

**WHITE EARTH BAND OF CHIPPEWA**  
**JUDICIAL CODE**  
TITLE 1: COURTS  
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# **WHITE EARTH BAND OF CHIPPEWA JUDICIAL CODE**

## **TITLE 1: COURTS CHAPTER 1 ESTABLISHMENT AND OPERATION**

### **Section 1. Establishment of Court.**

There is hereby established the White Earth Band of Chippewa Tribal Court. The Tribal Court shall consist of a Tribal Court, Panel of Elders, and an Appellate Court. This Judicial Code supersedes any Code or Ordinance of the Band that previously established or otherwise organized a judicial body or court for the White Earth Band of Chippewa.

### **Section 2. Tribal Designation.**

Whenever the formal designation “Band” appears in this Judicial Code, such designation shall refer to the White Earth Band of Chippewa. Any reference to the Tribe or Tribal shall also refer to the White Earth Band of Chippewa or matters of the White Earth Band of Chippewa.

### **Section 3. Appropriations.**

- (a) The White Earth Tribal Council shall appropriate and authorize the expenditure of Tribal funds for the operation of the Tribal Court. The amounts to be appropriated shall be consistent with the needs of the Tribal Court for proper administration of justice within the White Earth Reservation and for the Band as determined by the White Earth Tribal Council.
- (b) To assist the White Earth Tribal Council in making such appropriations, the Chief Judge of the Tribal Court shall submit proposed budgets and reports of expenses and expenditures to the White Earth Tribal Council, at such intervals and in such form as may be prescribed by the Tribal Council.
- (c) The White Earth Tribal Council may prescribe a system of accounting for funds received from any source by the Courts of the Band and the Clerk of Court.

### **Section 4. Conflict with Other Laws.**

If the provisions of this Judicial Code conflict with other provisions in the laws of the White Earth Band of Chippewa, the provisions of this Judicial Code shall supersede such other provisions.

Section 5. Bound by Indian Civil Rights Act and White Earth Tribal Laws.

The White Earth Tribal Court shall uphold and be bound by the Indian Civil Rights Act and all White Earth Tribal laws as may be enacted from time to time.

## CHAPTER II JURISDICTION

Section 1. White Earth Band Tribal Court Jurisdiction.

The jurisdiction of the Tribal Court shall extend to:

- (a) All actions arising under the White Earth Band Conservation Code, and to all persons alleged to have violated provisions of the Code, provided that the action or violation occurs within the boundaries of the White Earth Reservation, including all lands, islands, waters, roads and bridges or any interests therein, whether trust or non-trust status and notwithstanding the issuance of any patent or right-of-way, within the boundaries of the Reservation.
- (b) All actions arising under the Codes, Laws, and Ordinances of the White Earth Band of Chippewa, and to all persons alleged to have violated provisions of those Ordinances, provided that the action or violation occurs within the boundaries of the White Earth Reservation, including all lands, islands, waters or any interest therein hereafter added to the Reservation. Hereinafter, reference to "Reservation" shall include all lands and waters described in this paragraph.
- (c) The White Earth Band of Chippewa Tribal Court shall have jurisdiction over all Band members, and over all persons whose actions involve or affect the White Earth Band of Chippewa or its members, and over persons who enter into consensual relationships with the Band or its members through commercial dealings, contracts, leases, or other arrangements. For the purposes of this Code, "person" shall mean all natural persons, corporations, joint ventures, partnerships, trusts, trust funds, public or private organizations, or any business entity of whatever kind, whether members or non-members of the White Earth Band of Chippewa.
- (d) The White Earth Band of Chippewa Tribal Court shall have criminal jurisdiction over all persons who violate any Band codes, laws or ordinances provided that such violation occurs within the boundaries of the White Earth Reservation, including all lands, islands, waters or any interest therein hereafter added to the Reservation.

- (e) All civil causes of action arising at common law including, without limitation, all contract claims (whether the contract at issue is written or oral or existing at law), all tort claims (regardless of the nature), all property claims (regardless of nature), all insurance claims, and all claims based on commercial dealings with the Band, its agencies, sub-entities, and corporations chartered pursuant to its laws, and all nuisance claims. The Court shall have original jurisdiction whether the common law cause of action is one which has been defined by the Tribal Council as Band common law, or is one which exists at common law in another jurisdiction and which is brought before the Tribal Court based upon reference to the law of that other jurisdiction. For the purposes of this Code, “common law” shall mean the body of those principles and rules of action relating to the government and security of persons and property, which derive their authority solely from usages and customs, or from the judgments and decrees of courts recognizing and affirming such usages and customs, and is generally distinguished from statutory law.
- (f) The Court shall have jurisdiction over any and all matters upon the adoption by the White Earth Tribal Council of an appropriate code. This shall include but not be limited to codes concerning domestic relations, juvenile matters and child protection. Upon the adoption of such a code by the White Earth Tribal Council no further action shall be needed to empower the tribal court to hear cases pursuant to such codes.
- (g) Other actions arising under the laws of the White Earth Band of Chippewa, as provided in those laws.
- (h) The jurisdiction invoked by this Code over any person, cause of action, or subject shall be concurrent with any valid jurisdiction over the same of the courts of the United States, any state, or any political subdivision thereof; provided, however, this Code does not recognize, grant, or cede jurisdiction to any other political or governmental entity in which jurisdiction does not otherwise exist in law.
- (i) The Court shall have jurisdiction to interpret all provisions of the Minnesota Chippewa Tribal Constitution and all other organic documents which pertain to the governing authority of the White Earth Band of Chippewa.

**Section 2. No Acceptance of State Jurisdiction.**

Nothing in this Code shall be deemed to constitute acceptance of or deference to the jurisdiction of the State of Minnesota over any civil or civil regulatory matter or crime associated thereto, where such jurisdiction does not otherwise exist.

**Section 3. Suits Against the Band.**

- (a) **Sovereign Immunity of Band.** The sovereign immunity from suit of the Band and every elected Reservation Tribal Council member, tribal official, tribal judge or attorney acting on behalf of the Band with respect to any action taken in an official capacity or in the exercise of the official powers of any such office, in any court, federal, state or tribal is hereby affirmed; nothing in this Code shall constitute a waiver of the Band's sovereign immunity.
- (b) **Tribal Action Not A Waiver of Sovereign Immunity.** No enforcement action taken pursuant to this Code, including the filing of an action by the Band or any agency of the Band in Tribal Court, shall constitute a waiver of sovereign immunity from suit of the Band, or any elected Reservation Tribal Council member or tribal official with respect to any action taken in an official capacity, or in the exercise of the official powers of any such office, either as to any counterclaim, regardless of whether the counterclaim arises out of the same transaction or occurrence, or in any other respect.
- (c) **Waiver of Sovereign Immunity.** The sovereign immunity of the White Earth Band and any elected Reservation Tribal Council member or tribal official with respect to any action taken in an official capacity, or in the exercise of the officials powers of any such office, in any action filed in the Tribal Court with respect thereto, may only be waived by a formal written resolution of the White Earth Tribal Council. All waivers shall be unequivocally expressed in such resolution. No waiver of the Band's sovereign immunity from suit may be implied from any action or document. Waivers of sovereign immunity shall not be general but shall be specific and limited as to the jurisdiction or forum within which an action may be heard, the duration, action, and property or funds, if any, of the Band or any agency, subdivision or governmental or commercial entity of the Band subject thereto. No express waiver of sovereign immunity by written resolution of the Reservation Tribal Council shall be deemed a consent to the levy of any judgment, lien or attachment upon property of the Band or any agency, subdivision or governmental or commercial entity of the Band other than property specifically pledged or assigned therein.

#### Section 4. Inclusion of Language from Other Laws.

Inclusion of language, definitions, procedures, or other statutory or administrative provisions of the State of Minnesota or other state or federal entities in the White Earth Band of Chippewa Judicial Code shall not be deemed an adoption of that law by the Band and shall not be deemed an action deferring to state or federal jurisdiction within the White Earth Reservation where such state or federal jurisdiction may be concurrent or does not otherwise exist.

## CHAPTER III JUDGES

### Section 1. Number of Judges.

There shall be a Tribal Court consisting of a Chief Judge and two Associate Judges, all of whom shall be lawyers experienced in the practice of Tribal and federal Indian law and licensed to practice in the highest court of any state. By resolution, the White Earth Tribal Council may increase the number of Associate Judges.

### Section 2. Selection.

All Judges of the Tribal Court shall be selected by appointment by a majority vote of the White Earth Tribal Council.

### Section 3. Terms.

Each Judge of the Tribal Court shall sit for an initial term of appointment of four years and shall be eligible for election to successive terms of four years each. A person appointed to fill an existing vacancy created by death, resignation, or removal for cause of a Judge shall be appointed initially only for the unexpired portion of the term for which the appointment is made, subject to eligibility for reelection for the next term. The first term of the initial Judges of the Tribal Court shall commence on the date on which the Code becomes effective, and those terms shall expire at the date of the reservation-wide election which falls closest to a four year period of time. If the number of Associate Judges is increased pursuant to resolution, to be effective on some date other than the commencement of judicial terms as prescribed by this Code, the additional offices shall be filled by initial appointments, as though they were vacancies, for the period of time prior to the commencement of the next full judicial term. All judges shall run for reelection at the reservation-wide election which falls closest to the end of a four year term.

### Section 4. Qualifications.

Subject to Section 1 of this Chapter, any person 25 years or older shall be eligible to serve as a Judge of the Tribal Court, except the following:

- (a) The Clerk of Court, Assistant Clerks and members of the White Earth Tribal Council.
- (b) Those who have been convicted by a court of the United States or of any State of the United States for a felony, as a felony is defined by the laws of that jurisdiction.

### Section 5. Salary.

The Chief Judge and the Associate Judges shall be paid pursuant to the terms of appointment approved by resolution of the White Earth Tribal Council. The terms of the appointment shall authorize the individual(s) to act in the capacity of Tribal Judge, and shall provide for compensation for reasonable and necessary expenses for the individuals acting in the capacity of Tribal Judge for travel and per diem, and shall include reasonable and necessary expenses for the administration of the Court. The compensation or salary of any Chief Judge or Associate Judge shall not be reduced during her/his appointment term.

Section 6. Appellate Panel.

In any appeal from the decision of a trial Judge, whether Chief or Associate, a litigant may choose to appeal her/his case to the Appellate Panel. The Appellate Panel shall consist of two justices and one representative from the panel of elders. The justices may be constituted from the remaining judges who did not preside or conduct any portion of the trial. If the remaining justices cannot serve for any reason, including disqualification pursuant to Chapter III, Sections 8 and 9 herein, additional associate justices may be appointed. A litigant shall have the right to file an affidavit of conflict of interest as provided in Chapter III, Section 9, against justices on an Appellate Panel. Such justices of an Appellate Panel so constituted may only be removed prior to completion of assigned matters by the White Earth Tribal Council pursuant to provisions of this Code for the removal of a judge of the Tribal Court, Section 8 of this Chapter.

Section 7. Oath of Office.

Each person, prior to assuming the office of Judge or Justice of the Tribal Court, shall take the following oath before the Chairperson of the White Earth Tribal Council:

“I swear (or affirm) that I will support and defend the Indian Civil Rights Act, the Constitution, By-Laws, and laws of the White Earth Band of Chippewa, and that I will faithfully and diligently perform the duties of (Chief Judge, Associate Judge, Appellate Justice, as applicable) of the White Earth Tribal Court, to the utmost of my ability, with impartiality and without improper favor, to the end that justice may be full served.”

Section 8. Removal from Office.

Such removal shall be by a recall petition of the enrolled members of the White Earth Band who reside on the White Earth Reservation. Such petition shall consist of the signatures of 20% of the number of on-reservation votes cast in the most recent reservation-wide election. Upon the certification of such a petition by the clerk of court, the matter shall be placed on the ballot for a vote by the on-reservation membership. Such election shall take place at the next regularly scheduled reservation-wide election or at a special election to be held within 6 months of the date of certification of the petition, whichever comes first. If two-thirds of the on-reservation tribal members vote for

removal of the judge, removal shall then be effective upon the date of certification of the election results.

Section 9. Conflicts of Interest.

No judge shall officiate in any proceeding in which she/he has any personal interest, or in which any party, witness or counsel is related to her/him by blood within the third degree or by legal, traditional or common-law marriage, or in which any party, witness or counsel stands or has previously stood in relationship to the Judge of ward, attorney, client, employer, employee, landlord, tenant, business associate, creditor or debtor unless such a conflict be specifically waived by the party, witness or counsel.

CHAPTER IV  
CLERK OF COURT

Section 1. Appointment, Salary, Discharge.

The Clerk of the Tribal Court shall be appointed by the White Earth Tribal Council. The White Earth Tribal Council may appoint assistants for the Clerk. The White Earth Tribal Council shall prescribe the salaries of the Judges, Clerk of Court and any assistants which shall be paid by the Band. Any person serving as Clerk or Assistant Clerk may be discharged from that position pursuant to a majority vote of the White Earth Tribal Council.

Whenever the formal designation "Clerk" or "Clerk of Court" appears in this Judicial Code, such designation shall also refer to the Court Administrator. Any references to Clerk or Clerk of Court refer to the Court Administrator. The terms Clerk of Court and Court Administrator shall be interchangeable in the White Earth Judicial Code.

Section 2. Duties.

The clerk shall be responsible for the administration of the Tribal Court, and for such other administrative and ministerial duties as may be prescribed by the Code or assigned to her/him by the White Earth Tribal Council of the Chief Judge. The duties of the Clerk shall include but shall not be limited to the following:

- (a) Maintaining records of all Tribal Court proceedings to include identification of the title and nature of all cases, the names of the parties, the substance of the complaints, the names and addresses of all witnesses, the dates of hearings and trials, names and addresses of all parties and witnesses appearing at all hearings and tribals, and all Tribal Court rulings and jury decisions, findings, orders and judgments, and any other facts or circumstances decided by the judges of the Tribal Courts or deemed of importance by the Clerk of Court.

- (b) Maintaining all pleadings, documents and other materials filed with the Tribal Court.
- (c) Maintaining all evidentiary materials, transcripts and records of testimony filed with the Tribal Court.
- (d) Establishing and administering a trust account into which all fines, fees and other monies taken into custody by the Tribal Court shall be deposited. Funds in this trust account shall be used only for expenses incurred by the Tribal Court, at the discretion of the Clerk of Court with the approval of the Chief Judge.
- (e) Collecting and accounting for fines, fees and other monies and properties taken into custody by the Tribal Court, and depositing them into the trust account.
- (f) Preparing and serving notices, summons, subpoenas, warrants, rulings, findings, opinions, and orders as prescribed by this Code and as may be designated by the judges of the Tribal Court.
- (g) Assisting persons in the completion of forms for Tribal Court proceedings; provided, however, the Clerk and her/his assistants shall not give advice on questions of law, nor shall they appear or act on behalf of any person in any Tribal Court proceeding.
- (h) Administering oaths and witnessing of executions of documents.
- (i) Maintaining a supply of blank forms to be prescribed by the Tribal Court for use by all persons having business before the Tribal Court.
- (j) Providing copies of documents in Tribal Court files to other persons upon request, and upon receipt of a charge therefore to be prescribed by the Clerk to cover the costs of such services; provided, however, there shall be no charge for such service to the Judges of the Tribal Court, and provided further, no copies of documents or material shall be provided from files which are to be kept confidential or unavailable for public inspection pursuant to any provision of this Code or other ordinance of the White Earth Tribal Council, or if prohibited by any court order.
- (k) Providing security for all files, documents and materials filed with or in the custody of the Tribal Court, and insuring that they are not removed from the offices of the Clerk and the Tribal Courts except upon the specific instructions of a Judge of the Tribal Court.
- (l) Maintaining a library of laws, regulations, orders, opinions and decisions of the United States and its administrative agencies and courts, the White

Earth Tribal Council and the Courts of the Band and of the various states, insofar as they may be pertinent to the administration of justice for the Band and within the Reservation. The acquisition of such materials shall be subject to appropriations of funds therefore by the White Earth Tribal Council. Materials in the library shall be available for use in the office of the Clerk during normal working hours by any person subject to the jurisdiction of the Tribal Court, and her/his authorized representative.

- (m) Performing such other duties related to the operation of the Court, other than those specifically performed by a judge, as the White Earth Tribal Council or the contract establishing Judges of the Court and Clerk shall so designate.

## CHAPTER V COUNSEL

### Section 1. Legal Representation.

Any person who is a party in any civil trial or proceedings before the White Earth Tribal Court may represent herself or himself, or be represented by any other member of the Band who is licensed to appear before the tribal court, except the Clerk, an Assistant Clerk, a Judge or Justice of the Tribal Court, a member of the White Earth Tribal Council, a Tribal Game Warden, a Tribal Police Officer, or be represented by a professional attorney who is not a member of the Band, but who is licensed to practice law before the Tribal Court.

Section 2. Tribal Licensing of Lay Representatives.

Lay persons who are members of the White Earth Band may become licensed to practice in the White Earth Tribal Court by:

- (a) Filing an affidavit with the Clerk which states that the applicant is an enrolled member of the White Earth Band; and
- (b) Filing an affidavit with the Clerk of Court which states that the applicant has studied and is familiar with the Constitution and By-Laws of the Band, this Code, and all other Ordinances of the Band, Title 25 of the United States Code and Title 25 of the Code of Federal Regulations.
- (c) Paying an annual license fee of \$10.
- (d) Taking the following oath before the Clerk of Court either in person or by affidavit:

“I do solemnly swear (or affirm) that I will support all laws of the White Earth Band of Chippewa.

I will maintain the respect due to the Tribal Court and its judicial officers;  
and

I will employ confidentiality for the purposes of maintaining the causes confided to me, and such means only as are consistent with truth and honor, and I will never seek to mislead any judge, justice, jury or elder by any artifice, or by false statement or misrepresentation of fact or law; and

I will conduct myself in an orderly, courteous and respectful manner and shall not misbehave or disrupt, obstruct, or otherwise interfere with the conduct of any proceeding by the Court or the administration of justice by the White Earth Tribal Court.”

Section 3. Tribal Licensing of Professional Attorneys.

Professional attorneys who are not members of the Band may appear on behalf of any party in any trial proceeding before the Tribal Court, provided they are licensed to practice law before the Tribal Court. Such license shall be issued upon compliance with the following:

- (a) Filing with the Clerk an affidavit that the applicant is licensed to practice law before the highest court of any state or is an enrolled member of the White Earth Band of Chippewa who resides within the boundaries of the reservation and who provides advocate services in tribal court; and

- (b) Filing with the Clerk of Court an affidavit that the applicant has studied and is familiar with the Constitution and By-Laws of the Band, this Code, all other Ordinances of the Band, Title 25 of the United States Code and Title 25 of the Code of Federal Regulations; and
- (c) Paying an annual license fee of one hundred dollars (\$100.00). Such license fee may be waived only for those professional attorneys providing pro bono legal services for tribal members or for non-attorney advocates practicing in tribal court; and
- (d) Taking the following oath before the Clerk of court, either in person or by affidavit:

“I do solemnly swear (or affirm) that I will support the laws of the White Earth Band of Chippewa;

I will maintain the respect due to the Tribal Court and its judicial officers;

I will not counsel or maintain any suit or proceeding which shall appear to me unjust, nor any defense except such as I believe to be honestly valid or debatable under the law;

I will employ confidentiality for the purpose of maintaining the causes confided to me, and such means only as are consistent with truth and honor, and I will never seek to mislead any judge or jury or Panel of Elders by any artifice, or by false statement or misrepresentation of fact or law;

I will employ in the conduct of my duties the highest degree of ethics and moral standards with which my profession is charged, and I will be guided at all times by the quest for truth and justice;

In the conduct of my duties as an attorney, I will not impugn the morals, character, honesty, good faith, or competence of any person, nor advance any fact prejudicial to the honor or reputation of any person, unless required by the justice of the cause with which I am charged.”

#### Section 4. Revocation of Professional Attorney’s Tribal License or Lay License.

Any license issued pursuant to Section 2 of this Chapter may be revoked or suspended by the Tribal Court. Such action may be taken on its own motion or upon sworn complaint by any member of the Band. Revocation or suspension shall be ordered only after written notice to the licensee of the motion or complaint and after a hearing before all judges of the Tribal Court unless a conflict of interest prohibits such participation. Following a hearing, the Tribal Court may revoke or suspend the license upon a finding that the licensee has been disbarred or suspended from the practice of law by any court of the

United States, any State, Tribal court or has filed a false affidavit with the Clerk to obtain her/his license, or has violated her/his oath made before the Clerk of court or has engaged in misconduct or unethical conduct in the performance of her/his duties as an attorney, has violated her/his oath or has been found in contempt of court by the Tribal Court.

## CHAPTER VI CONTEMPT OF TRIBAL COURT

### Section 1. Definition of Contempt.

Willful misbehavior by any person which disrupts, obstructs, or otherwise interferes with the conduct of any proceeding by the Tribal Court, or which obstructs or interferes with the administration of justice by the Tribal Court, or which constitutes disobedience or resistance to or interference with any lawful summons, subpoena, process, order, rule, decree or command of the Tribal Court shall constitute contempt of Tribal Court. The willful failure of any party to comply with the terms of a judgment directed against her/him, with which she/he is able to comply, shall be contempt of the Tribal Court which shall be punished by the Tribal Court in the manner prescribed by this Code.

### Section 2. Contempt in Presence of Court.

When contempt of Tribal Court is committed in the presence of a Tribal Judge, it may be punished summarily by that Tribal Judge. In such case an order shall then be made reciting the facts constituting the contempt, adjudging the person guilty of contempt, and prescribing the punishment therefore in accord with Chapter VI, Section 4 of this Title.

### Section 3. Contempt Outside Presence of Court.

When it appears to the Tribal Court that a contempt may have been committed out of the presence of the Court, the Tribal Court may issue a summons to the person so charged directing her/him to appear at a time and place designated for a hearing on the matter. If such person served with the summons fails to appear at the time and place so designated, the Tribal Court shall conduct a hearing, and if it finds her/him guilty of contempt, an order shall then be made reciting the facts constituting the contempt, adjudging the person guilty of contempt, and prescribing the punishment therefore in accord with Chapter VI, Section 4 of this Code.

### Section 4. Punishment for Contempt.

Any person found in contempt of court or any ordinances of the Band is amenable to a civil fine not to exceed \$500.00 as may be determined by a Judge of the Tribal Court.

## CHAPTER VII GENERAL COURT PROCEDURES

### Section 1. Assignment of Cases to Judges.

The Chief Judge shall be responsible for assignment of cases and other matters for determination or disposition to the respective Judges of the Tribal Court.

Section 2. Court Rules and Procedures.

The Chief Judge and Associate Judges of the Tribal Court may establish and promulgate rules of procedure for the conduct of its proceedings which are consistent with this Code or other governing and applicable law.

Section 3. Sessions of Court.

The Tribal Court is in continuous session. The Tribal Court shall hold sessions of court at any suitable location designated by the Chief Judge as deemed necessary, commencing at such times as designated by the Clerk in consultation with presiding Judges for a particular case.

Section 4. Means to Carry Jurisdiction Into Effect.

When jurisdiction is vested in the Court, all the means necessary to carry such jurisdiction into effect is also included; and in the exercise of its jurisdiction, if the course of proceedings is not specified in this Code per the rules promulgated by the Court pursuant to this Title or Title 2 of this Code, the Court may adopt any suitable process mode of proceeding which appears to the Court to be fair and just and most consistent with the spirit of the White Earth Band of Chippewa Tribal Court.

Section 5. Federal/State Relations With the Courts.

No employee or representative of any federal or state agency shall obstruct, interfere with, or control the functions of the Court, nor shall she/he influence such functions in any manner, except in those instances where they appear as parties or amici.

Section 6. Law Applicable in Civil and Criminal Actions.

- (a) In the event the Court follows tribal custom or traditional law, such law, tradition or custom shall be reduced to writing with a historical justification therefore, and shall become a precedential guide for the unwritten tradition, customs or laws so as to allow future Judges and litigants to be guided on the traditional law and custom.
- (b) Traditional law and tribal custom shall be considered in combination with other laws. In the event any doubt arises as to customs and traditions of the Band, the Court may request the advice and assistance of the panel of elders.

- (c) In the event that an issue arises in an action which is not addressed by all customs and traditions of the Band, this Code, all amendments thereto, or all tribal laws presently existing or hereafter enacted, the court may apply statutes, regulations and case law of any tribe or the federal government or of any state. Application of such law shall not be deemed an adoption of such law or an action to defer to the jurisdiction from which that law originates.

## CHAPTER VIII PANEL OF ELDERS

### Section 1. Scope.

This Chapter shall apply to all actions which are subject to the jurisdiction of this court.

### Section 2. Establishment of Panel of Elders/Jurors.

The White Earth Band of Chippewa Tribal Council shall appoint a Panel of Elders to be available to advise the court regarding disputes arising under the laws of the White Earth Band of Chippewa when such participation is requested by a party or defendant in such action. The number of elders shall be twelve (12), four (4) from each district. In addition, one member of the Panel of Elders may sit on the Appellate Panel for all cases in which an appeal is sought from a decision of the White Earth Tribal trial Court. Compensation for the Panel of Elders members shall be set by the White Earth Tribal Council and shall be the same for each and every Panel of Elders member who hears each case. A request for participation of an elder shall be made by motion of either party at the first court appearance.

### Section 3. Operation.

The White Earth Tribal Chief Judge shall preside over the Panel of Elders. The Chief Judge shall appoint one member of the Panel of Elders to advise in each case where such advice is requested. Elders may also serve as members of the jury. No member shall be permitted to hear a case in which he or she has a conflict of interest, as defined by Chapter III, Section 9 of this Title. If more than three panel members have conflicts of interest in any one case, the White Earth Tribal Council shall appoint more Panel of Elders members, as necessary.

### Section 4. Terms.

Elders shall serve terms of four years and shall be eligible for reappointment to successive terms of two years each. One elder shall be appointed from each district annually. A person appointed to fill an existing vacancy created by death, resignation or removal for cause of a member of the Panel of Elders shall be appointed initially only for the unexpired portion of the term for which the appointment is made, subject to eligibility for reappointment for the next term. The initial term for panel members shall be one four

year term per district, one three year term per district, one two year term per district, and one one year term per district. The terms shall commence on the date on which the Judicial Code becomes effective. The initial panel of elders shall be appointed to serve one (1) year term, one two (2) year term, one three (3) year term and one four (4) year term per district. Thereafter all successive terms shall be for four (4) years.

Section 5. Removal.

Members of the Panel of Elders may only be terminated by a referendum vote at which a majority of on-reservation votes cast for the most recent reservation-wide election vote affirmatively for termination. Such election results shall become effective upon the certification of election results by the election board.

Section 6. Rules of Procedure.

The Panel of Elders shall not be constrained to follow the rules of procedure governing this Court, but shall insure that due process of law is guaranteed to all who appear before the White Earth Tribal Court. The Panel of Elders shall have the authority to promulgate its own rules of procedure.

Section 7. Choice of Participants.

Any member of the White Earth Band of Chippewa, including juveniles, may choose to have her/his case which arised under any law of the White Earth Band of Chippewa heard in consultation with a member of the Panel of Elders, in accordance with the traditional values and practices of the White Earth Band of Chippewa as handed down from time immemorial. Band members shall express their desire to have a member of the Panel of Elders participate in their case either in writing or orally to the presiding judge of the White Earth Tribal Court. Band members must make this selection at the first hearing of any action, motion, issue or other proceeding before the White Earth Tribal Court or it will be deemed that a Judge of the White Earth Tribal Court shall hear the matter.

## CERTIFICATION

We do hereby certify that the foregoing Judicial Code was duly presented and adopted by a vote of 3 For, 0 Against, 0 Silent, at a Special Meeting of the White Earth Tribal Council, a quorum present, held on November 3, 1997, at White Earth, Minnesota.

/s/ Eugene McArthur

Eugene McArthur, Chairman  
Secretary/Treasurer  
The White Earth Tribal Council  
Council

/s/ Erma Vizenor

Erma Vizenor,  
The White Earth Tribal