

## **Title II - Courts**

### Chapter 1. The Fort Peck Tribal Court

- Sec. 101. Creation of the Court
- Sec. 102. Composition of the Court
  - Sec. 102.1 Exercise of civil and criminal jurisdiction
- Sec. 103. Records of the Court
- Sec. 104. Rules of Court
- Sec. 105. Services to Court by Tribal or Federal employees
- Sec. 106. Criminal jurisdiction of the Court
- Sec. 107. Civil jurisdiction of the Court
- Sec. 108. Jurisdiction over persons outside Reservation
- Sec. 109. Jurisdiction over suits commenced by Tribes
- Sec. 110. Tribes immune from suit
- Sec. 111. Suits against Tribal officials
  - (a) Suits for money damages
  - (b) No tribal employee subject to suit
- Sec. 112. Jurisdiction over suits concerning ownership over trespassing livestock
- Sec. 113. Review of administrative decisions

### Chapter 2. Fort Peck Court of Appeals

- Sec. 201. Creation of Court of Appeals
- Sec. 202. Jurisdiction of Court of Appeals
- Sec. 203. Composition of Court of Appeals
- Sec. 204. Records of Court of Appeals
- Sec. 205. Right of appeal
  - (a) Criminal cases
  - (b) Civil cases
  - (c) All final orders shall be carried out
- Sec. 206. Procedure on appeal of criminal cases
  - (a) Time to appeal and how to appeal
  - (b) Bond
  - (c) Notice of appeal
  - (d) Designation of parties
  - (e) Release on bond pending appeal
- Sec. 207. Procedure on decision for review in civil cases
  - (a) Time to petition and how to petition
  - (b) Contents of petition for review
  - (c) Designation of parties
  - (d) Docket fee and bond
  - (e) Stay on appeal
- Sec. 208. Judgment against surety
- Sec. 209. Record on appeal

- Sec. 210. Briefs and memoranda
- Sec. 211. Oral argument
- Sec. 212. Separate docket for Court of Appeals

#### Chapter 3. Justices and Judges

- Sec. 301. Qualifications
- Sec. 302. Appointment
  - Sec. 302.1 Special Appointment
- Sec. 303. Terms
- Sec. 304. Compensation and bond
- Sec. 305. Oath of office
- Sec. 306. Removal
  - (a) Initiation of charges
  - (b) Hearing of charges
- Sec. 307. Disqualification
- Sec. 308. Duties of lawyer judge

#### Chapter 4. Court Administration

- Sec. 401. Office of Clerk
- Sec. 402. Qualifications
- Sec. 403. Duties
- Sec. 404. Tribal Court Administrator
- Sec. 405. Qualifications
- Sec. 406. Compensation and bond
- Sec. 407. Oath of office
- Sec. 408. Duties
- Sec. 409. Termination of services
- Sec. 410. Court complaint procedure

#### Chapter 5. Attorneys and Lay Counselors

- Sec. 501. Qualifications for admissions as attorney or lay counselor
  - (a) Attorneys
  - (b) Lay Counselor
  - (c) Denial of the application
- Sec. 502. Roll of attorneys and lay counselors
- Sec. 503. Right to counsel
- Sec. 504. Disbarment
- Sec. 505. Members of the Tribal Executive Board shall not practice as attorneys or lay counselors or attempt to influence Tribal Court decisions

#### Chapter 6. Tribal Court Prosecutor and Public Defender

- Sec. 601. Office of tribal court prosecutor
- Sec. 602. Qualifications
- Sec. 603. Appointment and compensation

Sec. 604. Oath of office  
Sec. 605. Term of office  
Sec. 606. Duties  
Sec. 607. Termination of services of tribal court prosecutor  
Sec. 608. Office of tribal public defender  
Sec. 609. Qualifications  
Sec. 610. Compensation  
Sec. 611. Oath of office  
Sec. 612. Term of office  
Sec. 613. Duties  
Sec. 614. Termination of services of tribal public defender

## **Chapter 1. The Fort Peck Tribal Court**

### **Sec. 101. Creation of the Court.**

There is hereby established the Fort Peck Tribal Court as a court of record.

### **Sec. 102. Composition of the Court.**

The Court shall consist of one (1) chief judge, three (3) associate judges and one (1) lawyer judge whose duties shall be regular and permanent. The judges shall be appointed by the Tribal Executive Board. The Tribal Executive Board also may appoint special judges as required.

**(AMENDED AS PER RESOLUTION NO. 2417-85-4, DATED 04/29/85 AND AS PER RESOLUTION NO. 2417-85-5, DATED 04/29/85.)**

### **Sec. 102.1. Exercise of civil and criminal jurisdiction.**

**(THIS SECTION HAS BEEN REPEALED AS PER RESOLUTION NO. 1617-86-10, DATED 10/13/86.)**

### **Sec. 103. Records of the Court.**

The Court shall keep a record of all proceedings of the Court, showing the title of the case, the names and addresses of the parties, attorneys and witnesses; the substance of the complaint; the dates of all hearings or trials; the name of the judge; the findings of the Court or verdict of the jury and judgment; the preservation of testimony for perpetual memory by electronic recording, or otherwise; together with any other facts or circumstances deemed of importance to the case. A record of all proceedings leading to incarceration shall be submitted to the Superintendent, Fort Peck Agency, to be made a part of the records of the Agency Office as required by 25 U.S.C. 200. Unless specifically excepted by this Code, the records of the Courts shall be public. In criminal cases, upon inquiry by members of the public, the Court shall furnish the name of the offender, the offense, and the sentence imposed.

**(AMENDED AS PER RESOLUTION NO. 1287-86-7, DATED 07/28/86.)**

### **Sec. 104. Rules of Court.**

The Chief Judge may prescribe written rules of court, consistent with the provisions of this Code, including rules establishing the time and place of court sessions. The rules shall be approved by the Tribal Executive Board before becoming effective.

### **Sec. 105. Services to Court by Tribal or Federal employees.**

The Court may request and utilize social service, health, education or other professional services of tribal employees as requested, and of federal employees as authorized by the Secretary of the Interior or his/her authorized representative.

**Sec. 106. Criminal Jurisdiction of the Court.**

The Court shall have jurisdiction over all offenses by an Indian committed within the boundaries of the Fort Peck Indian Reservation against the law of the Tribe as established by duly enacted ordinances of the Tribal Executive Board.

**Sec. 107. Civil jurisdiction of the Court.**

The Court shall have jurisdiction over any action where one party to the action shall be an Indian, or a corporation or entity owned in whole or in substantial part by an Indian or the Tribes or a corporation or entity chartered by the Tribes; and

- (a) the cause of action arises under the Constitution or laws of the Tribes; or
- (b) an Indian party to the action resides on the Fort Peck Reservation.

**Sec. 108. Jurisdiction over persons outside Reservation.**

In a case where it otherwise has jurisdiction, the Court may exercise personal jurisdiction over any person who does not reside on the Fort Peck Indian Reservation if such person, personally or through an agent:

- (a) transacts any business on the Reservation, or contracts or agrees anywhere to supply goods or services to persons or corporations on the Reservation; or
- (b) commits an act on the Reservation that causes injury.

**Sec. 109. Jurisdiction over suits commenced by Tribes.**

Notwithstanding any other provision of this Code, the Tribal Court shall have jurisdiction of all civil actions commenced by the Assiniboine and Sioux Tribes of the Fort Peck Reservation, or by any agency or officer thereof expressly authorized to file suit by the Fort Peck Tribal Executive Board.

**Sec. 110. Tribes immune from suit.**

The Tribes shall be immune from suit. Nothing in the Code shall be construed as consent of the Tribes to be sued.

**Sec. 111. Suits against Tribal officials.**

The Court shall have jurisdiction over all suits in which Tribal officials or employees are defendants, except habeas corpus proceedings authorized by 25 U.S.C. 1303.

(a) Suits for money damages. No elected official or judge of the Tribes shall be subject to suit for any action taken in the course of his/her official duties, or in the reasonable belief that such action was within the scope of his/her official duties.

(b) No employee of the Tribes shall be subject to suit for money damages for any action taken in the course of his/her official duties, or in the reasonable belief that such action was within the scope of his/her official duties, unless it is clearly established that such action was taken with malicious intent and in bad faith. The Court shall have jurisdiction over actions seeking declaratory and equitable relief against tribal employees, but the Court shall not grant any relief against tribal employees except after service of process has been made as prescribed in this Code and proof of service has been received by the Court.

**Sec. 112. Jurisdiction over suits concerning ownership of trespassing livestock.**

The Court shall have jurisdiction over any action under Chapter 1 or Chapter 2 of Title XVIII, (Livestock), to resolve ownership of trespassing livestock.

**Sec. 113. Review of administrative decisions.**

(a) The Court shall have exclusive jurisdiction over all appeals from actions by agencies or offices of the Tribes, where such appeals are authorized by this Code, except where a provision of the Code vests such jurisdiction in the Court of Appeals.

**(AMENDED AS PER RESOLUTION NO. 2644-95-2, DATED 02/13/95.)**

(b) Notwithstanding Section 110 of this Title, the Tribes hereby waive their immunity from suit in Tribal Court for appeals under subsection (a). Relief against the Tribes shall be limited to that specified in the provisions of the Code authorizing the appeal. In no event shall the Tribes be liable for money damages, except that the Tribal Court may order refunds of taxes or fees erroneously collected where such relief is specifically authorized by the provision of the Code under which the appeal is taken.

**(AMENDED AS PER RESOLUTION NO. 1903-84- 12, DATED 12/11/84.)**

## **Chapter 2. Fort Peck Court of Appeals**

**Sec. 201. Creation of Court of Appeals.**

There is hereby created a Fort Peck Court of Appeals.

**Sec. 202. Jurisdiction of Court of Appeals.**

The jurisdiction of the Court of Appeals shall extend to all appeals from final orders and judgments of the Tribal Court, appeals of administrative decision where a provision of this Code expressly vests such jurisdiction in the Court of Appeals, and from final decisions of the Tribal Alcohol Licensing and Regulation Commission (Commission). The Court of Appeals shall review de novo all determinations of the Tribal Court on matters of law, but shall not set aside any factual determinations of the Tribal Court if such determinations are supported by substantial evidence. The Court of Appeals, or the Chief Justice alone, shall have jurisdiction:

(a) to take all necessary steps to preserve and protect the jurisdiction of the Court;

(b) during the pendency of any criminal appeal, to release the appellant on his/her own recognizance or on bail pursuant to Section 206(e) of this Code; and

(c) to make any order appropriate to preserve the status quo or to protect any ultimate judgment of the Court of Appeals.

**(AMENDED AS PER RESOLUTION NO. 2644-95-2, DATED 02/13/95, and RESOLUTION NO. 2646-97-4, DATED 04/25/97.)**

**Sec. 203. Composition of Court of Appeals.**

The Tribal Executive Board shall appoint a Chief Justice and two (2) associate justices, none of whom shall be judges of the Tribal Court.

**Sec. 204. Records of Court of Appeals.**

The Court of Appeals shall keep a record of all proceedings of the Court, showing the title of the case, the name and addresses of all parties and attorneys, the briefs, the date of any oral argument, the names of the justices who heard and decided the case, and the judgment, together

with any other facts and circumstances deemed of importance to the case. A record of all proceedings leading to incarceration shall be submitted to the Superintendent, Fort Peck Agency, to be made a part of the records of the Agency Office as required by 25 U.S.C. 200. Unless specifically excepted by this Code or rule of court, all decisions and opinions of the Court shall be published in a format that shall be available to the public at the Tribal Office.

**Sec. 205. Right of appeal.**

(a) Criminal cases. The defendant in a criminal case shall have an appeal as of right from a judgment of conviction. The Tribe shall have no right of appeal from a jury verdict of "not guilty" in criminal cases, but shall have a right of appeal from a judgment of "not guilty" rendered by the Tribal Court without a jury. Appeals in criminal cases shall be taken as provided in Section 206.

(b) Civil cases. Any party who is aggrieved by a final order or judgment of the Tribal Court may file a petition requesting the Court of Appeals to review that order or judgment as provided in Section 207.

(c) Unless the Court stays an order pursuant to Section 206(e) or Section 207(e) of this Title, all final orders of the Court shall be carried out while appeals are pending. An application for a stay of an order shall temporarily stay the order.

**(AMENDED AS PER RESOLUTION NO. 1287-86- 7, DATED 07/28/86.)**

**Sec. 206. Procedure on appeal of criminal cases.**

(a) Time to appeal and how to appeal. An appeal must be taken within fifteen (15) days from the judgment appealed from by filing a written notice of appeal with the clerk of the Fort Peck Tribal Court. No extension of the fifteen (15) day period shall be granted. Upon request, the clerk of the Tribal Court shall prepare the notice of appeal.

(b) Bond. The Court shall set the amount of a bond to be filed with the notice of appeal. The maximum amount of the bond is fifty dollars (\$50.00). The Court may reduce or waive the bond if it finds the appellant is indigent.

(c) Notice of appeal. The notice of appeal shall specify the party or parties taking the appeal, shall designate the judgment, or part thereof appealed from, and shall contain a short statement of reasons for the appeal. The clerk shall mail a copy of the notice of appeal to all parties other than parties taking the appeal.

(d) Designation of parties. The party taking the appeal is an appellant. All other parties are appellees.

(e) Release on bond pending appeal. In criminal cases the defendant may be continued on release or be released on bail, as provided by Title VI, Chapter 4, Section 402(c) of this Code, by the Tribal Court. The appellant may petition the Court of Appeals, or Chief Justice thereof, to review any decision of the Tribal Court taken under this Section.

**Sec. 207. Procedure on decision for review in civil cases.**

(a) Time to petition and how to petition. A party to a civil case may petition for review. Upon appellant's request, the Tribal Public Defender shall prepare the petition for review. The petition for review must be taken within fifteen (15) days from the date of entry of the final order or judgment appealed from by filing such petition with the clerk of the Tribal Court together with the docket fee and any bond required pursuant to this Section. No extensions of the fifteen (15) day period shall be granted.

(b) Contents of petition for review. The petition for review shall specify the parties taking the appeal, shall designate the final order or judgment, or part appealed from, and shall contain a short statement why the petition should be granted. The clerk shall mail a copy of the petition for review to all parties other than the petitioner. Other parties shall have fifteen (15) days to respond to the petition for review, after which time the Court of Appeals or the Chief Justice thereof shall grant the petition and allow the appeal to be heard or shall deny the petition.

(c) Designation of parties. The party taking the appeal is the appellant. All other parties are appellees.

(d) Docket fee and bond. The petition for review shall be accompanied by a docket fee of fifty dollars (\$50.00) and a bond to be set by the Court. The maximum amount of the bond is fifty dollars (\$50.00). The Court may waive or reduce the bond and the docket fee if it finds that the appellant is indigent.

(e) Stay on appeal. In civil cases the petitioner may request the Trial Court to stay the judgment pending action on the petition and on the appeal if the petition is granted, and either party may request the Tribal Court to grant or stay an injunction pending appeal. The Court may condition a stay or injunction pending appeal on the depositing of cash or bond satisfactory to the Tribal Court. The appellant's bond shall be sufficient to cover the damages awarded by the Tribal Court together with interest. The cash or bond may be deposited at or after the time petition is filed. The stay shall be effective when the deposit of cash or bond is approved by the Tribal Court. The appellant may petition the Court of Appeals, or the Chief Justice thereof, to review any decision of the Tribal Court under this Section.

**Sec. 208. Judgment against surety.**

Any surety to a bond thereby submits himself/herself to the jurisdiction of the Tribal Court, and irrevocably appoints the clerk of the Court as his/her agent upon whom any papers affecting his/her liability on the bond may be served. The liability of a surety may be enforced on motion without the necessity of an independent action. The motion and such notice of motion as the Court prescribes may be served on the clerk of Court who shall forthwith mail copies to the surety at his/her last known address.

**Sec. 209. Record on appeal.**

Within five (5) days after a notice of appeal is filed in a criminal case or a petition for review is filed in a civil case, the clerk of the Tribal Court shall certify and file with the Court of Appeals all papers comprising the record of the case.

**Sec. 210. Briefs and memoranda.**

Within thirty (30) days after the notice of appeal is filed, or a petition for review is granted, or within such other time as the Court allows, the appellant may file a written brief, memorandum or statement in support of his/her appeal. An original and one (1) copy for each appellee shall be filed with the clerk who shall mail one (1) copy, registered or certified mail, return receipt requested, to each appellee. The return receipt shall then be filed with the clerk. The appellee shall have fifteen (15) days after receipt of the appellant's brief, memorandum or statement, or such other time as the Court of Appeals allows, within which to file an answer brief, memorandum or statement if he/she desires. An original and one (1) copy for each appellant shall be filed with the clerk who shall mail one (1) copy, registered or certified mail, return receipt requested, to each appellant. The return

receipt shall be filed with the clerk. No further briefs, memoranda or statements shall be allowed without leave of Court.

**Sec. 211. Oral argument.**

The Court of Appeals shall assign all criminal cases for oral argument. The Court may in its discretion assign civil cases for oral argument or may dispose of civil cases on the briefs without argument.

**Sec. 212. Separate docket for Court of Appeals.**

The judges of the Court of Appeals, or the Chief Justice thereof, shall prescribe all necessary rules concerning:

- (a) The operation of the Court of Appeals.
- (b) The time and place of meeting of the Court of Appeals.

The rules shall be approved by the Fort Peck Tribal Executive Board prior to becoming effective and shall be consistent with the provisions of this Code.

## **Chapter 3. Justices and Judges**

**Sec. 301. Qualifications.**

To be eligible to hold the office of justice or judge, a person must have an Associate of Arts degree or Bachelor of Arts degree from an accredited college in law and justice or similar field of study; be at least twenty five (25) years of age; not have been convicted of a felony; not have been dishonorably discharged from the Armed Forces; be physically capable of carrying out the duties of the office; have successfully completed a judge's qualifying examination administered as prescribed by the Tribal Executive Board; and in the opinion of the Fort Peck Tribal Executive Board be of sound judgment and good character and possess a reputation for honesty, fairness and impartiality. Any incumbent judge, serving at the time of adoption of this Section, shall be reappointed upon successful completion of the qualifying examination.

**(AMENDED AS PER RESOLUTION NO. 2157-2001-9 DATED 09/10/01; RESOLUTION NO. 2585-91-9, DATED 09/09/91; AND RESOLUTION NO. 2417-85-4, DATED 04/29/85.)**

To be eligible to hold the position of Lawyer Judge, or Chief Justice, a person must also have a degree in law from an accredited law school and be a member in good standing of the bar of any state or federal court. Between equally qualified candidates for a position as judge or justice, preference shall be given to an Indian candidate.

**(AMENDED AS PER RESOLUTION NO. 17-85-11, DATED 11/12/85; AND RESOLUTION NO. 292-85-12, DATED 12/23/85.)**

Any person otherwise qualified may be appointed as a judge or justice on a probationary basis prior to taking the judges qualifying examination. Any such person shall take the judges qualifying examination at the first administration after he/she is appointed, and shall not continue in office unless he/she successfully completes the examination.

**(AMENDED AS PER RESOLUTION NO. 1617-86- 10, DATED 10/13/86.)**

**Sec. 302. Appointment.**

Each justice and judge shall be appointed by a two-thirds (2/3) vote, taken by secret ballot, of those members present at a meeting of the Fort Peck Tribal Executive Board at which a quorum is present.

**Sec. 302.1 Special Appointments.**

In such cases where justices or judges have been disqualified, the Tribal Executive Board may appoint a person otherwise qualified to sit as a special judge or justice in such case. Special appointments shall be by majority vote of those members of the Tribal Executive Board at which a quorum is present. Upon determination of the Tribal Executive Board, the judge's qualifying examination may or may not be waived.

**(AMENDED AS PER RESOLUTION NO. 3257-95-5, DATED 05/16/95.)**

**Sec. 303. Terms.**

Judges shall be appointed for a term of four (4) years and justices shall be appointed for a term of one (1) year commencing with date fixed by the Tribal Executive Board unless removed for cause as hereinafter provided. A justice or judge shall be eligible for reappointment.

**(AMENDED AS PER RESOLUTION NO. 2084A-89- 3, DATED 03/13/89.)**

**(AMENDED AS PER RESOLUTION NO. 1103-2002-11, DATED 11/12/02.)**

**Sec. 304. Compensation and bond.**

Compensation of all justices and judges shall be fixed by the Tribal Council or the United States depending on which pays the compensation. The rates of compensation may not be decreased during their term of office. The Chief Justice and Chief Judge shall be bonded by a surety bond satisfactory to the Tribal Executive Board or the United States depending on which pays the compensation. Judges and justices shall receive compensation only for the days they sit as members of the Court of Appeals or Tribal Court or otherwise perform the duties of their office.

**Sec. 305. Oath of office.**

Before entering upon the duties of office, each judge shall take the following oath or affirmation:

"I, , do solemnly swear (or affirm) that I will administer justice and do equal right without respect to persons and will truly, faithfully, and impartially discharge and perform all duties incumbent upon me as (Justice)(Judge) according to the best of my abilities and understanding. So help me God."

**Sec. 306. Removal.**

(a) Initiation of charges. Upon written charges of specific misconduct, or physical or medical inability to carry out the duties of office, made by any member of the Tribal Executive Board, adopted by a majority vote of a meeting of the Tribal Executive Board at which a quorum is present, the Board shall initiate proceedings to remove a justice or judge from office. Misconduct as used in this Section shall mean: (1) conviction of a felony or a misdemeanor involving dishonesty or acts offensive to the morals of the community; (2) abusive or clearly incompetent performance of duties in office; or (3) failure to perform the duties of office; (4) any other substantial violations of the Code of Ethics for judges and justices of the Fort Peck Tribal Courts.

**(AMENDED AS PER RESOLUTION NO. 2084-89- 3, DATED 03/13/89.)**

(b) Hearing of charges. All charges shall be in writing and served on the judge personally, or by certified or registered mail, return receipt requested, not less than ten (10) days prior to a hearing before the Tribal Executive Board on the charges. The Tribal Executive Board by a majority vote at a meeting at which a quorum is present may direct that a justice or judge shall be suspended from duty for a period not to exceed twenty (20) days between the time charges are

authorized and the date of hearing on the charges. A justice or judge so charged shall be given an opportunity to answer by written or oral presentation before the Tribal Executive Board, to have the charges proven only by sworn testimony of witnesses and documentary evidence, have the right to cross-examine witnesses, and have the right to be represented by counsel at his/her own expense at the hearing. After the hearing, a justice or judge may be removed by a vote, taken by secret ballot, of a two-thirds (2/3) majority of the Tribal Executive Board at a meeting at which a quorum is present. A decision by the Tribal Executive Board to remove a justice or judge shall be final.

**Sec. 307. Disqualification.**

A justice or judge shall be disqualified in any proceeding in which his/her impartiality might reasonably be questioned, in which he/she has any personal bias or prejudice concerning any party, in which he/she or a member of his/her immediate family might be a witness, has any interest, or has any personal knowledge of any disputed evidentiary facts concerning the proceeding, or has acted or is acting as a lawyer or lay counselor in the proceeding, or in which he/she might otherwise appear to be biased or prejudiced. The Lawyer Judge must determine all disqualifications in the Tribal Court. In cases where the Lawyer Judge disqualifies himself/herself, the case shall be assigned, by the Chief Judge, to a judge other than the Lawyer Judge. As used in this Section, immediate family shall include spouses, grandparents, parents, children, grandchildren, brothers, sisters and in-laws.

**(AMENDED AS PER RESOLUTION NO. 1616-86- 10, DATED 10/13/86.)**

**Sec. 308. Duties.**

(a) The Lawyer Judge, in addition to his/her duties as a judge, shall supervise the other judges of the Court, and the employees of the Court. He/she shall, as needed, advise the other judges of the Court on the law. Except as provided in Section 307, he/she shall also be responsible for assignment of all civil and criminal cases to the judges of the Court. When the position of Lawyer Judge is vacant or when the Lawyer Judge is absent from duty for a prolonged period, the Chief Judge shall be responsible for assignment of civil and criminal cases to the judges of the Court. In addition to all regular judicial duties as outlined in an approved judge position description, the Chief Judge shall have supervisory authority over all employees of the Tribal Court, except for Appellate Court Justices and Tribal Prosecutors. The Chief Judge is hereby authorized to delegate supervisory authority to other judges of the Tribal Court, and/or the Court Administrator, as necessary.

(b) If a judge does not have a Juris Doctorate, they must complete 40 hours of training annually, with a minimum of 5 of those hours in research and writing.

**(AMENDED AS PER RESOLUTION NO. 2156-2001-9, DATED 09/10/01; RESOLUTION NO. 2280-89-4, DATED 04/24/89; RESOLUTION NO. 1616-86-10, DATED 10/13/86 RESOLUTION NO. 2417-85- 5, DATED 04/29/85.)**

## **Chapter 4. Court Administration**

**Sec. 401. Office of Clerk.**

The Tribal Executive Board shall appoint a chief clerk of court and such assistant clerks of court as may be required, to be compensated at a rate fixed by the Tribal Executive Board or by the United States, depending on which pays the compensation. The chief clerk shall be bonded.

**Sec. 402. Qualifications.**

To be eligible to serve as chief clerk of court, a person (1) must be at least twenty one (21) years of age; (2) must be of high moral character and integrity; (3) must be a high school graduate or equivalent; (4) must be proficient in typing; (5) must never have been convicted of a felony; (6) must never have been dishonorably discharged from the Armed Services; (7) must be physically able to carry out the duties of the office; and (8) must be a member of the Tribes. To serve as an assistant clerk of court, a person must satisfy all the foregoing requirements except that an assistant clerk shall be at least eighteen (18) years of age, and preference shall be given to persons able to speak the Assiniboine and Sioux languages.

**Sec. 403. Duties.**

(a) The clerk shall render assistance to the courts, to the authorized law enforcement officers of the Reservation, and the Indians of the Reservation, in drafting complaints, subpoenas, warrants, notices of appeal, and any other documents incidental to the lawful functions of the courts. The clerk shall attend and keep written records of all proceedings of the courts, administer oaths and collect fines, costs, fees and other moneys. The clerk shall be bonded and shall account to the authority of all moneys collected, and the amount of the bond of the clerk shall be fixed by the Tribal Executive Board or the United States, depending on which pays the compensation.

(b) The clerk shall complete 16 hours of continuing education annually, preferably through the Fort Peck Community College, at the Court Administrator's discretion.

**(AMENDED AS PER RESOLUTION NO. 2153-2001-9, DATED 09/10/01.)**

**Sec. 404. Tribal Court Administrator.**

A Tribal Court Administrator shall be appointed by the Tribal Executive Board to be compensated at a rate fixed by the Tribal Executive Board or the United States, depending on which pays the compensation.

**Sec. 405. Qualifications.**

To be eligible to serve as the Tribal Court Administrator, a person (1) must be at least twenty five (25) years of age; (2) must be of high moral character and integrity; (3) must be a college graduate or equivalent; (4) must never have been convicted of a felony; (5) must never have been dishonorably discharged from the Armed Services; and (6) must be physically able to carry out the duties of the office.

Preference shall be given in selection of the Tribal Court Administrator to members of the Tribes, and to persons able to speak and understand the Assiniboine and Sioux languages.

**Sec. 406. Compensation and bond.**

The Tribal Court Administrator shall be bonded. The compensation of the Tribal Court Administrator and amount of the bond shall be fixed by the Tribal Executive Council or the United States, depending on which pays the compensation.

**Sec. 407. Oath of office.**

Before entering upon the duties of office, the Tribal Court Administrator shall take the following oath or affirmation:

"I, , having been appointed Tribal Court Administrator of the Tribal Court, do

solemnly swear (or affirm) that I will truly, faithfully, and impartially discharge all duties of my office to the best of my abilities and understanding. So help me God."

**Sec. 408. Duties.**

The Tribal Court Administrator shall be responsible for the planning and management of the administration of the Fort Peck Court of Appeals and Fort Peck Tribal Court. He/she shall supervise all employees of the Court, as designated by the Tribal Executive Court, except for judges and justices. The Tribal Court Administrator shall plan, prepare and manage the budget, acquisition of supplies and services, the necessary financial accounting practices of the courts, and shall oversee all record keeping and reporting of the courts, and shall adjudicate court complaints.

**(AMENDED AS PER RESOLUTION NO. 2154-2001-9, DATED 09/10/01; RESOLUTION NO. 2281-89- 4, DATED 04/24/89. AND RESOLUTION NO. 435-2006-3, DATED 03/14/06)**

**Sec. 409. Termination of services.**

Termination of services of a Tribal Court Administrator, chief clerk of any assistant clerk shall be by a majority vote of the Tribal Executive Board at a meeting at which a quorum is present.

**Sec. 410. Court Complaint Procedure.**

(a) Any complaint to be properly noted against any court employee shall be filed with the Court and shall be reviewed by the Court Administrator. The Court Administrator shall have ten (10) days from the date of the filing of the complaint in which to investigate the complaint, and an additional fifteen (15) days in which to produce a final evaluation of the complaint and to take what ever action deemed necessary by the Court Administrator.

(b) Any complaint against an employee of the court shall be filed within ten (10) days from the date of the specific action and include:

- (1) The name of the complainant (person filing the complaint);
- (2) The name of the court personnel against whom the complaint is brought;
- (3) A detailed description of the specific action of court personnel; and
- (4) The date, time and place of action.

**(ADOPTED AS PER RESOLUTION NO. 2155-2001-9, DATED 09/10/01).**

## **Chapter 5. Attorneys and Lay Counselors**

**Sec. 501. Qualifications for admissions as attorney or lay counselor .**

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

(b) Lay counselor. Any person who meets qualifications established in this Section shall be eligible for admission to practice before the Court as a lay counselor upon written application and approval of the Chief Judge. To be eligible to serve as a lay counselor, a person (1) must be at least twenty one (21) years of age; (2) must be of high moral character and integrity; (3) not have been dishonorably discharged from the Armed Services; (4) must have successfully completed a bar examination administered as prescribed by the Tribal Executive Board; (5) must not have been

convicted of a felony in any jurisdiction.

**(AMENDED AS PER RESOLUTION NO. 904-90-6, DATED 06/25/90.)**

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

**Sec. 502. Roll of attorneys and lay counselors.**

A roll of attorneys and lay counselors admitted to practice before the Court shall be maintained by the clerk of court.

**Sec. 503. Right to counsel.**

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

**Sec. 504. Disbarment.**

(a) The Tribal Court or the Court of Appeals may disbar an attorney or lay counselor from practice before the courts, or impose suspension from practice for such time as the Court deems appropriate, pursuant to rules adopted by the Court, provided that the Court shall give such attorney or lay counselor reasonable prior notice of the charges against him/her and an opportunity to respond to them. The rules shall include significant violations of the Code of Ethics of the Assiniboine and Sioux Tribes of the Fort Peck Reservation as grounds for disbarment.

**(AMENDED AS PER RESOLUTION NO. 2982-87- 8, DATED 08/10/87.)**

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

(c) Any person who is disbarred or suspended by a justice of the Court of Appeals may appeal that determination to the Fort Peck Court of Appeals within fifteen (15) days of the disbarment or suspension. The appeal shall be determined by those justices of the Court not involved in the initial determination. The Court shall request a statement of the reasons for the disbarment or suspension from the justice who took the initial action, and after receiving such statement shall review the record which was before the justice and may, in its discretion, hear oral argument by the applicant. The Court of Appeals shall determine de novo whether the applicant shall be disbarred or suspended and its determination shall be final.

**(AMENDED AS PER RESOLUTION NO. 1905-84-12, DATED 12/11/84.)**

(d) Any person who has been disbarred or suspended in excess of one (1) year from the practice of law before the Fort Peck Tribal Courts may reapply for admission before the Chief Judge of the Fort Peck Tribal Court. If the Chief Judge had previously disbarred or suspended the applicant,

then the application shall be filed with an Associate Judge of the Tribal Court. The person must submit a statement for readmission to the appropriate judge of the Tribal Court. After receiving such statement, the appropriate judge shall determine whether there is good cause for the applicant to be readmitted to practice before the Fort Peck Tribal Courts. If the applicant for readmission is denied by the judge, the applicant may appeal such decision to the Fort Peck Court of Appeals within ten (10) working days from receipt of such denial in writing. The decision of the Court of Appeals shall be final.

**(AMENDED AS PER RESOLUTION NO. 903-90-6, DATED 06/25/90.)**

**Sec. 505. Members of the Tribal Executive Board shall not practice as attorneys or lay counselors or attempt to influence Tribal Court decisions.**

No member of the Tribal Executive Board shall practice before or in any manner attempt to influence any decision of the Tribal Court or Court of Appeals during his/her term of office. Attempts to influence Tribal Court decisions shall be grounds for removal from office under Section 2(b), Article VI of the Tribes' constitution and bylaws.

## **Chapter 6. Tribal Court Prosecutor and Public Defender**

**Sec. 601. Office of tribal court prosecutor.**

There shall be a tribal court prosecutor, and such assistant prosecutors as the Tribal Executive Board may determine.

**Sec. 602. Qualifications.**

To be eligible to serve as tribal court prosecutor or assistant prosecutor, a person shall (1) have an Associate of Arts degree or Bachelor of Arts degree from an accredited college in law and justice or similar field of study; (2) be at least twenty-one (21) years of age; (3) be of high moral character and integrity; (4) not have been dishonorably discharged from the Armed Services; (5) be physically able to carry out the duties of the office; (6) have successfully completed a bar examination administered as prescribed by the Tribal Executive Board; (7) must be a Fort Peck Tribal member capable of maintaining good relationships with the Tribal Courts; (8) and must have training in Fort Peck Tribal Court Law and Assiniboine and Sioux culture.

**(AMENDED AS PER RESOLUTION NO. 2152-2001-9, DATED 09/10/01, AND RESOLUTION NO.**

**25-87-11, DATED 11/09/87.)**

Special Tribal Prosecutors may be appointed as required by Resolution of the Tribal Executive Board. Such person(s) appointed as Special Tribal Prosecutor must meet the qualifications set forth in this Section except that such person(s) need not be Fort Peck Tribal members.

**(AMENDED AS PER RESOLUTION NO. 639-90-4, DATED 04/23/90).**

**Sec. 603. Appointment and compensation.**

The tribal court prosecutor shall be appointed by a two-thirds (2/3) vote of the Tribal Executive Board taken at a meeting at which a quorum is present. Assistant tribal prosecutors shall be appointed by a majority vote of those voting at a meeting of the Tribal Executive Board at which a quorum is present. The Tribal Executive Board shall establish rates of compensation of the tribal court prosecutor and any assistants.

**Sec. 604. Oath of office.**

Before entering upon the duties of office, the tribal court prosecutor and assistant prosecutors shall take the following oath of affirmation:

"I, , do solemnly swear (or affirm) that I will truly, faithfully and impartially discharge all duties of my office as prosecutor to the best of my abilities and understanding. So help me God."

**Sec. 605. Term of office.**

The term of office for the tribal court prosecutor and assistant prosecutors shall be four (4) year. The initial appointment shall be for a probationary period of not to exceed one (1) year. An incumbent shall be eligible for reappointment.

**(AMENDED AS PER RESOLUTION NO. 434-2006-3, DATED 03/14/2006).**

**Sec. 606. Duties.**

The tribal court prosecutor and assistant prosecutors shall, in the name of the Tribes, prosecute criminal cases in Tribal Court. The prosecutors shall review and approve all criminal complaints, unless signed by a police officer having personal knowledge of the violation, shall supervise the gathering of evidence by law enforcement officers to make sure each case is promptly and fairly presented, shall represent the Tribes at arraignments, and shall be authorized to dismiss any criminal complaint that is not supported by sufficient evidence or is improvidently brought. The tribal court prosecutor and assistant prosecutors shall represent juveniles in Juvenile Court proceedings where parents or guardians are charged with neglect, abuse or abandonment, or where the custody of a child is disputed. The tribal court prosecutor shall make recommendations from time to time to the Tribal Executive Board on the administration of justice on the Reservation.

**Sec. 607. Termination of services of tribal court prosecutor.**

The services of the tribal court prosecutor or assistant prosecutors may only be terminated with due cause upon a 2/3 majority vote of the Tribal Executive Board taken at a meeting at which a quorum is present.

**(AMENDED AS PER RESOLUTION NO. 2151-2001-9, DATED 09/10/01).**

**Sec. 608. Office of tribal public defender.**

The Tribal Executive Board may appoint a tribal public defender and any assistants it deems necessary by majority vote of those voting at a meeting of the Tribal Executive Board at which a quorum is present.

**Sec. 609. Qualifications.**

To be eligible to serve as tribal public defender or assistant defender, a person shall (1) be at least twenty one (21) years of age; (2) be of high moral character and integrity; (3) not have been dishonorably discharged from the Armed Services; (4) be physically able to carry out the duties of the office; and (5) successfully completed a bar examination administered as prescribed by the Tribal Executive Board.

**Sec. 610. Compensation.**

The Tribal Executive Board shall establish rates of compensation for the tribal public defender and assistants.

**Sec. 611. Oath of office.**

Before entering upon the duties of office, the tribal public defender and assistant defenders shall take the following oath or affirmation:

"I, , do solemnly swear (or affirm) that I will truly, faithfully and impartially discharge all duties of my office as defender to the best of my abilities and understanding. So help me God."

**Sec. 612. Term of office.**

The term of office for the tribal public defender and assistants shall be for one (1) year. An incumbent shall be eligible for reappointment.

**Sec. 613. Duties.**

The tribal public defender and assistants shall, without charge, represent persons accused of crimes in Tribal Court with consent of the defendant. Representation shall be provided at all stages of the proceeding following the filing of a complaint, and the tribal public defender shall take all necessary steps to investigate the facts of any case and shall have access to all Tribal and BIA social services personnel.

**Sec. 614. Termination of services of tribal public defender.**

The tribal public defender and assistants may be terminated at any time with or without cause upon a majority vote of the Tribal Executive Board at a meeting at which a quorum is present.