# TITLE 1 - GENERAL PROVISIONS

## CHAPTER 1-1 TRIBAL COURT

## ESTABLISHMENT AND JURISDICTION

1-1-1 to 1-1-20 Reserved for Expansion

1-1-21 Establishment

The judicial power of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians (Tribes) of Oregon is vested in the Tribal Court, and such divisions thereof as the Tribal Council may from time to time authorize by statute, and the Tribal Court of Appeals.

1-1-22 Tribal Court

(a) The Tribal Court may hear and decide cases and controversies as provided by Tribal law. Final decisions and orders of the Tribal Court are subject to review by the Tribal Court of Appeals when provided in this Code. Failure to legislate in any particular area shall not be deemed a cession of authority to any other government's jurisdiction.

(b) Contempt Power: The Tribal Court shall have the power to punish for contempt in a manner consistent with the laws of the State of Oregon, except that contempt shall be civil only and not punishable by imprisonment.

1-1-23 Criminal Jurisdiction

The Tribal Court chooses not to exercise its right of criminal jurisdiction over any American Indian or Alaskan Native found within the jurisdiction of the Tribes and accused by the Tribes of the commission of a criminal offense until such time as the Tribal Court establishes a criminal code of offenses.

1-1-24 Civil Jurisdiction

(a) The Tribal Court shall have jurisdiction of all suits wherein the parties are subject to the jurisdiction of this Court, and over all other suits which are brought before the Court by stipulation of parties not otherwise subject to Tribal jurisdiction.

(b) To the fullest extent possible, not inconsistent with federal law, the Tribes may exercise through this Court their civil, regulatory and adjudicatory powers, including all common law writs. These powers include, but are not limited to:

(1) The regulation, through taxation, licensing, or other means, the activities of nonmembers who enter consensual relationships with the Tribes or their members, through commercial dealing, contracts, leases, or other arrangements; and

(2) The exercise of civil authority over the conduct of non-Indians on Tribal lands when that conduct threatens or has some direct effect on the political integrity, the economic security or the health or welfare of the Tribes.

(c) To the fullest extent possible, not inconsistent with federal law, the Tribal Court may exercise subject matter and personal jurisdiction. The jurisdiction over all persons of the Tribal Court may extend to and include, but not by way of limitation, the following:

(1). All persons found within the jurisdiction of the Tribes.

(2). All persons subject to the jurisdiction of the Tribal Court and involved directly or indirectly in:

(A). The transaction of any business within the jurisdiction of the Tribes;

(B). The ownership, use or possession of any property, or interest therein, situated within the jurisdiction of the Tribes;

(C). The entering into of any type of contract within the Reservation or herein any aspect of any contract is performed within the jurisdiction of the Tribes;

(D). The injury or damage to property of the Tribes or a Tribal member.

(d) As used in this section, "person" means an individual, organization, corporation, governmental subdivision or agency, business trust, estate, trust, partnership, association, joint venture or any other legal or commercial activity. Nothing in this chapter waives any aspect of the Tribes sovereign immunity or related privileges.

1-1-25 Exclusive and Concurrent Jurisdiction

The jurisdiction of the Tribal Court, as set out in CLUSITC 1-1-23 and 1-1-24, is exclusive except:

(a) As may be provided otherwise by federal statute or the final order of a federal court; or

(b) Where implementation of federal law, by Tribal agreement or otherwise, requires that Tribal Court jurisdiction be concurrent with that of the courts of the State of Oregon, and where Tribal statute expressly sets forth such concurrence.

1-1-26 to 1-1-30 Reserved for Expansion

## TRIBAL COURT JUDGES

### 1-1-31 Number and Compensation

The Tribal Court shall be presided over by a Chief Judge whose duties may be part-time but regular and permanent. Additional part-time or temporary Judges may be employed as required. Tribal Judges shall be compensated at a reasonable hourly rate as established by written contract with the Tribes and executed by the Tribal Council Chairman. No Tribal Judge's compensation shall be diminished during the term of the Judge's office.

### 1-1-32 Appointment

(a) A Chief Tribal Court Judge shall be appointed by a majority of a quorum of the Tribal Council for a term of two (2) years and shall be eligible for reappointment. A vacancy of the Chief Tribal Court judgeship shall be filled by appointment by a majority of a quorum of the Tribal Council for the balance of the unexpired term.

(b) Temporary Tribal Court Judges may be appointed on a case-by-case basis by the Chief Tribal Court Judge provided notification of appointment is provided to the Tribal Council.

(c) A person shall be eligible to serve as a Tribal Court Judge only if the person: (1) has never been convicted of a felony under state or federal law; (2) has never been convicted of a serious tribal crime; and (3) has not, within one (1) year prior to appointment as a Tribal Court Judge, been convicted of a misdemeanor under state or federal law, with the exception of minor traffic violations.

(d) No Judge shall be qualified to preside in any case where he or she has any direct, personal interest or where he or she is prejudiced for or against any of the parties in the action. Nor shall any Judge be qualified to act in any case where any relative by marriage or blood in the first or second degree is a party unless all parties to the action waive this provision.

(e) All Judges shall protect and preserve the high standards of the Tribal judiciary and shall abide by the Model Canons of Judicial Ethics of the American Bar Association.

1-1-33 Removal of a Judge of the Tribe! Court

A Judge of the Tribal Court may be suspended, dismissed or removed for cause by the Tribal Council. Cause shall be defined as malfeasance in office, corruption, neglect of duty, or conviction of a felony or misdemeanor, excluding minor traffic violations. A Judge charged by a majority of a quorum of the Tribal Council with conduct constituting cause for suspension, dismissal, or removal shall be given personal, written notice of the basis for the charge and be given adequate time to prepare a defense. The Judge shall then be given a full hearing before the Tribal Council with an adequate opportunity to present a defense, including the production of witnesses and other evidence in the Judge's behalf and an opportunity to cross-examine witnesses against the charged Judge. An affirmative majority vote of all members of the Tribal Council is necessary to suspend, dismiss or remove a Judge from office.

1-1-34 Disqualification of Trial or Appellate Judge; Transfer of Cause; Timing, Affidavit

(a) No Tribal Judge shall sit to hear or try any suit, action, matter or proceeding when it is established, as provided herein, that any party or attorney believes that such party or attorney cannot have a fair and impartial trial or hearing before such judge. In such case the Chief Tribal Judge shall forthwith transfer the cause, matter or proceeding to another judge of the court or apply to the Tribal Council for the appointment o a temporary judge pursuant to CLUSITC 1-1-31 and 1-1-32.

(b) Affidavit and motion for change of judge; time for making; limit of two changes of judge.

(1) Any party to or any attorney appearing in any cause, matter or proceeding in Tribal Court may establish the belief described in (a) by motion supported by affidavit that such party or attorney believes that such party or attorney cannot have a fair and impartial trial or hearing before such judge, and that it is made in good faith and not for the purpose of delay. No specific grounds for the belief need be alleged. Such motion shall be allowed unless the judge moved against challenges the good faith of the affiant and sets forth the basis of such challenge. In the event of such challenge, a hearing shall be held before a disinterested judge. The burden of proof shall be on the challenging judge to establish that the motion was made in bad faith or for the purposes of delay.

(2) The affidavit shall be filed with such motion at any time prior to final determination of such cause, matter or proceedings in uncontested cases, and in contested cases before or within five days after such cause, matter or proceeding is at issue upon a question of fact or within 10 days after the assignment, appointment and qualification or election and assumption of office of another judge to preside over such cause, matter or proceeding.

(3) No motion to disqualify a judge shall be made after the judge has ruled upon any petition, demurrer or motion other than a motion to extend time in the cause, matter or proceeding.

(4) No party or attorney shall be permitted to make more than two applications in any cause, matter or proceeding under this section.

(c) Disqualification of appellate judge. A party or an attorney for a party in a cause before the Court of Appeals may move to disqualify a judge of the Court of Appeals for one or more of the grounds specified in CLUSITC 1-1-34.

1-1-35 to 1-1-40 Reserved for Expansion

## COURT ADMINISTRATION

1-1-41 Duties of the Chief Judge

(a) Except as provided in CLUSITC 1-1-42, the Chief Judge oversees general administration of the Tribal Court, including management of caseload, expenditures, library, records management, and the presentation of an annual budget proposal to the Tribal Council. In consultation with the Clerk of Court, Court administrative and research tasks may be delegated by the Chief Judge to one or more Court employees.

(b) The Chief Judge may seek and, with the approval of the Tribal Council, accept funds made available through gift, grant or contract to assist, improve or enhance Tribal Court operations.

1-1-42 Appointment and Duties of Clerk of Court

(a) There is established the office of Clerk of Court, which shall be filled by appointment in accordance with policies, rules and classifications of the Tribal Personnel system.

(b) As the budget for administering the Court may permit, the Clerk of Court may employ, in accordance with the Tribal Personnel System, such deputies and court reporters as may be required to assist in fulfilling the duties of the Clerk.

(c) The Clerk shall collect fees and fines paid to the Court and deposit the same within a week of collection with the Tribal Treasurer. The Clerk shall make a certified accounting of the same annually to the Tribal Council. The clerk shall be bonded in an amount sufficient to cover the average annual revenues derived from fees and fines paid to the Court.

(d) As required by statute or otherwise where appropriate, the Clerk shall prepare and make available to unrepresented parties forms, approved by the Chief Judge, for pleadings and service of process.

(e) The Clerk shall prepare all documents and ledgers incidental to the functions of the Tribal Court and, upon request and payment of a reasonable fee, shall certify copies of the public record of proceedings as true and accurate representations of the official Court record.

(f) The Clerk, or the Clerk's designee, shall attend all proceedings of the Court and keep a written record of the same.

(g) The Clerk shall keep a current docket numbering system and enter each action in the docket. Actions must be assigned consecutive file numbers, which must be noted in the docket where the first entry of the act is made. The Clerk shall preserve and protect the original, official records of all Court proceedings in a manner consistent with FRCP 79(a)(2) and (b).

(h) The Clerk shall keep, compile and submit records of Court proceedings to the Bureau of Indian Affairs at such times and in such detail as may be required by federal law.

(i) The Clerk shall make available for inspection and, for a reasonable fee, provide copies of all records of Court proceedings not designated confidential by law.

(j) The Clerk may issue orders as provided in FRCP

77(c)(2). 1-1-43 to 1-1-50 Reserved for Expansion

## REPRESENTATION

### 1-1-51 By Counsel

Every person appearing as a party before Tribal Court, except as otherwise provided for proceedings associated with Small Claims, has a right to be represented by an attorney or other person admitted to practice before the Court at the person's own expense.

### 1-1-52 Pro Se

(a) Any adult, who has not been adjudged incompetent, and who wishes to commence an action or who is a named party to an action or proceeding in Tribal Court, may represent himself or herself in person.

(b) A corporation, firm, association, or other organized entity, except a partnership, may be represented by its Chief Executive Officer or by an employee who has been authorized in writing by the Chief Executive Officer to represent the entity in an action or proceeding.

(c) A partnership may be represented by a general partner or by an employee who has been authorized in writing by a general partner to represent the partnership.

1-1-53 to 1-1-60 Reserved for Expansion

## ADMISSION TO PRACTICE IN TRIBAL COURT

1-1-61 Attorneys

(a) An attorney in good standing who is admitted to practice before the Oregon Supreme Court or the United States Supreme Court shall be admitted to practice before the Tribal Court and the Tribal Appellate Court upon submission of an application for admission to practice and payment of an annual fee set by the Chief Judge *and* due January 15th of each year. Application for admission to practice will be made on a form provided by the Clerk of Court and will include the applying attorney's agreement to act as an officer of the Tribal Court in any action or proceeding in which the attorney appears, and to conduct legal practice in accord with any Rules of Professional Conduct as adopted by the Tribal Council.

(b) An attorney not admitted to practice in Oregon nor before the United States Supreme Court and not previously admitted to practice before the Tribal Court, but admitted to practice and in good standing before the courts of another state, may be admitted to practice before the Tribal Court, for the purposes of a single case or controversy, upon:

(1). association in that case with an attorney who is admitted to practice before the Tribal Court;

(2). certification by the admitted attorney of the qualifications of the attorney from out-of-state and of association for purposes of the specified case or controversy; and

(3). submission of an application and fee, as provided in (a) above.

(c) An attorney employed by the Tribes shall be admitted to practice before the Tribal Court and Tribal Appellate Court without filing an application or paying a fee.

1-1-62 Law Students

A student currently enrolled in the third year of study in an accredited School of Law in the United States may be admitted to practice before the Tribal Court if an attorney admitted to practice before the Tribal Court requests the admission in writing and agrees to supervise and assume responsibility for the student's practice.

1-1-63 Admission Required Prior to Filing Papers

No pleading, motion, brief, or other paper in any action or proceeding or appeal will be accepted for filing by the Clerk of Court from an attorney or law student who has not been first admitted to practice before the Tribal Court.

1-1-64 Child Support Investigators

A Child Support Investigator for the Tribes or the State of Oregon may file papers and appear in Tribal Court for the limited purposes of seeking a Child Support Order, having a Foreign Judgment recognized, or applying for a Writ of
Execution or Garnishment.

1-1-65 to 1-1-70 Reserved for Expansion

## JURIES AND WITNESSES

1-1-71 No Right to a Jury Trial

There is no right to a jury trial unless and until this Code is amended to provide for offenses punishable by imprisonment.

1-1-72 Power to Subpoena Witnesses

A Judge of the Tribal Court has the power to issue subpoenas to compel the attendance of witnesses and the production of documents either on the Court's own motion or on the request of any party to a case, which shall bear the signature of the Judge issuing the subpoena.

1-1-73 Compensation of Witnesses

(a) Each witness, except an expert witness, answering a subpoena to appear in a civil trial shall be paid by the party requesting the subpoena, or by the Court if the subpoena was issued on its own motion, the sum of twenty dollars ($20.00) for each day, or part-day, that his or her presence is required in Court or at any deposition location and for transportation costs to and from Court or the deposition location, at a rate established by the Tribes, or, if travel by air is necessary, at the lowest practicable rate then available for airfare.

(b) An expert witness may be paid a reasonable fee by the party calling the expert. If the Court, on its own motion, finds it necessary in the interests of justice to call an expert witness, it shall pay the witness a reasonable fee, not to exceed the expert's regular hourly rate for such service, and assure that the expert is available for interview by the parties prior to any testimony by the expert.

**(c)** If attorney's fees and costs are permitted by statute or by agreement of the parties to be awarded to the prevailing party, the Court may also order the award of witness fees and transportation costs to the prevailing party.

1-1-74 Service of Subpoenas

**(a)** Service of a subpoena shall be made by a competent person who is at least eighteen (18) years of age and not a party to the action. Proof of service of subpoena shall be filed with the Clerk of Court by noting on the subpoena the return date, time and place that it was served.

**(b)** Effect of Failure to Obey a Subpoena. If a witness fails to obey a subpoena, the Judge may immediately issue an order to show cause why the person should not be found in contempt of Court.

1-1-75 to 1-1-99 Reserved for Expansion

## UNIFORM TRIBAL TRIAL COURT RULES (UTTCR)

UTTCR 1 Application

Except as otherwise provided herein, the following rules apply in all actions and proceedings before the Tribal Court as follows:

**(a)** All UTTCR rules apply, according to their terms, in all actions and proceedings where any party is represented by an attorney.

**(b)** Compliance with Rules 6(a), 7, 11(b), 13(c) and Rules 14 through 19 are not required when all parties represent themselves.

**(c)** The Chapter 2-5 CLUSITIC Rules of Civil Procedure 2-5 also apply to all actions in conjunction with the UTTCR.

UTTCR 2 Matters Under Advisement More Than 90 Days

(a) If any Trial Judge shall have any trial court matter under advisement for a period of more than 90 days, it shall be the duty of all parties to call the matter to the Court's attention forthwith, in writing.

(b) If the matter remains under advisement for 180 days, all parties are required to call the matter to the judge's attention forthwith, with copies to the Chief Justice of the appellate court and the Tribal Council Chairman.

UTTCR 3 Assignment of Judges

(a) Assignment of Trial Judge. A Chief Judge will preside over each docketed case unless the judge recuses himself or herself for good cause or is
disqualified under CLUSITC 1-1-34. If the Chief Judge determines, on the basis of the pleadings before trial, that the interests of justice would best be served by the appointment of a visiting judge with experience in the legal areas to be litigated, the Chief Judge may substitute such appointment upon approval by the Tribal Council as provided in CLUSITC 1-1-32(b).

(b) Presiding Judge. Once assigned and unless recused, excused, disqualified or replaced by a visiting judge, a judge will preside over all proceedings in a case. Pretrial proceedings will be calendared by the Clerk of Court for the presiding judge and the cause will be set for trial as provided by Rule 4.

UTTCR 4 Trial Scheduling

(a) Civil Trial Scheduling. The Clerk of Court shall keep a trial calendar upon which all civil causes shall be entered. Any counsel or unrepresented party may prepare and serve on all counsel and unrepresented parties and file with the Court a proposed scheduling order. After consulting with counsel and with any unrepresented parties, the presiding judge will enter a scheduling order setting the dates for pretrial conferences, for closing discovery, for filing pretrial motions, for filing jury instructions, and for commencing trial. The presiding judge may modify the scheduling order upon a showing of good cause. In the event that no counsel or unrepresented party offers a proposed scheduling order within the earlier of 120 days after any defendant has been served the complaint or within 90 days after any defendant has appeared, the presiding judge will order a scheduling conference and issue a scheduling order within 10 days thereafter.

UTTCR 5 Court Records

(a) Definition. Court records consist of all papers and documents filed with the Clerk of Court in connection with any action or proceeding, as well as the minutes and transcripts constituting the record of any trial or hearing. A judge's work papers, including without limitation notes, drafts, and research done at the judge's request, and papers or documents relating solely to Court administration are not Court records within the meaning of this rule.

(b) Public Records. Except as provided in (c) below, Court records are public records and are available for inspection and for copying upon payment of the established copying charge.

(c) Privacy Protection for Court Records. The provisions of 2012 FRCP 5.2 or its successor shall apply.

(d) No Withdrawal of Records. No Court records may be withdrawn from the custody of the Clerk of Court.

UTTCR 6 Computing and Extending Time; Time for Motion Papers

Time shall be computed according to Rule 6 of the Federal Rules of Civil Procedure.

UTTCR 7 Copies and Filing Fees

(a) Provision of Copies to Court. Parties shall furnish to the Clerk of Court all necessary copies of any pleadings or other papers constituting or containing a notice to other parties which must, by law or rule, be given by the Court in the context of an action or proceeding.

(b) Payment of Filing Fee. Except as may be otherwise provided, no complaint, petition, motion, application, or other legal paper or document shall be filed by the Clerk of Court without being accompanied by the appropriate filing fee; provided, however, that the Chief Judge or acting Chief Judge of Tribal Court may waive the filing fee upon a well-documented showing of grave need by an applicant. The Tribes need not pay filing fees.

(c) Filing Fee Schedule. The current filing fee and copying fee schedule as set by Order of the Chief Judge of Tribal Court is published separately and is available from the Clerk of Court.

UTTCR 8 Format of Papers Presented for Filing

(a) Nonconforming papers may not be accepted for filing.

(b) "Papers" means all pleadings, motions, briefs, other documents, and copies, except exhibits.

(c) All papers shall be:

(1).typewritten, printed, or the equivalent in a typeface or letter size not smaller than pica;

(2). on standard quality unglazed white paper, 8-1/2 X 11 inches in size;

(3). printed on only one (1) side;

(4). with lines unnumbered or numbered consecutively from the top

(5). double spaced;

(6). with pages numbered consecutively at the bottom and bound firmly at the top.

(d).Matters such as property descriptions or direct quotes may be single spaced.

(e) Extraneous documents in the above format and not readily conformable may be filed in their original form and length.

(f) Additions, deletions, or interlineations shall be initialed by the Clerk of Court or by a judge at the time of filing.

(g) All copies served shall conform to the original as filed

(h) The first page of all papers shall conform to the following illustration:

Name of counsel
Complete mailing address
Telephone number

IN THE TRIBAL COURT FOR THE CONFEDERATED TRIBES OF THE COOS, LOWER UMPQUA, AND SIUSLAW INDIANS OF OREGON

| | | |
|---|---|---|
| _____ | ) | Cause No. _____ |
| Plaintiff, | ) | |
| | ) | |
| vs. | ) | COMPLAINT |
| | ) | (or other pleading or motion, |
| | ) | Completely titled) |
| _____ | ) | |
| Defendant | ) | |

UTTCR 9 Commencing a Civil Action

(a) A civil action shall be commenced in Tribal Court by the filing of a complaint with the Court.

UTTCR 10 Summons

(a) FRCP 4 (a)(b)(c)(1) and (2) shall apply; and

(b) At plaintiff's request, the Court may order that service be made by the Tribal Police or a person specially appointed by the Court.

(c) Process — other than a summons under (a) of this Rule or a subpoena under CLUSITC 1-1-74 — must be served by the Tribal Police or a person specially appointed by the Court.

UTTCR 11 Serving and Filing Pleadings and Other Papers

The provisions of 2012 FRCP 5(a)(b)(c)(d)(1)(2) and (4) or its successor shall apply and any Supplemental Rule established by the Court.

UTTCR 12 Pleadings and Motions

The provisions of 2012 FRCP 7, 7.1, 8, 9(a)-(g), 10, 11, 12, 13, 14 and 15 or their successors shall apply.

UTTCR 13 Ex Parte Matters

(a) Application for Orders. Extensions of time to further plead, file briefs, continue a hearing on a motion, and other permissible ex parte matters may be granted by order of the Court upon written application, stating the grounds for the extension, proposing an early date certain for filing or the hearing and certifying the notice to opposing parties as provided in (b) below.

(b) Certificate of Notice. Prior to the issuance of an ex parte order, the counsel or unrepresented party seeking such order must file a written certification with the Court declaring that opposing counsel and any unrepresented party has been contacted, or that a diligent effort has been made to contact said counsel or unrepresented party, to give reasonable notice of:

(1). The time and place of the ex parte conference or meeting, and

(2). The substance of the order sought.

Such certification shall also include information as to whether opposing counsel or any unrepresented adverse'party opposes the motion.

(c) Form of Order. All requests for extension of time or continuance or other ex parte matters shall be accompanied by an appropriate form of order.

(d) Emergency Orders. Nothing in this Rule limits the equitable powers of the Court to issue, upon petition, such emergency orders as may be necessary to preserve the status quo or to maintain law and order in the context of a civil case or controversy until the earliest time that the matter may be heard. No emergency or temporary ex parte order shall relieve the party seeking such order of the burden of proof of allegations made in the application or pleading except in those matters where the burden of proof is expressly transferred by Tribal law or by the general rules of law governing the exercise of a court's equitable or extra ordinary powers.

UTTCR 14 Pretrial Conference and Pretrial Memorandum and Order

Unless otherwise ordered by the presiding judge, a pretrial conference shall be held in all contested cases. Plaintiff's counsel shall convene a conference of all counsel, not later than five (5) days prior to the pretrial conference deadline, for the purpose of preparing a pretrial memorandum and order. If counsel can agree upon and file a pretrial memorandum and order before the deadline for the pretrial conference, the scheduled pretrial conference will be vacated. In the event of a dispute as to the contents of the order, such dispute shall be presented to the judge for resolution at the pretrial conference.

UTTCR 15 Disclosures and Discovery

The provisions of 2012 FRCP 26 to 37 or their successors shall apply to disclosures and discovery.

UTTCR 16 Substitution of Counsel

(a) Counsel representing a party in any action or proceeding may be substituted at any time upon:

(1).the written consent of both the party and counsel filed with the Clerk of Court and entered in the minutes, or

(2). an order of the Court which may be granted upon written application by either the party or counsel if the applicant has given notice of the application.

(b) Timely written notice of a substitution of counsel shall be given to the adverse party.

UTTCR 17 Judgments and Summary Judgment

CLUSITIC Chapter 2-5 shall govern.

UTTCR 18 Rules of Conduct

(a) Decorum

(1). All court proceedings shall be conducted in a dignified and respectful manner. All persons addressing the Court shall arise and shall speak in a clear and courteous manner.

(2). Civility and respect are the keys to behavior in this Tribal Court – that includes everyone: the judge, staff, lawyers and witnesses. If you have any complaints about anyone's civility, including the judge, please bring the

matter to the immediate attention of the court by asking for a conference in chambers.

(3). Keep the trial low-key. It is not a circus, a contest of dramatic ability or an oratorical contest. It should at all times be a quiet, dignified search for the truth.

(4). Rise when the judge enters and leaves the courtroom.

(5). Address all remarks to the judge, not to opposing counsel. Argument between attorneys is prohibited.

(6). Rise when addressing the judge and when making objections.

(7). Do not exhibit familiarity with witnesses, opposing counsel, or court personnel. Do not use first names for witnesses, parties, opposing counsel or court personnel.

(8). Do not bring food or beverages into the courtroom, nor allow witnesses to chew gum, etc. Men should not wear hats in court. Caution your witnesses and guests accordingly.

(9). Stand a respectful distance from the bench.

(b) Promptness

(1).The judge makes every effort to commence proceedings at the time set. Promptness is expected from counsel and witnesses.

(c) No Discussion with Judge

No witnesses or party to any case shall under any circumstances either before or during trial, attempt to discuss any case pending before the Court with any of the judges, except in open court.

UTTCR 19 Civil Recording Tape Retention

Tapes used in the recording of criminal and/or civil matters shall be retained by the Tribes' Tribal Court for a period of not less than three (3) years from the date of the last recorded matter on the tape.

UTTCR 20 Trial Procedure

(a) Swearing in Witnesses

All witnesses shall be administered an oath by the judge, clerk or bailiff as follows: "Do you swear (or affirm) to tell the truth in this matter now before you?"

(b).Conduct of Trial

Plaintiff shall begin by making his opening statement setting forth the charge or claim for relief against the defendant. The defendant shall then have the opportunity, unless waived, to make an opening statement of his position. Upon the conclusion of such statement, or if the defendant waives opening statement, upon the conclusion of the plaintiff's opening statement, the plaintiff shall call such witnesses and offer such exhibits as he may see fit. Upon the conclusion of the plaintiff's case, the defendant shall call such witnesses and offer such exhibits as he may see fit. The plaintiff shall, thereafter, in rebuttal, have an opportunity to call such witnesses and offer such evidence as he may see fit to rebut the evidence by the defendant. Both the plaintiff and defendant shall have the right to cross-examine witnesses.

At the close of the case, plaintiff shall have the opportunity to present his closing argument in chief. The defendant shall then have the opportunity to present his closing argument in chief. Upon the close of the defendant's closing argument in chief, the plaintiff shall have the opportunity to present the plaintiff's rebuttal.

(c) Opening Statement

Opening statements shall be confined to what you expect the evidence to show. It is not proper to use the opening statement to argue the case, instruct as to the law, or explain the purpose of an opening statement. Unless the case is unusually complex, the average time should not exceed thirty (30) minutes.

(d) Witnesses

(1).It is unnecessary to greet or introduce yourself to adverse witnesses. Commence your cross-examination without preliminaries. The right to cross-examine is not a right to examine crossly nor to ask the witness to pass on the credibility of another witness.

(2). Examine witnesses while seated at counsel table, standing behind counsel table, or at the lectern.

(3). Refrain from approaching a witness or the bench without leave of court

(4). Refrain from hovering over a witness, even when permission has been granted for you to approach the witness. Maintain a respectable distance from the witness.

(5). If you need to point to an exhibit or to use the easel when you ask a question, return to your seat as soon as possible.

(6) A whiteboard, white paper, chalk, pens, TV and VCR are available. However, if you want tape recorder or similar equipment, you must furnish it or make arrangements with the courtroom clerk at least one (1) day in advance.

(7) Treat witnesses with fairness and consideration. Do not shout at, ridicule or otherwise abuse witnesses.

(8) Do not ever, by facial expression or other conduct, exhibit any opinion concerning any witness' testimony. Council will admonish their clients and witnesses about this common occurrence.

(9) When court is in session, do not address the reporter. Refrain from asking the reporter to mark testimony. Address all requests for re-reading of questions and answers to the judge.

(10) If a witness is on the stand at a recess or adjournment, have the witness on the stand ready to proceed when court is resumed.

(11) Do not delay proceedings by writing out witnesses' answers during questioning. Charts and diagrams, where possible, should be prepared in advance, but counsel may use the writing board for opening and close.

(12) Where a party has more than one lawyer, only one may conduct the direct or cross-examination of a given witness.

(e) Objections

(1). When objecting, state only that you object and briefly specify the ground(s). Do not use objections to make a speech, recapitulate testimony, or to guide the witness.

(2). Do not argue an objection until the judge grants permission or requests argument.

(3). Give the judge advance notice if you have reason to anticipate that any question of law or evidence is difficult or will provoke an argument.

(4). Sidebar or chambers conferences during trial are not to be utilized for discussion of evidentiary issues. Most evidentiary hearings will be conducted at court recesses or, if important enough to justify interruption of the trial, the jury will be excused and the matter heard in open court (of course you may ask to approach the bench to request necessary recesses, etc.)

(f) Exhibits

(1). All exhibits will normally be marked and received in advance – per the court's order, in a manner consistent with Oregon 2012 UTCR 6.080, "Marking Exhibits", or its successor.

(2). Each counsel is responsible for any exhibits secured from the Clerk. At each noon-time or end-of-the-day adjournment, return all exhibits to the Clerk.

(3). Exhibits not previously offered at the pretrial conference should be offered in evidence when they become admissible rather than at the end of counsel's case.

(4). When referring to an exhibit, mention the exhibit number so that the record will be clear.

(5). Counsel must review and certify on the record that what goes to the jury is correct before closing arguments.

(6). At the end of the trial, ordinarily exhibits will be returned to counsel, who shall be responsible for the preservation of originals for the appellate record in a manner consistent with Oregon 2012 UTCR 6.120, "Disposition of Exhibits" or its successor.

(g) Closing Arguments

(1). Never assert your personal opinion of:

(A). The credibility of a witness; e.g., "I know Witness X is telling you the truth;"

(B). The culpability of a civil litigant; or

(C). The guilt or innocence of an accused.

(2). Never assert your personal knowledge of a fact in issue or a fact not in evidence, nor argue the "Golden Rule" - *e.g.,* "Do unto others as you would have them do unto you," - "Treat plaintiff/defendant as you would like to be treated in such a situation."

# SUPPLEMENTAL COURT RULES

## 1-1-100 Promulgation of Supplemental Court Rules; Review of Supplemental Court Rules: Enforceability of Local Practices

(a) Promulgation of Supplemental Court Rules

(1) The Tribal Court may make and enforce supplemental court rules consistent with and supplementary to rules set out in the Tribal Code for the purpose of giving full effect to the rules set out in the Tribal Code and for the prompt and orderly dispatch of the business of the Tribal Court.

(2) The Tribal Court must incorporate into its supplemental court rules any local practice, procedure, form, or other requirement ("local practice") with which the Tribal Court expects or requires parties and attorneys to comply. The Tribal Court may not adopt supplemental court rules that conflict with the Tribal Constitution, Tribal Code or ordinance. The Tribal Court may not adopt supplemental court rules that establish internal operating procedures of the Tribal Court or Tribal Court Clerk that do not create requirements or have potential consequences for parties or attorneys.

(3) In the event of any conflict between a supplemental court rule and any provision of the Tribal Constitution, Tribal Code or ordinance, the Tribal Constitution, Tribal Code or ordinance, as the case may be, shall be given effect and the supplemental court rule shall not be effective to the extent of such conflict.

(4) No supplemental court rule or amendment to a supplemental court rule shall be effective unless adopted pursuant to the procedures set out in this section of the Tribal Code, provided that any supplemental court rule adopted by the Tribal Court prior to October 24, 2012, shall be and remain effective unless and until it is repealed by resolution of the Tribal Council or by an amendment adopted pursuant to the procedures set out in this section of the Tribal Code.

(b) Review of Proposed Supplemental Court Rules and Amendments

(1). The presiding judge of the Tribal Court must give written notice of any proposed supplemental court rule or amendment to an existing supplemental court rules to the Tribal Council at least 60 days prior to the proposed effective date of the rule or amendment. The notice shall include the text of the proposed rule or amendment, a written explanation of the proposed rule or amendment and the proposed effective date of the proposed rule or amendment. The notice shall be delivered by first class mail to the Tribal Council Chairperson, with a copy to the Chief Executive Officer.

(2). If the Tribal Council disapproves of a proposed supplemental court rule or amendment to an existing supplemental court rule before its proposed effective date, the proposed supplemental court rule or amendment to an existing supplemental court rule shall not go into effect. The Tribal Council will notify the presiding judge of the Tribal Court of any such disapproval.

(3). If the Tribal Council approves of or takes no action on a proposed supplemental court rule or amendment to an existing supplemental court rule before its proposed effective date, the proposed supplemental court rule or amendment to an existing supplemental court rule shall go into effect on the proposed effective date set out in the notice described in this section.

(c) Enforceability of Local Practices Not Contained in Supplemental Court Rules

When any local practice is not contained in Tribal Court's supplemental court rules, the Tribal Court may not enforce such local practice or impose any sanction therefore, unless the Tribal Court has first afforded the party or attorney a reasonable opportunity to cure the violation by complying with the local practice.

## NOTICE- PROCEEDINGS RAISING TRIAL JURISDICTION OR SOVEREIGNTY

### 1-1-101 Findings and Purpose

(a) Findings

(1).The Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians (Tribes) has a compelling interest in protecting tribal sovereignty and jurisdiction;

(2). Tribal sovereignty and jurisdiction may be questioned in cases in the Tribal Court in which the Tribes or any agency, officer or employee thereof is not a party; and

(3). With adequate, timely and uniform notice of cases in the Tribal Court that question tribal sovereignty and jurisdiction, the Tribes can effectively assess whether and how to participate in such cases.

(b) Purpose

The purpose of this Code is to provide the Tribes with adequate, timely and uniform notice of any and all cases in the Tribal Court that question tribal sovereignty and jurisdiction and in which the Tribes or any agency, officer or employee thereof is not a party.

1-1-102 Notice Required

(a) Party to Give Notice

Any party to litigation before the Tribal Court that questions tribal sovereignty or jurisdiction in any action or proceeding in the Tribal Court will give notice of the action or proceeding in writing to the Tribal Chairperson and the Tribes' General Counsel, which is the attorney or law firm designated by resolution of the Tribal Council as of the time notice is to be given under this Chapter 1-1. The identity and contact information for the Tribes' General Counsel may be obtained from the Chief Executive Officer's office.

Notice required under this Code does not authorize a party to name the Tribes or any agencies, officers or employees thereof, as a party to any action or proceeding and shall not waive the immunity of the Tribes.

(b) Clerk to Inform Party of Notice Requirement

The Clerk of the Tribal Court will inform all parties in writing of the notice required under this Code.

1-1-103 Manner and Timing of Notice

(a) Advance Notice

Notice to the Tribes required under this Code will be made not less than thirty (30) days before tribal sovereignty or jurisdiction is questioned in any action or proceeding.

(b) Notice by Certified Mail

Notice by a party required to give notice under this Code will be made by certified mail.

(c) Proof of Notice Filed with the Court

Any party required to give notice under this Code will simultaneously file proof with the Tribal Court that notice has been given as required by this Code.

1-1-104 Tribal Participation Following Notice

(a). Intervention

Upon timely motion or application, the Tribes may intervene as a matter of right in any action or proceeding in the Tribal Court that questions tribal sovereignty or jurisdiction. Upon intervening under this Code, the Tribes may assert any and all available claims and defenses and may present any and all admissible evidence relating to the question of its sovereignty or jurisdiction, and is entitled to the same relief, including costs, as if the Tribes had instituted a separate action or proceeding; provided that, the Tribes will not be required to pay costs in any action or proceeding in which it has intervened under this Code. Intervention under this Code does not limit or otherwise affect the right of the Tribes to maintain or otherwise intervene in actions or proceedings in the Tribal Court.

(b). Amicus Curiae

Upon timely motion or application, the Tribes may appear as amicus curiae (friend of the court) in any action or proceeding that questions tribal sovereignty or jurisdiction.

(c). No Participation

The Tribes may determine that it is the best interest of the Tribes not to intervene, appear as amicus curiae, or otherwise participate in an action or proceeding in the Tribal Court that questions tribal sovereignty or jurisdiction.

1-1-105 Failure to Give Notice

(a). Failure to Give Notice Not Jurisdictional or Waiver of Rights

The failure of a party to give notice as required by this Code does not deprive the Court of jurisdiction and is not a waiver of any rights otherwise timely asserted. Any notice given under this law is not a substitute for, or a waiver of, any other pleading requirement under tribal law.

(b). Late Notice

If the Court or a party discovers that notice to the Tribes under this law should have been but has not been given, the Court or party will notify promptly, give notice in writing, to the Tribes as required by this Code. The Court may stay the action or proceeding at any stage to allow compliance with this Code. If final judgment has already been entered, the Tribes may motion or apply for rehearing as of right and the Court will entertain promptly any motions or applications for rehearing by the Tribes.

(c) Civil Sanctions

The Court on its own motion or on motion of the Tribes may impose civil sanctions on any party for failure to give notice as required by this Code, and may use other reasonable means to cure any significant harm caused by failure to give notice as required by this Code.

# APPENDIX A

# LEGISLATIVE HISTORY AND EDITORIAL CHANGES

# TRIBAL COURT

## LEGISLATIVE HISTORY AND EDITORIAL CHANGES

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians approved amendments to Chapter 1-1 Tribal Court for a Second Reading and final approval by Resolution 25-169 a Tribal Council Meeting date September 14, 2025 Vote was 7 (for), 0 (against) , 0(absent) and 0 (abstaining). Creating Ordinance 096B.

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians approved amendments to Chapter 1-1 Tribal Court for a First Reading and twenty-eight comment period by Resolution 25- 131 in a Tribal Council Meeting date July 13, 2025 Vote was 7 (for), 0 (against) , 0 ( absent) and 0 (abstaining).

The Tribal Court Clerk at the direction of the Chief Executive Officer and with the consent of the Tribes' General Counsel is authorized to administratively correct any reference to Tribal Administrator to Chief Executive Officer on October 11, 2020. These changes are technical in nature and do not effect a substantive change to the Code.

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians adopted and enacted Ordinance No. 096A in a Tribal Council meeting on February 9, 2014. Vote was 6 (for), 0 (against), 1 (absent), and 0 (abstaining).

On June 25, 2013, Tribal administration made a technical edit to CLUSITC 1-1-73 to remove reference to CLUCSITC 1-1-76 and clarify that transportation costs shall be paid at a rate to be established by the Tribes.

On November 15, 2012, Tribal administration made a technical edit to Tribal Code Chapter 1-1, UTTCR 11 to clarify that the rule is to be read in conjunction with the Supplemental Court Rule.

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians enacted Ordinance No. 096 in 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 "Rules of Court" section 1-1-100, Resolution 04-066, Ordinance No. 057, in a Business Tribal Council meeting on August 30, 2004. Vote was 7 (for), 0 (against) and 0 (abstaining). Note. Notice-Proceedings Raising Tribal Jurisdiction or Sovereignty was renumbered 1-1-200.

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians amended section 1-1-70, "Juries and Witnesses", Resolution

No. 03-008, Ordinance No. 028A, in a regular Tribal Council meeting on February 9, 2003. Vote was 5 (for), 0 (against) and 0 (abstaining).

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians enacted 1-1-100, "Notice-Proceedings Raising Tribal Jurisdiction or Sovereignty" ordinance, Resolution No. 02-038, Ordinance No. 45, in a regular Tribal Council meeting on April 14, 2002. Vote was 7 (for), 0 (against) and 0 (abstaining). Starting with Chapter 1-1-100, this Ordinance became part of Chapter 1-1 - Tribal Court Ordinance.

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians enacted the Establishment and Jurisdiction of the "Tribal Court", Resolution No. 01-075, Ordinance No. 028, at a Special Council Meeting on September 24, 2001. Vote was 6 (for), 0 (against) and 0 (abstaining).

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