

NATIVE VILLAGE OF BARROW CODE OF LAWS

TITLE 1 COURT PROCEDURES



(Replaces NVB Judicial Code)

Adopted: June 1, 2020

**Native Village of Barrow
Code of Laws**

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Native Village of Barrow Code of Laws

TITLE 1 COURT PROCEDURES

Chapter 1.01 General Provisions

1.01.010 Purpose.

This title is enacted to strengthen tribal government, provide for the judicial needs of the Native Village of Barrow, and to provide for the fair, effective, and efficient resolution of matters before the Native Village of Barrow Tribal Court. This title shall be known as the “Court Procedures Code” and it replaces what was previously known as the “Judicial Code.”

Since time immemorial, the Iñupiat people have resolved disputes and conflicts, maintained peace in their communities, and administered justice through the use of customary law and traditional practices and processes. In order to affirm our sovereign powers of self-government and self-determination, to preserve, protect, and build upon our unique and distinctive culture and traditions, we the members of the Native Village of Barrow Iñupiat Traditional Government (“NVB Tribe”, “NVB” or “Tribe”) do hereby adopt this Code.

The purpose of this Code is to establish a judicial system for the resolution of disputes in order to:

1. Provide for the fair, efficient, and culturally appropriate administration of justice whereby conflicts are resolved consistent with tribal traditions and customs;
2. Exercise jurisdiction over all matters to ensure that the sovereignty of the NVB is recognized and to protect the welfare of tribal members; and
3. Provide all affected persons with a fair, prompt, and impartial hearing so as to afford all persons who appear before NVB Tribal Court all rights guaranteed by the Constitution of the NVB.

1.01.020 Establishment of the Native Village of Barrow Tribal Court.

There is hereby established a court to be known as the Native Village of Barrow Tribal Court with the judicial power of Native Village of Barrow members and ancestral homelands being vested in Native Village of Barrow Tribal Court and extended to all cases and controversies in law and equity arising under the laws and traditions of the Native Village of Barrow.

1.01.030 Definitions.

When the words below appear in this title, they shall be defined as set forth in this section unless another meaning is specifically indicated in the code.

- a) “Attorney” means a person licensed to practice law in the State of Alaska and certified by the Tribe. An attorney must conform to licensing and conduct requirements mandated by the Alaska bar and by the Tribe.
- b) “Comity” means honoring the decisions and orders of a foreign jurisdiction after verifying that they were arrived at through a fair process.
- c) “Court” means the Native Village of Barrow Tribal Court.
- d) “Full Faith and Credit” means honoring the laws, decisions, and orders of a foreign jurisdiction as a matter of policy.
- e) “He/She and Him/Her”: All gendered terms in this Code may refer to any person, regardless of gender. Singular terms may also encompass the plural.
- f) “Parens Patriae” means the Tribe’s interest in children when acting as a default parent.
- g) “Party” means any person, plaintiff or defendant, named in an action in the Tribal Court.
- h) “PL 101-630” means a federal law requiring that people who work with children meet certain requirements, including never having been convicted of certain child-related crimes.
- i) “Spokesperson” means a person, not an attorney or an advocate, who appears before the court to speak on behalf of another person. Spokespeople have a traditional role among Iñupiat people and are not bound by the standards of attorneys or advocates.
- j) “Tribal Court” means the judicial system of the Native Village of Barrow.
- k) “Tribe” means the Native Village of Barrow.

1.01.040 Sovereign Immunity.

The sovereign immunity of the Native Village of Barrow, its Tribal Council, employees, judges, judicial officers, prosecutors, and court personnel is in no manner waived by this title.

Chapter 1.02 Jurisdiction

1.02.010 Native Village of Barrow Tribal Court – Judicial Power.

The judicial power of the Native Village of Barrow shall be vested in the Native Village of Barrow Tribal Court. When jurisdiction is vested in the court, all the means necessary to exercise that jurisdiction also is delegated. In the exercise of that jurisdiction, if the course of a proceeding is not specified in this code, any suitable process may be adopted which appears most in keeping with the spirit of Native Village of Barrow Tribal law.

1.02.015 Judicial Notice of Custom

The Court may take judicial notice of Iñupiat custom or tradition only if the Court finds the custom or tradition to be generally known and accepted within the NVB Tribal community. Parties need not plead and prove the existence of a custom when the Court has taken judicial notice of it. The taking of judicial notice shall not dispense with a required showing of relevancy.

1.02.16 Notice and Pleading of Custom

A party who intends to raise an issue of Iñupiat custom or tradition shall give notice to the other party and the Court through its pleading or other reasonable written notice as soon as its relevance becomes apparent. The proponent of custom or tradition must then plead it to the Court with sufficient proof to establish by a preponderance of the evidence that the custom or tradition exists and that it is relevant to the issue before the Court. The relevancy of Iñupiat custom or tradition as to any legal matter shall not be presumed.

1.02.020 Native Village of Barrow Tribal Court – Jurisdiction.

The territorial jurisdiction of the Native Village of Barrow Tribal Court shall extend to the fullest extent permissible under the Constitution of the Native Village of Barrow, applicable grants or delegations of power through federal law, and through tribal law by Code, Ordinance, and/or Resolution.

The territory of Tribal Court jurisdiction under this title extends to all aboriginal lands and waters in the vicinity of the community now known as Barrow, Alaska, including but not limited to:

1. Current members of the Native Village of Barrow, no matter where situated, over which the Tribal Court exercises exclusive ICWA jurisdiction;
2. Native Townsite lands and Native allotments owned or occupied by members of, or persons eligible for membership in, the Tribe;
3. All hunting, harvesting, fishing, and subsistence lands sites, camps, and waters, including boats and vessels thereon, owned or occupied by tribal members or person eligible for membership in the Tribe;
4. All federal, state, or private lands over which the Tribe is delegated legislative or judicial authority by any federal or state law or agency or by any private party or private agreement.

The Native Village of Barrow Tribal Court shall have the fullest personal and subject matter jurisdiction permissible under applicable law.

1.02.030 Implied Consent

Entrance by any person onto the Native Village of Barrow ancestral homelands shall be construed to be an acceptance of the jurisdiction of the Tribal Court and a consent to such jurisdiction over his/her person concerning any legal action under this Code and shall be deemed consent to service of summons or process by registered mail with return receipt requested at his/her last known address. Implied consent notice shall be posted at ingress and egress areas.

1.02.040 Expressed/Informed Consent

- (a) The Tribal Court shall have jurisdiction over all persons who commit offenses as enumerated in the laws of the Native Village of Barrow, when committed by any person within the ancestral homelands of the Native Village of Barrow.
- (b) Non-Native Procedures
 - i) A non-Native may waive the issue of personal jurisdiction and consent to any proceeding in the Tribal Court.
- (c) If necessary the judge shall confirm that the defendant is either an Alaska Native/Indian or a non-Indian as follows for determining jurisdiction:

- i) Inquire if the defendant is an enrolled member of any Federally recognized tribe;
- ii) Inquire if the defendant is a member or descendent of any tribe;
- iii) Inquire if the defendant is a citizen of another country;
- iv) Inquire if the defendant participates in any Indian cultural events, lives on a Reservation, receives any benefits reserved exclusively for Indians, or otherwise holds themselves out as an Indian or a member of an Alaska Native Village or Indian Community.

If the answers to questions i)-iii), or any one of them is “yes,” the inquiry ends there and the Court has jurisdiction over the defendant. If the answers to questions i)-iii) is “no,” but the answer to question iv) is “yes,” further inquiry may be in order to satisfy the judge that the defendant is an Indian for the purposes of the exercise of jurisdiction.

If the judge determines that the defendant is a non-Indian, the judge may then inform the non-Indian that they may waive personal jurisdiction and voluntarily consent to the jurisdiction of the Court.

Prior to accepting any non-Indian’s consent, the Court shall inform the non-Indian:

- (1) You have been accused of committing an offense within the jurisdiction of the Native Village of Barrow, a Sovereign Indian Nation;
- (2) Because you have not claimed to be a Native American or a member of a tribe, you cannot automatically be subject to jurisdiction in the NVB Tribal Court;
- (3) However, because the offense occurred within the ancestral homelands of this Sovereign Nation, in accordance with the Constitution of the Native Village of Barrow, you have the opportunity to expressly consent to the jurisdiction of the Native Village of Barrow Tribal Court if you voluntarily choose to do so. However you must be informed of, and understand the following very important information and conditions;
- (4) You do not have a consent to the Tribal Court jurisdiction, as well as the appropriate Tribal law(s);
- (5) If you do not voluntarily consent to the Tribal Court’s jurisdiction, your charges will be immediately referred to the appropriate city, borough, state, or federal jurisdiction;

- (6) If you choose to voluntarily and expressly consent to the jurisdiction to the Tribal Court, your consent is strictly limited to this one immediate offense only, however more than one offense may arise out of this immediate incident. It is also possible that another sovereign entity such as the State of Alaska or the Federal government of the United States may or may not exercise their jurisdiction over you for this same incident;
- (7) By consenting to this Sovereign Nation's jurisdiction, you are not admitting that you have committed any offense, however all applicable Tribal rights, and Indian Civil Rights Act as required by law will apply to your case, you must understand that the United States Constitution and the rights contained therein do not apply the same to Tribal Court proceedings.
- (8) Your expressed consent waives the right to request a change of jurisdiction or venue to a court outside this Sovereign Nation and stipulates, agrees, and consents that all offenses arising under the laws of this Tribe and commenced within the Tribal Court shall be the most proper and convenient forum;
- (9) Your expressed consent waives any civil or criminal claims that may be forthcoming regarding jurisdiction, venue, and your status as a non-Indian, and stipulates, agrees and expressly consents that all offenses arising under the laws of this Tribe and commenced within the Tribal Court shall be the proper and convenient forum;
- (10) Your expressed consent to jurisdiction will continue throughout the entire case, and be aware that if you are found to have committed an offense and the Tribal Court thereafter orders you to punishment or to pay a fine, and/or to participate in a particular type of counseling consistent with your original charge and sentence, you cannot withdraw your consent to avoid obligations imposed by Tribal Court orders.
- (11) Do you understand these conditions? Yes. No.
- (12) Do you consent to the jurisdiction of the Tribal Court? Yes. No.

An appropriate Affidavit documenting the defendant's consent/non-consent shall be attached to the defendant's official record.

Chapter 1.03 Judges

1.03.010 Number of Judges.

The Native Village of Barrow Tribal Court may have a chief judge and one or more associate judges or a judge pro tempore. In any given matter, the Court will aim to assign a single judge to then allow for caseload management by the Court to move multiple cases forward at any time. An associate judge may serve on a case with one other judge if that associate judge requests assistance with a matter, and if the Court's caseload allows.

1.03.020 Appointment, Term, and Oath of Office.

Judges shall be appointed by the Tribal Council and shall serve for three (3) years or until resignation or removal under this title. The Tribal Council may reappoint a judge for additional three (3) year terms to the extent the judge is interested and willing to serve, still meets the qualification requirements, and the Council agrees and approves such additional term(s) at a Council meeting. The Tribal Council shall not appoint any person to serve as a judge who does not meet the qualifications under Section 1.03.030. The Tribal Council may rescind its appointment, with or without cause, at any time. If an appointment is rescinded, all actions taken by the judge up to the time of rescission shall be valid.

The President of the Tribe shall administer an oath to appointed judges before they begin their duties. The contents of the oath shall be as followed:

"I swear (or affirm) that I will support and defend the Indian Civil Rights Act, the Constitution, By-Laws, and laws of the Native Village of Barrow, that I will support, uphold, and enforce the laws duly passed by the Tribal Council, and the referendums of the Tribe, and relevant, applicable, non-conflicting Iñupiat customs and traditions, and that I will faithfully and diligently perform the duties of (Chief Judge, Associate Judge, Appellate Justice, as applicable) of the Native Village of Barrow Tribal Court to the utmost of my ability, with impartiality, and fairness, and without improper favor, to the end that justice may be fully served."

"I do solemnly swear and affirm that I will not discuss any confidential matters outside the applicable Tribal Court proceeding or related proceedings or deliberations with court personnel in furtherance of the purpose of the proceeding. I understand that these confidential matters include cases

involving children, cases that are unresolved, enrollment records, health and social service records, and all other matters made confidential by tribal and federal law.”

1.03.030 Qualifications for Judges.

A person must meet the following requirements in order to serve as a judge of the Native Village of Barrow Tribal Court:

- a) Be at least twenty five years of age;
- b) Reside in the Native Village of Barrow;
- c) Be eligible for appointment in compliance with Public Law 101-630, which is a federal law requiring that people who work with children meet certain requirements, including never having been convicted of certain child-related crimes;
- d) Be a member of a federally recognized tribe;
- e) Have at least a high school education;
- f) Have successfully completed forty (40) hours training or course work in the areas of Indian law, criminal law and procedure, civil law and procedure and judicial ethics;
- g) Be familiar with the Constitution and laws of the Native Village of Barrow ;
- h) Never have been found guilty of a felony;
- i) Have committed no misdemeanors within the two years preceding appointment. This requirement may be waived by the Tribal Council with regard to minor traffic offenses;
- j) Be of good moral character;
- k) Be physically and mentally able to carry out the duties necessary as a tribal court judge; and
- l) Not be a sitting NVB Tribal Council member.

1.03.040 Removal of Judges.

Judges may be reprimanded or removed with or without cause by a unanimous vote of the Tribal Council, at a meeting at which a quorum is present. If the action is taken without cause, no further analysis is necessary other than (f)

below. If the action is taken for cause, good cause shall include but is not limited to:

- a) Conviction of any offense other than minor traffic violations;
- b) Use of official position for personal gain;
- c) Failure to perform or neglect in performing judicial duties;
- d) Excessive use of intoxicants; or
- e) Violation of the Rules of Judicial Conduct, Chapter 1.04.
- f) A judge shall not be removed because the Tribal Council disagrees with an action the judge has taken in his or her official capacity.

1.03.050 Removal of Judges – Procedure.

Any person who charges that a judge should be removed or reprimanded shall provide the Tribal Council with a written notice setting forth the specific factual basis for the charge and the names of all persons who have firsthand knowledge of those facts. The Tribal Council shall determine whether the charge constitutes sufficient grounds for reprimand or removal. If so, it shall notify the judge of the charge in writing. The notice shall be delivered to the judge at least ten (10) days before a Tribal Council meeting convenes to consider the matter. The judge shall be given an opportunity to answer the charges at the Tribal Council meeting. The decision of the Tribal Council shall be final.

1.03.060 Conflict of Interest.

No judge shall be qualified to sit as a judge in any case in which he or she has a direct interest or in which any party is a relative in the first or second degree by blood or marriage.

Chapter 1.04 Rules of Judicial Conduct

1.04.010 Scope of Rules.

This chapter applies to judges of the Native Village of Barrow Tribal Court.

1.04.020 Judicial Conduct – Generally.

A judge shall at all times seek to carry out his or her duties with fairness and diligence.

A judge:

- a) Shall always conduct him or herself in such a way as to promote respect for the law;
- b) Shall not let social relationships, his or her political or religious views, or criticism or praise influence the decisions he or she makes in the court;
- c) Shall be patient, courteous, careful, efficient, and conscientious in the performance of all official duties;
- d) Shall focus all efforts on working a caseload efficiently in the assistance of children and families in need of court assistance;
- e) Shall maintain order in the courtroom;
- f) Cannot be an elected official with another government with obligations that can, or will, be in conflict with the assertion of jurisdiction of the Native Village of Barrow; and
- g) Cannot have inappropriate personal gains that could be made through a role serving on the Court.

1.04.030 No Outside Discussion of Cases.

A judge shall not discuss any case for which he or she is responsible with any party to the case other than in a hearing. A judge shall not seek advice or opinions from other persons, including judges and lawyers, regarding the merits of a particular case. A judge may, however, discuss general principles affecting cases and hypothetical examples with other judges and lawyers, and may seek specific advice from a law clerk employed to give such advice.

1.04.040 Informal Contacts to be Avoided.

A judge shall avoid informal contacts with tribal members in which judicial business is discussed.

1.04.050 Disqualification for Conflicts of Interest.

A judge should disqualify himself or herself from hearing a case in which a close relative is a party or a witness. A judge should disqualify himself or herself from hearing a case in which the judge has interests which may be affected by the outcome, has formed an opinion about the merits of the case, or has personal knowledge of the facts which would prevent him or her from considering all sides impartially.

1.04.060 Independence of the Court.

A judge shall not engage in any outside activity which would be inconsistent with the court's status as an independent government branch. In particular, the judge shall not participate in legislative or administrative activities of the tribal government, or take any governmental job or position in another jurisdiction that could cause conflict with the judge's role in protecting tribal jurisdiction. A judge shall not be swayed by public criticism or clamor regarding his or her official actions. A judge shall make no public comment on matters pending before the court except in the course of official proceedings.

Chapter 1.05 Court Clerk and Court Administrator

1.05.010 Court Clerk and Court Administrator.

The Native Village of Barrow may hire a court clerk and a court administrator or may designate a person to act as court clerk and court administrator if funding is unavailable.

1.05.020 Court Clerk – Duties.

The court clerk shall have the following duties:

- a) Keep court records in all cases filed;
- b) Attend all court proceedings and keep a record of such proceedings;
- c) Keep a calendar of court hearing dates and help schedule court proceedings;
- d) Notify the judges and parties, as required in these rules, of actions taken, hearings scheduled, and other developments requiring their attention;
- e) Receive and record money for fines and costs charged to parties in court cases; and
- f) Maintain a list of persons who are admitted to the tribal court bar.

1.05.030 Court Clerk – Authority.

The court clerk shall have the authority to administer oaths for persons making affidavits, to prepare and certify the official record of a court hearing, to issue notices of hearing and summonses, and such other authority vested by this title or by other laws of the Native Village of Barrow.

1.05.040 Court Administrator – Duties.

The court administrator shall oversee the court operations and non-judicial activities of the Court including management of finances, along with assistance in grant or funding management through the Executive Director of the NVB. Some duties of a court administrator may be:

- a) Assisting the legal profession with courtroom procedure;
- b) Attend court proceedings and keep a record of such proceedings when the court clerk is unavailable;
- c) Maintain and update a set of the laws of the Tribe;
- d) Collecting court costs;
- e) Verify copies of court proceedings;
- f) Issuing Summonses;
- g) Recommendations for staff hiring made to the Executive Director of NVB.

1.05.050 Court Administrator – Authority.

The court administrator shall have the authority to provide oversight for the tribal court and such other authority vested by this title or by other laws of the Native Village of Barrow.

Chapter 1.06 Records

1.06.010 Court Records – Generally.

All testimony and arguments given in open court shall be recorded and made part of the official record of each case and shall be kept by the court clerk with other official records. Tape/digital recordings shall be retained for at least three months after final disposition, including any appeal taken. Records kept by the court clerk shall include:

- a) A calendar of scheduled court hearings;
- b) The roster of members of the tribal court bar;
- c) A separate file for each lawsuit and criminal prosecution brought in the court, with the original of every document submitted in the case;

- d) A payment ledger showing all funds received and disbursed in the course of each lawsuit or prosecution; and
- e) A docket book which shows, for each case filed, the case file number, the parties' names, and a short description of every document filed and every order issued in the case, including the date of the order or filing.

1.06.020 Records – Removal by Permission Only.

Official records of the Court shall be kept at the Native Village of Barrow Tribal Court in the court clerk's office, and these records shall not be removed except with the permission of both the court administrator and the chief judge.

1.06.030 Access to Court Records.

The case files of the Native Village of Barrow Tribal Court shall be accessible on a limited basis. The prosecutor, judge, tribal Social Services, and the court clerk shall have access to the files as required by their official duties. The parties in court cases shall have access to information contained in their case files. Other persons may have access to case files by written permission of the defendant or the judge, in a pending case. This rule may be waived by the judge, in his or her discretion, upon written request and good cause shown.

Chapter 1.07 Filing and Notice

1.07.010 Documents Filed with the Clerk.

Every complaint, summons, warrant, motion, written argument, agreement, and order shall be in writing and a copy filed with the court clerk unless the court waives the writing requirement. Oral motions (requests to the Court) may be made in open court with all parties or their representatives present. The clerk shall give a copy of every document filed in a court case to the judge who has responsibility for the case.

1.07.020 Documents Given to Other Parties.

A party who files any document with the court clerk in a lawsuit or proceeding shall give a copy of the same document to every other party in the case. If a party is represented by an attorney or spokesperson, the document shall be given to that representative. Delivery of a copy as required by this section may be made either by giving it to the party in person or by putting it in the mail, certified mail return receipt requested.

1.07.030 Service of Complaints.

Service of complaints and summons shall be personally served on the

defendant or left at the defendant's residence with a person of suitable age and discretion. The person serving the papers shall be at least eighteen (18) years of age and neither a party to the action or a member of a party's immediate family. If attempts at personal service fail, the papers may be served by certified mail, return receipt requested. If this fails, the Court may authorize, by telephone if necessary, service by publication.

1.07.040 Orders Given to Parties.

Unless the judge issues an order or makes a decision in open court when all parties are present, decisions and orders of the Court shall be written down, signed by the judge, and the clerk shall give or send a copy of each such order to each party in the case. Orders and decisions made in open court shall be put in writing by the Judge, within ten (10) days, for the record and a copy mailed out to each party in the case.

Chapter 1.08 Time

1.08.010 Computation of Time – Generally.

When a code section, ordinance, rule, or court order requires an action to be taken within a specific number of days, the day of the event from which the time limit runs is not counted. The last day is counted unless the last day is a Saturday, Sunday, or tribal holiday, in which case the deadline is the next working day.

1.08.020 Computation of Time – Mailing.

If a notice is given by mail, the time limit shall begin on the third day after deposit in the mail. For example, if a notice is mailed on the first, the first day of the time limit will be the fourth.

1.08.030 Extension of Time.

A party may make a prior, written request for an extension of time. The Court may grant the request, in its discretion, except the right of a criminal defendant to a speedy trial shall not be violated.

Chapter 1.09 Spokespersons

1.09.010 Right to a Spokesperson.

Any person appearing before the Native Village of Barrow Tribal Court has the right to a spokesperson, at his or her own expense, to assist in presenting his or her case.

1.09.020 Prosecutor.

The tribe may be represented in court by a prosecutor which may be the Tribal Attorney. The prosecutor must be admitted to the tribal court bar. The prosecutor shall meet the qualifications and shall carry out the duties normally expected of a Tribal Attorney.

1.09.030 Spokespersons – Qualifications.

Persons desiring to appear as spokespersons before the court of justice must meet the following qualifications:

- a) Be at least 21 years of age;
- b) Be of good moral character;
- c) Be familiar with the laws of the Native Village of Barrow which apply in their cases; and
- d) Have taken and signed the spokesperson's oath.

1.09.040 Spokesperson's Oath.

Persons desiring to appear as spokespersons before the Native Village of Barrow Tribal Court must take the following oath, signed before a judge or judicial officer:

"I, _____, do solemnly swear:

- 1) "I am familiar with the laws of the Native Village of Barrow which apply to my case and will become familiar with those laws which apply to cases in which I represent people before this Court in the future.
- 2) "I will at all times maintain the respect due to the Native Village of Barrow Tribal Court and its officers.
- 3) "I will abide by the rules of the Native Village of Barrow Tribal Court.
- 4) "I will use only those means consistent with truth and honor and I will never seek to mislead a judge by any false statements."

Spokesperson

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20

Judge

1.09.050 Roster of Spokesperson.

A roster of all persons who may act as spokespersons, prosecutors, and/or tribal attorneys and copies of the signed spokesperson's oaths shall be kept by the court clerk and shall be referred to as the *Tribal Court bar*.

1.09.060 Bar Admission Fee.

The Tribal Council may establish a fee for admission to the Tribal Court bar.

1.09.070 Copies of Laws Available.

Copies of the laws of the Native Village of Barrow shall be available for the use of spokespersons and individuals representing themselves before the Native Village of Barrow Tribal Court. The Tribal Council may establish a fee to cover the cost of copying the laws.

1.09.080 Disbarment – Generally.

Any spokesperson that breaks any promise he or she made in the spokesperson's oath or who has violated the laws of the Native Village of Barrow may be disbarred.

1.09.090 Disbarment – Complaint.

Any member of the Tribal Council, the court clerk, judge, or prosecutor may file a written complaint with the Court for disbarment of a spokesperson. The complaint shall state the specific grounds for disbarment along with an affidavit stating facts to support the complaint. A copy of the complaint and a notice of hearing shall be served on the spokesperson.

1.09.100 Disbarment – Hearing.

A hearing before the Native Village of Barrow Tribal Court shall be scheduled no sooner than ten (10) days and no more than sixty (60) days from the date the complaint and notice of hearing are served on the spokesperson. The spokesperson may present witnesses on his or her behalf and any other defense. The Court may dismiss the complaint, order permanent disbarment,

or order disbarment for a specific period. The Court may set conditions for reinstatement.

1.09.110 Appeal from Disbarment.

A spokesperson who has been disbarred by the Native Village of Barrow Tribal Court may appeal the decision to the Tribal Council. The Tribal Council shall decide whether to affirm, reverse, or modify the Court's decision by a unanimous vote of the Tribal Council at a meeting at which a quorum is present. The decision of the Tribal Council shall be final.

Chapter 1.10 Conduct of Court Sessions

1.10.010 Conduct.

All court proceedings shall be conducted in a dignified manner. All persons present when court is in session shall be orderly and respectful. Persons addressing the Court shall speak in a clear, courteous manner. No person shall possess any weapon or firearm in the courtroom except an authorized law enforcement officer or bailiff or when the weapon is being presented as evidence.

1.10.020 Courtroom Order.

A judge may appoint a person to keep order in the courtroom. A law enforcement officer or other person appointed by the judge shall be posted outside the door of any closed hearing. Persons who disrupt the court proceedings or who are disrespectful of the Court may be ordered to leave the courtroom and may be found to be in contempt of court.

1.10.030 Sessions – Site.

All sessions of the Native Village of Barrow Tribal Court shall be held in the Native Village of Barrow Court unless otherwise agreed by the parties and the Court.

1.10.040 Schedule.

The Court may set and publish a schedule for regular court sessions.

1.10.050 Telephonic Hearings and Appearances.

The Court may conduct any hearing or appearance with telephonic participation by one or more parties, attorneys or advocates, spokespeople, witnesses, or judges for good cause and in the absence of substantial prejudice to opposing parties. A verbatim record shall be made of all telephonic hearings or

appearances. Notice of telephonic hearings or appearances shall conform to the requirements in this Code and any other requirements ordered by this Court, and must clearly indicate that the hearing or appearance is telephonic in nature.

1.10.060 Motion for Default Judgment.

Where an adverse party cannot be located through reasonably substantial effort by the moving party, or fails to appear in court to answer a complaint, a party may file a motion for a default judgment against that party. The Court will require additional attempts at service of notice for a show cause hearing on the motion, service of process of which shall be made not less than twenty (20) days before that hearing. Following issuance of an order to show cause and the failure of an absent party to appear in court to show cause, the Court may enter a default judgment affecting the rights of the absent party. A party against whom a default judgment has been entered shall retain appeal rights consistent with this Code.

Chapter 1.11 Contempt of Court

1.11.010 Civil Contempt Power.

The Court has the power to charge with civil contempt any person who neglects his or her duty or harms the rights of any party to an action before the Court. The Court may invoke its civil contempt power in the following situations, but its power is not limited to these examples: disobedience to any lawful order, judgment, or process of the Court; willful interference with the attendance or testimony of a witness; or failure to appear as a juror.

1.11.020 Sanctions for Civil Contempt.

Any person found to be in civil contempt of court may be ordered to:

- a) Pay compensation to a party if actual loss or injury was suffered by a party due to the misconduct; or
- b) Banishment from NVB Tribal Court proceedings until the person performs an act or duty which he or she failed to perform and which is yet in the power of the person to perform.
- c) NVB has not waived its sovereign immunity for its employees or officials to be subject to any fines or other contempt sanctions, though the Court may find an NVB employee to be in contempt and issue an order requiring that employee to take any action required in a case proceeding involving that employee, such as handling a Social Services matter.

1.11.030 Summary Disposition.

When contempt is committed in the presence of the Court, it may be punished at that time. An order shall be prepared stating the contemptuous acts which occurred in the Court's presence, determining that the person is guilty of contempt, and the punishment imposed.

1.11.040 Default on Fine.

When a defendant defaults in the payment of a fine or any installment thereof, the Court, on its own motion or on the Tribe's motion, shall order the defendant to show cause why he or she shall not be held in contempt and may issue a summons or an arrest warrant for the defendant's appearance. If good faith is shown, the Court may allow additional time for payment. This section may be imposed in addition to any other penalty or remedy provided under this ordinance or other laws of the Native Village of Barrow.

Chapter 1.12 Rules of Evidence

1.12.010 Admissible Evidence.

All evidence which is relevant to a case and may be admitted in proceedings before the Court, except that the following rights shall not be violated:

- a) The defendant's right, in all cases, to confront witnesses against him; and
- b) The defendant's right, in certain prosecutions, to refuse to be a witness against himself.

1.12.020 Reliability.

The judge may weigh the evidence presented based on its reliability.

1.12.030 Exclusion of Certain Evidence.

Relevant evidence may be excluded if its value is substantially outweighed by the danger of unfair prejudice, confusion of the issue, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

1.12.040 Authentication.

All evidence must be authenticated to the satisfaction of the judge that the evidence is what it is claimed to be before it may be admitted.

1.12.050 Testimony by Experts.

If scientific, technical, or other specialized knowledge will assist the Court to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education may testify regarding the issue in the form of an opinion or otherwise, provided that the testimony is based upon sufficient facts or data and is the product of reliable methods or principles.

1.12.060 Questioning of Witnesses.

When questioning a witness, the judge and the parties or their representatives shall not ask questions in such a way as to suggest the answer, unless the witness is one who was called by the opposing party, or is clearly hostile to the person asking questions.

During the questioning of a witness, the judge may exclude from the courtroom any witnesses who have not yet testified, if this seems to be necessary to ensure that all witnesses will give truthful testimony. Such witnesses shall be excluded at the request of any party.

1.12.070 Written Evidence.

Testimony of a witness may be presented in sworn, written form only if the witness is unable to appear in person or by telephone to testify, and the Court determines that no party will suffer substantial prejudice if the testimony is admitted.

1.12.080 Order of Mandatory Authorities.

The Tribal Court, in deciding matters of both substance and procedure, in cases otherwise properly before the Tribal Court, shall look to and give weight as precedent to the following mandatory authorities in the following order:

1. The Constitution and Bylaws of the NVB Tribe;
2. Agreements with other tribes entered into by the NVB Tribal Council;
3. Statutes of the NVB Tribe;
4. Resolutions of the NVB Tribe;

5. Common law of the NVB Tribal Court; and
6. Customs and traditions of the NVB Tribe.

1.12.090 Order of Persuasive Authorities.

If an issue cannot be resolved by reliance on the above authorities, the Tribal Court may look to the following foreign sources of law as persuasive authority only (in no particular order):

1. Federal laws and regulations applicable to or affecting Iñupiat people;
2. Federal common law;
3. Statutory and common law of other tribes;
4. International law;
5. Common law of the State of Alaska;
6. Common law of other states.

Chapter 1.13 Witnesses

1.13.010 Right to Compel Witnesses to Appear.

Any party to a proceeding before the Native Village of Barrow Tribal Court shall have the right to compel witnesses to appear in court on his or her behalf.

1.13.020 Summons – Generally.

Upon request of a party or of a judge, the Court shall issue a summons which commands a named person to appear in court and/or to bring certain evidence or documents to court.

1.13.030 Summons – Signature.

The court clerk may sign and issue summonses for witnesses if they are to be served within the Native Village of Barrow ancestral homelands. In all other situations, the summons shall be issued by and include the signature of a judge or court administrator.

1.13.040 Summons – Content.

Every summons commanding a witness to appear shall be in writing and shall include the name of the court, the names of all parties, the time and place that the witness must appear, and a clear and detailed description of any documents or evidence which the witness is required to bring.

1.13.050 Summons – Service.

A summons issued as provided in this chapter shall be delivered to the witness by a person named by the Court for that purpose. The summons may be delivered either by giving it to the witness directly or by leaving it at the witness's residence or place of employment with a person at least fourteen (14) years old who lives or works there.

1.13.060 Summons – Return.

A person who delivers a summons to a witness shall promptly file with the clerk a copy of the summons and a written statement describing where, when and how delivery was made.

1.13.070 Failure to Obey Summons.

Failure of a witness to obey a summons shall be grounds for holding the witness in contempt of court.

1.13.080 Witness Fees.

The Tribal Council may establish witness fees. The Court may order witness fees, if any are paid, to be assessed as costs in civil actions and appeals.

Chapter 1.14 Severability and Rights

1.14.010 Severability.

If any part of this title or its application to any person or circumstance is held to be invalid, the remainder of this title or its application to other persons or circumstances is not affected.

1.14.020 Constitutional Rights and Indian Civil Rights Act.

All persons who appear before the NVB Tribal Court have the rights guaranteed by Article VI of the Constitution of the NVB Tribe and by the Indian Civil Rights Act.

Chapter 1.15 Full Faith and Credit, Comity

1.15.010 Full Faith and Credit to Certain Orders.

The Tribal Court shall give full faith and credit to the following types of laws or judicial acts of other tribes, the United States, individual states, and local governments:

1. Temporary restraining orders for domestic violence; and
2. Orders of child support.

1.15.020 Comity.

The Tribal Court shall give comity to all other laws or judicial acts of other tribes, the United States, individual states, and local governments to the extent not inconsistent with tribal jurisdiction.

Chapter 1.16 Amendments

1.16.010 Amendments.

This Code may only be amended or suspended by an affirmative vote of two-thirds of the Tribal Council.

**Native Village of
Barrow Tribal Court**

**SPOKESPERSON'S
OATH**

I, _____, do solemnly swear:

- (1) I am familiar with the laws of the Native Village of Barrow which apply to my case and will become familiar with those laws which apply to cases in which I represent people before this Court in the future.
- (2) I will at all times maintain the respect due to the Native Village of Barrow Tribal Court and its officers.
- (3) I will abide by the rules of the Native Village of Barrow Tribal Court.
- (4) I will use only those means consistent with the truth and honor and I will never seek to mislead a judge by any false statements.

Attorney or Spokesperson

SUBSCRIBED AND SWORN TO BEFORE ME on this ___ day of _____, 20

Judge, Native Village of Barrow Tribal
Court

**NATIVE VILLAGE OF BARROW
TRIBAL COURT**

In Re the Admission of

_____ Applicant

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Case No.: NVB-GEN-

**MOTION AND ORDER TO ADMIT
TO TRIBAL COURT BAR**

MOTION

COMES NOW, _____, and moves this Court for an order to admit him/her to practice before the Native Village of Barrow Tribal Court. In support of his/her motion, s/he has attached the Native Village of Barrow Spokesperson's Oath.

Dated this ___ day of _____, 20__.

Applicant

ORDER

THIS MATTER having come before the Court on the Motion of _

_____, and this Court having found that _

_____ has taken the Native Village of Barrow Spokesperson's Oath and is otherwise qualified to practice before this Tribal Court.

NOW THEREFORE, IT IS HEREBY ORDERED AND DECREED that _____ is admitted to practice before the Native Village of Barrow Tribal Court.

Dated this ___ day of _____, 20__.

Judge, Native Village of Barrow Tribal Court