

**TUNICA-BILOXI TRIBE OF LOUISIANA  
TRIBAL COUNCIL ORDINANCE NO. TBN-O-2019-006**

**AN ORDINANCE TO ENACT THE TUNICA-BILOXI JUDICIAL CODE**

**WHEREAS**, the Tunica-Biloxi Tribe of Louisiana is a federally recognized Indian tribe;

**WHEREAS**, the Tunica-Biloxi Tribal Council ("Tribal Council") is the duly elected governing body of the Tribe, as authorized by Article VII, Section 1, of the Constitution of the Tribe ("Constitution");

**WHEREAS**, the Tribal Council is empowered by Articles VII and VIII of the Constitution to enact codes necessary to fulfill its enumerated powers and other codes necessary and incidental to the exercise of its enumerated powers; and

**WHEREAS**, the Tunica-Biloxi Tribal Council has the authority and responsibility to act on behalf of Tunica-Biloxi Tribal members regarding their general welfare; and

**WHEREAS**, the Tribal Court ("Court") was first established in 1988 by the Tribal Council; and

**WHEREAS**, the Tunica-Biloxi Court of Appeals was first established in 1997 by resolution of the Tunica-Biloxi Tribal Council; and

**WHEREAS**, pursuant to Article X of the Tunica-Biloxi Tribe of Louisiana Constitution, the judicial power of the Tunica-Biloxi Tribe of Louisiana shall be vested in its Tribal Judiciary which is composed of the Tribal Court and Tribal Court of Appeals; and

**WHEREAS**, the Tunica-Biloxi Tribe of Louisiana is currently undergoing a series of revisions to its Tribal Code in order to effectively serve its members as a modern-day Tribal Government; and

**WHEREAS**, the Tribal Council desires to update and enact its Judicial Code to ensure that prompt and efficient justice is administered by the Tribal Court and that all persons who are subject to the jurisdiction of the Tribe are guaranteed of their rights and protected by them, and that the persons and property of these individuals are fully protected.

**WHEREAS**, on October 14, 2019, the Tribal Council introduced the Judicial Code for review and comment pursuant to Section 12 of the Legislative Code.

**THEREFORE, BE IT ORDAINED**, the Tribal Council hereby enacts the attached Tunica-Biloxi Judicial Code, effective December 1, 2019.

### CERTIFICATION

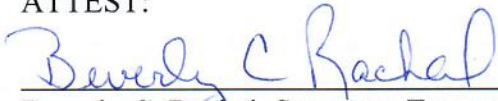
I, the undersigned, as Secretary-Treasurer of the Tunica-Biloxi Tribe of Louisiana, certify that the Tribal Council of said Tribe is composed of seven (7) members, of whom 5, constituting a quorum, were present at a meeting thereof, duly called, noted, convened and held this 14 day of November, 2019; and that the foregoing Ordinance was duly adopted by a vote of 5 members in favor, 0 opposed, and 0 abstaining.

Dated this 14 day of November 2019.



Marshall Ray Sampson, Vice-Chairman

ATTEST:



Beverly C. Rachal, Secretary-Treasurer

CHAIRMAN  
MARSHALL PIERITE

VICE CHAIRMAN  
MARSHALL RAY SAMPSON, SR.

SECRETARY- TREASURER  
BEVERLY C. RACHAL

COUNCIL MEMBERS  
BRENDA W. LINTINGER  
BOBBY PIERITE, SR.  
HAROLD PIERITE, SR.  
JEREMY "CANARY" ZAHN



**Introduction of the Tunica-Biloxi Judicial Code  
October 13, 2019**

In accordance with Section 12 of the Legislative Code, the Tribal Council is introducing a new Judicial Code for review and comment. The Judicial Code is intended to ensure that prompt and efficient justice is administered by the Tribal Court and that all persons who are subject to the jurisdiction of the Tribe are guaranteed of their rights and protected by them. The Code shall also establish the composition of the Tribal Court system and the standards of conduct for all Tribal Judges and other employees of the Tribal Judiciary.

Please feel free to email the Tribal Council at [tribalcouncil@tunica.org](mailto:tribalcouncil@tunica.org) with comments and concerns by October 23, 2019.

Sincerely,

Tunica-Biloxi Tribal Council

**TUNICA-BILOXI TRIBE OF LOUISIANA  
JUDICIAL CODE**

**GENERAL PROVISIONS**

**SECTION 1 — SHORT TITLE**

This Code may be cited as the “Tunica-Biloxi Judicial Code.”

**SECTION 2 — AUTHORITY AND PURPOSE**

- 2.1 The Tunica-Biloxi Tribe of Louisiana, hereinafter referred to as “Tribe,” is empowered by its Constitution to enact codes and hereby enacts this Code to ensure that prompt and efficient justice is administered by the Tribal Court and that all persons who are subject to the jurisdiction of the Tribe are guaranteed of their rights and protected by them, and that the persons and property of these individuals are fully protected.
- 2.2 Pursuant to Article XIII of the Tunica-Biloxi Tribe of Louisiana Constitution, the judicial power of the Tunica-Biloxi Tribe of Louisiana shall be vested in the Tribal Judiciary.

**SECTION 3 — DEFINITIONS**

For purposes of this Code, the following definitions shall apply:

- (a) “Agreement” means any written contract, agreement or other instrument.
- (b) “Cause” shall mean any reason sufficient for disbarment of an Attorney from the Bar of the Tunica-Biloxi Tribe of Louisiana, or a violation of the Canons of Judicial Ethics promulgated by the American Bar Association.
- (c) “Clerk” shall mean the Clerk of the Tribal Court.
- (d) “Code” means this Tunica-Biloxi Judicial Code.
- (e) “Common Law” means traditional tribal customs, practices, and usages of the Tunica-Biloxi Tribe of Louisiana.
- (f) “Employee” means any individual employed full-time or part-time by the Tribe or a Tribal Entity.
- (g) “Ethics Commission” means the Tunica-Biloxi Ethics Commission established by the Tunica-Biloxi Ethics Code.
- (h) “Financial interest” means any monetary interest gained including salary,

income, benefits, funding, or other payments for services or equity interest held through ownership or investment like stocks, stock options, intellectual property rights, and the like.

- (i) “Immediate family member” shall mean any person who is closely related to an employee or official by blood or marriage, including spouse, parent, child, sibling, legal dependent, or any other person who has a similar relationship to the employee or official or resides in the home of an employee or official (such as a common-law spouse or partner).
- (j) “Official” means any person elected, appointed, or assigned to serve the Tribe including, but not limited to, full-time or part-time Tribal Council Members and any Board or Commission members.
- (k) “Tribal Court Bar” means the Tunica-Biloxi Tribal Court Bar.
- (l) “Tribal Council” means the elected governing body of the Tribe.
- (m) “Tribal Court” means the lower court of the Tunica-Biloxi Tribal Court Judiciary.
- (n) "Tribal Government" means the Tribal Council, the office of the Tribal Chairman, all offices and departments that report directly to the Tribal Chairman, governmental authorities, commissions, and all boards, instrumentalities, and other entities established by the Tribal Council responsible for the administration, management, or oversight of a government program, department, service, operation, grant, or any other government-related activity assigned by the Tribal Council.
- (o) “Tribal Entity” means an arm of the Tribe formed under Tribal Law as an instrumentality, agency, unincorporated department or division, or business entity that is wholly owned by the Tribe or tribal subsidiaries, including, without limitation, a corporation or limited liability company.
- (p) “Tribal Judge(s)” means any judge of the Tribal Judiciary, to include the Chief Judge and any Associate Judges.
- (q) “Tribal Judiciary” means the Tunica-Biloxi Tribal Court system, including the Tribal Court, the Court of Appeals, and any other branches, divisions, or lower alternative dispute resolution forums established by the Tribal Council.
- (r) “Tribal Law” means all laws of the Tribe enacted by the Tribal Council, including without limitation, this Code, ordinances, resolutions, policies, or other motions.

- (s) “Tribe” means the Tunica-Biloxi Tribe of Louisiana.

#### **SECTION 4 — APPLICATION**

This Code shall extend to all cases and controversies within the jurisdiction of the Tribe, in law and equity, whether civil or criminal in nature, arising under the laws, customs, or traditions of the Tunica-Biloxi Tribe of Louisiana.

#### **SECTION 5 — SOVEREIGN IMMUNITY**

Nothing in this Code, or in any arbitration or other provision of any Agreement, shall constitute a waiver, in whole or in part, of the sovereign immunity of the Tribe, any Tribal Entity, or any of their subsidiaries, departments, affiliates, agents, officers or employees, beyond the terms of any express limited waiver agreed to therein.

#### **SECTION 6 — AMENDMENT**

- 6.1 Amendment. This Code may be amended by a duly enacted Ordinance of the Tunica-Biloxi Tribal Council.
- 6.2 Ex Post Facto Prohibited. No amendment of this Code shall apply to any matter before the Tribal Court at the time of enactment.

#### **SECTION 7 — SAVINGS PROVISIONS**

If any section or part of this Code or the application thereof shall be held invalid for any reason whatsoever by a court of competent jurisdiction or by federal legislative action, the remainder of the relevant section or part of this Code shall not be affected thereby and shall remain in full force and effect.

#### **SECTION 8 — REPEAL OF INCONSISTENT PROVISIONS**

Any prior legislation or other Tribal Laws that are inconsistent with the purpose and procedures established by this Code are hereby repealed to the extent of any such inconsistency.

#### **SECTION 9 — EFFECTIVE DATE**

This Code shall become effective on November 1, 2019.

#### **SECTION 10 — ESTABLISHMENT OF TRIBAL JUDICIARY**

- 10.1 There is hereby established the Tunica-Biloxi Tribal Court system (hereafter referred to as the “Tribal Judiciary”), which shall consist of the following branches and divisions:

- (1) Tribal Court
- (2) Court of Appeals

10.2 The Tribal Council may establish other branches, divisions, or lower alternative dispute resolution forums of the Tribal Judiciary from time-to-time as it determines necessary, or upon the written recommendation of the Chief Judge. In such event, any new branch or division shall automatically be added to this list.

10.3 The Tribal Judiciary shall be empowered to:

- (a) Interpret, construe, and apply the Tribe's Constitution and the laws and customs of, or applicable to, the Tunica Biloxi Tribe of Louisiana;
- (b) Declare the laws of the Tribe void if such laws are inconsistent with the Tunica-Biloxi Tribe of Louisiana Constitution;
- (c) Issue injunctions, attachments, writs of mandamus, quo warrant, review, certiorari and prohibition, and writs of habeas corpus upon petition by, or on behalf of, any person held in actual custody; and
- (d) Establish court rules and procedures for the Judiciary, except that the Tribal Council may modify such procedures consistent with this Code and the Tribe's Constitution;

## **SECTION 11 — JURISDICTION OF THE TRIBAL JUDICIARY**

11.1 Territorial Jurisdiction. The territorial jurisdiction of the Tribal Court 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 Tribe has authority, including tribal or individual, trust, non-trust and restricted land, and including all land owned by tribal agencies in their own name, all waters, airspace, 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.

11.2 Law to be Applied. The Tribal Judiciary shall apply the Tunica-Biloxi Tribal Constitution, and the provisions of all Tribal Law. In matters not covered by Tribal Law, the Tribal Judiciary shall apply traditional tribal customs and usages, which shall be called the Common Law. When in doubt as to the Tribal Common Law, the Tribal Judiciary may request the advice of counselors and tribal elders. In any dispute not covered by the Tribal Constitution, Tribal Law, or Tribal Common Law, the Tribal Judiciary may apply any laws of the United States or any State which



would be cognizable in the courts of general jurisdiction therein, and any regulation of the Department of Interior which may be of general or specific applicability.

11.3 Long Arm Jurisdiction. It is the intent of the Tunica-Biloxi Tribe of Louisiana that the Tribal Court shall exercise long-arm jurisdiction to the extent consistent with the due process protections provided by 25 USC § 1302(8) and the limitations set forth within this Code. Unless prohibited by federal law or beyond the limitations of this Code, a person, including any entity, who is a non-member of the Tribe residing outside the Tribe's territorial jurisdiction and/or not present within such territory, submits to the jurisdiction of the Tribal Court by doing any of the following acts:

- (a) Transacting any business within tribal territory, including, but not limited to construct or supply services or tangible items within the reservation or off-reservation trust lands and conveying any interest in property located within such tribal territory;
- (b) Committing any tortious act within the reservation or other tribal territory;
- (c) Owning, using, possessing, or having an interest in any property, whether real or personal, situated within tribal territory;
- (d) Contracting to insure any person, property, or risk located within the reservation or other tribal territory at the time of contracting;
- (e) Living in a marital relationship subject to the Tribe's jurisdiction, notwithstanding subsequent departure from tribal territory, so long as one party to the marriage continues to reside within tribal territory;
- (f) Is the parent, custodian, or other person with a legal interest in an Indian child subject to the jurisdiction of the Tribe; or
- (g) Accepting a privilege from the Tribe, or entering a consensual relationship or commercial transaction with a member, relating to the exercise of tribal fishing or hunting rights. Where jurisdiction is based on an act listed in this section, the Tribal Court may exercise personal jurisdiction over the person who does such act, directly or by an agent, as to any cause of action under Tribal Law arising from such act. If an individual, the Tribal Court's jurisdiction over the person also extends to his or her personal representative.

11.4 Criminal Jurisdiction. The Tribal Court shall have original jurisdiction over all criminal offenses enumerated and defined in any ordinance adopted by the Tribe insofar as not prohibited by federal law.



- 11.5 Civil Jurisdiction. The civil jurisdiction of the Tribal Court shall extend to all persons who enter upon the Tunica-Biloxi Indian Reservation, additions to it, and upon or within any property acquired by the Tribe by purchase or lease, any over all contracts and obligations to be executed or performed on the Reservation in which one party is a tribal member or tribal governmental entity. The civil jurisdiction of the Tribe also attaches to any tribal member, wherever located. Personal jurisdiction shall exist over all defendants served within the territorial jurisdiction of the Tribal Court, or served anywhere consistent with tribal law, and all persons consenting to such jurisdiction. The act of entry within the territorial jurisdiction of the Tribal 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 the Tribal Court for any dispute arising out of any sale of commercial transaction regardless of where the sale or transaction was entered into or took place.
- 11.6 Exclusive Jurisdiction. The Tribal Court shall have exclusive jurisdiction over the following cases:
- (1) Disputes arising under the Tunica-Biloxi Tribe of Louisiana Constitution or under the Indian Civil Rights Act;
  - (2) Indian Child Welfare Act proceedings and other juvenile proceedings;
  - (3) Domestic relations cases; and
  - (4) Cases involving Public Health Emergencies, including applications for quarantine or other measures.
- 11.7 Probate Jurisdiction. To the extent permitted by federal law, the Tribal Court shall have probate jurisdiction over all the real and personal property located within the jurisdiction of the Tribal Court at the time of death, and the personal property, wherever located, of any person who is domiciled within the boundaries of the jurisdiction of the Tribal Court at the time of death.
- 11.8 Juvenile Jurisdiction. The Tribal Court shall have 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 Tribal Court, or when jurisdiction is transferred to the Tribal Court.
- 11.9 Arbitration Jurisdiction. The Tribal Court shall have jurisdiction over arbitration proceedings consistent with and as provided for under the Tunica-Biloxi Arbitration Code.

- 11.10 Review of Ethics Commission Determinations. Pursuant to Section 30.8 of the Tunica-Biloxi Ethics Code, Employees and Officials may appeal final determinations of the Tunica-Biloxi Ethics Commission to the Tribal Court. The decision of the Tribal Court shall be final.
- 11.11 Suits Against Officials and Employees. Officials and Employees who act beyond the scope of their duties and authority shall be subject to suit in Tribal Court for the purposes of enforcing rights and duties established by the Tribe's Constitution or other applicable laws.
- 11.12 Public Health Actions. Jurisdiction of the Tribal Court over requests for Public Health Orders shall include actions requested by any responsible Public Health Department, but shall issue only on a finding of personal jurisdiction over the Respondent and a finding, by clear and convincing evidence, that the measure is necessary under the circumstances to protect or preserve public health. The Court may order any necessary measure, however, the Court shall order only the least restrictive measure that will still protect or preserve public health. No quarantine order shall exceed sixty (60) days, although a request for extension may be had within that time, if necessary, for an order continuing the quarantine order. When the Court has issued a public health Order, jurisdiction over the person shall continue, even if the person is removed from Tribal lands.
- 11.13 Appeals from Final Administrative Action. Jurisdiction of the Tribal Court over appeals from final administrative decisions of the Tribe, arms of tribal government or a tribal corporation or entity shall be limited to review of questions of law, in which case the Tribal Court shall review the issue de novo. Jurisdiction shall vest in the Tribal Court only when all administrative remedies have been exhausted. Rulings on questions of fact in a final administrative decision shall be accorded deference by the Tribal Court, and shall be disturbed only if no substantial basis exists for the administrative ruling and no reasonable grounds exist under which the administrative decision could have decided the factual question as it did. The Tribal Court may affirm, reverse, remand, or otherwise modify in whole or in part the final administrative decision it is reviewing. There shall be no appeal beyond the decision of the Tribal Court.
- 11.14 Court of Appeals Jurisdiction. The Court of Appeals shall have jurisdiction to review any final orders, commitments, and judgments of the Tribal Court or any lower courts of the Tribe. These courts may certify interlocutory rulings to the Court of Appeals, which shall have discretion as to whether to assume jurisdiction over such rulings. In no other case shall the Court of Appeals assume jurisdiction over a case before a final decision of the lower court has been issued. Jurisdiction of the Court of Appeals shall be limited to review of questions of law, in which case the Court of Appeals shall review the issue de novo. Rulings on questions of fact by the Tribal Court or any lower courts of the Tribe shall be accorded deference by the Court of Appeals, and shall be disturbed only if no substantial basis exists for the

lower court's ruling and no reasonable grounds exist under which the lower court could have decided the factual question as it did. The Court of Appeals may affirm, reverse, remand, or otherwise modify in whole or in part a decision of the lower courts. A decision of the Court of Appeals shall be final.

## **SECTION 12 — RIGHTS OF PARTIES**

Parties appearing before the Tribal Judiciary shall have all rights provided for under the Indian Civil Rights Act of 1968, as amended, 25 U.S.C. §§ 1301–1304.

### **COMPOSITION OF TRIBAL JUDICIARY**

## **SECTION 13 — TRIBAL COURT**

- 13.1 Composition of Tribal Court. The Tribal Court shall consist of one (1) Chief Judge and at least one (1) Court Clerk whose duties shall be regular and permanent.
- 13.2 Court Personnel. The Tribal Council may appoint associate judges and additional personnel to the Tribal Court as appropriate, upon written recommendation of the Chief Judge.
- 13.3 Tribal Court Rules. The Chief Judge shall prescribe written rules of court, consistent with the provisions of this Code and relevant Tribal Law, including rules establishing the time and place of court sessions.

## **SECTION 14 — COURT OF APPEALS**

- 14.1 Composition of Court of Appeals. The Court of Appeals shall consist of a panel of (3) three qualified judges, appointed by the Tribal Council to sit when necessary to hear appeals. The Tribal Judge whose decision is being appealed shall not be selected or be a member of the panel.
- 14.2 Appeal as a Matter of Right. Any aggrieved party may seek review of a final order, commitment, or judgment of the Tribal Court in the Court of Appeals. The Tribe shall not be deemed an aggrieved party under this section as to final judgments of acquittal of a criminal defendant.
- 14.3 Appeal by Permission. An aggrieved party may seek appellate review of acts of the Tribal Court which are not final by filing a notice for permission to appeal in the Court of Appeals. Permission may be granted if;
- (a) The Tribal Court has committed an obvious error which would render further proceedings useless; or

- (b) The Tribal Court has committed probable error and the decision substantially alters the status quo or substantially limits the freedom of a party to act; or
  - (c) The Tribal Court has departed so far from the usual and accepted course of judicial proceedings as to call for review by the Court of Appeals.
- 14.4 Basis for Court of Appeals Decision. The Court of Appeals shall review the record of proceedings from Tribal Court, appellate briefs of the Appellant and Respondent and oral arguments of the parties in rendering its decision.
- 14.5 Issues of Law and Fact. The Court of Appeals shall limit its review to issues of law, except that the Court of Appeals may review findings of fact in cases tried before a judge sitting without a jury and shall set aside such findings of fact if they are clearly erroneous.
- 14.6 Notice of Appeal. A notice of appeal must be filed with the Tribal Court and with the Court of Appeals within fifteen (15) days after the entry of the decision of the Tribal Court which the party filing notice wants reviewed, and be sent to opposing and interested parties.
- 14.7 Acceptance of an Appeal by Permission. The Court of Appeals shall accept review of an appeal by permission upon granting a motion for permission to appeal. A party seeking permission to appeal must file a motion and accompanying order in the Court of Appeals within ten (10) days of filing a notice for permission to appeal. The Court of Appeals may hold a hearing on the motion and shall give written notice of its decision to the parties and to the Tribal Court. A denial of a motion for appeal by permission shall not affect a party's right to appeal as a matter of right.
- 14.8 Filing Fees. A filing fee of one hundred (\$100.00) dollars must accompany any notice of appeal or notice for permission. The filing fee may be waived by the Court of Appeals upon a written request of the party with a showing of good cause.
- 14.9 Service of Notice. Within thirty (30) days of filing notice of an appeal, the party filing shall cause a copy of the notice to be served on all parties and return an affidavit of service to the Court of Appeals, or file for an extension of time.
- 14.10 Contents of Notice. The notice of appeal or notice for permission to appeal shall be titled as such and shall:
- (a) Specify the party seeking review; and
  - (b) State the grounds for appeal; designate those parts of the decision which the party wants reviewed; and
  - (c) Name the appellate court to which the review is taken; and

- (d) Include the names and addresses of all parties and their spokespersons, if any.

- 14.11 Acceptance of an Appeal as a Matter of Right. The Court of Appeals shall conduct a preliminary review of any appeal submitted, to determine if an appealable issue exists. If no such issues exists, the appeal will be dismissed, with proper notification.
- 14.12 Stay of Judgment. A motion for an order to stay the judgment or order rendered by the Tribal Court, may be made pending an appeal. The motion shall be made first to the Tribal Court at the time of filing a notice of appeal or notice for permission to appeal. If the Tribal Court denies the motion, it may be filed with the Court of Appeals.
- 14.13 Appeal Bond. A stay may, in the Court's discretion, be conditioned on filing cash or a bond in amount set by the deciding court. The amount shall be sufficient to guarantee performance of the judgment or order plus interest and costs of appeal. Any surety on a bond must be approved by the deciding court.
- 14.14 Release in Criminal Cases. A motion for release following a conviction in a criminal case shall be filed in the Tribal Court. If the motion is denied, a motion may be filed in the Court of Appeals. The motion shall be considered promptly upon such papers and affidavits as the parties present and after reasonable notice to all parties. The burden of establishing that the defendant shall not flee or pose a danger to society rests with the defendant.
- 14.15 Motions. An application for an order or other relief shall be made in a motion to the Court of Appeals with proof of service on all other parties.

All motions shall include:

- (a) statement of the relief sought;
- (b) statement of the grounds for the relief sought;
- (c) supporting argument;

All motions shall be accompanied by an appropriate order prepared by the moving party. Any party may file a response in opposition to a motion within fifteen (15) days after service of the motion. The Court may shorten or extend the time allowed for responding to a motion. No motion shall be accepted for filing unless accompanied by proof of service on opposing parties.

- 14.16 Appeal Conference Order. The parties must be prepared to consider settlement in civil appeals, limitations of the issues to be presented for review, and other matters which may promote the prompt and fair disposition of the appeal. If agreement to these matters is reached, the judge conducting the conference shall enter an order

consistent with the agreement, signed by the parties, which shall be binding on the parties during the review process. The judge selected for settlement determination shall not be selected to hear the appeal.

- 14.17 The Appeal Record-Contents and Filing. Within twenty (20) days after notice of appeal is filed or after acceptance of review, the party making the appeal shall obtain a copy of the trial record from the Court Clerk and shall file it with the Court of Appeals. The record shall contain the original papers and exhibits filed in the Court, a written transcript of the proceedings, if any, three (3) copies of the electronic recording of the proceedings and a copy of the docket entries prepared by the Court Clerk.
- 14.18 Cost of Preparing the Record. The party making the appeal shall pay the costs incurred by the Court in preparing and transmitting the record. The Court Clerk shall submit a bill of the costs to the party making the appeal for payment. The costs of preparing and transmitting the record may be waived by the Court upon a showing of indigence, or other reason indicating substantial injustice.
- 14.19 Statement of Proceedings Absent Transcript. If a record of the proceedings is not available, the party seeking review may prepare a statement of the proceedings using the best available means, including his recollections. The statement shall be served on the respondent who may file objections or amendments within ten (10) days after service. Settlement and approval of the statement shall be made by the Tribal Court.
- 14.20 Filing of Briefs. Within thirty (30) days of filing a notice of appeal or acceptance of review by permission, the party making the appeal shall file with the Court of Appeals a written brief, memorandum or statement in support of his appeal and serve a copy on all parties. The Court of Appeals may allow a longer time for filing briefs, in its discretion. The respondent shall have thirty (30) days after service of appellant's brief in which to file a reply brief, memorandum or statement and shall serve a copy on each party. A response shall be allowed by a party on leave of Court. All briefs shall be accompanied by an affidavit of service on opposing parties.
- 14.21 Content of Appellant's Brief. The brief of a party making the appeal should be typed and organized as follows:
- (a) Cover Page. The front cover page shall state the name of the Court and the number of the case, the title of the document (e.g. Brief for Appellant) and the name and address of the spokesperson, if any, and the name and address of the appellant.

- (b) **Tables.** A table of contents, with page references and a table of cases cited in the brief, a list of other authorities relied upon with reference to the page of the brief where used.
- (c) **Assignments of Error.** A separate concise statement of each error the party contends was made by the Tribal Court, together with the issues pertaining to the assignments of error.
- (d) **Statement of the Case.** A fair statement of the facts and procedure which are relevant to the issues presented for review, without argument.
- (e) **Argument.** The argument in support of the issues presented for review, together with citations to legal authority and references to relevant parts of the record.
- (f) **Conclusions.** A short conclusion precisely stating the relief sought.
- (g) **Amicus Curiae Brief.** An amicus curiae brief may be filed by a person or party interested in the case by leave of the Court of Appeals. Time for filing shall be set by the Court. A party may file a brief in response to the amicus curiae brief.

14.22 **Oral Argument.** The Court Clerk shall advise all parties of the time and place at which oral argument shall be heard. Each party shall be allowed thirty (30) minutes for oral argument. Additional time may be granted by the Court where it is deemed necessary. Amicus Curiae may present oral argument at the discretion of the Court.

14.23 **Form of Judgment.** The Court of Appeals may reverse, affirm or modify the Tribal Court decision being reviewed and take any other action as the merits of the case and the interest of justice may require.

- (a) **Entry of Judgment:** Entry of judgment shall be made by the Court Clerk by notation in the docket at the direction of the Court. The Clerk shall mail notification of the entry of judgment and a copy of the opinion, if any, to the Tribal Court and to all parties.

14.24 **Costs.** Costs on appeal are those incurred by a party in having the record prepared and transmitted, the premiums paid for any appeal bonds and the fee paid for filing the appeal. Costs of review shall be determined and awarded by the Court of Appeals. Appellant shall pay the costs of review if the appeal is dismissed or if the judgment is affirmed. Respondent shall pay the costs if the judgment is reversed. In any other case, the costs shall be awarded only as ordered by the Court. The Court may waive costs, if petitioned.

- (a) **Bill of Costs.** A party desiring costs to be assessed shall submit an itemized



and verified bill of costs which shall be filed with proof of service on all parties within ten (10) days of being notified of entry of judgment. Objections may be filed within ten (10) days of service.

- (b) Damages for Frivolous Appeal. If the Court of Appeals determines that an appeal is frivolous, it may award damages and costs to the respondent.

## **SECTION 15 — TRIBAL JUDGES**

- 15.1 Appointment and Term of Office. Each Tribal Judge of the Tribal Judiciary shall be appointed by the Tribal Council and hold office for a period of approximately six (6) years beginning from the date of appointment and until their successors take office, unless removed for cause as provided for in this Code, or by death or resignation. The Tribal Council may reappoint Tribal Judges upon the expiration of their term of office.
- 15.2 Qualifications. To be eligible to serve as a Judge of the Tribal Judiciary, an individual shall meet the following qualifications:
  - (a) A satisfactory background check showing no felony convictions;
  - (b) Be at least thirty (30) years of age;
  - (c) Must not be a current employee or official of the Tribe (may resign from a current position to serve);
  - (d) Be either a judge from any federally recognized Indian Tribe, licensed to practice before any State Bar Association, or possess a Juris Doctorate from an accredited law school;
  - (e) Practiced in Federal Indian law and/or Tribal law;
  - (f) Experience in reviewing and interpreting laws, regulations, policies and procedures;
  - (g) Strong interpersonal, verbal and written communication skills; and
  - (h) Demonstrated an ability to deal effectively and efficiently with situations requiring resolution; and
  - (i) Demonstrated moral integrity and fairness in his business, public and private life.
- 15.3 Duties and Powers of Judges. All Judges of the Tribal Judiciary shall have the duty and power to conduct all court proceedings and issue all orders and papers.

In doing so, the Court shall:

- (a) Be responsible for creating and maintaining rules of the Court, not in conflict with this Code regulating conduct in the Tribal Court. Such rules shall be published to the membership for at least (10) ten days and must be filed in the office of the Tribal Secretary and the Tribal Court Clerk before becoming effective.

- (b) Hold Court regularly at 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.
- (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 their absence.
- (i) Subject to the confirmation of the Tribal Council, to appoint such Magistrates as may be 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 this Code.

## **SECTION 16 — COURT CLERK**

16.1 Duties of Clerk. The duties of the Court Clerk shall include but not be limited to the following:

- (a) Maintaining a case management system consistent with best Tribal Court practices;
- (b) Accepting documents for filing;
- (c) Assisting with the Court's annual plan and budget;
- (d) Issuing receipts for any funds collected or paid out by the Court;
- (e) Depositing all receipts into the Tribal accounting system designated for inclusion in the Court's annual plan and budget;
- (f) Providing assistance to the Tribal Court, the Tribal Police, the general public, residents of the reservation, and Tribal Members as required, provided that the Court Clerk may not provide legal advice;
- (g) Attending hearings of the Court and keeping records of the proceedings;
- (h) Assisting the Tribal Judges in the research and drafting of opinions and orders, as requested by the Chief Judge or other Tribal Judge;
- (i) Preparing and mailing Court issued notices, summons, subpoenas, warrants, rulings, findings, opinions, and orders as prescribed by this Code and as may be designated by the Chief Judge or other Tribal Judge;
- (j) Publishing via electronic mail or otherwise, the Court docket to, at least, the Tribal Court, the Office of the Tribal Attorney General, and the Tribal Secretary;
- (k) Administering oaths and witnessing execution of documents;

- (l) Maintaining a supply of blank forms, self-help packets, and information to be prescribed by the Tribal Court for use by all persons having business before the Tribal Court;
- (m) 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 cost of such services; provided, however, no copies of documents or materials shall be provided from files which are deemed to be kept confidential or unavailable for public inspection pursuant to any provisions of this Code or applicable Tribal Law, or if prohibited by Court Order;
- (n) Maintaining strict confidentiality and providing security for all files, documents, and materials filed with or in the custody of the Tribal Court;
- (o) Maintaining a library of laws, regulations, orders, opinions, and decisions of the United States and its administrative agencies and courts, the Tribal Council and Tribal Court, and of the various states and other Indian Tribes, insofar as they may be pertinent to the administration of justice for the Tribe;
- (p) Other duties as assigned by the Chief Judge for the efficient operation of the Tribal Judiciary.

16.2 Hiring. The Court Clerk shall be hired in accordance with the Personnel Policy and Procedures of the Tunica-Biloxi Tribe of Louisiana, adopted and approved by the Tribal Council.

## **SECTION 17 — LEGAL INTERNS**

Qualified law students, law clerks, and graduates of approved law schools may serve as defenders or advocates before the Tribal court. Legal Interns shall complete the testing and requirements of admission to the Tribal Bar prior to practicing before the Court or operate under the supervision of a person licensed to practice before the Court.

## **SECTION 18 — COURT INTERPRETERS**

The use of qualified interpreters is authorized in proceedings involving hearing impaired and/or non-English speaking individuals. All interpreters serving in a legal proceeding, whether certified or uncertified, shall abide by the following rules:

- (a) An interpreter who violates any of the provisions of this section is subject to a citation for contempt, or any other sanction that may be imposed by Tribal law.
- (b) An interpreter, like an officer of the court, shall maintain high standards of personal and professional conduct that promote public confidence in the administration of justice.
- (c) An interpreter shall interpret or translate the material thoroughly and precisely, adding or omitting nothing, and stating as nearly as possible, what has been

stated in the language of the speaker, giving consideration to the variations of grammar and syntax for both languages involved.

- (d) An interpreter shall use a level of communication that best conveys the meaning of the source and shall not interject the interpreter's personal moods or attitudes.
- (e) When an interpreter has any reservation about his or her ability to satisfy an assignment competently, the interpreter shall immediately convey that reservation to the parties and to the court. If the communication mode or language of the non-English speaking person cannot be readily interpreted, the interpreter shall notify the appointing authority or the court.
- (f) No interpreter shall render services in any matter in which the interpreter is a potential witness, associate, friend or relative of a contending party unless a specific exception is allowed by the court for good cause noted on the record. Neither shall the interpreter serve in any matter in which the interpreter has an interest, financial or otherwise, in the outcome. Nor shall any interpreter serve in a matter where the interpreter has participated in the choice of counsel.
- (g) Except in the interpreter's official capacity, no interpreter shall discuss, report or comment upon a matter in which the person serves as interpreter. Interpreters shall not disclose any communication that is privileged by law, without the written consent of the parties to the communication, or pursuant to court order.
- (h) A language interpreter shall report immediately to the court any solicitation or effort by another to induce or encourage the interpreter to violate any law.

## **SECTION 19 — RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL**

- 19.1 Right to Counsel. Any party may be represented at his or her expense by an attorney or spokesperson admitted to practice before the Tribal Court at any stage of the proceeding. The Tribal Council is authorized to utilize the Tribal Attorney General to represent it or the Tribe in any matter before the Court. In a criminal proceeding, in which a term of imprisonment of any length may be imposed, the defendant will be entitled to effective assistance of counsel at least equal to that guaranteed by the United States Constitution.
- 19.2 Right to Indigent Defense Counsel. In a criminal proceeding, in which a term of imprisonment of any length may be imposed, and where the defendant has been certified as indigent by the Court Clerk, the Tribe will provide to the defendant, at no cost to the defendant, the right to the assistance of a defense attorney licensed to practice law by any jurisdiction in the United States that applies appropriate professional licensing standards and effectively ensures the competence and professional responsibility of its licensed attorneys.

- 19.3 Appointment of Counsel. The Chief Judge shall have the authority to appoint counsel to represent indigent defendants in criminal proceedings where a term of imprisonment is imposed. The Chief Judge shall also have the authority to appoint counsel for any person appearing in Tribal Court if, in his or her discretion, it is necessary to protect that person's rights. If not certified as indigent by the Court Clerk, such person must pay the fee of appointed counsel, unless the Court shall otherwise determine that funds are available to pay appointed counsel's fee. The determination to pay such fees shall be made on a case-by-case basis.

## **SECTION 20 — TRIBAL COURT BAR**

- 20.1 Admission. The following shall be eligible for admission to the Tribal Court Bar:
- (a) Enrolled members of the Tunica-Biloxi Tribe of Louisiana or other federally recognized Tribes;
  - (b) A licensed member of any other Tribal or State Bar Association;
- To be admitted to the Tribal Court Bar, a person must:
- (a) Be, at the time of admission, and continue to be of good moral character,
  - (b) Sign and take the oath of admittance, and
  - (c) Be approved by the court and pay the Tribal Court Bar admission fee.
- 20.2 Fees. The admission fee to practice before Tribal Court is fifty (\$50.00) dollars. The fee, or part of it, may be waived by the presiding Judge if good cause is shown.
- 20.3 Spokespersons' Conduct Before Tribal Court. The Chief Judge may establish rules of conduct for the practice of spokespersons before the Tribal Court. In the absence of such rules, the Court may refer to State or Federal Rules of Professional Conduct for attorneys as a guide to govern the conduct of spokespersons before the Court.
- 20.4 Mandatory Appointments. Members of the Tribal Court Bar shall, from time to time, be appointed to represent defendants before the Tribal Judiciary. Such representation shall be mandatory, unless good cause can be shown.
- 20.5 Disbarment. Any member of the Tribal Court Bar who violates the Oath of Admittance to the Tribal Court Bar or any rules set forth by the Court shall be subject to disbarment. Any Judge may submit a written complaint against such person. The Chief Judge shall hold a hearing, at which the person may present a defense of his or her actions. If disbarred, any Tribal Court Bar admittance fees shall be refunded. The decision of the Chief Judge shall be final.
- 20.6 Roster. The Clerk of the Court will maintain a roster of all persons admitted to practice before the Tribal Court and maintain a file of their oaths.

## **SECTION 21 — RULES OF COURT**

- 21.1 The Chief Judge shall be empowered to prescribe and/or rules for the efficient operation of the Tribal Judiciary, consistent with the provisions of this Code and relevant law, including rules of procedure and evidence.

## **SECTION 22 — TIME FOR FILING**

- 22.1 Estoppel by Laches. Civil actions to review Tribal Council action, or other Tribal action, shall be presented to the Court Clerk in writing not more than two (2) years after an action of the Tribal Council, or Tribal Officials as specified in the Tribal Code, is alleged to have violated the Plaintiff's right or rights or not more than two (2) years after the alleged harm first manifested itself if such harm was not apparent on the date of the Tribal Councils, or other Official's action.
- 22.2 Other Civil Actions. All other Civil Actions shall be brought within five (5) years after the cause of action accrues, and not afterwards.
- 22.3 Jurisdiction Vested. This section does not limit the scope of the Tribal Court's civil jurisdiction in any way. When jurisdiction is vested in the Tribal Court, it shall extend to all cases in law or equity, and all means necessary to carry it into effect are also given; and in the exercise of this jurisdiction, if the course of proceeding is not specified in this Code, any suitable process or mode of proceeding may be adopted that appears most conformable to the spirit of Tribal Law.

## **SECTION 23 — RECORDS**

- 22.1 Record of Proceedings. 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, Nashville Agency, to be made a part of the records of the Agency Office as required by 25 U.S.C. § 200.
- 22.2 Public Records. Unless specifically excepted by this Code or applicable law, 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.
- 22.3 Copies of Proceedings. Any party may obtain a certified copy of proceedings in the Tribal Court at their own expense.

- 22.4 Fee Schedule. The Tribal Court shall develop a fee schedule for document filing, copying, and processing fees.
- 22.5 Certification of True Copies. Certified copies of records shall be admissible as evidence without further authentication in all judicial and administrative proceedings of this Tribe.

## **SECTION 24 — SERVICES TO COURT BY TRIBAL AND FEDERAL EMPLOYEES**

The Court may request and utilize enrollment, 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.

## **SECTION 25 — CIVIL CONTEMPT OF COURT**

- 25.1 Equitable Powers. The Tunica-Biloxi Tribe of Louisiana recognizes that the Tribal Court has had equitable powers to enforce its orders from inception, and to cite persons for both direct and indirect contempt of court. Indirect contempt of court consists of a willful disobedience of any process or order lawfully issued or made by court; and/or resistance willfully offered by any person to the execution of a lawful order or process of a court.
- 25.2 Contempt. Any person may be charged in contempt of Court for any of the following reasons:
- (a) Disorderly, contemptuous or insolent behavior, committed in immediate view and presence of the court and directly tending to interrupt Tribal Court proceedings or impair the respect due the Court;
  - (b) Any noise or disturbance that interrupts the Court proceedings;
  - (c) Failure to obey or resist any lawful writ, process, order, decree or command of the Court;
  - (d) Unlawful refusal of any person to be sworn or affirmed or refusal to answer any material questions, except where refusal is based upon grounds of the Indian Civil Rights Act of 1968 (82 Stat.77), 25 U.S.C.A. § 1301 *et. seq.*, and contempt is committed, it may be punished summarily. In such event, a written order shall be made reciting the facts constituting the contempt, adjudging the person guilty of contempt and prescribing the punishment therefor. The Tribal Court Judge may impose an immediate sentence of imprisonment for a period not to exceed ninety (90) days or a fine not to exceed one thousand (\$1,000.00) dollars, or both. Such an order shall be final and conclusive.



## **SECTION 26 — FUNDING MANDATE**

In coordination with the Tribal Administrator and the Chief Financial Officer, the Chief Judge shall prepare and present an annual budget to the Tribal Council for approval during its annual budgeting process. The amounts appropriated shall be consistent with the needs of the Tribal Judiciary for proper administration of justice within the Tribe's jurisdiction and for the Tribe.

## **STANDARDS OF CONDUCT**

### **SECTION 27 — OATH OF OFFICE**

Before assuming office, each Tribal Judge shall take an oath to support and protect the Constitution of the Tribe and to administer justice in all causes coming before him or her with integrity and fairness, without regard to the persons before him or her. The oath is to be administered by the Chief Judge, the Tribal Chairman for appointment of the Chief Judge, or the next available Tribal Judge as soon after confirmation as may be practical.

### **SECTION 28 — CONDUCT OF JUDICIARY**

All Tribal Judges and other employees of the Tribal Judiciary shall abide by and be subject to the provisions and enforcement mechanisms of the Tunica-Biloxi Ethics Code.

- 28.1 Conflicts of Interest. No Tribal Judge shall hear any case when he/she 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 defined in Section 17 of the Tunica-Biloxi Ethics Code). A Justice should attempt to prevent even the appearance of partiality or impropriety.
- 28.2 Disqualification. A party in interest or Tribal Judge may raise the question of conflict of interest to the Chief Judge. Upon decision by the Tribal Judge concerned that disqualification is appropriate, the matter shall be referred to the Ethics Commission to hear the matter.

### **SECTION 29 – CIVIL IMMUNITY IN JUDICIAL CAPACITY**

No Tribal Judge shall be liable in any civil proceeding for any utterances or acts made or done by him or her in his or her judicial capacity.

### **SECTION 30— REMOVAL OF JUDGES**

Judges of the Tribal Court shall be removed only for cause by the Tribal Council upon the recommendation of the Ethics Commission. The term "cause" shall include any reason sufficient for disbarment of an Attorney from the Bar of the Tribal Court, a violation of the Tunica-Biloxi Ethics Code, or a violation of the Canons of Judicial Ethics promulgated by the American Bar Association.

The Tribal Council may only vote on the issue of removal after receipt of a recommendation for removal for cause by the Ethics Commission. If such recommendation is issued, the Tribal Council shall vote on the recommendation. No Judge of the Tribal Judiciary shall be removed unless there is a two-thirds vote of the Tribal Council for removal.