

NOTICE OF CODE ESTABLISHMENT

The following new proposed Code was passed for First Reading by Tribal Council on:
April 14, 2024

TITLE: 3 – OFFENSES

Chapter 3-4 Hunting, Fishing, Trapping and Gathering Code

The Tribal Council has approved the draft language to establish Chapter 3-4 Hunting, Fishing, Trapping and Gathering for First Reading; and

CLUSITC Chapter 3-4, In accordance with the Memorandum of Agreement between the Tribe and the Oregon Department of Fish and Wildlife dated September 20, 2003, Article II of the Tribal Constitution, and the Special Election vote held on October 22, 2022, the Tribal Council has the authority, desires to and does hereby establish this Hunting, Fishing Trapping and Gathering Code for the following purpose:

- (1) Pursuant to Article II of the Constitution of the Confederated Tribes of Coos Lower Umpqua and Siuslaw Indians (“CTCLUSI” or “Tribe”), the Membership of the Tribe has enacted the following Chapter of the Tribal Code to regulate hunting, fishing, trapping, and gathering activities; and
- (2) The Tribal membership recognizes that natural resources are cultural resources, and that the sustainable harvest of those natural resources by Tribal Members is essential to maintaining the Tribe’s customs and traditions.; and
- (3) The purpose of this Chapter is to effectuate the Tribe’s tradition, practiced since time immemorial, of stewardship and sustainable harvest practices to ensure a harvestable abundance of natural resources into perpetuity.

Tribal Council hereby approves the establishment of Chapter 3-4 Hunting, Fishing, Trapping and Gathering Code and hereby approves for first reading draft be posting for a twenty-eight (28) day period. Draft language as set out in the attached **Exhibit A** (deleted text is red and ~~stricken~~ and new text is blue and underlined),

DATE OF THE TRIBAL COUNCIL MEETING AT WHICH THE PROPOSED CODE IS EXPECTED TO BE CONSIDERED FOR SECOND READING FINAL PASSAGE:

July 14, 2024

The notice of the proposed amendment/creation of Code/Ordinance shall be published in the Tribal Newsletter and the text will be posted for public comment for twenty-eight (28) days in the Administration Building, Tribal Hall, Outreach Offices, on the Tribes’ website and at Three Rivers Casino (Office of the Gaming Commission). **Written comments should be sent to the Tribal Council in care of Jeannie Miller, CTCLUSI, 1245 Fulton Avenue, Coos Bay OR 97420 or email: jmiller@ctclusi.org.**

TITLE 3– OFFENSES

CHAPTER 3-4 – HUNTING, FISHING, TRAPPING, AND GATHERING

3-4-1 Intent, Purpose and Policy.

- (a) Pursuant to Article II of the Constitution of the Confederated Tribes of Coos Lower Umpqua and Siuslaw Indians (“CTCLUSI” or “Tribe”), the Membership of the Tribe has enacted the following Chapter of the Tribal Code to regulate hunting, fishing, trapping, and gathering activities.
- (b) The Tribal membership recognizes that natural resources are cultural resources, and that the sustainable harvest of those natural resources by Tribal Members is essential to maintaining the Tribe’s customs and traditions.
- (c) The purpose of this Chapter is to effectuate the Tribe’s tradition, practiced since time immemorial, of stewardship and sustainable harvest practices to ensure a harvestable abundance of natural resources into perpetuity.

3-4-2 Definitions.

In this Chapter, the following terms shall have the following meanings:

- (a) “Authorized Enforcement Personnel” means duly commissioned CTCLUSI law enforcement officers or such other law enforcement officers as the Tribal Council may commission to enforce this Chapter.
- (b) “Closed Season” means all the time during the entire calendar year excepting the “Open Season” as specified by the Regulations.
- (c) “Defendant” means any person who is issued a Notice of Violation under authority of this Chapter.
- (d) “Drone” means:
 - (1) An unmanned flying machine;
 - (2) An unmanned Vessel; or
 - (3) Any other vehicle that can operate in the air, in or under the water or on land, either remotely or autonomously, and without a human occupant.
- (e) “Fish,” when used as a noun herein, means all species of trout, salmon, bass, walleye, perch, crappie, and any other fish species which exists within the Reservation.

- (f) “Fish,” when used as an adjective or verb and its derivatives, “fishing, fished, etc.” means any effort made to Take Fish.
- (g) “Fur-Bearing Animals” means beaver, bobcat, raccoon, otter, muskrat, mink, marten, weasel, red fox or gray fox, and any similar animal.
- (h) “Game Animals” means bear, deer, elk, moose, silver, gray squirrel, rabbit, and any similar animal.
- (i) “Gathering” means the harvest of shellfish and invertebrates. “Gathering” does not include the collection of archaeological resources or human remains. For the purpose of this Chapter, “gathering” does not include the collection of plants, mushrooms, wood products, minerals, soil, or rocks.
- (j) “Hunt” means to Take or attempt to Take any Fur-Bearing Animals, Game Animals, Predatory Animals, Migratory Game Birds or Upland Game Birds by means involving the use of a weapon or with the assistance of any mammal or bird.
- (k) “Migratory Game Birds” shall include, means anatidae (waterfowl), rallidate (rails, coots, etc.), limncolne (shore birds), or any similar bird.
- (l) “Open Season” means the time specified by the Regulations when it is lawful to Fish, Hunt, or Trap.
- (m) “Predatory Animals” means bobcat, skunk, lynx, cougar, coyote, badger, ground squirrel, gopher, mole, jack rabbit, wild housecat, wild dog, or any similar animal.
- (n) “Raptor” means a bird of prey, including an eagle, hark, falcon, or owl.
- (o) “Regulations” means regulations enacted by the Tribe.
- (p) “Take” means to kill or obtain possession or control of any Fish, Fur Bearing Animal, Game Animal, Predatory Animal, Migratory Game Bird, or Upland Game Bird.
- (q) “Trap” means to take or attempt to take any Wildlife by means involving the use of a trap, net, snare or other device used for the purpose of capture.
- (r) “Tribal Council” means the elected governing body of the Tribe as prescribed by the Tribe’s Constitution.
- (s) “Tribal Lands” means the lands owned by the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians.
- (t) “Tribal Member” means any person who is enrolled in the Tribe.

- (u) “Tribe” means the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians.
- (v) “Upland Game Birds” means Chukar, Blue Grouse, California Quail, Chinese Pheasant, Hungarian Partridge, Native Pheasant (Ruffed Grouse), or any similar bird.
- (w) “Vessel” means any structure used for navigation on water including but not limited to a motorboat, sailboat, raft, canoe, and kayak.
- (z) “Wildlife” means any Fish, Fur Bearing Animals, Game Animals, Upland Game Birds, or Migratory Game Birds.

3-4-3 Establishment of Seasonable Requirements and Regulations.

The Tribal Council shall:

- (a) Review components of plans and policies which may affect the exercise of hunting, fishing, or gathering by Tribal Members. Approval of such plans and policies by the Committee satisfies the requirements of Article II of the Constitution.
- (b) Promulgate Regulations governing Hunting, Fishing, Trapping, and Gathering, which shall be based upon technical input of the Tribe’s Natural Resources, Culture, and Forestry staff and Authorized Enforcement Personnel, and which shall be consistent with the intent, purpose and policies of this Chapter.

3-4-4 Duties of Authorized Enforcement Personnel.

Duties of Authorized Enforcement Personnel shall include:

- (a) Patrolling areas where and when violators might be expected to be or are suspected of being engaged in unlawful activities.
- (b) Cooperation with Federal and Oregon state enforcement officers in apprehension of violators.
- (c) Enforcing all provisions of this Chapter, and any rules and regulations promulgated thereunder.
- (d) Carrying out any other duties delegated under this Chapter, and any rules and regulations promulgated thereunder.

3-4-5 General Enforcement Provisions.

- (a) Jurisdiction.

- (1) Authorized Enforcement Personnel, and such other Tribal Entities as are designated by Tribal Law, shall have absolute, original, and exclusive jurisdiction to regulate and adjudicate all matters pertaining to Hunting, Fishing, Trapping, and Gathering activities upon the Reservation.
 - (2) The Tribal Court shall have exclusive jurisdiction over all Notices of Violation issued pursuant to this Chapter and any rules and regulations promulgated thereunder, except as this Chapter or other applicable law otherwise provides.
- (b) Notice of Violation; Adjudication.
- (1) All violations relating to this Chapter and rules and regulations promulgated thereunder shall be considered civil in nature and shall be adjudicated in the Tribal Court.
 - (2) A cause of action shall be initiated by the issuance of a Notice of Violation by Authorized Enforcement Personnel or the Tribal Attorney to a Defendant upon probable cause to believe that a violation of this Chapter or rules and regulations promulgated thereunder, has occurred.
 - (3) The Notice of Violation shall contain a short plain statement of facts that establishes that the Defendant has violated a requirement of this Chapter or rules and regulations promulgated thereunder.
 - (4) The Notice of Violation shall command the Defendant to appear before the Tribal Court no more than 30 days from issuance of the Notice of Violation, for a hearing to determine whether the Tribe has proven, by a preponderance of the evidence, that the Defendant has violated a requirement of this Chapter or rules and regulations promulgated thereunder.
 - (5) If the Tribal Court determines that a violation has occurred, the Defendant shall be assessed a civil fine not to exceed five hundred dollars (\$500) per violation.
 - (6) If the Tribal Court determines that a violation has occurred, the Tribal Court may order forfeiture of property used in commission of the violation pursuant to section 3-4-8 of this Chapter.
 - (7) If the Tribal Court finds that a violation has occurred, the Tribal Court may suspend or revoke the Defendant's right to hunt, fish, trap, or gather.
 - (8) If the Court finds that a violation of this Chapter has occurred, the Court shall order the Defendant to pay any resulting damages to the Tribe that the Tribe establishes with reasonable probability.

3-4-6 Representation of the Tribe. The Tribal Attorney or Authorized Enforcement

Personnel may represent the Tribe in all actions arising under this Chapter.

3-4-7 Federal or State Prosecution.

- (a) Nothing in this Code shall be deemed to preclude the federal prosecution under 18 U.S.C. § 1165 of Non-Members who trespass on the Reservation.
- (b) Nothing in this Chapter shall be deemed to preclude federal prosecution of violators under 18 U.S.C. § 1163 for theft of Tribal assets or any other federal law designed to protect Tribal Wildlife, water or other natural resources.
- (c) Authorized Enforcement Personnel or the Tribal Attorney may follow the procedure provided by applicable law to initiate federal or Oregon state prosecution in addition to or in lieu of any other enforcement procedure provided for by this Chapter.

3-4-8 Seizure and Disposition of Wildlife, Gear and Equipment.

- (a) Seizure. Authorized Enforcement Personnel may seize any Wildlife, gear, weapons, equipment, or other property used in the commission of a violation of this Chapter or rules and regulations promulgated thereunder.
- (b) Inventory and Storage. Any gear, weapons, equipment, or other property seized pursuant to this Section shall be inventoried and stored in a secure place until disposed of by order of the Tribal Court. A copy of the inventory shall be provided to the known owner at or near the time of seizure.
- (c) Unclaimed Property. Wildlife, weapons, gear or other property seized under this Section, and for which there is no known owner, shall be inventoried and stored in a secure place until disposed of by order of the Tribal Court.
 - (1) A notice describing the property and the time and place of seizure shall be posted at the Administration Building, Tribal Hall, Outreach Offices, on the Tribe's website and at the Three Rivers Casinos.
 - (2) The notice shall state that persons wishing to claim the property must do so by filing a written claim with the appropriate Authorized Enforcement Personnel within 45 days of the date the notice was posted.
 - (3) Authorized Enforcement Personnel shall file a copy of the claim with the Tribal Court and shall advise the claimant of his/her right to petition the Court for release of the property.
 - (4) Property for which written claim is filed shall not be disposed of except by order of the Tribal Court.

- (5) If property seized under this section is not claimed within 45 days of the posting of the notice, the property may be sold or otherwise disposed of for the benefit of the Tribe upon order of the Tribal Court.
- (d) Presumption of Owner's Use. Unattended Wildlife, weapons, or gear used in violation of this Chapter or rules and regulations promulgated thereunder and seized under this Section shall be presumed to have been placed by its owner in the location where it was seized.
- (e) Disposition of Seized Property.

 - (1) If the Tribal court determines that property shall be released the Court shall order immediate return of the property.
 - (2) If a person is found to have violated a provision of this Chapter or regulations promulgated thereunder, the Court may order forfeiture to seized property, however, the violator shall be given the opportunity to present evidence to the Court as to why the forfeiture would be inequitable or produce a substantial hardship.

3-4-9 General Protective Provisions.

- (a) Hunting, Fishing and Gathering Rights of Members. Tribal Members have a right to Hunt, Fish, Trap, and Gather pursuant to the requirements of this Chapter and the Regulations promulgated thereunder. At all times, any member who is engaging in hunting, fishing, trapping, or gathering shall carry an original of their annual tribal hunting and fishing license and any tribally authorized licenses, tags, or other permits showing that the Tribe has authorized harvest of that species and will present the same to Authorized Enforcement Personnel and to State or Federal law enforcement upon request. Tribal Members must be familiar with the requirements of this Code and of all Regulations promulgated thereunder.
- (b) Geographic Scope of Hunting, Fishing, Trapping, and Gathering. Authorized hunting, fishing, trapping, and gathering under this Chapter is limited to areas identified in rules and regulations within Tribally-owned lands and within the following Oregon Department of Fish and Wildlife Management Units: Units 1 (Crater Lake NP, that portion in Douglas County), 14 (Trask, that portion on Lincoln), 15 (Willamette, that portion in Lane County), 17 (Scott Mountain, that portion in Lincoln County), 18 (Asea, those portions in Lane and Lincoln Counties), 19 (McKenzie, that portion in Lane County), 20 (Siuslaw, those portions in Douglas and Lane County), 21 (Indigo County, that portion in Lane County), 22 (Dixon, that portion in Douglas County), 23 (Melrose, those portions in Douglas and Lane County), 24 (Tioga, those portions in Coos and Douglas Counties), 25 (Sixes, those portions in Coos and Curry Counties), 26 (Powers, those portions in Coos and Curry Counties), 27 (Chetco, that portion in Curry County), 29 (Evans Creek, that portion in Douglas

County), 30 (Rogue, that Douglas County), 34 (Upper Deschutes, that portion in Lane County), and 77 (Fort Rock, those portions in Douglas and Lane County).

- (c) Possession of Wildlife Killed or Taken in Violation of Tribal Law. It shall be unlawful for any person to have in their possession any Wildlife that said person knows or should under the circumstances know was killed or taken in violation of any of the provisions of this Chapter or applicable Regulations.
- (d) Hunting, Fishing or Trapping While Intoxicated. It shall be unlawful for any person to Hunt, Fish or Trap while under the influence of drugs or alcohol.
- (e) Interference with Tribal Signs. It shall be unlawful for any person to destroy, tear down, shoot at, deface or erase any printed matter or signs placed or posted to effectuate the enforcement of this Chapter or rule or regulations promulgated thereunder.
- (f) Possession in Field of Skinned or Plucked Wildlife in a Manner that Prohibits Determination of Sex, Size or Species. It shall be unlawful for a person to possess in the field or forest, or in transit from the field or forest, the carcass of any Wildlife that has been skinned, plucked or mutilated in any manner so that the sex, size or species of the Wildlife cannot be determined.
- (g) Waste of Wildlife.

 - (1) It shall be unlawful to waste any edible portion of any Wildlife.
 - (2) A person may not remove the following parts from the carcass of any Wildlife and utilize only those parts so removed:

 - (A) from the carcass of any game mammal or game bird, the head, antlers, horns, hide or plumage;
 - (C) from the carcass of a black bear or cougar, the paws, gallbladder, sex organs or bones.
 - (C) from the carcass of a sturgeon, salmon or steelhead, the eggs.
- (h) Making Toxic Substances Accessible to Wildlife. It shall be unlawful to place any toxic substance where it is accessible to Wildlife unless the substance used and the method of application is approved by the Committee.
- (i) Aiming or Shooting a Firearm from a Moving Motor Vehicle. It shall be unlawful for a person who is an occupant of a motor vehicle that is moving to aim or fire a firearm from the moving motor vehicle.
- (j) Aiming or Shooting a Firearm from a Motor Vehicle. No person who is the occupant

of a motor vehicle that is moving on a road open to the public shall aim or shoot a rifle or other firearm from the motor vehicle at a time when the hunting of wildlife is lawful.

3-4-10 Youth Hunting Restrictions.

Hunting by eligible youth under the age of 18 shall be subject to the requirements of the Regulations. Unless otherwise provided in the Regulations, eligible youth less than 18 years of age are required to wear a hat or exterior garment of fluorescent orange, visible from all directions.

3-4-11 Elder Assistance.

Enrolled Tribal Elders 55 years of age or older can be assisted in harvesting an animal for which the Tribal Elder has a valid tag. The assisting person may be: (1) an enrolled member of CTCLUSI 12 years of age or older; (2) the spouse of the Tribal Elder regardless of enrollment status; or (3) the Tribal Elder's blood related or legally adopted son, daughter, grandson, granddaughter, niece, nephew, or sibling of at least 12 years of age regardless of enrollment status. The Tribal Elder and assisting person must remain within 50 feet of one another while hunting.

3-4-12 Use of Dogs to Hunt or Track Game Mammals or Birds.

- (a) Any dog that is not wearing a collar with a license issued by the Tribe or the State of Oregon that is found unlawfully hunting, running or tracking any game mammal or game bird may be killed at such time by any person authorized to enforce the wildlife laws.
- (b) If a dog that is found unlawfully hunting, running, or tracking any game mammal or game bird is wearing a collar with a license issued by the Tribe or the State of Oregon, the owner of the dog shall be notified by any person authorized to enforce the wildlife laws. If the owner or reputed owner of the dog disclaims ownership of the dog, the dog may be killed at such time by a person authorized to enforce the wildlife laws.
- (c) If the owner of a dog has been notified that the dog has been found unlawfully hunting, running or tracking game mammals or game birds and thereafter fails to prevent the dog from unlawfully hunting, running or tracking game mammals or game birds, such dog may be killed by any person authorized to enforce the wildlife laws.

(d) No person shall permit any dog the person owns to unlawfully hunt, run or track any game mammal or game bird.

3-4-13 Hunting or Assisting Others to Hunt or Locate Game Animals or Birds by Aircraft Prohibited.

(a) A person may not:

(1) Hunt game mammals or game birds from or with the aid of an aircraft.

(2) Transmit from an aircraft to a person not in the aircraft information regarding the location of any game mammals or game birds.

(3) Otherwise use an aircraft to assist another person in hunting or locating game mammals or game birds for the purpose of hunting.

(b) A person may not hunt any game mammal within eight hours after having been transported by aircraft to or from any place other than a recognized airport that the Oregon Department of Aviation has licensed as a public use airport, registered as a personal use airport or specifically exempted from licensing or registration.

(c) Notwithstanding this section, the Tribe or its agents may conduct wildlife management activities necessary for scientific research or, in emergency situations, to protect human safety, wildlife species or property by:

(1) Hunting game mammals or game birds from or with the aid of an aircraft; or

(2) Transmitting from an aircraft information regarding the location of any game mammal or game bird.

3-4-14 Use of Drones for Pursuit of Wildlife Prohibited.

(a) It shall be unlawful to use drones for the following purposes:

(1) Fishing;

(2) Hunting;

(2) Trapping;

- (3) Aiding angling, hunting or trapping with drones to harass, track, locate or scout wildlife; and
- (4) Interfering in the acts of a person who is lawfully angling, hunting or trapping.
- (b) Nothing in this Chapter shall be construed to prohibit Authorized Enforcement Personnel or other Tribal governmental staff from the use of drones in the performance of their official duties.

3-4-15 Hunting with Artificial Light Restricted.

- (a) No person shall hunt wildlife with the aid of any artificial light.
- (b) The Tribe may authorize hunting with the aid of artificial light for the purpose of taking raccoon, opossum or bobcat or to alleviate damage by wildlife to other resources.

3-4-16 Shining artificial light on Game Mammal, Predatory Animal, or Livestock While in or near Motor Vehicle and while in Possession of Weapon Restricted.

- (a) No person shall cast from a motor vehicle or from within 500 feet of a motor vehicle an artificial light upon any game mammal, predatory animal or livestock while there is in the possession or in the immediate physical presence of the person a weapon with which the game mammal, predatory animal or livestock could be killed.

- (b) Subsection (a) does not apply to a person who casts artificial light upon a game mammal, predatory animal or livestock:

- (1) From the headlights of a motor vehicle that is being operated on a road in the usual manner, if that person makes no attempt to kill the game mammal or livestock; or
- (2) When the weapon that person has in the possession or immediate physical presence of the person is disassembled or stored, or in the trunk or storage compartment of a motor vehicle; or
- (3) On land owned or lawfully occupied by that person; or
- (4) On publicly owned land when that person has an agreement with the public body

to use that property.

3-4-17 Hunting, Fishing, or Trapping in Certain Areas Restricted.

- (a) No person shall fish, hunt, or trap in areas closed to such activities by the Tribe, the State of Oregon, or any federal agency.
- (b) Except as provided below, no person shall hunt or trap within the boundaries of any city, public park, cemetery, or on any school lands.
- (c) No hunting or trapping shall be allowed on any lands within the boundaries of any city, public park or on any school lands unless:
 - (1) The governing body or other agency that administers the affairs of the city, public park or school authorizes such hunting or trapping; and
 - (2) The Tribe authorizes uses of such lands.

3-4-18 Use of Dogs or Bait to Hunt Black Bears or Cougars.

- (a) A person may not use bait to attract or take black bears or use one or more dogs to hunt or pursue black bears or cougars.
- (b) Nothing in section prohibits the use of bait or one or more dogs by employees or agents of the Tribe while acting in their official capacities.
- (c) For the purposes of this section, "bait" means any material placed for the purpose of attracting or attempting to attract bears.

3-4-19 Trap check requirements.

- (a) A person may not set a trap for fur-bearing mammals without checking the trap at least once during each 48-hour period.
- (b) A person may not set a trap for a predatory animal without checking the trap on a regular basis.

3-4-20 Use of Electricity or Foreign Substances to Take Game Fish Prohibited.

(a) No person shall:

- (1) Use in any body of water any electric current that may attract, frighten, retard, stun, kill or obstruct the movement of any game fish.
- (2) Place in any body of water any foreign substance such as blood or fish offal or any gas, chemical, drug or powder that may attract, frighten, retard, stun, kill or obstruct the movement of any game fish.
- (3) Use any body of water any explosive device for the purpose of taking game fish.

(b) No person shall possess any game fish that the person knows or has reason to know was taken in violation of this section.

3-4-21 Angling from Fishways Restricted.

No person shall trespass upon or angle from any fishway or angle within an area of a body of water bounded by a line extending across the body of water 200 feet above the upper end of a fishway and a line across the body of water 200 feet below the lower end of a fishway.

3-4-22 Severability.

If a court of competent jurisdiction finds any provision of this Chapter to be invalid or illegal under applicable federal or tribal law, such provision shall be severed from this Chapter and the remainder of this Chapter shall remain in full force and effect.

HUNTING, FISHING, TRAPPING, AND GATHERING E

LEGISLATIVE HISTORY AND EDITORIAL CHANGES

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians enacted the Hunting, Fishing, Trapping and Gathering by Resolution – 24-053 on April 14, 2024, for a 28 – day comment period. Vote was 7 (for), 0 (against), 0 and 0 (abstaining).

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