



**PUEBLO OF ISLETA  
ORDINANCE**

**Establishing the Number, Salary, Qualifications, Term of Office, Vetting Process and  
Superintending Authority for Pueblo of Isleta Appellate Court Justices**

**PREAMBLE**

**WHEREAS**, the Tribal Council hereby acknowledges the autonomy of the Judicial Branch of the Pueblo of Isleta government, as set forth in the Pueblo of Isleta Tribal Constitution;

**WHEREAS**, the Tribal Council finds it is necessary and proper to establish a separation of powers to avoid appearances of impropriety, unfairness, conflicts of interests, and to ensure a system of checks and balances in Pueblo of Isleta tribal government;

**WHEREAS**, the Tribal Council finds it is necessary and proper that laws be applied consistently to ensure that all persons are protected with equal protection of the law.

**ARTICLE I. PURPOSE, AUTHORITY AND SCOPE**

**Section 1. Purpose**

The purpose of this Ordinance is to establish the number, salary, qualifications, term of office, vetting process and superintending authority for Pueblo of Isleta Appellate Court Justices (hereinafter "Ordinance").

**Section 2. Authority**

This Ordinance is authorized by Article IX, Section 6, of the Pueblo of Isleta Tribal Constitution:

"The council may delegate its appellate authority to such appeal committee, appellate judge or judges or other appellate body as the council may from time to time establish by ordinance duly enacted by the council. The decisions of the council or delegated appellate body shall be final in all appeal cases."

Pueblo of Isleta Tribal Constitution, Article IX, Sec. 6 (Revised, 1991). This Ordinance shall be consistent with the provisions of the Pueblo of Isleta Law and Order Code, as amended from

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time to time. This Ordinance supersedes Tribal Council Resolutions No. 99-58, No. 99-59, No. 01-23, and No. 01-94, and any other previous and conflicting Tribal Council resolutions.

### **Section 3. Scope**

The Ordinance shall apply to the Pueblo of Isleta Appellate Court and its Justices. This Ordinance shall apply only to cases filed after enactment of this Ordinance. Cases that are before the Isleta Appellate Court at the time of enactment of this Ordinance shall continue under the previous laws and rules of the Isleta Appellate Court in place prior to enactment of this Ordinance and shall continue without prejudice to any party.

## **ARTICLE II. ESTABLISHMENT**

**Section 1.** The Isleta Appellate Court is empowered to hear all appeals from the Isleta Tribal Court as prescribed in Article IX, Section 6, of the Pueblo of Isleta Tribal Constitution.

**Section 2.** The Isleta Appellate Court shall have all necessary and proper powers in accordance with Article IX of the Pueblo of Isleta Tribal Constitution and this Ordinance. The Isleta Appellate Court shall be empowered to make decisions of law only and shall remand all matters requiring additional findings of fact to the Isleta Tribal Court.

**Section 3.** The Isleta Appellate Court shall issue written decisions to provide the reasoning of the Court for all decisions rendered. In order to ensure consistency and fairness, all decisions of the Court shall be made available upon request. The Isleta Appellate Court may impose a fee to obtain copies of decisions. Justices that dissent or concur with the decision of the Court on a given case shall be identified in the decision and shall state the reasons for the dissent or concurrence. All hearings involving parties must be properly recorded.

**Section 4.** The Isleta Appellate Court shall have authority to grant interlocutory appeals from the Isleta Tribal Court, issue writs<sup>1</sup>, and certify questions of law in cases in which the Isleta Appellate Court has jurisdiction.

**Section 5.** The Isleta Appellate Court shall have superintending authority over the Isleta Tribal Court. Such authority shall include promulgation of rules, procedures, and policy in accordance with Section 10 of this Article and shall include written reprimand of Tribal Judges made pursuant to duly enacted judicial standards of conduct promulgated by Isleta Appellate Court.

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<sup>1</sup> A writ is a court's written order, in the name of a state or other competent legal authority, commanding the addressee to do or refrain from doing some specified act. Black's Law Dictionary (7<sup>th</sup> Ed.).

**Section 6.** The Pueblo of Isleta Tribal Council shall retain exclusive jurisdiction of all cases and controversies regarding membership and enrollment as prescribed in Article II, Section 8, of the Pueblo of Isleta Tribal Constitution. Accordingly, Isleta Appellate Court or Isleta Tribal Court shall not have jurisdiction to hear these cases, except as prescribed in the Constitution.

**Section 7.** The Isleta Appellate Court shall have jurisdiction to hear appeals involving land disputes and probate.

**Section 8.** Any Isleta Appellate Court Justice may be removed from office in accordance with Article VII of the Pueblo of Isleta Tribal Constitution and applicable laws of the Pueblo of Isleta.

**Section 9.** All cases before the Isleta Appellate Court shall be heard by, presided over, and decided by a Hearing Panel, which shall consist of a minimum of three (3) Appellate Justices to be determined by the Chief Justice. Every effort shall be made to include at least one (1) Lay Justice.

**Section 10. Policies, Procedures, and Rules**

1. The Isleta Appellate Court shall develop and maintain policies, procedures and rules for the Isleta Judiciary, including but not limited to: rules of civil procedure, rules of criminal procedure, and rules of evidence.

2. Notification and Publication. The Isleta Appellate Court shall notify Tribal Council, Governor, and Tribal Court of promulgated policies, procedures, and rules and shall publish such policies, procedures and rules to the community.

**ARTICLE III. GENERAL PROVISIONS**

**Section 1. Number of Justices**

There shall be five (5) Appellate Court Justices, to include the following: one (1) Chief Justice and four (4) Associate Justices. A minimum of three (3) Justices shall be law-trained (Juris Doctorate, L.L.M., State licensed attorney, or B.A. in Criminal Justice from an accredited institution) with a maximum of two (2) Lay Justices. All Appellate Court Justices shall be members of the Pueblo of Isleta. A maximum of three (3) Appellate Justices Pro Tem may be appointed, as follows:

The Chief Justice shall make recommendations in writing to Tribal Council when the Isleta Appellate Court is in need of a Justice or Justices Pro Tem. Such recommendation shall include a recommendation on who could serve as Justice Pro Tem. Tribal Council shall make an appointment after consideration of the recommendation.

**Section 2. Duties**

The duties of each Isleta Appellate Court Justice shall include, but not be limited to: hearing and deciding court cases, rule-making, non-court case administrative functions related to the Isleta Appellate Court, and training.

**Section 3. Compensation**

1. The compensation of Isleta Appellate Court Justices shall be set as follows:

| <u>POSITION</u>                | <u>BASE SALARY</u> |
|--------------------------------|--------------------|
| Chief Justice                  | \$125/hour         |
| Associate Justice- Law Trained | \$125/hour         |
| Associate Lay Justice          | \$125/hour         |

Upon reappointment of an Isleta Appellate Court Justice, Tribal Council shall consider a compensation adjustment for such Justice, based on seniority, experience, and cost of living.

2. Pay Procedures. Each Isleta Appellate Court Justice on a panel shall maintain an accurate record of hours actually worked to hear and decide each case, as well as hours actually worked on other duties. On a monthly basis, the Chief Justice shall approve and submit an invoice for each Justice to Governor. The Governor shall certify each and every invoice for the purpose of complying with payment procedures before submittal to Tribal Treasurer. In no event shall Isleta Appellate Court exceed the amount budgeted by Tribal Council.

3. Justice Pro Tem. A Justice Pro Tem shall be employed by contract in a form approved by Tribal Council and shall be compensated in the same manner and amount as Isleta Appellate Court Justices.

**Section 4. Qualifications**

1. Educational Requirement. The minimum educational requirement for an Appellate Court Justice shall be a High School Graduate. Preference shall be given to a licensed attorney who has practiced in the field of Native American Indian law. However, those possessing relevant experience may be considered despite not being a licensed attorney. Preference shall be given to individuals who have a Tribal Court certification from an accredited institution.

2. Other Relevant Qualifications.

- a. Experience in Federal Indian law and Tribal law, litigation, Trial Court and Tribal Court experience.
- b. General knowledge of Indian tribes, including the Pueblo of Isleta.

- c. Knowledge of courts that administer justice, including criminal and civil court systems.
- d. Ability to hear court cases and render oral and written decisions based on interpretation of the law and findings of fact.
- e. Ability to interpret laws, including the Pueblo of Isleta Tribal Constitution, Tribal Ordinances, Tribal Council resolutions, Law and Order Code, and other relevant law.
- f. Successful completion of drug screening test and criminal background check. Individuals with felony convictions shall not be considered for the position.

## **Section 5. Term of Office**

1. The term of office for each Appellate Court Justice shall be for two (2) years or until another Justice is appointed and shall coincide with the term of office of the appointing Tribal Council. Appointments of Appellate Court Justices shall be made by Tribal Council between December 1 and December 31 of each year that follows a regular election of Tribal Council.

2. Notwithstanding the foregoing, the term of an Appellate Court Justice shall expire upon removal as prescribed in Article VII, Section 2(b), of the Pueblo of Isleta Tribal Constitution.

3. At the beginning of each term, the Appellate Court Justices shall select a Chief Justice from among them, who shall be a state-licensed attorney.

4. Appellate Court Justices may be re-appointed in the same manner as appointed through the Vetting Process described in Section 7 of this Article.

5. In the event of a resignation of an Appellate Court Justice, the resigning Justice shall give a written notice of resignation to the other Justices and to Tribal Council. Upon receiving such notice, Tribal Council shall follow the procedures outlined in Section 7 of this Article.

6. Each and every Appellate Court Justice wishing to run for public office at the Pueblo of Isleta shall voluntarily resign as Appellate Court Justice on the date of filing candidacy with the Pueblo of Isleta. Such voluntary resignation shall be accomplished by filing a written resignation with the Tribal Council on the date of filing of candidacy. If the Appellate Court Justice does not voluntarily resign within that timeframe, Tribal Council shall immediately issue a written order withdrawing the appointment of the Appellate Court Justice. In no event shall a Appellate Court Justice who has unsuccessfully run for public office at the Pueblo of Isleta automatically re-assume the position of Appellate Court Justice for the remainder of the term.

## **Section 6. Immunity, Indemnification, and Appointment Status**

1. As an appointed official of the Pueblo of Isleta, each and every Appellate Court Justice shall possess sovereign immunity and judicial immunity with respect to conduct of his official duties as Appellate Justice. Notwithstanding such immunity, if the Appellate Court Justice is a party to or is threatened to be made a party to such action, suit or proceeding, whether civil, criminal, administrative, or investigative, arising out of his service as Appellate Court Justice, the Pueblo of Isleta shall indemnify and hold Appellate Justice or Appellate Justices harmless against all expenses, liabilities, and losses (including without limitation, attorney's fee, judgments, fines and settlement payments).

2. As a condition to such indemnification, the Appellate Court Chief Justice shall promptly notify Governor and Tribal Council of any such pending or threatened action against an Appellate Court Justice or Justices and allow the Pueblo of Isleta to select legal counsel at its expense to assert sovereign immunity and otherwise defend the Appellate Court Justice or Justices.

3. Appointment Status. Each and every Appellate Court Justice shall be an appointed official of the Pueblo of Isleta.

## **Section 7. Vetting Process**

When the need arises for an Appellate Court Justice or Justices, the Tribal Council shall issue a public notice requesting candidates or nominations for the appointment(s). Tribal Council can also consider individuals who have not declared a candidacy or who have been nominated, including incumbent Justices. The Tribal Council by majority vote shall then appoint the Appellate Court Justice when it finds that the individual is qualified to serve.

## **ARTICLE IV. INTERACTION WITH EXECUTIVE AND LEGISLATIVE BRANCHES OF THE PUEBLO OF ISLETA**

### **Section 1. Regular Meetings**

The Chief Justice shall hold meetings with the Tribal Council and Governor, as scheduled by the entities from time to time, at least annually during the month of April. The purpose of the meeting(s) will be to discuss general issues of the Appellate Court and resolve issues that may arise, such as docket management and timely filing of decisions and orders. Under no circumstances will court-case specific information other than court-case number be discussed at such meeting.

## **Section 2. Written Report**

In anticipation of each meeting, the Chief Justice shall provide a written report to Tribal Council and Governor on issues to be discussed at each meeting. Such report shall include, at a minimum, a list of current cases by case number, the date in which each case was filed, a list of cases that were resolved prior to the previous meeting, and a list of outstanding cases by case number.

## **ARTICLE V. MISCELLANEOUS PROVISIONS**

### **Section 1. Severability Clause**

In the event any provision or provisions of this Ordinance are found invalid by a court of competent jurisdiction, the remaining provision or provisions shall remain valid and in force.

### **Section 2. Amendments**

Tribal Council may amend this Ordinance from time to time as needed. Such amendment shall not become effective until adopted by majority vote of Tribal Council at a duly called meeting with quorum present.