal of Judges.

The Board of Directors, upon recommendation or upon its own initiative, may remove a District Court Judge from office upon a showing of habitual neglect of the duties of office, oppression in office for personal gain or advantage, or conviction in any court of a felony or other crime involving moral turpitude. In no case may a judicial officer be removed from office because of his decision or vote in any case before the Court.

Section 111. Disqualifications, Conflict of Interest.

(a) No Judge shall hear any case when he has a direct financial, personal or other interest in the outcome of such case or is related by blood or marriage to one or both of the parties as: husband; wife; son; daughter; father; mother; brother; sister; grandfather; grandmother; or any legal dependent. A Judge should attempt to prevent even the appearance of partiality or impropriety.

(b) Either party of interest in such case or the Judge may raise the question of conflict of interest. Upon decision by the Judge concerned or the Supreme Court that disqualification is appropriate, another Judge shall be assigned to hear the matter before the Court.

(c) Any Judge otherwise disqualified because he is related to one or more of the parties in one of the relationships enumerated in subsection (a) of this Section, may hear a case if all parties are informed of the blood or marriage relationship on the record in open Court and of their right to have a different Judge hear the case, and consent to further action by that Judge in the case in open Court upon the record, or in a writing filed in the record, in spite of the conflict of interest.

Section 112. Decisions.

(a) Each decision of the District Court at trial shall be recorded on a form approved by the Supreme Court for such purpose, or embodied in written findings of fact and conclusions of law containing all the information required by the approved form. The form shall provide for recording the date of the decision, the case number, the names of all parties, the substance of the complaint, the relevant facts found by the Court to be true, the Court's decisions, and the conclusions of law supporting the Court's decisions.

(b) In a case tried to a Judicial Panel, the Presiding Judge shall sign such form or decision indicating that the decision is the true decision of a majority of the trial panel on the case whether or not the Presiding Judge agreed with that decision.

(c) The decision form or the written findings of fact and conclusions of law shall be placed in the case file as an official document of the case.

Section 113. Records.

The District Court shall be a court of record. To preserve such records:

(a) In all Court Proceedings, the Court Reporter, which may be the Clerk in the absence of an official Court Reporter, shall record the proceedings of the Court by electronic or stenographic means. The recording shall be identified by case number and kept for five (5) years from the date of final disposition of the case for use in appeals or collateral proceedings in which the events of the hearing are in issue. At the close of each hearing, or as otherwise specified, the Reporter shall cause a transcript to be made of the recording upon the request of any party or the Court as a permanent part of the case record. Court Reporters may be licensed by the Supreme Court, and shall be allowed such fees from the Parties for their services as shall be set by Rule of the Supreme Court.

(b) To preserve the integrity of the electronic record, the Clerk shall store the recording in a safe place and release it only to the relevant Court or pursuant to an Order of a Tribal Judge or Justice.

(c) The Clerk shall keep in a file bearing the case name and number every written document filed in the case.

(d) All Court records shall be public records except as otherwise provided by law.

(e) After five (5) years from the date of final disposition of a case, court records except judgments, appearance, and other dockets may be reproduced on computer tape or disk, microfilm, or microfiche or similar space saving record keeping methods, provided, that at least one (1) hard copy, including microfilm or microfiche, of electronically stored data shall be kept at all times.

(f) The Supreme Court shall provide for the publication in books or similar reporters of all of its decisions and opinions in cases before it, and the opinions and decisions of the District Court which would be useful to the Bar of the Court and the public.

Section 114. Files.

(a) Except as otherwise provided by law, such as in juvenile cases, Court files on a particular case are generally open to the public. Any person may inspect the records of a case and obtain copies of documents contained therein during normal business hours.

(b) Any person desiring to inspect the records of a case or obtain copies thereof may inspect such files only during the ordinary working hours of the Clerk, or a Judge, and in their presence to insure the integrity of court records. Under no circumstances shall anyone, except a Judge or a licensed advocate, attorney or the Clerk taking a file to a Judge in his chambers or a courtroom, take a file from the Clerk's office.

(c) A copy of any document contained in such a file may be obtained from the clerk by any person for a reasonable copy fee, to be set by rule of the Supreme Court. The Clerk is hereby authorized to certify under the seal of his office that such copies are accurate reproductions of those documents on file in his office. The Supreme Court by rule may provide for such certification.

Section 115. Motion Day.

Unless conditions make it impractical, the District Court shall establish regular times and places, at intervals sufficiently frequent for the prompt dispatch of business, at which motions requiring notice and hearing may be heard and disposed of; but the Judge at any time or place, and on such notice, if any, as he considers reasonable, may make orders for the advancement, conduct, and hearing of actions, or, the Court may make provision by rule or order for the submission and determination of motions without oral hearing upon brief written statements of reasons in support and opposition.

Section 116. Magistrates.

(a) Magistrates may be appointed as necessary for the convenient functioning of the Court. These Magistrates shall have the authority to issue arrest and search warrants, search warrants for the protection of children, emergency custody orders in children's cases, temporary commitments of persons accused of offenses, to conduct arraignments in criminal or juvenile delinquency cases, and to act on such *ex parte*, summary, or other matters as may be determined by Rules of the Supreme Court. Magistrates shall meet the minimum qualifications for Judges of the District Court except that Section 102 (a) and (g) shall not apply. Magistrates shall serve for two year periods.

(b) Magistrates shall serve at the pleasure of the Board of Directors and may be removed with or without cause at anytime. In no case may a judicial officer be removed from office because of his decision or vote in any case before the Court.

Sections 117-119. Reserved.

Section 120. Practice Before the District Court and Supreme Court

(a) No person shall be denied the right to have a member of the Bar of the court represent him and present his case before the Courts.

(b) The Supreme Court, after conferring with the District Court, shall make rules which shall govern who may practice before the District Court and the Supreme Court. Such rules shall be filed in the office of the Tribal Secretary and the office of the Clerk of the Supreme and District Court.

CHAPTER TWO SUPREME COURT

Section 201. General Provisions.

The Supreme Court may hear appeals resulting from all final orders or judgments rendered by the District court, appeals of other orders of the District Court subject to interlocutory appeal by law, and such original actions as may be provided by tribal law. The Supreme Court shall render its decision in writing to the parties of interest, file a copy thereof in the Supreme Court Clerk's office and the Tribal Secretary's office. The Supreme Court Clerk shall at the time of filing of the decision submit a copy to the official reporter of the decisions of the Court. The decision of the Supreme Court shall be final and binding upon the parties and not subject to further appeal.

Section 202. Composition of the Supreme Court.

The Supreme Court shall consist of five (5) Justices. At least three (3) of the Justices shall be licensed attorneys as provided in Section 203(a). The Justices shall designate one of their ranks to serve as Chief Justice for a two year period.

Section 203. Minimum Qualifications of Justices.

To be eligible for selection or confirmation as a Justice of the Supreme Court, a person shall:

- (a) if an attorney, be a licensed attorney who
 - (i) is in good standing with the licensing authorities where licensed; and
 - (ii) who possesses a demonstrated background in tribal court practice, and
- (b) have demonstrated moral integrity and fairness in his business, public and private life, and
- (c) have never been convicted of a felony or an offense punishable by banishment, whether or not actually imprisoned or banished, and have not been convicted of any offense, except traffic offenses, for a period of two years next preceding his appointment. The two year period shall begin to run from the date the person was unconditionally released from supervision of any sort as a result of a conviction.
- (d) have regularly abstained from the excessive use of alcohol and use of illegal drugs or psychotoxic chemical solvents.
- (e) be not less than twenty-five (25) years of age.

(f) not be a member of the Board of Directors, or the holder of any other elective Office of this Nation, provided, that a candidate who is a member of the Board of Directors, or the holder of some other elective Office of the Nation, may be confirmed as a Judge subject to his resignation. Upon resignation from his office, he may be sworn in as and assume the duties of judicial office.

(g) When selecting candidates for appointment pursuant to Section 103 of this Title, preference shall be given first to qualified members of the Nation, next to enrolled members of other Indian Tribes, and last to non-Indians.

Section 204. Selection of Justices.

Justices shall be appointed by the Board of Directors in accordance with the appointment provisions of Section 103 of this Title. Supreme Court Justices shall not be required to run for election. Justices shall be eligible for reappointment by the Board of Directors upon expiration of the Justices' term of office.

Section 205. Term of Office.

Except for the first Justices appointed under this Title, all Justices of the Supreme Court shall serve four (4) year terms of office beginning from the date of their confirmation and until their successors take office, unless removed for cause, or by death or resignation. Of the first Justices appointed under this Title, two Justices shall have a term of two (2) years, two Justices shall have a term of three (3) years, and one Justice shall have a full term of four (4) years. All Justices so appointed shall be eligible for reappointment at the expiration of their terms.

Section 206. Oath of Office.

Before the assuming office each Justice shall take an oath to support and protect the Constitution of the Nation and to administer justice in all causes coming before him with integrity and fairness, without regard to the person before him, to be administered by the Chief Justice, the Chief, or the ranking available Justice of the Court.

Section 207. Duties of Justices.

All Justices of the Supreme Court, unless disqualified for conflict of interest or other cause, shall participate in the deliberation of that body and shall have the duty and power to conduct all Court proceedings, and issue all orders and papers incident thereto, in order to administer justice in all matters within the jurisdiction of the Supreme Court. In doing so the Supreme Court shall:

(a) Be responsible for creating and maintaining rules of the Court, not contrary to the Constitution or Code, regulating conduct in the Supreme and District Court to provide for the orderly and efficient administration of justice and the administration of the Courts. Such rules

shall determine, where not otherwise provided by law, what actions may be taken by a single Justice of the Court, and shall be filed with the Clerk of the Court and the Tribal Secretary.

- (b) Hear appeals from the District Court at a designated time and place.
- (c) Enter all appropriate orders and judgments.
- (d) Keep all appropriate records as may be required.
- (e) Perform any and all other duties as may be required for the operation of the Supreme Court and the District Court.
- (f) Supervise the actions of the District Court and all Clerks, Reporters, Bailiffs, and other officers of the Courts.
- (g) Perform any of the duties and powers of a District Judge in appropriate cases.

Section 208. Reserved.

Section 209. Compensation of Justices.

(a) The compensation of all Justices of the Supreme Court shall be set by legislation of the Board of Directors. No Justice shall have his compensation reduced during his term of office, except that if funds be unavailable for appropriation, the compensation of all Judicial Officers may be reduced proportionally to the availability of funds.

(b) Nothing in this section shall prohibit the Board of Directors from contracting or agreeing with the Bureau of Indian Affairs or any other government, agency, or organization that such government, agency, or organization shall provide all or part of the compensation of a Justice of the Supreme Court, and shall in return have control over the compensation of such Justice. In such situations the Board of Directors shall recommend to the funding party the compensation of Supreme Court Justices.

Section 210. Suspension and Removal of Justices.

Justices of the Wyandotte Nation may be suspended or removed from office by the Nation Council only upon a showing of habitual neglect of the duties of office; absence from duty; misconduct in office, including but not limited to oppression in office for personal gain or advantage, or final conviction in any court of a felony, a crime punishable by banishment, or other crime involving moral turpitude. In no case may a judicial officer be removed from office because of his decision or vote in any case before the Court.

Section 211. Disqualifications, Conflict of Interest.

(a) No Justice shall hear any case when he has a direct financial, personal, or other interest in the outcome of such case or is related by blood or marriage to one or both of the parties as: husband, wife, son, daughter, father, mother, brother, sister, grandfather, grandmother, or any other legal dependent. A Justice should attempt to prevent even the appearance of partiality or impropriety.

(b) Either party in interest in such case or the Justice may raise the question of conflict of interest. Upon decision by the Justice concerned or the Supreme Court that disqualification is appropriate, a Judge, Magistrate, or Special Justice may be appointed to sit on the Supreme Court to hear the matter before the Court.

(c) Any Justice related to one or more of the parties in one of the relationships enumerated in Subsection (a) of this Section, may hear a case if all parties are informed of the blood or marriage relationship on the record in open Court and of their right to have the interested Justice disqualified from the case, and consent in writing filed in the case, or upon the record in open Court to the conflict of interest. Normally, the Justice knowing of the conflict of interest should simply file an order recusing himself from the action and stating his relationship with the parties. Thereafter, if the parties consent to that Justice hearing the action, they should file their written consent for such Justice to continue in the cause. If all parties file such consent, the Justice may then enter his order withdrawing the recusal on grounds of the consent filed. A consent to the withdrawal of a Justice's recusal may not be revoked.

Section 212. Decisions.

(a) All decisions and opinions of the Supreme Court shall be rendered in writing to the parties in interest, rendered in writing to the District Court in appeal cases, filed in the Supreme Court Clerk's Office and the Tribal Secretary's office, transmitted to the official reporter of the decisions of the court, and recorded on a form approved by the Supreme Court for such purpose. The form shall provide for recording the date of the decision or opinion, the case number, the names of the parties before the Court, the issues presented on appeal or the substance of the complaint in an action within the court's original jurisdiction, the relevant facts upon which the decision on appeal was made or as found by the Court to be true in an original action, the court's decision, and the legal principles and reasoning supporting the Court's decision. A written Court opinion containing the above information may be filed by the majority or dissent in lieu of the form.

(b) Each Justice shall record in writing his decision, or the fact of his not participating when he is disqualified, on each case decided by the Supreme Court as part of the permanent record.

(c) The decision form or Court opinion shall be placed in the file of the case on appeal as an official document of the case.

Section 213. Rules of the Court.

(a) The Supreme Court shall establish rules concerning the administration of the Courts and conduct in the Supreme and District Court not inconsistent with the Nation's existing laws. Such rules shall govern the conduct, demeanor, and decorum of those in the Court as well as the form and filing of appeals, briefs, pleadings, and other matters which will make the Court function more efficiently.

(b) The Rules shall be filed in the Court Clerk's office, the office of the Tribal Secretary, and delivered to the official reporter of decisions of the Court.

(c) The Court may require the observance of its Rules as a prerequisite before taking any action in a matter.

(d) Prior to the effectiveness of the Court Rules, the Board of Directors shall be presented with the Court Rules and shall adopt the Court Rules by a duly enacted Resolution.

Section 214. Special Appointments.

Whenever, due to vacancies in office, disqualification of Justices, or other cause, five (5) Justices cannot be convened to hear and decide the merits of a case before the Court, the Court, including any disqualified Justices, shall request the Board of Directors to make one or more special appointments to hear specific named cases, or cases filed prior to the date five (5) Justices can be convened on such cases. No special procedure need be followed in making such appointments and special Justices need not meet the qualifications of Section 102 (a) and (g) of this Title, except that special appointees shall be fair, honest, and preserve the integrity of the Court. Special appointments by the Board of Directors shall be made by formal action with notice to the parties in a case where appropriate.

Section 215. Supreme Court's Action on Appeals.

In any appeal properly before it, the Supreme Court shall have full authority to affirm, reverse, modify, or vacate any action of the District Court or other entity from whom the appeal is taken as authorized by law, and may enter such order as is just or remand the case for the entry of a specified judgment, for a new trial, or for such further action in accordance with the Supreme Court's opinion or instructions as shall be just.

Section 216. Terms of the Court.

The regular term of the Court shall commence on the third Monday in October of each year, and upon that date the Supreme Court shall convene in its Courtroom for the purpose of disposing of the actions and other business before the Court. The term shall continue until such time as the Court determines that its business is properly disposed of and the term shall then be declared completed. Special terms may be convened at any time upon the call of the Chief Justice for the

purpose of dispensing with pressing matters which may not be justly delayed until the regular term of the Court.

Section 217. Court Fund.

Notwithstanding the provisions contained in Title __ (Finance) of the Wyandotte Nation Code of Laws, there is hereby authorized to be maintained by the Clerk under the supervision of the Court, a fund to be known as the "Court Fund" into which shall be deposited all fines, fees, penalties, costs, and other monies authorized or required by law to be paid to the Courts which are not to be distributed to any party to a case and for which no requirement is imposed by law for the deposit of such funds into a particular account. These funds shall be maintained by the court and used exclusively for the purchase of supplies, materials, and personal property for the use of the court, the maintenance of the Court law library, and such other applications as shall be specifically authorized by law. Two duly designated and authorized Court officers must sign checks drawn on the Court Fund. The Board of Directors shall designate as many Court officers as it deems appropriate to serve as signators on checks drawn on the Court Fund. The Court Fund shall not be used for the payment of salaries of regular Judges or Justices of the District or Supreme Court. With the exception of moneys separately deposited for restitution, money in the Court Fund is subject to tribal budgetary processes and may be appropriated at the discretion of the Board of Directors.

CHAPTER THREE COMMUNITY COURT

Section 301. Creation and Purpose

There is hereby created the Wyandotte Nation Community Court, which shall serve as a unit under the Wyandotte Nation District Court. The purpose of the Wyandotte Nation Community Court is to serve as a forum for deferred and alternative adjudication for criminal and civil violations of the Wyandotte Nation Code of Laws.

Section 302. Jurisdiction

(e) The jurisdiction of the Wyandotte Nation Community Court shall be coextensive with that of the Wyandotte Nation District Court.

(f) Cases may be referred to the Wyandotte Nation Community Court by the Wyandotte Nation District Court on the Court's own motion, at the request of the Prosecuting Attorney or on motion of a Defendant.

Section 303. Judges

(a) Judges for the Wyandotte Nation Community Court shall meet the same qualifications as judges appointed to serve on the Wyandotte Nation District Court.

(b) The Board of Directors shall designate one or more judges to preside over the Wyandotte Nation Community Court, which judge(s) may either be specially appointed or selected from among the appointed District Court judges.

Section 304. Court Clerk

The Clerk of the Wyandotte Nation District Court shall serve as the Clerk of the Wyandotte Nation Community Court and shall perform for the Community Court all functions performed for the District Court.

Section 305. Authority

The Wyandotte Nation Community Court shall have the authority to require defendants to engage in various activities prior to, or in lieu of, formal sentencing by the District Court. These activities include, but are not limited to, the following:

- (c) drug and alcohol assessments
- (d) anger management counseling

- (e) domestic violence counseling
- (f) drug and alcohol treatment
- (g) random drug tests
- (h) probation

Section 306. Deferred and Alternative Adjudication

(a) A case may be referred to the Community Court regardless of whether the Defendant enters a plea of Not Guilty, No Contest or Guilty.

(b) Successful completion of all requirements imposed by the Community Court shall result in a dismissal of the charge against a Defendant regardless of the Defendant's plea and shall not be considered to be a conviction even if the Defendant entered a plea of Not Guilty or No Contest.

(c) Failure to comply with any assessment, counseling, treatment or other requirement imposed by the Community Court may result in the transfer of the Defendant's case to the District Court, provided that reasonable efforts have been made and services have been offered to a Defendant.

(d) Failure of a Defendant to substantially comply within six (6) months following transfer of a case to the Community Court shall be deemed failure to comply unless good cause is shown to the contrary.

CHAPTER FOUR COURT CLERK

Section 401. Establishment.

There is hereby established a Court Clerk's Office to be administered by one (1) Court Clerk and such Deputy Court Clerks as may be necessary. The Court Clerk shall be appointed by the Board of Directors, upon consultation with the sitting Judges and Justices, and Deputy Court Clerks shall be appointed by the Court Clerk subject to the approval of the Supreme Court.

Section 402. Clerk to Serve Supreme and District Courts.

Until such time as the Supreme Court determines that separate Clerks are necessary to efficiently administer the business of the Courts and funding is available, the Court Clerk shall serve as both the Clerk of the Supreme Court and the Clerk of the District Court. When serving the Supreme Court, the Clerk's title shall be "Clerk of the Supreme Court". When serving the District Court, the Clerk's title shall be "Clerk of the District Court".

Section 403. Clerk as Department Director.

The Court Clerk is a supervisory administrative position of the Judicial Branch of the Government of the Nation with the same rank as Department Director. The Court Clerk shall serve as the Court Administrator and shall be charged with the preparation of Court budgets, the acquisition of necessary supplies, the maintenance and upkeep of the Court's law library, the custody, upkeep and maintenance of the records, papers, effects, and property of the Court and such other matters as shall be assigned to the Clerk of the Court by law or Court rule.

Section 404. Powers and Duties.

The Court Clerk shall have the following powers and duties:

- (a) To undertake all duties and functions otherwise authorized by law, or necessary and proper to the exercise of a duty or function authorized by law.
- (b) Subject to the approval of the Supreme Court, to supervise and direct the hiring, firing, and work of all deputy court clerks and other employees in his office.
- (c) To collect all fines, fees, and costs authorized or required by law to be paid to the Court, to receipt therefore, and to deliver them to the Treasurer of the Wyandotte Nation for deposit in the Court Fund.
- (d) To accept, when ordered by the Court, monies for the payment of civil judgments and to pay same by check to the party entitled to them. For the purpose of taking such action, the Clerk is authorized to maintain a bank checking account subject to the oversight of the Supreme Court and to deposit and withdraw funds therefore. This account shall be audited at least once

each year by the Nation's Accounting Department or an independent Certified Public Accountant, and the Clerk shall obtain a fidelity or performance bond in at least the amount of \$100,000 to guarantee the funds deposited therein in such amount as the Supreme Court shall direct.

(e) To administer oaths, issue summons and subpoenas, certify a true copy of Court records, and to accurately keep each and every record of the Supreme and District Court.

(f) To provide a record in the absence of a Court Reporter to accurately and completely record all proceedings and hearings of the Courts. If a Court Reporter is available, the Court Reporter shall have the authority to administer oaths and undertake such other Court functions as shall be provided by law or Court Rule.

(g) To provide stenographic and clerical services to the Court and the Attorney General or Prosecuting Attorney when requested.

(h) To act as librarian, and to keep and maintain the Court's law library.

(i) To undertake all duties assigned or delegated to the Clerk's office by law or Court Rule.

Section 405. Seal.

The Court Clerk is authorized to have and use a seal which shall be circular in form and contain the words, "District Court Clerk", and the name of the Nation around the edge thereof, and the words "Official Seal" or the Nation's official emblem in its center. When acting as the Clerk of the Supreme Court the Clerk's seal shall be circular in form and contain the words "Supreme Court Clerk" and the name of the Nation around the edge thereof, and the words "Official Seal" or the Nation's official emblem in the center. The seal shall be impressed upon all warrants, subpoenas, summons, certified copies of records, judgments, orders, decrees, and similar documents, as evidence of their authenticity.

Section 406. Certification of True Copies.

The Court Clerk is authorized to certify that a copy of any record in his office is a true and accurate copy of the record on file by signed stamp or writing placed on such copy, sealed with the seal of the Court Clerk's office, and in substantially the following form:

CERTIFICATE OF TRUE COPY

I hereby certify that the above and foregoing _____ is a true, accurate and exact copy of the original of same as it remains of record on file in my office.

Clerk of the District Court [or Supreme Court] Date

Certified copies of records shall be admissible as evidence without further authentication in all judicial and administrative proceedings of this Nation.

Section 407. Courts Always Open.

The District and Supreme Courts shall be deemed always open for the purpose of filing any pleading or other proper paper, of issuing and returning process, and of making and directing all interlocutory motions, orders, and rules.

Section 408. Trials and Hearings – Order in Chambers.

All trials upon the merits, except as specifically provided by law and in children's cases, shall be conducted in open Court and so far as convenient in a regular courtroom. All other acts or proceedings may be done or conducted by a Judge in chambers, without the attendance of the Clerk or other court officials and in any place either within or without the Nation's jurisdiction; but no hearing, other than one *ex parte*, shall be conducted outside the Nation's jurisdiction without the consent of all parties affected thereby, except when determined by the Court to be necessary or expedient in children's cases arising under the Indian Child Welfare Act of 1978, or when the Nation has entered into an agreement with another government for the sharing of judicial officers and courtroom space in which case the Court may sit in any place authorized by such agreement.

Section 409. Clerk's Office and Orders by the Clerk.

The Clerk's office with the Clerk or a deputy in attendance shall be open during business hours on all days except Saturdays, Sundays, and legal holidays, but the Court may provide by rule or order that its Clerk's office shall be open for specified hours on Saturdays or particular tribal holidays and federal legal holidays including but not limited to the following: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day. All motions and applications in the Clerk's office for issuing process, to enforce and execute judgments, for entering defaults or judgments by default, and for other proceedings which do not require allowance or order of the Court are grantable of course by the Clerk, unless the Civil Procedure Act requires previous approval by the Court, but the Clerk's action may be suspended or altered or rescinded by the Court upon cause shown.

Section 410. Notice of Orders or Judgments.

Immediately upon the entry of an order or judgment, the Clerk shall serve a notice of the entry by mail upon each party or their attorney who is not in default for failure to appear, and shall make a note in the docket of the mailing. Such mailing is sufficient notice for all purposes for which notice of the entry of an order is required by law, but any part may in addition serve as notice of such entry in the manner provided in the Civil Procedure Act for the service of papers.

Lack of notice of the entry by the Clerk does not affect the time to appeal or relieve or authorize the Court to relieve a party for failure to appeal within the time allowed, except as permitted in the Civil Procedure Act.

Section 411. Books and Records Kept by the Clerk and Entries Therein.

(a) The Clerk shall keep a book known as the “Civil Docket” of such form and style as may be prescribed by the Justices of the Supreme Court, and shall enter therein each civil action. Actions shall be assigned consecutive file numbers. The file number of each action shall be noted on the folio of the docket whereupon the first entry of the action is made. All papers filed with the Clerk, all process issued and returns made thereon, all appearances, orders, verdicts, and judgments shall be entered chronologically in the civil docket on the folio assigned to the action and shall be marked with its file number. These entries shall be brief but shall show the nature of each paper filed or writ issued and the substance of each order or judgment of the court and of the returns showing execution of process. The entry of an order to judgment shall show the date the entry is made. When in an action trial by jury has been properly demanded or ordered, the Clerk shall enter the word “jury” on the folio assigned to that action. When in an action trial by judicial panel has been properly demanded or ordered, the Clerk shall enter the words “judicial panel” on the folio assigned to that action.

(b) In like fashion, the Clerk shall keep suitable dockets, indices, calendars, and judgment records for the criminal, juvenile, and small claims dockets of the District Court, and the appeals and original action docket of the Supreme Court. The appeals and original action dockets of the Supreme Court may be combined if the Supreme Court shall so direct.

(c) The Clerk shall also keep such other books and records as may be required from time to time by law or the Supreme Court.

Section 412. Stenographic Report or Transcript as Evidence.

(a) Whenever the testimony of a witness at a trial or hearing which was stenographically reported is admissible in evidence at a later trial, it may be proved by the transcript thereof duly certified by the person who reported the testimony.

(b) Whenever the testimony of a witness at a trial or hearing which was electronically taped is admissible in evidence at a later trial, it may be proved by the tape recording thereof maintained in the custody of the Court Clerk with the records of the trial, or by some other person duly authorized to administer oaths, who has prepared or caused to be prepared under his direction a transcript of the recording.

(c) A tape recording or stenographically reported transcript may be ordered from the Court Clerk for a fee as established by the Supreme Court.

Section 413. Judgment Docket.

The judgment docket shall be kept in the form of an index in which the name of each person against whom judgment is rendered shall appear in alphabetical order, and it shall be the duty of the Clerk immediately after the rendition of a judgment to enter on said judgment docket a statement containing the names of the parties, the amount and nature of the judgment and costs, and the date of its rendition, and the date on which said judgment is entered on said judgment docket; and if the judgment be rendered against several persons, the entry shall be repeated under the name of each person against whom the judgment is rendered in alphabetical order.

Section 414. Execution Docket.

In the execution docket the Clerk shall enter all executions as they are issued. The entry shall contain the names of the parties, the date and amount of the judgment and costs, and the date of the execution. The Clerk shall also record in full the return of the Chief of the Tribal Police Department to each execution, and such record shall be evidence of such return, if the original be mislaid or lost.

Section 415. Clerk May Collect Judgment and Costs.

Where there is no execution outstanding, the Clerk of the Court may receive the amount of the judgment and costs, and receipt therefore, with the same effect as if the same had been paid to the Chief of the Tribal Police Department on an execution, and the Clerk shall be liable to be penalized in the same manner and amount as the Chief of the Tribal Police Department for refusing to pay the same to the party entitled thereto, when requested, and shall also be liable on his official bond.

Section 416. Clerks to Issue Writs and Orders.

All writs and orders for provisional remedies, and process of every kind, shall be prepared by the party or his attorney who is seeking the issuance of such writ, order, or process and shall be issued by the Clerk. Except for summons and subpoena, the Clerk shall not issue any such writ, order, or process except upon order or allowance of the Court unless specific authorization for his issuing such document is found in the Wyandotte Nation Code of Laws.

Section 417. Clerk to File and Preserve Papers.

It is the duty of the Clerk to file together and carefully preserve in his office all papers delivered to him for that purpose in every action or proceeding.

Section 418. Each Case to be Kept Separate.

The papers in each case shall be kept in a separate file marked with the title and number of the case.

Section 419. Indorsements.

The Clerk shall indorse upon every paper filed with him, the day of filing it; and upon every order for a provisional remedy, and upon every undertaking given under the same, the day of its return to his office.

Section 420. Entry on Return of Summons.

The Clerk shall, upon the return of every summons, enter upon the appearance docket whether or not service has been made; and if the summons has been served, the name of the defendant or defendants summoned and the day and manner of the service upon each one. The entry shall be evidence in case of the loss of the summons.

Section 421. Material for Record.

The record shall be made up from the complaint, the process, return, the pleadings subsequent thereto, reports, verdicts, orders, judgments, and all material acts and proceedings of the court, but if the items of an account, or the copies of papers attached to the pleadings, be voluminous, the Court may order the record to be made by abbreviating the same, or inserting a pertinent description thereof, or by omitting them entirely. Evidence must not be recorded in the file or appearance docket, provided that the transcript of testimony may be appended to the record when paid for by a party for the purpose of appeal.

Section 422. Memorializing Record.

It is the duty of the Court to write out, sign, and record its orders, judgments, and decrees within a reasonable time after their rendition. To aid in the performance of this duty, the Court may direct counsel or the Court Clerk to prepare the written memorialization for its signature and, after it is signed, to file it in the case record, or, the Court may direct the Clerk to prepare the written memorialization dictated by the Court and sign and file the same on the Court's behalf.

Section 423. Clerk to Keep Court Records, Books and Papers--Statistical and Other Information.

The Clerk shall keep the records and books and paper appertaining to the Court and record its proceedings, and exercise the powers and perform the duties imposed upon him by statute, Court order, or Court rule. The Court clerk is directed to furnish annually, or at such times as shall be requested, without cost to the Supreme Court and to the Board of Directors, such statistical and

other information as the Supreme Court or the Board of Directors may require, including, but without being limited to, the number and classification of cases:

- (a) Filed with the Court.
- (b) Disposed of by the court, and the manner of such disposition.
- (c) The number of cases pending before the Court.

Section 424. Applicable to District and Supreme Court.

The provisions of this Chapter shall apply to the Clerk of the District Court and the Clerk of the Supreme Court.

Section 425. Bonds.

The Court Clerk and each deputy Clerk shall be bonded by a position fidelity bond of no less than \$100,000 to guarantee the proper performance of their duties and their fidelity in the handling of the money and other property coming into their hands in the performance of their duties. The amount of such bond in excess of the \$100,000 shall be set by the Nation Council. The cost for obtaining bonds for the Court Clerk and deputy Clerk shall be paid by the Nation.

CHAPTER FIVE
CHIEF OF THE TRIBAL POLICE DEPARTMENT - PROCESS

Section 501. Style of Process.

The style of process shall be “THE WYANDOTTE NATION” and all process shall be under the seal of the Court Clerk and shall be signed by the Court Clerk, and dated the day it is issued.

Section 502. Appointment of Substitute for Tribal Police Department Chief.

The Court or a Judge thereof, or any Clerk in the absence of the Judge and upon his oral or written order, for good cause, may appoint a person to serve a particular process or order, who shall have the same power to execute it which the Chief of the Tribal Police Department has. The person may be appointed on the application of the party obtaining the process or order, and the return must be verified by affidavit. He shall be entitled to the same fees allowed to the Chief of the Tribal Police Department for similar services.

Section 503. Tribal Police Department Chief to Indorse Time of Receipt on Process.

The Chief of the Tribal Police Department shall indorse upon every summons, order of arrest, or for the delivery of property or of attachment or injunction, the day and hour it was received by him.

Section 504. Tribal Police Department Chief to Execute and Return Process.

The Chief of the Tribal Police Department or designee shall execute every summons, order or other process to be served within the Court's jurisdiction, and return the same as required by law, and if he fails to serve process, unless he makes it appear to the satisfaction of the Court that he was prevented by inevitable accident from serving process, he shall be liable to the Court in a sum not exceeding Five Hundred Dollars (\$500.00) upon motion and ten (10) days notice, and shall be liable to the action of any person aggrieved by such failure. Provided that any party, his agent or attorney may make and file with the Clerk of the Court an affidavit, stating that he believes that the Chief of the Tribal Police Department will not, by reason of either partiality, prejudice, consanguinity or interest, faithfully perform his duties in any suit commenced in Court. In that case the Clerk shall direct the original, or other process, in such suit to a private process server who shall be subject to the same penalties as the Chief of the Tribal Police Department if the private process server fails to serve process, unless he makes it appear that he was prevented by inevitable accident from serving process.

Section 505. When Bailiff or Tribal Police Department Chief May Adjourn Court.

If the Judge fails to attend at the time and place appointed for holding his Court, the Chief of the Tribal Police Department, other person appointed by the Court as bailiff, or the Court Clerk,

shall have power to adjourn the Court, from day to day, until the regular or assigned Judge attends or a Special Judge, or Judge pro tempore, be selected.

Section 506. Other Duties of Tribal Police Department Chief--Disposition of Fees.

The Chief of the Tribal Police Department shall exercise the powers and duties conferred and imposed upon him by the Wyandotte Nation Code of Laws, Court Rules, and the Common law. The Police Chief's fees allowed by the Court for the service of process and mileage shall be paid into the general miscellaneous account of the Tribal Police Department and may be transferred to another line item upon order of the Chief of the Tribal Police Department or used for any allowable expense or cost of the Tribal Police Department other than the payment of salaries.

CHAPTER SIX BONDS AND SURETIES

Section 601. Justification of Surety.

In any situation where the Wyandotte Nation Code of Laws requires the pledging of security in connection with any action or undertaking, the person offered as surety, if not a qualified surety or bonding company, shall make an affidavit of his qualifications, which affidavit may be made before the Court Clerk, and shall be endorsed upon or attached to the undertaking. If the undertaking is given by a qualified surety or bonding company, the credentials of the person making the undertaking shall be shown and attached thereto. The Court Clerk shall have the power to administer oaths for the purpose of making any affidavits required by this Chapter. All posted bonds and sureties shall be filed with the Court Clerk's office, which shall serve as the central repository for all such matters.

Section 602. Qualifications of Surety.

The surety in every undertaking provided for by the Wyandotte Nation Code of Laws, unless a surety or bonding company authorized to give their bond or undertaking by tribal law, irrevocably submits himself to the jurisdiction of the Nation's courts for the purpose of enforcement of said bond or undertaking, and must be worth double the sum to be secured, over and above all exemptions, debts, and liabilities. Where there are two or more sureties in the same undertaking they must in the aggregate have the qualifications prescribed in this Section. In all instances, a surety must be licensed either by the Nation, another Indian Tribe, or a state.

Section 603. Real Estate Mortgage as Bond.

In every instance where bond, indemnity or guaranty is required, a first mortgage upon real estate within a State in which any portion of the Nation's jurisdiction lies shall be accepted, provided, that the amount of such bond, guaranty, or indemnity shall not exceed fifty percent of the reasonable valuation of such improved real estate, provided further, that where the amount of such bond, guaranty or indemnity shall exceed fifty percent of the reasonable valuation of such improved real estate, then such first mortgage shall be accepted to the extent of such fifty per cent valuation.

Section 604. Valuation of Real Estate.

The Court Clerk, whose duty it is to accept and approve such bond, guaranty or indemnity shall require affidavits as to the value of such real estate from two landowners or licensed real estate appraisers or brokers versed in land values in the community where such real estate is located. The Court Clerk shall have the authority to administer the oaths and take said affidavits.

Section 605. False Valuation—Penalty.

Any person willfully making a false affidavit as to the value of any real estate offered as bond under this chapter shall be guilty of perjury and punished accordingly. Any officer administering or accepting such affidavit knowing it to be false shall be guilty of conspiracy to commit perjury and punished accordingly. Any such wrongdoer shall be liable in a civil action to the party injured by such false affidavit to the extent of the injury proximately caused thereby.

Section 606. Action by Nation or Governmental Department – No Bond Required.

Whenever an action is filed in the Court by the Nation, or by direction of any department of the Nation, its agencies, commissions, or political branches, no bond, including cost, replevin, attachment, garnishment, re-delivery, injunction bonds, appeal bonds, or other obligations of security shall be required from such governmental party either to prosecute said suit, answer, or appeal the same.

Section 607. Appearance Bond—Enforcement.

(a) If a bench warrant or command to enforce a Court order by body attachment is issued in a case for divorce, legal separation, annulment, child support, or alimony, or in any civil proceeding in which a judgment debtor is summoned to answer as to assets, and the person arrested, pursuant to the authority of such process, makes a bond for his appearance at the time of trial or other proceeding in the case, the bond made shall be disbursed by the Court Clerk upon order of the Court to the party in the suit who has procured the bench warrant or command for body attachment rather than to the Nation as the Court shall direct for the payment of any sums due. The penalty on the bond or any part thereof, shall, when recovered, first be applied to discharge the obligations adjudicated in the case in which the bond was posted, and any excess shall be deposited in the Court fund. The party who is the obligee on such bond shall have the right to enforce its penalty to the same extent and in the same manner as the Nation may enforce the penalty on a forfeited bail bond.

(b) Upon forfeiture of a bond payable to the Nation as ordered by the Court, including bail bonds, the Nation may enforce the penalty on the bond upon motion filed in the case by any method authorized for the execution of civil judgments. All amounts received upon such forfeited bonds as penalty shall be deposited in the Court Fund. The Court may, for good cause shown, vacate an order of bond forfeiture.

CHAPTER SEVEN JUSTICE DEPARTMENT

Section 701. Department of Justice Created.

There shall be a Department of Justice within the Executive Branch of the government of the Wyandotte Nation to be known as the Justice Department of the Wyandotte Nation.

Section 702. Attorney General.

Notwithstanding the duties granted the Attorney General in Title __ (“Attorney General”) of the Wyandotte Nation Code of Laws, the Attorney General shall be the director of the Justice Department. Unless the individual shall refuse to so serve, the Nation's Attorney shall hold the office of Attorney General. Pursuant to Title __ (“Attorney General”) of the Wyandotte Nation Code of Laws, the Attorney General shall be appointed by and serve at the pleasure of the Board of Directors.

Section 703. Assistant Attorneys General.

The Attorney General may appoint such Assistant Attorneys General as the business of the Department shall require, subject to the advice and consent of the Board of Directors. Assistant Attorneys General may be delegated such authority and assigned to such tasks within the Department as the Attorney General shall determine.

Section 704. Vacancies.

(a) In case of a vacancy in the office of Attorney General, or of his absence or disability, the first Assistant Attorney General may exercise all the duties of that office.

(b) When, by reason of absence, disability, or vacancy in office, neither the Attorney General nor the first Assistant Attorney General is available to exercise the duties of the office of Attorney General, other Assistant Attorneys General, in such order of succession as the Attorney General may from time to time prescribe, shall act as Attorney General.

Section 705. Functions of the Attorney General.

All functions of the Department of Justice are vested in the Attorney General except those which are specifically excepted by this Title or other laws or ordinances of the Wyandotte Nation.

Section 706. Delegation of Authority.

The Attorney General may from time to time make such provisions as he considers appropriate authorizing the Department of Justice to execute any function of the Attorney General as provided by Title __ (“Attorney General”) the Wyandotte Nation Code of Laws.

Section 707. Attorney General to Advise Board of Directors.

The Attorney General shall give his advice and opinion on questions of law when required by the Board of Directors.

Section 708. Attorney General to Advise Department Heads.

The head of a department or an agency of the Wyandotte Nation may request the opinion of the Attorney General on questions of law arising in the administration of his department or agency.

Section 709. Force and Effect of Opinions of the Attorney General.

The following shall govern the force and effect given the opinions of the Attorney General:

- (a) Official opinions of the Attorney General shall be followed by other departments.
- (b) In giving his official opinions, the actions of the Attorney General are quasi judicial and his opinions officially define the law unless a later decision of the Courts of the Wyandotte Nation is contrary thereto.
- (c) Administrative personnel should regard the opinions of the Attorney General as law until withdrawn by the Attorney General or overruled by the courts.
- (d) Opinions of the Attorney General should be considered as confined to specific questions therein considered and not as controlling in determining other questions not considered.
- (e) A question once fully considered and answered by one Attorney General should not be reconsidered by his successor, unless extraordinary circumstances exist.

Section 710. Conduct of Litigation Reserved to Department of Justice.

Except as otherwise authorized by specific laws of the Wyandotte Nation, the conduct of litigation in which the Wyandotte Nation, an agency or officer thereof is a party is reserved to the Department of Justice, and shall be conducted under the direction of the Attorney General.

Section 711. Conduct and Argument of Cases.

(a) Except when the Attorney General in a particular case directs otherwise, the Attorney General shall conduct and argue suits and appeals in the Supreme Court of the Wyandotte Nation.

(b) When the Attorney General considers it in the interests of the Wyandotte Nation, he may personally conduct and argue any case in the District Court of the Wyandotte Nation in which the Wyandotte Nation is interested or he may direct any officer of the Department of Justice to do so.

Section 712. Publication and Distribution of Opinions.

The Attorney General, from time to time, shall cause to be edited and printed such of his opinions as he considers valuable for preservation and may prescribe the manner for the distribution of the opinions.

Section 713. Report of Business and Statistics.

The Attorney General, at the annual meeting of the Nation Council of the Wyandotte Nation, shall report to the Nation Council on the business of the Department of Justice for the last preceding year, and on any other matters pertaining to the Department that he considers proper, including:

(a) a statement of the appropriations which are placed under the control of the Department of Justice and the amount expended;

(b) the statistics of crime under the laws of the Wyandotte Nation; and

(c) a statement of the number of cases involving the Wyandotte Nation, civil and criminal, pending during the preceding year in any court.

Section 714. Expenditures.

The Attorney General, or his authorized designee, shall sign all requisitions or vouchers for the advance or payment of moneys appropriated for the Department of Justice subject to the same control as is exercised on like accounts by the Nation's Accounting Department.

CHAPTER EIGHT MISCELLANEOUS

Section 801. Deputy May Perform Official Duties.

Any duty enjoined by the Wyandotte Nation Code of Laws upon a ministerial officer, and any act permitted to be done by him, may be performed by his lawful deputy unless otherwise specifically stated.

Section 802. Affirmation.

Whenever an oath is required by the Wyandotte Nation Code of Laws, the affirmation of a person, conscientiously scrupulous of taking an oath shall have the same effect.

Section 803. Publication Notices

(a) All publications and notices required or permitted to be published by the Wyandotte Nation Code of Laws shall be published in the *Gyah'-wish Atak-ia* ("The Turtle Speaks") and at least one additional newspaper of general circulation within or adjacent to the Nation's Jurisdiction.

(b) Every daily or weekly newspaper published continuously for a period of two years in any county in which a portion of the Nation's jurisdiction lies, or within or adjacent to the Nation's jurisdiction, and the Nation's Newspaper shall be recognized and authorized to publish all publications and notices required or permitted to be published by the Wyandotte Nation Code of Laws.

(c) For purposes of this Section, a newspaper shall be deemed to be "published" within or adjacent to the Nation's jurisdiction if such newspaper maintains a local office and is intended for general distribution within the county. The fact that all or a portion of the paper may be printed outside the county shall not be determinative.

Section 804. Action on Official Bond.

When an officer, executor, or administrator within the jurisdiction of the Nation by misconduct or neglect of duty forfeits his bond or renders his sureties liable, any person injured thereby, or who is, by law, entitled to the benefit of the security, may bring an action thereon in his own name, against the officer, executor, or administrator and his sureties, or may proceed in a proper case as provided in the Civil Procedure Act, to recover the amount to which he may be entitled by reason of delinquency.

Section 805. May be Several Actions on Same Security.

A judgment in favor of a party for one delinquency does not preclude the same or another party from an action on the same security for another delinquency.

Section 806. Immaterial Errors to be Disregarded.

The Court, in every stage of action, must disregard any error or defect in the pleadings or proceedings which does not affect the substantial rights of the adverse party, and no judgment shall be reversed or affected by reason of such immaterial or harmless error or defect.

Section 807. Payments Into Court for Minors and Incompetents.

Where any amount of money not exceeding Five Hundred Dollars (\$500.00) shall be deposited and paid into Court by virtue of any judgment, order, settlement, distribution, or decree for the use and benefit of, and to the credit of, any minor or incompetent person having no legal guardian of his estate appointed by the Court, and no person shall within ninety (90) days thereafter become the legal and qualified guardian of the estate of such minor or incompetent person, if it appears to the Court that such money is needed for the support of such minor or incompetent or that it is otherwise for the best interest of such minor or incompetent person, the Court may, in its discretion, order payment of such funds to be made to any proper and suitable person as trustee for such minor or incompetent person, with bond, as the Court may direct, to be expended for the support, use, and benefit of such minor or incompetent person. Such order may be made by the Court in the original cause in which the funds are credited upon the application of any interested person, and the Court may direct the Clerk of the Court to make payment of the same to be made in installments or in one lump sum as may seem for the best interests of such minor or incompetent person. If a qualified guardian has been appointed by the Court with bond, the Court shall order the money paid to the guardian for the use of the minor or incompetent person subject to such restrictions and accountings as the Court may direct.

Section 808. Conserving Moneys Obtained for Minors or Incompetent Persons.

Moneys recovered in any Court proceeding by a next friend or guardian *ad litem* for or on behalf of a person who is less than eighteen (18) years of age or incompetent in excess of Five Hundred Dollars (\$500.00) over sums sufficient for paying costs and expenses including medical bills and attorney's fees shall, by order of the Court, be deposited in a banking or savings and loan institution, approved by the Court. Such fund shall be managed by the Court or other tribal agency approved by the Court. Until the person becomes eighteen (18) years of age, or competent to again handle his affairs, withdrawals of moneys from such account or accounts shall be solely pursuant to order of the Court made in the case in which recovery was had. When an application for the order is made by a person who is not represented by an attorney, the Judge of the Court shall prepare the order. This Section shall not apply in cases where a legal guardian has been appointed by the Court for the estate of the minor or incompetent person with adequate bond to secure any money released. In such cases, such money, or any portion thereof as the

Court may direct, may be paid over to the guardian to be used exclusively for the support and education of such minor or incompetent person, subject to such restrictions and accounting as the Court shall direct.

Section 809. Sharing of Judicial Officers.

Notwithstanding any other provision of this Title, the Board of Directors retains authority to negotiate an agreement with the Bureau of Indian Affairs or other Indian Nations for the shared use of magistrates, trial judges, and appellate court justices. In addition to any other necessary or convenient provisions, such agreements may determine the method of selection and retention of shared judicial officers, their compensation, and required duties. When acting on behalf of the Nation, such magistrates, judges or justices shall have all the powers and authority vested in a Magistrate, Judge, or Justice of the Nation. Such judicial officers may be in addition to, in lieu of, or the same as, those Magistrates, Judges, and Justices authorized by this Title.

Section 810. Sharing of Other Judicial Personnel.

Notwithstanding any other provision of this Title, the Board of Directors retains authority to negotiate an agreement with the Bureau of Indian Affairs or other Indian Nations for the shared use of Court Clerks, Attorneys General, Bailiffs, Court Reporters, and other judicial related or support personnel. In addition to any other necessary or convenient provision, such agreements may determine the method of selection and retention of shared personnel, their compensation, and required duties. When acting on behalf of the District and Supreme Court, such personnel shall have all the powers and authority of the equivalent position in the Wyandotte Nation Code of Laws. Such personnel may be the same as, in addition to, or in lieu of, personnel employed by the Nation in these positions.

Section 811. Sharing of Material Resources

Notwithstanding any other provision of law, the Chief or Board of Directors retains authority, as appropriate under the laws of the Wyandotte Nation, to negotiate an agreement with the Bureau of Indian Affairs, other Indian Nations, or any other unit of government for the shared use of facilities, including courtroom, offices, and jail space, equipment, and supplies necessary for the operation of the Court and law enforcement agencies of the Nation.

Section 812. Sharing of Financial Resources.

Provision may be made in the above mentioned agreements for the allocation of fines, fees, and court costs to support the functions of the judicial system, provided, that the salaries of the magistrates, judges, justices, and Attorney General shall not be subject to, or contingent upon the assessment or collection of any such fines, fees, court costs, or penalties. Such agreements may also provide for certain monetary contributions by the participating Nations or agencies to the funding of the Court and provide a formula therefore, and may designate any particular grant

money for the use of the Court, or may designate the Court as a prime contractor, grantee, or similar designation to authorize the Court to apply directly to any funding source or any grant or contract funds available for the operation of the Court.

Section 813. Copies of Laws.

(a) The Supreme Court law library shall be provided with copies of the Code, as well as all Federal and State laws and the regulations of the Bureau of Indian Affairs which may be applicable to the conduct of any persons within the Nation's jurisdiction.

(b) Whenever the Court is in doubt as to the meaning of any law, treaty, or regulation, it may request the Attorney General to furnish an opinion on the point in question.

Section 814. Cooperation by Federal Employees.

(a) No field employee of the Bureau of Indian Affairs shall obstruct, interfere with, or control the functions of the Courts of the Nation, or influence, or attempt to influence, interfere with, obstruct, or control such functions in any manner except in response to a request for advice or information from the Court.

(b) Employees of the Bureau of Indian Affairs and the Indian Health Service, particularly those who are engaged in police, social service, health, and educational work, shall assist the Court upon its request in the preparation and presentation of the facts in the case, and in the proper treatment of offenders and juveniles.

Section 815. Effect of Prior Decisions of the Court.

The prior decisions of the Courts acting for the Nation shall be binding upon the parties thereto. The rules of law stated in such decisions, not inconsistent with statutes enacted by the Board of Directors after such decisions, shall be precedent in the Courts subject to modification or being overruled by subsequent opinion of the Court as in other cases.

Section 816. Judicial Review of Legislative and Executive Actions.

The District and Supreme Court shall have the authority to review any act by the Board of Directors, or any officer, agent, or employee of the Nation to determine whether that action, and the procedure or manner of taking that action, is constitutional under the Constitution, authorized by tribal law, and not prohibited by the Indian Civil Rights Act. If the Court finds such action, or the manner of its exercise, to be unlawful, it may enjoin the action, refuse to recognize an unlawful action or refuse to apply the law or statute in question. If the Court finds that the contemplated action is authorized by the Nation's Constitution and statutes enacted thereto, or the common law, and that the manner in which the authorized action is to be exercised is not prohibited by the Constitution of the Wyandotte Nation, Statutes enacted pursuant thereto, or

federal law, the Court shall dismiss the case. The Court shall not otherwise review the exercise of any authority committed to the discretion of an officer, agency, agent, or employee of the Nation under law unless some specific provision of law authorizes judicial review of the merits of the discretionary decision or action.

Section 817. Action When No Procedure Provided.

Whenever no specific procedure is provided in the Wyandotte Nation Code of Laws, the Court may proceed in any lawful fashion.