

TITLE 1 – GENERAL PROVISIONS

CHAPTER 1-6 PUBLIC RECORDS

1-6-1 Authority and Purpose

- (a) The authority for this Chapter is found in the CLUSI Const. Art. VI, Section 2.
- (b) The purpose of this Chapter is to set forth formal procedures for Tribal members to request and receive copies of, or access to, certain Tribal government records. The Tribal Council believes that Tribal members have an interest in accessing Tribal documents that affect them or that involve general Tribal government activities. At the same time, the Tribal Council also believes that the Tribal government has an interest in maintaining the sovereignty of Tribal government operations and in ensuring it does not compromise the reasonable confidentiality expectations of Tribal members and Tribal government in their records and activities.
- (c) The Tribal Administrator or his or her designee(s) shall be responsible for implementing this Ordinance. The policy and intent of this Ordinance shall be applied flexibly to accomplish reasonable access to Tribal records while protecting legitimate Tribal and Tribal member interests. The Tribal Administrator may impose reasonable restrictions on access to, or the use or distribution of Records.

1-6-2 Definitions

For purposes of this Chapter, the following terms shall be defined as follows:

- (a) "Law enforcement record" means a record related to the exercise of the authority granted to the Confederated Tribes of the Coos, Lower Umpqua & Siuslaw Indians Police Department under Chapter 644, Oregon Laws 2011.
- (b) "Tribal Administration" means the executive offices of the Confederated Tribes of Coos, Lower Umpqua & Siuslaw Indians, and does not include Tribal corporations, Tribal enterprises, or the Gaming Commission of the Tribes.
- (c) "Tribal member" means an enrolled member of the Tribes.
- (d) "Tribes" means the Confederated Tribes of Coos, Lower Umpqua & Siuslaw Indians and for the purposes of this ordinance does not include Tribal corporations, Tribal enterprises, or the Gaming Commission of the Tribes.
- (e) "Record" means any item, collection, or grouping of information that is created or maintained by the Tribes, in paper, electronic, or other recorded format.

1-6-3 Retention, Management and Destruction of Records

The Tribal Administrator shall adopt policies for the retention, management, and destruction of Records. In developing these policies, the value of Records for cultural, historical, legal, administrative, and research purposes will be considered.

1-6-4 Procedure for Access to or Copying of Tribal Records

(a) The Tribal Administrator or his or her designee(s) shall receive and act upon requests to view or obtain copies of Records. The Tribal Administrator shall adopt a Public Records Policy to implement this Ordinance, which shall include a fee schedule to be charged for the cost of responding to a request for Tribal Records.

(b) Tribal members requesting Tribal Records shall provide a written request to the Tribal Administrator on the form adopted for that purpose. The form shall require the requester to identify the Record requested with sufficient specificity to allow the Tribal Administrator to locate the Record.

(c) Upon receiving a form requesting access to or a copy of a Record and within a reasonable time, the Tribal Administrator shall send the requester a card, letter, or e-mail acknowledging receipt of the request.

(d) The Administrator shall consult with the Tribes' general counsel to determine whether the Records requested are exempt from disclosure under this Code or are available for viewing by the requester. The Tribal Administrator will notify the requester as to which of the requested Records, if any, are exempt from disclosure and which, if any, are available for viewing. The Administrator will also provide the requesting party with an estimate of the cost of producing the Records, as established by the fee schedule. The fee schedule shall be included on the form Tribal members use to request access to or copies of Records. Payment must be made prior to the production of any Records.

(e) The Tribal Administrator may request additional information from the requester to assist in locating the requested Record. The Tribal Administrator shall have no obligation to search for a Record if, in the Administrator's view, the request lacks sufficient information to allow the Administrator to locate the Record with reasonable effort.

(f) After the Tribal Administrator determines that there is sufficient information to locate a Record, the Administrator shall proceed within a reasonable period of time to obtain the Record for copying or review. In doing so, the Tribal Administrator shall avoid unduly interfering with the regular duties of Tribal employees and Officials that may be in possession of the requested Record.

(g) After conducting a reasonable search for a requested Record, the Tribal Administrator shall notify the Tribal member requesting access to or a copy of the Record that:

- (1) The Record is available for viewing and/or copying (or if not, the reason why it is not available); or
 - (2) Additional information is needed to locate the requested Record.
- (h) Inspection of Records shall be at the office of the Tribal Administrator or at another location at the Tribal offices during regular business hours. Unless otherwise allowed by the Tribal Administrator, Records may not be removed from their usual location.
- (i) If the requested Record is available on the Tribes' webpage, the Tribal Administrator shall refer the requestor to the webpage and shall have no further obligation to copy the Record or make it available for viewing.
- (j) The Tribal Administrator is not required to provide electronic versions of Records to requestors.
- (k) The Tribal Administrator shall report quarterly to the Tribal Council on the number of Record requests received, the number of requests satisfied, the costs of satisfying requests, and any recommendations for further legislative action.

1-6-5 Public and Exempt Tribal Records

- (a) In furtherance of the Tribes' policy to ensure to its members the right to know about the activities of Tribal government, Records are generally presumed to be available to the Tribal membership.
- (b) The following Records are exempt from public disclosure and are not available for copying or viewing:
- (1) Drafts or prior versions of a final record. Only Tribal records in their final form are available for public disclosure under the provision of this Code;
 - (2) Materials kept by the Tribe's Cultural Resources Department which the Department has identified as confidential. For example, the Department may identify records as confidential because they are personal in nature or relate to a non-public cultural site;
 - (3) Items which the Cultural Resource Department or Records Administrator determine are too fragile to be handled or copied;
 - (4) Library materials acquired and preserved solely for reference and research purposes;
 - (5) Publications received by the Tribes;
 - (6) Messages on voice mail or other telephone message storage and retrieval systems;

- (7) Electronic (e-mail) messages;
- (8) Calendars and schedules;
- (9) Records designated confidential by the Tribal Administrator, the Tribal Council or Tribal General Counsel;
- (10) Personal information, including telephone numbers, Social Security numbers, and home addresses;
- (11) Personnel, payroll, or other employment-related Records (provided that an individual may obtain copies of or view personnel Records relating to him or herself), except as expressly provided by Code;
- (12) Medical Records; including Dental and Mental Health Records;
- (13) Social Service Records relating to an individual;
- (14) Foster Care Records;
- (15) An individual's housing Records (provided that an individual may obtain copies of or view Records relating to him or herself);
- (16) Records related to any investigation, pending or threatened litigation, or administrative hearing;
- (17) Records from an executive session or other non-public meeting;
- (18) Records subject to attorney-client privilege or which might be considered attorney work product;
- (19) Records subject to a confidentiality provision;
- (20) Records subject to a court order preventing their disclosure;
- (21) Investment directives, strategies and actual investment holdings;
- (22) Member Services and Finance Department Records relating to an individual (provided that an individual may obtain copies of or view Records relating to him or herself);
- (23) Records related to the collection of debts to the Tribes;
- (24) Records related to a business or real estate transaction prior to a final decision on the transaction; and
- (25) Records, disclosure of which the Tribal Administrator, the Tribal Council, or Tribal General Counsel determines might divulge legal, political or business strategies.

1-6-6 Inspection of Tribal Records

(a) Right to view and copy Records:

(1) Only enrolled members of the Tribes have a right to view or obtain copies of Records, unless otherwise required by this Code.

(2) If a Tribal member, who is a party to a judicial or administrative proceeding to which the Tribes is also a party, makes a request to view or receive a copy of a Record that might relate to the proceeding, he or she must submit an original Records request in writing to the Tribal Administrator and, at the same time, a copy of the request to the Tribal General Counsel.

(b) Records Containing Both Exempt and Nonexempt Information: If any Record contains information which is available for copying or review under this Ordinance; as well as information which is exempt from disclosure, the Tribal Administrator shall separate the exempt and nonexempt information and make the nonexempt information available for copying or examination, through redaction or other means which makes clear that certain information has been withheld from disclosure.

1-6-7 Appeal of Denials

(a) If the Tribal Administrator denies the request for records, the requestor may, in a manner substantially similar to that provided in ORS 192.460 for petitions from denial of the right to inspect or copy public records of a body other than a state agency, petition the Tribal Chair to review the records to determine if they may be withheld from public inspection.

(b) If the Tribal Chair denies a petition to review denial of access to records, the requester may, in a manner substantially similar to that provided in ORS 192.450(2), institute proceedings in the Tribal Court to compel disclosure of the records.

(c) The Tribal Court may require production of the Record but may not grant any other relief.

1-6-8 Law Enforcement Records

(a) Notwithstanding any other provision of the Tribal Code, the Tribal Administrator shall treat all requests for law enforcement records, whether requested by a member or by a non-member, as though the records were held by the State of Oregon's Department of State Police and as though the request and records were subject to the provisions of ORS 192.410 to 192.505.

(b) If the Tribal Administrator denies the request for law enforcement records, the requestor may, in a manner substantially similar to that provided in ORS 192.460 for petitions from denial of the right to inspect or copy public records of a body other than a state agency, petition the Tribal Chair to review the law enforcement records to determine if they may be withheld from public inspection.

(c) If the Tribal Chair denies a petition to review denial of access to law enforcement records, the requester may, in a manner substantially similar to that provided in ORS 192.450(2), institute proceedings in the Tribal Court to compel disclosure of the records.

1-6-9 Sovereign Immunity

Nothing in this Code shall be construed to have waived the sovereign immunity of the Tribes, or tribal entity, department or program, or any tribal official or employee, except as specifically and explicitly described herein.

APPENDIX A
LEGISLATIVE HISTORY AND EDITORIAL CHANGES

PUBLIC RECORDS

LEGISLATIVE HISTORY AND EDITORIAL CHANGES

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians enacted the revised Public Records Code by Ordinance No. 092A at a Tribal Council meeting on October 24, 2012. Vote was 4 (for), 0 (against), 2 (absent) and 0 (abstaining).

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians enacted the Public Records Code by Ordinance No. 092 at a Tribal Council meeting on December 11, 2011. Vote was 6 (for), 0 (against), 1 (absent) and 0 (abstaining).

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