



ORDINANCE

Establishing the Number, Salary, Qualifications and Term of Office for Pueblo of Isleta Tribal Judges

PREAMBLE

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.

ARTICLE I. PURPOSE, AUTHORITY AND SCOPE

A. Purpose

The purpose of this Ordinance is to establish the number, salary, qualifications, and term of office for Pueblo of Isleta Tribal Judges (hereinafter “Ordinance”).

B. Authority

This Ordinance is authorized by Article IX, Section 3, of the Pueblo of Isleta Tribal Constitution: “

“The number, salary, qualifications, and term of office of the judge or judges of the tribal court shall be prescribed by ordinance of the council; provided that the salary of any judge shall neither be increased or decreased during the term in office; provided further that no person be a judge who has been convicted of a felony.”

Pueblo of Isleta Tribal Constitution, Article IX, Sec. 3 (Revised, 1991). This Ordinance shall be consistent with the provisions of the Pueblo of Isleta Law and Order Code, as amended from time to time.

C. Scope

This Ordinance shall not apply to the Pueblo of Isleta Appellate Court and its Justices, established by Tribal Council Resolution No. 2001-23. This Ordinance shall not apply to a

hearing officer appointed by Tribal Council to serve a specific purpose, such as the Gaming License Review Hearing Officer established by Tribal Council Resolution No. 2001-104 or the Labor Relations Hearing Officer established by Tribal Council Resolution No. 2010-096.

ARTICLE II. GENERAL PROVISIONS

A. NUMBER

1. There shall be three (3) tribal judges, to include the following: one (1) Chief Judge and two (2) Associate Judges (hereinafter individually referred to as "Tribal Judge" and collectively referred to as "Tribal Judges").

2. In addition to the Tribal Judges established in Subsection 1, there shall be a Pro Tem Judge or Pro Tem Judges when it is determined by the Governor that: (a) a conflict of interest exists with all Tribal Judges or (b) the workload of the Tribal Judges requires it. Such appointment shall be initiated by request of the Chief Judge to the Governor or by Governor's own initiative. Governor shall not appoint a Pro Tem Judge if that Pro Tem Judge is to hear a case involving the Governor in his personal or official capacity. No Tribal Council member shall vote to concur on an appointment of a Pro Tem Judge if that Pro Tem Judge is to hear a case involving that Tribal Council member in his or her personal or official capacity.

3. All appointments described in Subsections 1 and 2 shall be duly appointed pursuant to Article IX, Section 2, of the Pueblo of Isleta Tribal Constitution.

B. SALARY

1. The salary of a Tribal Judge shall be set by Tribal Council Resolution. Fringe benefits shall be calculated according to Pueblo of Isleta policy for other Pueblo of Isleta employees at the time of appointment.

2. Salary of the Judge Pro Tem shall be determined by negotiations between the Pueblo of Isleta and the appointee and shall be memorialized in a written agreement between the appointee and Governor in such form and content as approved by Tribal Council.

C. QUALIFICATIONS

1. Educational Requirement. The minimum educational requirement for a Tribal Judge shall be a High School Graduate. Preference should be given to a licensed attorney who has practiced in the field of employment law and 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.
- 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 rendering 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 test.

3. **Tribal Member Requirement.** At least one of the three Tribal Judges shall be members of the Pueblo of Isleta. There shall be no requirement for a Pro Tem Judge to be a member of the Pueblo of Isleta.

D. TERM OF OFFICE

1. The term of office for each Tribal Judge shall coincide with the term of office of the appointing Governor. Appointments of Tribal Judges shall be made by Governor and concurred by Tribal Council between January 1 and January 6 of each year that follows an election of Governor and Tribal Council.

2. In the event that a Governor is re-elected to a second term and decides to re-appoint a Tribal Judge who was appointed the previous term, Tribal Council will be required to concur in the re-appointment as described in Subsection 1. Upon such concurrence, re-appointment shall be considered a new term for the Tribal Judge.

3. In the event of resignation or removal of the Governor, a Tribal Judge shall continue to serve until such time as the 1st Lieutenant succeeds the outgoing Governor. Upon such succession, the new Governor shall either re-appoint the Tribal Judge or appoint a different Tribal Judge. Such re-appointment or new appointment shall be made within thirty (30) days after the date of succession.

4. The term of office for each Judge Pro Tem shall be determined by negotiations between the Pueblo of Isleta and the appointee and in no instance shall be beyond the term of the appointing Governor.

5. Notwithstanding the foregoing, the term of a Tribal Judge or a Judge Pro Tem shall expire upon removal as prescribed in Article VII, Section 2(b) of the Pueblo of Isleta Tribal Constitution.

E. EMPLOYMENT STATUS

1. Each and every Tribal Judge or Judge Pro Tem shall not be deemed an employee of the Pueblo of Isleta's Executive Branch. Notwithstanding the foregoing, the Pueblo of Isleta Personnel Policies and Procedures Manual shall apply to a Tribal Judge or Judge Pro Tem.

2. Each and every Tribal Judge or Judge Pro Tem shall have an at-will employment relationship with the Pueblo of Isleta.

3. As an appointed official of the Pueblo of Isleta, each and every Tribal Judge and Judge Pro Tem shall possess sovereign immunity with respect to conduct of his official duties as Tribal Judge or Judge Pro Tem. Notwithstanding such immunity, if the Tribal Judge or Judge Pro Tem 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 Tribal Judge or Judge Pro Tem, the Pueblo of Isleta shall indemnify and hold Tribal Judge or Judge Pro Tem harmless against all expenses, liabilities, and losses (including without limitation, attorney's fee, judgments, fines and settlement payments).

4. As a condition to such indemnification, Tribal Judge or Judge Pro Tem shall promptly notify Governor and Tribal Council of any such pending or threatened action and allow the Pueblo of Isleta to select legal counsel at its expense to assert sovereign immunity and otherwise defend him.

5. Each and every Tribal Judge or Judge Pro Tem wishing to run for public office at the Pueblo of Isleta shall voluntarily resign as Tribal Judge or Judge Pro Tem on the date of filing candidacy with the Pueblo of Isleta. Such voluntary resignation shall be accomplished by filing a written resignation with the Governor and Tribal Council on that day. If Tribal Judge or Judge Pro Tem does not voluntarily resign within that timeframe, Governor shall immediately issue a written order withdrawing the appointment of Tribal Judge or Judge Pro Tem. Such order shall have the effect of terminating the written agreement with Judge Pro Tem. In no event shall a Tribal Judge or Judge Pro Tem who has unsuccessfully run for public office at the Pueblo of Isleta re-assume the position of Tribal Judge or Judge Pro Tem for the remainder of the term.

6. Each and every Judge Pro Tem shall execute a written agreement with the Pueblo of Isleta in the form prescribed by Tribal Council.

ARTICLE III. INTERACTION WITH EXECUTIVE AND LEGISLATIVE BRANCHES

A. REGULAR MEETINGS

The Chief Judge shall hold meetings with the Tribal Council and Governor, as scheduled by the entities from time to time. The purpose of the meetings will be to discuss general issues of the Tribal Court and resolve issues that arise from time to time. Under no circumstances will court-case specific information be discussed at such meeting.

B. WRITTEN REPORT

In anticipation of each meeting, the Chief Judge shall issue a written report to Governor and Tribal Council on issues to be discussed at each meeting.

C. POLICIES AND PROCEDURES

The Pueblo of Isleta Tribal Court shall develop and maintain policies and procedures for Tribal Court.

ARTICLE IV. MISCELLANEOUS PROVISIONS

A. SEVERABILITY CLAUSE

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

B. AMENDMENTS

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