



***Judicial Code of the
Gumbaynggirr National
Sovereign Bora Court of
Justice***

2019

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Gumbaynggirr is the name this National Sovereign Nation chooses to identify itself as, and the Bora Court shall be named the National Sovereign Bora Court of Justice or National Bora Court, made up of a group of Conscious Elders and Leaders from the Gumbaynggirr Nation who are enlightened beings, possessing ancient skills and knowledge of their Foremothers and Forefathers to help heal, protect and advance the people. These are known as ‘Eagle Stars’ in the Gumbaynggirr Nation.

The Gumbaynggirr National Sovereign Bora Court is hereby established according to the structure outlined in this Chapter. The purpose of the Gumbaynggirr National Sovereign Bora Court is to protect the health, safety, and welfare of the entire Gumbaynggirr people as well as those Men, Women, 2Spirited, adopted by members of the Group, into the Nation, by addressing problems locally through a fair and consistent application of unwritten Gumbaynggirr cultural traditions and written National Sovereign ordinances. This Chapter outlines the structure of the Gumbaynggirr National Sovereign Bora Court.

Section 2. Authority to Establish the Gumbaynggirr National Sovereign Bora Court

The Governing Body/Lore men and women of the Gumbaynggirr Nation have the authority to operate a National Sovereign Bora Court not only by its Lore Women and Lore Men being inherent Sovereigns by blood (Gumar) birth-rite, also according to National Sovereignty, International Agreements, Charters and Covenants.

1. United Nations Convention on the Elimination of all forms of Racial Discrimination (CERD)
2. Article 1 of International Covenant of Social, Economic and Cultural Rights
3. International Covenant on the Civil and Political Rights and under the
4. United Nations Declaration on the Rights of Indigenous Peoples of the Gumbaynggirr National Sovereign Constitution, and under any powers delegated by the National Sovereigns Congress.
5. The Genocide Convention Act

Section 3. Jurisdiction of the Gumbaynggirr National Sovereign Bora Court

The Gumbaynggirr National Sovereign Bora Court shall have the authority to exercise the inherent judicial powers of a nationally recognized Sovereign Nation. These powers include, but are not limited to, matters relating to the governmental processes internal to the National and over matters arising:

1. In the Gumbaynggirr National Sovereign Nation; and/or
2. Over all Gumbaynggirr National members, enrolled or eligible, regardless of where they live or do business; and/or
3. Over all persons and entities who enter into consensual relations with the Gumbaynggirr Nation or Sovereign members, or whose activities affect the political integrity, economic security, or the health or welfare of the Sovereigns or Sovereign members; and/or

4. Over any matters so delegated by the Gumbaynggirr Nations Congress.

Section 4. Gumbaynggirr National Sovereign Bora Court System

[This example uses qualified members of the Gumbaynggirr National Sovereign council plus some elected judges/Lore men and women as the pool of National Sovereign Bora court judges/Lore men and women. If the Gumbaynggirr National Sovereign Bora court wants to completely separate the Gumbaynggirr Sovereign council from the Gumbaynggirr National Sovereign Bora court, this section would spell out how many judges/Lore men and women will serve the National Sovereign bora court, whether they are elected or appointed, what the qualifications are, and how long their terms are.]

- A. Standing Bora Court Structure:** The Gumbaynggirr National Sovereign Bora Court shall be composed of a pool of judges/lore men and women. The pool of judges/Lore men and women shall include 3 **[or some other number]** of elected judges/Lore men and women, plus the members of the Gumbaynggirr National Sovereign Council who do not have a felony conviction of any kind within the previous five years, or who have never been convicted of rape, murder, child abuse, or sexual assault regardless of when the conviction occurred. Elected Judges/Lore men and women shall be elected for three-year **[or some other length of time]** term at the same time of year that elections are held for the Sovereign Council. Shorter terms may be used to implement a staggered term process. If a Judge/Lore men or women should leave their seat before their term expires, the National Sovereign Council shall appoint a Judge/Lore men or women for the remainder of that term. All Judges/Lore men or women so appointed shall meet the qualifications according to Section B.
- B. Qualification of the Elected Judges/Lore Men and Women:** All elected Judges/Lore men or women shall be:
- C. Determining which Judges/Lore Men and Women shall serve on a case:** When a Petition to use the Gumbaynggirr National Sovereign Bora Court is received by the Gumbaynggirr National Sovereign Court Clerk, the Clerk shall contact the qualified members of the Sovereign Council and all 3 of the elected Judges/Lore men and women to meet. The Judges/Lore men and women available to meet shall determine if the Court will take the case and to determine

which three Judges/Lore men and women shall sit on that case. Once Judges/Lore men and women are selected to hear a case, those same Judges/Lore men and women shall serve as the Judges/Lore men and women for that case for the initial and any subsequent hearings to the maximum extent possible.

- D. Visiting Judges/Lore Men and Women:** The Gumbaynggirr National Sovereign Council may appoint visiting Judges/Lore men and women from outside the Nation when the Council determines that it is in the best interest of the Nation to do so for a particular case, provided that at least one Judge/Lore man or woman hearing the case be from the Gumbaynggirr Nation. Such appointment shall be made by an affirmative vote from several Gumbaynggirr National Sovereign Council members. Visiting Judges/Lore men or women may be Judges/Lore men or women from other National Sovereign Bora Courts when the Gumbaynggirr National Sovereign Judges/Lore men and women have significant conflicts of interest, or attorneys certified by the Elders Council to hear cases in situations when a case has extreme legal complications. When a visiting Judge/Lore man or woman is used, there shall be an agreement in writing made as to the terms of any financial arrangements made, and that the visiting Judge/Lore man or woman shall apply the laws of the Gumbaynggirr Nation to the fullest extent possible.
- E. InterSovereign Bora Courts:** The Gumbaynggirr National Sovereign Bora Court may join with other National Sovereign Bora Courts to form interSovereign Bora courts for specific cases involving Men, Women, 2Spirited who are National/Non National or eligible for National membership in the Gumbaynggirr Nation or in another Nation. The Gumbaynggirr National Sovereign Bora Court may also participate in a permanent interSovereign Bora court, provided that the Gumbaynggirr National Sovereign Council determines it is in the best interest of the Gumbaynggirr Nation to do so, and that the relationship between the Gumbaynggirr National Sovereign Bora Court System and such interSovereign Bora courts are clearly described in written documentation.

International Sovereign Bora Courts Protocols and Procedures. 1. First Appearance. 2. Confirmation of Charges. 3. Trial. 4. Appeals. 5. Serving the Sentence. 6. Reparations- Compensation.

<https://www.creativespirits.info/aboriginalculture/selfdetermination/aboriginal-sovereignty-in-australia>

- F. Specialty Bora Courts:** The Gumbaynggirr National Sovereign Council may establish specialty National Bora Courts such as a National Sovereign Bora youth court.

Section 5. Quorum of the Gumbaynggirr National Sovereign Bora Court

A quorum of no less than 3 Judges/Lore men or women shall be necessary to hear a case. In any configuration of the Gumbaynggirr National Sovereign Bora Court System, there shall be at least one of the qualified Gumbaynggirr National Sovereign Council members or elected Judges/Lore men or women at every hearing.

Section 6. Presiding Judges/Lore men and women of the Gumbaynggirr National Sovereign Bora Courts

The Presiding Judges/Lore men and women shall be chosen for each case by Senior Elders through a consensus of the Judges/Lore men and women. An alternate Presiding Judge/Lore man or woman shall be chosen in the same manner. The Presiding Judges/Lore men or women shall continue to be the Presiding Judges/Lore men and women for subsequent hearings on their cases whenever possible. The Presiding Judges/Lore men and women shall control the Gumbaynggirr National Sovereign Bora Courts in a fair manner and Men, Women, 2Spirited in the Bora Court may only speak at the direction of the Presiding Judges/Lore men, women and Elders Council.

Section 7. Conflict of Interest for Gumbaynggirr National Sovereign Bora Court Judges/Lore men and women

Judges/Lore men and women of the Gumbaynggirr National Sovereign Bora Court shall remove themselves from hearing a case involving first degree relatives including parents, children, spouses or significant others, siblings, and anyone living in the same home, except that in emergency situations where temporary decisions are made, Judges/Lore men and women may be so related. Judges/Lore men and women shall remove themselves from any cases in which they have any significant, direct, personal, financial or other conflicts of interest. Judges/Lore men and women may remove themselves from hearing a case in which they cannot be fair for any reason.

Section 8. Decision Making by Gumbaynggirr National Sovereign Bora Court Judges/Lore men and women

The Judges/Lore men and women of the Gumbaynggirr National Sovereign Bora Court shall reach decisions through consensus when possible and through a majority vote when consensus is not possible. Judges/Lore men and women may refer cases to Justice Circles of their design, for decisions by consensus of such circles.

Section 9. Justice Bora Circles

The Gumbaynggirr National Sovereign Bora Court may use a Justice Bora Circle format for sentencing and deciding what should be done, for any cases where the Circle format is appropriate. The Judges/Lore men and women assigned to the case shall decide who shall sit in such Bora Circles and who shall sit as the Elders of the Bora Circle.

- A. Basic Rules of the Bora Circle:** The most basic rule of the Bora Circle is that Men, Women, 2Spirited shall have respect for one another. Only one Men, Women, 2Spirited shall speak at a time while the others respectfully listen. The Leader of the Bora Circle shall lead the Bora Circle, but shall have no greater voice in the final consensus than anyone else in the Bora Circle. Other rules may be established by the Bora Circles themselves.

- B. Decisions of Bora Circles:** Decisions of Bora Circles shall be by consensus of the Boar Circle and shall be written as Orders of the Gumbaynggirr National Sovereign Bora Court. If a Bora Circle fails to come to consensus on a case, the case shall be referred back to the regular Gumbaynggirr National Sovereign Boar Court.

- C. Follow-up on Bora Circle Orders:** Before a Bora Circle adjourns a session, it shall set a date to reconvene the Bora Circle to examine the progress of a case if appropriate, or shall make a specific plan for how follow-up will be monitored.

Section 10. Advisors to the Gumbaynggirr National Sovereign Bora Court

The Judges/Lore men and women may confer with Elders, Council members, or other appropriate consultants during hearings, and may call upon the Gumbaynggirr Elders to give answers to questions put to them, which may be recorded for future generations.

Section 11. Gumbaynggirr National Sovereign Bora Court Clerk

The National Sovereign Council shall appoint the Gumbaynggirr National Sovereign Bora Court Clerk, and an alternate Bora Court Clerk. Duties of the Clerk may include:

- Receiving petitions filed with the Gumbaynggirr National Sovereign Bora Court
- Answering phone calls and receiving mail for the Bora Court
- Maintaining files for the Bora Court and a Bora Court calendar
- Calling a meeting of the Judges/Lore men and women to review Petitions and determine which Judges/Lore men and women shall sit on cases
- Notifying parties and Judges/Lore men and women of hearings
- Setting up zoom/video/tele conference calls if necessary and recording hearings
- Drafting National Sovereign Bora court orders for Judges/Lore men, women and elders to review and sign
- Maintaining records of National Sovereign Bora court finances

Section 12. Confidentiality, Fairness, and Impartiality

Gumbaynggirr National Sovereign Bora Court Judges/Lore men and women, the Sovereign National Bora Court Clerk, participants of Bora Circles used for sentencing, and any other National Sovereign employees or other officials who participate in a case shall take the following oath of confidentiality, fairness, and impartiality prior to all cases:

“I _____, do agree that I will not discuss the proceedings of this case outside of the chambers of the Gumbaynggirr National Sovereign Bora Courtroom/Circle. I shall maintain respect due the Gumbaynggirr National Sovereign Bora Court by striving for fairness and impartiality in the National Sovereign Bora Court proceedings that come before me.”

Section 13. Forfeitures and Removal of Judges/Lore men and women

- A. Forfeitures:** Gumbaynggirr National Sovereign Bora Court Judges/Lore men and women shall automatically forfeit their positions as Judges/Lore men and women if they are convicted of a felony under National or International law/lore while in office.
- B. Removal:** A Gumbaynggirr National Sovereign Bora Court Judge/Lore men or women may be removed from a particular case, or entirely from their position when the Gumbaynggirr National Sovereign Elders Council determines that it is in the best interest of the Gumbaynggirr Nation to do so. The Judge/Lore men and women being considered for removal shall be given an opportunity to speak to the National Sovereign Elders Council in executive session of the National Sovereign Elders Council, prior to a vote of the National Sovereign Elders Council on the removal. The decision to remove a Judge/Lore men or women must be affirmed by several Gumbaynggirr National Sovereign Elders Council Members.
- [The decision to remove Judges/Lore men and women from a case or entirely could be left to an appellate court if the Nation has established one].**

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Section 1. Purpose

The purpose of the Gumbaynggirr National Sovereign Bora Court Procedures/Ordinance is to provide a fair and equitable process for the operation of the Gumbaynggirr National Sovereign Bora Court that is consistent with the Gumbaynggirr National Sovereign Parliament Constitution and Ordinances, the requirements of the Indian Civil Rights Act and compatible with the unwritten values and practices of the Gumbaynggirr National Sovereign Nation. The procedures provided in this Ordinance shall be the guidelines and policies of the Gumbaynggirr National Sovereign Bora Courts unless otherwise specifically provided for by the Gumbaynggirr National Sovereign Parliament Constitution or Sovereign ordinance.

Section 2. Definitions

The following words and phrases, whenever used in this Chapter, shall have the following meanings:

Banishment: Sending a person or Men, Women, 2Spirited out of the land of the Gumbaynggirr Nation for a period of time or permanently.

Clerk: The Primary Administration officer of the Gumbaynggirr National Sovereign Bora Court.

Emergency circumstances: Circumstances in which it reasonably appears that there is imminent danger of harm to a person/man/woman or child or property.

Parties: Petitioner(s) and Respondent(s) and any other persons the Gumbaynggirr National Sovereign Bora Court considers to be parties in a particular case. Petitioners may choose not to be a party to a case if it is specifically permitted by Sovereign ordinance or if the Gumbaynggirr National Sovereign Bora Court permits it.

Petitioner: The party filing a Petition to use the National Sovereign Bora Court.

Pre-Hearing Conference: A conference of the Judges/Lore men and women held after the decision to take a case is made. The conference shall be to decide which Judges/Lore men and women shall hear the case and to review the court file.

Proof of Service: Written or otherwise documented evidence that parties have been notified of an action of the court, such as notification about a hearing.

Respondent: The person involved in an issue brought before the Bora Court by a Petitioner or against whom a Complaint is filed.

Restitution: Enforcement order compensating a person/ Men, Women, 2Spirited, who has been damaged, injured or harmed, by paying money or performing services to compensate for damage, harm or injury. Restitution includes apologizing, payment of medical bills or other bills, repair or replacement of property and service to Community. The Gumbayngirr National Sovereign Bora Court may also order people/ Men, Women, 2Spirited to do other things to provide restitution.

Civil violation: Failing to comply with Gumbayngirr National Sovereign Bora Lores/Laws and involves conduct inappropriate to an orderly society, but it is not a criminal offense. A person charged with a civil violation is not entitled to a trial by jury or a right to a public defender.

Section 3. Rights of Parties

Parties appearing before the Gumbayngirr National Sovereign Bora Court have rights as specified by the Indian Civil Rights Act of 1968, as amended. Parties appearing before the Bora Court shall have the following rights, which include and exceed those of the Indian Civil Rights Act:

- Parties shall have the right to be notified of court hearings, except in cases of emergency circumstances when a party is not reasonably available to be notified.
- Right to copies of documents submitted to the Bora Court and Court generated documents.

- Opportunity to be heard.
- Opportunity to present witnesses and evidence.
- Opportunity to question any witnesses.
- Right to a fair hearing.
- Right to request a Change of Order if new evidence or circumstances change in the case.
- Right to appeal the final decision to the Gumbaynggirr Appellate Bora Court.

Section 4. Confidentially

All children's cases and hearings shall be confidential. Hearings involving adults may be open to the public if the parties and the Court Judges/Lore men, women and elders agree. Unless a case is appealed to the Gumbaynggirr Appellate Bora Court, only the Court Judges/Lore men, women Elders Council and the Clerk shall have access to the Bora Court records without further Order of the Court. The Gumbaynggirr Appellate Bora Court shall have access to all records involving cases that are appealed to it.

Section 5. Recording hearings

The Gumbaynggirr National Sovereign Bora Court shall keep a record of all cases consisting of a voice/video recording and/or written notes of all panel style hearings, all original documents filed with the Bora Court, and all Orders entered by the Court.

Section 6. Failure to Appear for a Hearing

If parties have been given reasonable notice to attend a hearing but fail to appear for the hearing, the Bora Court may proceed with the hearing as scheduled and make a decision in the absence of the party, or reschedule it.

Section 7. Recesses During Hearings

The Bora Court may recess during any type of Bora Court hearing.

Section 8. Testimony and Associated Costs

Witnesses may testify in person or with the Bora Court's permission, by telephone/zoom/video link. The Gumbaynggirr National Sovereign Bora Court may summon witnesses to testify at the hearings by issuing a summons to testify. Any travel or telephone/zoom/video costs associated with the testimony of witnesses summoned by the Bora Court shall be paid by the Gumbaynggirr National Sovereign Parliament/Government.

Section 9. Evidence and Affidavits

The Gumbaynggirr National Sovereign Bora Court shall hear all evidence it finds proper. Evidence given under oath shall be considered proper evidence. The Gumbaynggirr National Sovereign Bora Court may Order evidence to be brought before the Court by issuing a subpoena. The Gumbaynggirr National Sovereign Bora Court may accept sworn Affidavits as evidence in cases if the witness is not available to testify.

Section 10. Emergency Hearings

Emergency hearings shall involve matters where harm or damage to a person, man, woman, child or property may be likely occur if the Bora Court had to wait. In cases of emergencies, the Bora Court may hold a hearing as soon as reasonable proof of imminent harm is provided to the Bora Court. Notice of emergency hearings shall be given to parties who are reasonably available to receive Notice, but the Bora Court

may proceed without Notice if parties are not available to receive it. Orders issued during emergency hearings shall be written and of limited duration of up to 30 days unless otherwise stated in the National Sovereign Bora Lore/Law and codes, or, shall stand only until a regular hearing with reasonable Notice is held.

Section 11. Search Warrants

The Gumbaynggirr National Sovereign Bora Court shall comply with a people/ Men, Women, 2Spirited Civil Rights in requiring Sovereign National search warrants when necessary to search for evidence under circumstances that would lead a reasonable person to believe that a civil violation was or is being committed. Suspicion unsupported by any facts is not sufficient. Search warrants shall specifically state how the search is to be done, what items are to be looked for, when the warrant expires, and whether or not the search may take place at night.

- A. Application for Search Warrants:** In order to do searches of people/ Men, Women, 2Spirited, houses, cars, or other private property, the Village Public Safety Officer (VPSO) or other person designated by the Sovereign Elders Council to conduct searches, shall fill out an Application for a Search Warrant. The application shall state why he or she believes a search warrant is needed. The application shall state the name of the person who saw or has knowledge of an illegal activity or item if it is the basis for reason to believe that a search is needed. The person/ Men, Women, 2Spirited applying for the search warrant shall swear that the statements in the application are true to the best of their knowledge.

- B. Issuing a Search Warrant:** The approval of three Gumbaynggirr National Sovereign Bora Court Judges/men, women or Elders Council shall be necessary to issue a search warrant. Any three (3) of the eight (8) Judges/Lore men, women or Elders Council may issue a warrant. The Judges/Men, women, or Elders Council must be convinced that the person/ Men, Women, 2Spirited applying for the Search Warrant has "Probable Cause," meaning evidence of circumstances that would lead

a reasonable person/ Men, Women, 2Spirited to believe that an offense was or is being committed.

Section 12. Juveniles

- A. Application of Gumbaynggirr National Sovereign Bora Loes/laws to juveniles:** The civil laws of the Nation and National Sovereign Bora Court procedures generally apply to juveniles the same as they do to adults, provided that specific ordinances may apply solely to juveniles and that a Gumbaynggirr National Sovereign Youth Bora Court may be established and operated under its own written procedures and Bora rites.
- B. Mothers, fathers and family members attending hearings:** In cases involving civil violations by minor children, written notification shall be given to the child of an upcoming hearing and written notification also given to mothers, fathers or family members. The Gumbaynggirr National Sovereign Bora Court may request a mother, father or family member to be present at their child's hearing, or, the Bora Court may request mothers, fathers or family members to leave a hearing if the Judges/Lore men, women or Elders Council believe that it is in the best interest of the child. The Bora Court may appoint a spokesperson for a minor child.

Section 13. Gumbaynggirr National Sovereign Bora Court Finances

- A. Accounting:** The Gumbaynggirr National Sovereign Parliament/Government shall establish a separate line item account for the finances of the Gumbaynggirr National Sovereign Bora Courts.
- B. Fees:** The Gumbaynggirr National Sovereign Bora Courts may charge fees to use the Bora Courts. Such fees shall be equal for equal types of cases and matters, and shall be made known to any person/ Men, Women, 2Spirited who wants to use, or file a Petition with, the Gumbaynggirr National Sovereign Bora Courts.

- C. Payment of fines or fees:** Fines or fees shall be paid in gold, silver, copper, bitcoin, cash, check, or money order. Checks or money orders shall be made out to the Gumbaynggirr National Sovereign Parliament/Government, and the Clerk shall issue a receipt.

Section 14. Beginning a Gumbaynggirr National Sovereign Bora Court Case

Cases generally begin by filing a Petition to use the Gumbaynggirr National Sovereign Bora Courts with the Gumbaynggirr National Sovereign Bora Court Clerk. The Petitioner shall write sufficient information about the circumstances and reasons why the Bora Court should take the case. Cases may also come to the Bora Court through referrals or transfer of jurisdiction from any other court. Upon receipt of a Petition, referral, or option to transfer a case, the Clerk shall schedule a meeting with the National Sovereign Bora Court Judges/Lore men and women to decide whether to take the case or not, and whether to refer a case involving juvenile delinquency to the Gumbaynggirr National Sovereign Youth Bora Court. A minimum of two Judges/Lore women or men at the hearing are necessary to make this decision.

- A. Decision to take a case:** If the decision is made by the Judges/Lore men, women and Elders Council to take the case, the Bora Court Clerk shall schedule a pre-hearing conference.
- B. Decision not to take a case:** If the decision is made not to take the case, the Bora Court Clerk shall write a letter of denial to the Petitioner, or referring entity, as soon as possible after the decision is made explaining why, leaving room for an appeal to be made.
- C. Pre-hearing conference:** Pre-hearing conferences shall be held to determine whether a panel style hearing or Justice Bora Circle shall be convened. If a Bora Circle is chosen the Judges/Lore men and women shall decide which Judge/Lore man and woman shall serve as the Bora Circle Leader and who the circle participants shall be. The Bora Court Clerk shall notify participants according to Section 15. If a panel is chosen, the Judges/Lore men and women shall identify which Judges/Lore men and women may have a conflict of interest with the case, and determine which Judges/Lore men and women shall hear

the case. Judges/Lore men and women that will be hearing the case shall decide who the presiding Judge/Lore men and women shall be and who shall review the case file.

- D. Setting a hearing date and time:** For initial hearings on a case, the Bora Court Clerk shall set a hearing date and time, and give the Petition and attachments along with Notice to all Parties and any other persons/ Men, Women, 2Spirited the Bora Courts requests in the Courtroom/Bora Ring for that case. The hearing shall be held no more than 30 days after a Respondent receives Notice, unless the Bora Courts decides there is good reason to postpone the hearing.

Section 15. Notice

- A. Notice for National Bora Court hearings:** Parties shall be given reasonable notice for all scheduled Gumbaynggirr National Sovereign Bora Court hearings. The Bora Court Clerk, or designee, shall personally serve or mail Notice, along with the Petition to all parties before the Bora Court hearings. In the case of emergency hearings Notice shall be given only to those parties reasonably available to receive it. The Notice shall be delivered at least ten (10) days or mailed at least fourteen (14) days before a hearing except as otherwise provided for in the Gumbaynggirr National Sovereign Bora Court Lore/Lore codes. A proof of service shall be filed or noted in the Bora Court file.
- B. Notice when hearings are rescheduled:** If the Bora Court changes the time of a hearing for any reason, the involved parties shall be given reasonable Notice of the rescheduled hearing. If a hearing is rescheduled, notification may be post mailed/emailed/hand delivered and noted in the case file.
- C. Notice for emergency hearings:** Notice for emergency hearings shall be given to parties who are reasonably available to receive Notice. If parties are not reasonably available to receive Notice, the Bora Court may hold a hearing without Notice being given with an option for appeal.
- D. Notice for witnesses:** Each party shall be responsible for serving Notice to their own witnesses, and giving the Gumbaynggirr National Sovereign Bora

Court Clerk reasonable notice that they have asked witnesses to attend a hearing. The Bora Court Clerk shall notify the other Parties of witnesses who have been asked to attend.

Section 16. Procedures for Panel of Judges/Lore men and women Bora Court Hearings

A. Opening a hearing: The presiding Judge/Lore men and women shall open the Bora Court hearing with a smoking ceremony and Gumbaynggirr word blessings in language from an Elder. The Presiding Judge/Lore men and women shall then:

- Ask the Bora Court Clerk to begin the recording.
- State the case number and the date, time, and place of the hearing.
- Ask all persons/ Men, Women, 2Spirited in the Bora Courtroom or at any zoom/video/teleconference sites to state their name and relationship for identification purposes for Case and Public Record.
- Ask how parties were notified of the hearing
- Determine if there are any parties who were notified but are not at the hearing. If a party was notified but is not at the hearing, the Bora Court may either proceed with the hearing or reschedule.
- Determine if there are any parties who should have been notified but were not notified. If it is determined that there is a party that was not notified, the hearing shall be rescheduled to allow reasonable notification.
- State the rights of all parties including the:
 - Right to be notified of court hearings in reasonable time
 - Right to copies of documents submitted to the court and court generated documents
 - Opportunity to be heard
 - Opportunity to present witnesses and evidence
 - Opportunity to question any witnesses
 - Right to a fair hearing
 - Right to request a Change of Order if new evidence or circumstances change in the case

- Right to appeal the final decision to the Gumbaynggirr National Sovereign Appellate Bora Courts
- Ask all parties to sign or swear an oath of truthfulness
- In cases that are closed to the public, all present at the hearing shall be instructed to maintain confidentiality outside the Gumbaynggirr courtroom proceedings.
- The Presiding Judge/Lore men and women shall then read the Petition to the Bora Court
- **Civil violations:** In cases of civil violations, the Respondent shall be asked how he or she pleads: guilty, not guilty, or no contest and the Presiding Judge/Lore men and women shall make sure the Respondent understands the pleas. The Respondent shall say what his or her plea is. If the Respondent pleads guilty or no contest, the Judges/Lore men or women may question the Respondent and any participants in the courtroom to gain information that will help them create an appropriate sentence during their deliberations. They may also counsel the Respondent at that time. If the Respondent pleads not guilty, the hearing shall be held at this time unless the Bora Court finds it appropriate to delay in order for parties to gather witnesses and evidence. If the Respondent is present but will not say anything, the Bora Court shall enter a plea of not guilty.

B. Hearing process: The Presiding Judge/Lore men and women shall generally maintain order in the courtroom and direct the order of speaking. Generally the Presiding Judge/Lore men and women will first ask to hear from the Petitioner and then from the Respondent. If anyone is connected to the hearing by zoom/video/teleconference, all hearing participants shall state their name prior to speaking, and any visual evidence presented to the court shall be described. Petitioners and Respondents may present witness and evidence in the order chosen by the Presiding Judge/Lore men and women. Each party shall be permitted to question each other and all witnesses. Judges/Lore men and women may question anyone in the Bora Rings/Courtrooms. When the Judges/Lore men and women determine that all parties have had sufficient opportunity to speak and present everything they feel is relevant to the case,

they shall ask everyone to leave the Bora Rings/Courtrooms while they deliberate.

- C. Deliberations:** Judges/Lore men and women shall take all evidence presented into consideration during their deliberations and make their decision by consensus if possible. If consensus is not possible, the decision shall be made by a majority vote. In cases of civil violations where a party entered a plea of not guilty, the Judges/Lore men and women shall decide if the information provided is sufficient to lead them to reasonably believe that the person is guilty. If so, then decide on an appropriate sentence from Section 18 of this ordinance.
- D. Decision in writing:** All decisions made by the Gumbaynggirr National Sovereign Bora Court shall be made in writing unless otherwise specified by ordinance.

Section 17. Procedures for Justice Bora Circles

Once the Gumbaynggirr National Sovereign Boar Court Judges/Lore men and women have decided that they want to use a Justice Bora Circle format for a particular case, they shall decide who the Bora Circle Leader and participants will be. The Gumbaynggirr National Sovereign Bora Court Clerk shall notify the parties and circle participants about the date, time, and place of Bora Court Circle hearing. The notice to the parties shall include a copy of the Petition.

- A. Opening a Bora Court Circle hearing:**
- The Bora Court Leader will open the Bora Court Circle with a smoking ceremony and Gumbaynggirr word blessings in language from an Elder.
 - The Bora Court Leader shall ask the participants to agree to keep what is said in the Bora Court Circle confidential: to be respectful of one another, to be truthful, and to work together towards a consensus
 - The Bora Court Leader shall state what the situation is that the Bora Circle will be hearing.

B. Bora Court Circle Process:

- The Bora Court Leader shall begin the Bora Circle by passing the talking stick or other special object around the Bora Circle clockwise and shall be responsible for keeping order in the Bora Circle should that become necessary.
- Only the person holding the talking stick may speak.
- If a person chooses not to speak they may pass the talking stick to the next person.
- The discussion of the Bora Circle shall continue in this manner unless the Bora Court Leader directs otherwise.
- The Bora Court Leader shall summarize the highlights of what has been said after each round of discussion.
- **Part One:** The talking stick shall be passed as many times around the Circle as needed for participants to voice their feelings, opinions, share information, and generally talk about the situation.
- **Part Two:** The Bora Court Leader shall begin the next rounds of discussion that shall focus on appropriate solutions and sentencing. Again, the talking stick shall be passed around as many times as necessary to come to a consensus on what the Order of the Bora Court shall be.

C. Concluding the Bora Court Circle:

- The Bora Court Leader shall state the final consensus of the Bora Court Circle, and make sure that it is an accurate summary of the Bora Court Circle's decision

- Before the Bora Court Circle adjourns, it shall set a date to reconvene the Bora Court Circle to examine the progress of a case if appropriate, or shall make a specific plan for how follow-up will be monitored.
- The Bora Court Leader and elder/elders must facilitate the ending of the Bora Court Circle by acknowledging the ancestors and the Bora Lore Rites, Maangun, in Gumbaynggirr language and ceremony.

D. **Decisions of Bora Court Circles:** Decisions of Justice Bora Court Circles shall be by consensus of the Bora Circle and shall be written as Orders of the Gumbaynggirr National Sovereign Bora Court. If a Bora Court Circle fails to come to consensus on a case, the case shall be referred back to a hearing panel of Gumbaynggirr National Sovereign Court Judges/Lore men, women and elders council.

Section 18. Options for Bora Court Orders and Sentences

The Bora Court may issue Bora Court Orders concerning child custody arrangements, domestic relations issues, and any other type of case where a Bora Court Order is appropriate. Unless the Gumbaynggirr National Sovereign Bora Court Code sets a specific penalty for a particular civil violation, the Gumbaynggirr National Sovereign Bora Court Judges/Lore men and women, either by themselves or through a Justice Bora Court Circle, shall determine the specific Bora Court Orders for a particular case. The Judges/Lore men and women may choose from the following options:

A. **Fines:** Fines for violation of a Gumbaynggirr National Sovereign Bora Court ordinance shall not exceed \$5,000 or equivalent work sentence. Fines may increase for successive violations of the same Bora Court ordinance. The Bora Court may garnish wages, permanent funds or dividend checks, request community service or confiscate property (village or regional) in cases of unpaid fines where the Men, Women, 2Spirited has been found guilty.

B. Community Service: Work sentences may include cutting wood or hauling water for the elders in the village/community, people in need of assistance in the village/community, or for the village/community in general. Sentences may include working in the school, building maintenance or repair, hauling and pumping fuel, and cleaning up trash in the Gumbaynggirr Nation. The National Sovereign Bora Court Judges/Lore men or women may order other types of community work as well. Community service sentences shall benefit the needy, the village/community residents as a whole, the Elders, the victim of an offense, the Bora Circle or the youth. Gumbaynggirr National Sovereign Bora Court Judges/Lore men and women shall not order work sentences that only benefit themselves personally or other National Sovereign government officials. Work sentences shall not displace Men, Women, 2Spirited employed in the village/community or employment opportunities. Work sentences shall be completed within 30 days unless otherwise directed by the Gumbaynggirr National Sovereign Bora Court.

Village/community work shall contribute \$20.00 per hour towards fines ordered by the Gumbaynggirr National Sovereign Bora Courts. Persons have the option of work sentences instead of paying a fine only if the Bora Court specifically permits it.

C. Impounding vehicles: Any vehicle that is used in driving while intoxicated, or reckless driving under the Gumbaynggirr National Sovereign Vehicle Lore/Law Code, is subject to be impounded. To get a vehicle out of impound, the owner shall pay \$175 for the first time the vehicle is impounded, \$250 for the second time, and \$350 for the third time. The fees may be paid by community service work hours if the Bora Court permits. Except in cases of vehicle theft, the owner is responsible for the impound fee even if the owner was not involved with the civil violation. The Gumbaynggirr National Sovereign Parliament/Government is not liable for any damages to vehicles while they are impounded.

- C. Banishment:** An Bora Court Order of temporary or permanent banishment shall only be used to protect the Village/Community and/or Village/Community Men, Women, 2Spirited from harm. The length of time a Men, Women, 2Spirited is banished shall be determined by the severity of the case or upon the completion of treatment that is ordered.
- D. Drug and Alcohol Treatment and Other Counselling:** The Gumbaynggirr National Sovereign Bora Court may order an assessment for drug and alcohol treatment and may require that the recommendations of the assessment be met. The Gumbaynggirr National Sovereign Bora Court may also order other personal counselling. The Gumbaynggirr National Sovereign Bora Court shall consider the cost to the Men, Women, 2Spirited and possible waiting periods for getting into treatment, when they order such treatment. The Parliament/Government may pay such costs if funding is available.
- E. Restitution:** The Gumbaynggirr National Sovereign Bora Court may order a Respondent to make restitution to his or her victims. Restitution is defined and may include payment of money, repairing property, community service and apologies. Restitution payment shall go through the Gumbaynggirr National Sovereign Bora Court Clerk. Non-monetary restitution shall be supervised by the VPSO or by another person designated by the Gumbaynggirr National Sovereign Bora Court.
- F. Counselling by Judges/Lore men and women and Elders:** The Judges/Lore men and women of the Gumbaynggirr National Sovereign Bora Court may counsel Men, Women, 2Spirited brought before them in a helpful spirit. The Gumbaynggirr National Sovereign Bora Court may bring Gumbaynggirr Elders into the Gumbaynggirr Bora Ring/Courtroom to counsel people.
- G. Traditional Activities:** The Gumbaynggirr National Sovereign Bora Court may order a Men, Women, 2Spirited found in violation of an ordinance to participate in seasonally appropriate traditional activities such as fish camps, trapping, hunting, culture camps, and other Nationally sponsored or approved traditional activities.

Section 19. Written Orders, Timeframe for Complying with Orders

- A. Written Orders:** All orders made by the Gumbaynggirr National Sovereign Bora Court shall be in writing unless otherwise specified by ordinance. All written Bora Court Orders and notations shall be filed in the case records. The Bora Court Clerk or other designated Men, Women, 2Spirited shall personally give or mail a copy of the Bora Court Order to all parties to the case and file a proof of service.
- B. Time frame for Complying with Bora Court Orders:** For cases involving civil violations all sentences shall be accomplished within 30 days after the Respondent has been notified of the Bora Court Order, unless the Bora Court provides otherwise. For other cases, the Bora Court Order shall specify timeframes for compliance.

Section 20. Request to Change a Bora Court Order

Parties may request the Bora Court for a hearing to consider changing a Bora Court Order. To make such a request, a Party shall file a Request to Change Order form with the Gumbaynggirr National Sovereign Bora Court Clerk. The request shall state the reason the Men, Women, 2Spirited /s believe a change should be made. The requesting Men, Women, 2Spirited /s shall present new evidence or information to the Bora Court Clerk to support the request. Upon receipt of a Request to Change the Order, the Bora Court Clerk shall schedule a meeting with the National Sovereign Bora Court Judges/Lore men and women to decide whether to hear the Request or not. A minimum of two Judges/Lore men and women is necessary to make this decision. The Bora Court may deny the request, or set a hearing date to consider it and notify all Parties.

Section 21. Proof of Compliance with Bora Court Orders

Records of proof of compliance with Bora Court Orders of the Gumbaynggirr National Sovereign Bora Courts shall be kept by the Bora Court Clerk in the Bora Court files. Parties shall have 30 days to complete the requirements of an Order unless otherwise specified in the Order. Proof that the action has been completed or undertaken shall be given to the Bora Court Clerk within 14 days of completion of the act unless otherwise specified by the Bora Court Order. The Bora Court Clerk shall certify the proof of compliance form. Payment of a fine to the Gumbaynggirr National Sovereign Bora Court Clerk and a receipt issued shall be proof in itself of payment. Financial restitution ordered to another party shall be made through the Bora Court Clerk of the Gumbaynggirr National Sovereign Bora Court. The Bora Court Clerk shall report any failures to comply with Gumbaynggirr National Sovereign Bora Court Orders to the Bora Court. Failure to comply with an Order of the Court in civil violation cases shall be considered contempt of court as described in Section 22 of this Chapter.

Section 22. Contempt of Bora Courts

- A. Reasons Persons may be found in Contempt of Bora Courts:** A person may be found in contempt of the Bora Courts if he or she:
1. Violates the Oath of Confidentiality, Fairness, and Impartiality;
 2. Fails to fully comply with an order of the Gumbaynggirr National Sovereign Bora Court;
 3. Lies to the Bora Court; and/or
 4. Disrupts Bora Court proceedings.
- B. Judges/Lore men and women in Contempt:** If a Judge/Lore men and women are the subject of contempt of Bora Court violations, that Judge/Lore men or women shall not participate in decisions concerning the matter. The remaining Judges/Lore men and women shall determine how to handle the matter based on the facts of the situation.

C. Confiscating Personal Property: The Sovereign Court may seize a person's personal property if that person is found in contempt of court by the Gumbaynggirr Sovereign Court, for not doing what the Gumbaynggirr Court has ordered. The property shall remain confiscated and under the care of the Sovereign Council until the person complies with the Court Order to the satisfaction of the Gumbaynggirr Sovereign Court. If the person does not comply with the Court Order within the time limits set by the Gumbaynggirr Sovereign Court, Gumbaynggirr Sovereign Court may take possession of, put up for auction or sell the confiscated property after providing at least 30 days notice of the proposed sale to the person.

CHAPTER 3 GUMBAYNGGIRR COURT OF APPEALS

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Section 1. Purpose of the Gumbaynggirr Court of Appeals

The Gumbaynggirr Court of Appeals is established to assure a fair judicial process in the Gumbaynggirr Sovereign government system. The purpose of the Gumbaynggirr Court of Appeals is not to re-hear cases, but to review cases that are appealed for possible inconsistent application of Sovereign law and/or violations of due process. The Gumbaynggirr Court of Appeals has discretion whether or not to take a case that is appealed. The Gumbaynggirr Court of Appeals shall take a case after reviewing records on the case from the Gumbaynggirr Sovereign Court, reviewing the Appeal, and making a preliminary determination that there is sufficient evidence that there may have been an inconsistent application of Sovereign law or a violation of due process.

Section 2. Structure of the Gumbaynggirr Court of Appeals

Here's one idea:

The Council shall appoint a panel of three Judges who are adult, resident members of the Gumbaynggirr Nation, provided that the parties approve the appointments. If the parties cannot agree with the appointment by the Council, a panel of three

Judges may be selected by a random drawing from a list of the adult resident Sovereign members, from which Council members, parties, and persons with conflicts of interest have been excluded. The provisions for conflict of interest found in Chapter 1, Section 7 also apply to Appellate Judges. Appellate Judges shall take the oath of confidentiality, fairness, and impartiality found in Chapter 1, Section 13 of this Code. The three Judges shall decide among themselves who the Presiding Judge shall be.

Other ideas:

- **If the Sovereign court is a separate body from the Sovereign council, the Sovereign council may be used as the Sovereign court • The Nation can appoint or elect a pool of appellate court judges**

Section 3. Clerk of the Gumbaynggirr Court of Appeals

The Clerk of the Gumbaynggirr Court of Appeals shall be the same person as the Gumbaynggirr Sovereign Court Clerk, unless the Gumbaynggirr Sovereign Council specifically designates another person due to availability or to conflict of interest.

Section 4. Beginning an Appeal

A person who wishes to appeal a case may file a Petition for Appeal with the Clerk of the Gumbaynggirr Court of Appeals within 30 days after receiving an Order from the Sovereign Court. Appeals filed after 30 days from the receipt of an Order shall not be considered. A person who is appealing a case shall be called the "Appellant."

Section 5. Petition for Appeal

The Petition for Appeal shall state the name and address of the person who is appealing the case, the name of the case, and case number. A copy of any written Order the Appellant is appealing shall be attached to the Petition for Appeal. The Petition for Appeal shall contain a statement of why the Appellant believes that the case should come before the Gumbaynggirr Court of Appeals.

Section 6. Appellate Court Procedure and Decisions

- A. Beginning a Case:** The Clerk shall notify the Gumbaynggirr Sovereign Council that an Appeal has been filed. The Clerk shall make copies of the Sovereign Court record of the case and the Petition for Appeal for the Court of Appeals. The Clerk shall set a date for the Court of Appeals to review these materials, and to determine if there is sufficient evidence that Sovereign law may have been inconsistently applied and/or if there may have been a violation of fundamental fairness. If the Gumbaynggirr Court of Appeals decides that there is not sufficient evidence, the decision of the Gumbaynggirr Sovereign Court stands, and no hearing is scheduled. If no hearing is held the Gumbaynggirr Court of Appeals shall issue an order to the Appellant stating that.
- B. Setting a Hearing Date:** Once the Gumbaynggirr Court of Appeals has completed a review of the case records and decided that it will hear a case, the Clerk shall set a hearing date and shall give all parties to the case Notice of the hearing. The Notice shall be personally delivered at least 10 days or mailed at least 14 days prior to a hearing, and proof of service filed or noted in the case records. At the hearing, all parties may discuss the issues written in the Appeal concerning whether or not the Sovereign Court made a mistake in applying Sovereign law or a mistake concerning fundamental fairness. The parties may only present new evidence in the appeal if the Appellate Court permits it.
- C. Decisions of the Appellate Court:** After the Gumbaynggirr Appellate Court hears a case, the Presiding Judge or Clerk shall fill out a Decision of Appeal that shall be filed in the Appeals Court record given to the Sovereign Court. The Clerk shall assure that all parties in a case receive a copy of the Decision of Appeal, and file a proof of service in the case records.

D. Options for Decisions of the Appellate Court: After finishing a hearing or hearings on a case, the Appellate Court shall take one of the following actions:

1. Uphold the procedures and decision of the Gumbaynggirr Sovereign Court;
2. Order the Sovereign Court to re-hear the case in a way that is consistent with specific instructions written in the Decision of Appeal; or
3. Dismiss the case in the most serious of circumstances.

CHAPTER 4_GUMBAYNGGIRR SOVEREIGN YOUTH COURT

STRUCTURE AND PROCEDURES

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Section 1. Purpose of the Gumbaynggirr Sovereign Youth Court

The Youth are the treasures of our **Nation** and hope for the future. The purpose of the Gumbaynggirr Sovereign Youth Court is to encourage responsible behaviour and choices among our Youth, to empower them to participate in decision-making when problems arise among their peers, and to preserve and promote the cultural values and practices of the Gumbaynggirr **Nation**. The sentences ordered by the Gumbaynggirr Sovereign Youth Court shall be designed to help and heal victims, wrongdoers, and the Village of Gumbaynggirr This Ordinance outlines the basic structure and procedures of the Gumbaynggirr Sovereign Youth Court, and is intended to provide a fair and equitable process that is consistent with the Gumbaynggirr Sovereign Constitution, Sovereign ordinances, the requirements of the Indian Civil Rights Act, and compatible with the unwritten laws and values of the Gumbaynggirr **Nation**.

Section 2. Authority to Establish and Operate the Gumbaynggirr Sovereign Youth Court

The Gumbaynggirr Sovereign Council has the authority to establish and operate a Sovereign court system under its inherent sovereignty as a federally recognized **Nation** and under Article 9 of the Gumbaynggirr Sovereign Constitution. The Gumbaynggirr Sovereign Council hereby establishes the Gumbaynggirr Sovereign Youth Court as part of the Gumbaynggirr Sovereign Court system.

Section 3. Jurisdiction of the Gumbaynggirr Sovereign Youth Court

The Gumbaynggirr Sovereign Youth Court shall have limited jurisdiction over health, safety, and welfare matters arising among the village Youth between and including the ages of 8 through 18 [**or some other age range**]. Those subjects include use of alcohol and illegal drugs, vandalism, trespass, misuse of firearms and other weapons, traffic violations, theft, assaults, harassment, disorderly conduct, and juvenile curfew. However, the Gumbaynggirr Sovereign Court may at any time, initially take, or take over a case when the complexity or seriousness of the situation warrants it.

Section 4. Beginning a Case by Petitioning or Referral

A. Beginning Cases by Petitions: A case may begin by anyone giving a Petition describing an incident, problem, or situation to the Gumbaynggirr Sovereign Court Clerk, or to any one of the Gumbaynggirr Sovereign Court Judges. Petition forms

shall be made available at the Sovereign Office. The person filing a Petition shall be called the Petitioner and may be asked to sit in the Circle on the case. The Clerk shall notify the Gumbaynggirr Sovereign court judges who do not have a conflict of interest with the case, and those available shall meet to review the petition and decide whether or not the Gumbaynggirr Sovereign Youth Court should hold a Justice Circle on the case. If so, they shall proceed to select Circle participants under Section 7(B) of this Ordinance. The Sovereign Court Clerk shall schedule a date for the Circle, and notify the parties.

Beginning cases through referrals: A case may begin by a referral from a state court judge or law enforcement officer, or by referral from another Sovereign court. The Clerk shall notify the Gumbaynggirr Sovereign court judges who do not have a conflict of interest with the case, and those available shall meet to review the petition and decide whether or not the Gumbaynggirr Sovereign Youth Court should hold a Justice Circle on the case. If so, they shall proceed to select Circle participants under Section 7(B) of this Ordinance. The Sovereign Court Clerk shall schedule a date for the Circle, and notify the parties.

Section 5. Determining Circle Participants and Leader of the Circle:

Circle participants and the Leader of the Circle shall be chosen by two adult Sovereign Court Judges plus two Youth. The two Youth shall be identified on a rotating basis from a list of village Youth, and shall not parties in the case or live in the same household as the wrongdoer coming before the Circle.

Section 6. Sovereign Youth Court Clerk

The Court Clerk for the Gumbaynggirr Sovereign Court shall also serve as the Clerk of the Gumbaynggirr Sovereign Youth Court, unless the Sovereign Council specifically designates another person. Duties of the Clerk may include:

- Receiving petitions or referrals filed with the Gumbaynggirr Sovereign Youth Court
- Answering the phone calls and receiving mail for the Youth Court
- Maintaining files for the Court and a Court calendar
- Helping to select Circle participants when asked to do so
- Notifying parties and Circle participants of Circle hearings

- Drafting the Sovereign court order based on the consensus of the Circle for the Leader of the Circle to sign
- Receiving Proof of Compliance with Sovereign Youth Court Order forms • Maintaining records of Youth Court finances

Section 7. Notification of Circle Hearings

The Sovereign Court Clerk shall notify the parties being accused of a wrongdoing and Circle participants about the date, time, place of Circle hearings. The notice to the parties shall include a copy of the petition or reason they are being brought to the Justice Circle, and shall state that if the parties believe they are being wrongly accused that they may immediately notify the Sovereign Court Clerk who will schedule a hearing before the regular Gumbaynggirr Sovereign Court. Notice for Justice Circles shall be given at least three days prior to the Circle date.

Section 8. Justice Circle Sovereign Youth Court

- A. Justice Circle:** The Gumbaynggirr Sovereign Youth Court shall be conducted through the use of Justice Circles.
- B. Choosing the Circle participants and Circle Leader:** Circle participants and the Leader of the Circle shall be chosen by two adult Sovereign Court Judges plus two Youth. The two Youth shall be identified on a rotating basis from a list of village Youth, and shall not parties in the case or live in the same household as the wrongdoer coming before the Circle.
- C. Circle Participants:** In general, participants of Justice Circles shall include all resident Youth between and including the ages of 8 and 18, who are in the Village at the time of the Circle. However, the adult Judges may decide that a particular Youth shall not sit in a specific Circle if it is in the best interest of the Youth or the Circle. The Sovereign Court Clerk shall be present at Circle hearings in order to write the decision of the Circle on an Order form. Circles may also include adult community members, parents, teachers, counsellors, and any other person who those choosing Circle participants decide should be in the Circle.
- D. Leader's Role for Opening and Conducting the Circle:**

- The Leader of the Circle shall begin the Circle process by opening the Circle.
- Opening the Circle may include a prayer or special comments from an Elder or someone in the Circle.
- The Leader shall ask the participants to agree to the Oath of Confidentiality and Fairness written in Section 8 of this Ordinance.
- The Leader shall outline the rules of the Circle and ask participants if there are any additional rules they would like to see the Circle go by.
- The Leader shall state what the situation is that the Circle will be hearing.
- The Leader shall begin the Circle by passing the talking stick or other special object.
- The Leader shall be responsible for keeping order in the Circle should that become necessary.
- The Leader shall summarize the highlights of what has been said after each round of discussion.
- The Leader shall state the final consensus of the Circle, and make sure that it is an accurate summary of the Circle's decision, and sign the written Order after the Sovereign Court Clerk has prepared it.

E. Basic Rules of the Circle: The most basic rule of the Circle is that persons shall have respect for one another. Only one person shall speak at a time, which shall be the person with the talking stick, or as directed by the Leader of the Circle. What is said in the Circle shall stay in the Circle, and shall not be discussed outside of the Circle.

F. Order of Speaking: Once the Leader has opened the Circle, he or she shall pass the talking stick around the Circle and participants shall speak only when they hold the stick. If a person chooses not to speak, they may pass the stick on to the next person in the Circle. The discussion of the Circle shall continue in this manner unless the Leader directs otherwise.

G. Process of the Circle: The first rounds of the Circle discussion shall be for participants to voice their feelings, opinions, share information, and generally talk about the situation. After these things are thoroughly aired, the Leader shall begin a new round of discussion focusing on appropriate solutions and sentencing.

- H. Decision of the Circle:** The decisions of the Circle shall be made by consensus. The discussion in the Circle shall proceed until everyone can stand behind the decisions being made. The decision of the Circle shall be written on an Order form by the Sovereign Court Clerk and signed by the Leader of the Circle. The decision shall include who shall do specific tasks that may be decided by the Circle, who shall Mentor the wrongdoer, and specify guidelines for the sentences decided.
- I. Mentors:** Specific adult mentors shall be assigned to oversee the progress of wrongdoers in completing their sentences. Mentors shall sign off on proof of compliance forms when wrong-doers complete tasks assigned in orders. Mentors shall report to the Sovereign Court Clerk if a wrongdoer fails to complete assignments made in orders within the allowed timeframe.
- J. Follow-up on Circle Orders:** Before a Circle adjourns a session, it shall make a specific plan for how follow-up will be monitored, and may set a date to reconvene the Circle to examine the progress of a case if appropriate. If a party is not complying with an Order of the Circle, the person may be brought before the Circle again, or the case may be referred to the Gumbaynggirr Sovereign Court.

Section 8. Oath of Confidentiality and Fairness

Participants of Circles shall agree to the following oath:

“I promise to not discuss what is said in this Circle outside this Circle. I will work towards a fair agreement about what should be done. “

Section 9. Failure to Appear for a Justice Circle

If a wrongdoer was served with a notice about a Circle hearing but fails to show up at for a Hearing, the Gumbaynggirr Sovereign Youth Court may make a decision in the absence of the person, send a designated adult to get the person if the person is in the Village, or set another Circle date.

Section 10. Creative Sentencing – Options for Orders

The Circle participants shall design sentences intended to help and heal victims, offenders, and the collective of Gumbaynggirr Nation. The Circle shall assign specific adult mentors to oversee the completion of sentences. The Circle may choose one or more from the following options:

- A. Community Service Work:** Work sentences shall benefit the needy, the village residents as a whole, the Elders, the victim of an offense, offenders, and/or the youth. Work sentences may include and are not limited to cutting wood, hauling water, doing laundry, or cleaning homes or yards for needy people or the community hall or church, working in the school, conducting village surveys, helping the VPO or VPSO **[if there is one]**, working with carpenters or other tradesmen in the village, working in the Sovereign or City Offices, participating in preparations for community events, building maintenance or repair and cleaning up trash in the Village of Gumbaynggirr Circle participants shall not order work sentences that only benefit themselves personally. Work sentences shall not displace persons employed in the Village or employment opportunities. Work sentences shall be completed within 30 days unless otherwise directed by the Court.
- B. Restitution:** The Circle may order a wrongdoer to make restitution to his or her victims or to the Village. Restitution is defined to include payment of money, repairing property, and apologies. Restitution payment shall go through the Gumbaynggirr Sovereign Court Clerk. Non-monetary restitution shall be supervised by the VPSO or by another person designated by the Circle.
- C. Apologies:** The Circle may order wrongdoers to make apologies to victims, parents or guardians, and/or to the whole Village at Sovereign meetings or gatherings. The Circle may specify if the apologies shall be in writing or oral or both.
- D. Essays and Presentations:** The Circle may order wrongdoers to write essays and/or to give presentations. The order shall specify the topics

for such essays and the minimum length. If a presentation is required, the audience such as the Sovereign Council, school, or Elders shall be specified.

- E. Organize Events or Fundraisers:** The Circle may order wrongdoers to organize or help organize events for the Youth and village residents organize or fundraisers for restitution or village projects.

- F. Counselling by Professional Counsellors, Judges, and Elders:** The Circle participants may counsel wrongdoers in a helpful spirit. The Circle may order professional counselling, as long as the counselling is available in the village, or counselling by specific Gumbaynggirr Elders. The Circle may also order peer counselling by specific peers, or participation in talking circles.

- G. Substance Abuse Awareness Sessions and Talking Circles:** The Circle may order participation in substance abuse awareness sessions or talking circles in the Village.

- H. Traditional Activities:** The Circle may order a person found in violation of an ordinance to participate in seasonally appropriate traditional activities such as fish camps, trapping, hunting, putting up fish or meat, culture camps, preparing Native foods, traditional crafts and Native language activities, and other Sovereignly sponsored or approved traditional activities.

Section 11. Proof of Compliance with Circle Orders and Failure to Comply

If a party is ordered to do something, the party shall file a Proof of Compliance form with the Sovereign Court Clerk within 7 days after completion of the order unless otherwise specified by the order. Mentors shall sign off on Proof of Compliance forms. Mentors shall notify the Clerk in the event the person they are mentoring does not complete the requirements of an order. The Clerk may schedule another Circle or report any failures to comply with orders to the regular Gumbaynggirr Sovereign

Court, schedule a Contempt of Court hearing, and provide notice to the party of the hearing.

Section 12. Appeals

The regular Gumbaynggirr Sovereign Court shall serve as the Appellate Court for the Gumbaynggirr Sovereign Youth Court. A Youth who wishes to appeal a case may file a Notice of Appeal with the Sovereign Court Clerk within 10 days after receiving an Order from the Gumbaynggirr Sovereign Youth Court. Appeals filed after 10 days shall not be considered.

CHAPTER 5_GUMBAYNGGIRR CROWN LAND, WATER, RESOURCES AND ENVIRONMENT COURT

Gumbaynggirr Crown Land, Water, Resources and Environment Court shall exercise full authority and power over all their Lands, Waters, Resources and Environments in accordance with allodial and International laws and covenants.

Under Article 23 of the UN Declaration on the Rights of Indigenous Peoples, Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

Article 25 of the UN Declaration on the Rights of Indigenous Peoples recognise the fact that Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

CERTIFICATE OF ADOPTION

This Gumbaynggirr Sovereign Judicial Code replaces any previously adopted judicial codes or ordinances adopted within the Gumbaynggirr Nation and is acting lawfully,

legally and within our inherent Sovereign Rights. By adopting this Judicial Code, it asserts we are conscious to the **true fact** that to this day, no genuine mutual agreements, contracts or treaties based on fairness or equality have been offered and reached between the collective Indigenous Peoples and the Australian Governments state or federal/commonwealth government, hence the reason why we are now establishing Courts to save and protect the Original Peoples of the Land and waters, their inherent rites, rights and freedoms so they receive justice, security, protection, safety, equal treatment and fairness in the legal, judicial and political system.

Gumbaynggirr Sovereign Court of Justice Chiefs and Council Members, are conscious that if any Nation or People are being persecuted in a way similar to that of Genocide, then they have every God-given right/rite to free themselves from such persecution using the international laws and courts available to them, to free them from oppression, racial discrimination, inequality, slavery, human rights violations, repression, ethnocide, denied rights, freedoms, self-determination, independence and more importantly so the Original Sovereign Nations can maintain their true and original identify as a Member of the Gumbaynggirr Nation, which makes up part of the other surviving Sovereign Nations still in existence since invasion.

Signature of Authorising Tribal Officer:

Witnessed by:

Date: