

**TRIBAL COURT ORDINANCE  
KLAMATH TRIBAL CODE  
Title 2 Chapter 11**

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**GENERAL PROVISIONS**

**11.01 Purpose and Authority.** This Tribal Court Ordinance is adopted pursuant to the authority vested in the Klamath Tribes General Council by virtue of its inherent sovereignty as an Indian tribal government and Article V of the Constitution of the Klamath Tribes. The purposes of this Ordinance are to set forth the general judicial powers of the Klamath Tribes, to define the scope of such powers, and to establish the structure for administering such powers.

**11.02 Definitions.** The following words shall have the following meanings under this Ordinance:

(a) “Attorney” means a person admitted to practice law by a state and who is an active member in good standing with the appropriate state bar association;

(b) “Chief Judge” means the Judge of the Klamath Tribal Court so designated by the General Council;

(c) “Counsel” means an attorney or lay advocate who is licensed, or a law student who is certified, to practice before the Tribal Courts under this Ordinance;

(d) “Court” or “Tribal Courts” means any or all of the courts established by the Klamath Tribes to enforce the Klamath Tribal Law, including but not limited to the Klamath Supreme Court and the Klamath Tribal Court, Klamath Juvenile Court, Klamath Peacemaker Court, and such other lower courts that the Tribes may establish from time to time;

(e) “Former Reservation” means the tract of land set apart as a residence and homeland for the Klamath Tribes by the Treaty Between the United States of America and the Klamath and Modoc Tribes and Yahooskin Band of Snake Indians, 16 Stat. 707 (Oct. 14, 1864), as it existed and was identified at the passage of the 1954 Klamath Termination Act, 68 Stat. 718 (Aug. 13, 1954) (codified at 25 U.S.C. § 564 *et seq.*);

(f) “General Council” means the General Council of the Klamath Tribes;

(g) “Indian” or “Native American” means any person of Indian descent who is a member of a federally-recognized Indian tribe under the laws of that tribe and any other person recognized by federal law as an Indian for any purpose;

(h) “Judge” means any and all judges of the Tribal Courts, including the Chief Judge, Associate Judges, Visiting Justices, and Judges Pro Tempore;

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(i) “Judge Pro Tempore” means a person appointed to serve temporarily as a Judge of the Tribal Courts;

(j) “Klamath Child” means any child who:

(1) is a member of the Klamath Tribes or is eligible for membership in the Klamath Tribes and is the biological child of a member of the Klamath Tribes; or

(2) is the biological child of a person who is a member of or eligible to be a member of the Klamath Tribes; or

(3) is otherwise covered by the terms of the Indian Child Welfare Act Agreement between the State of Oregon and the Klamath Tribes, as it now exists or is hereafter amended;

(k) “Klamath Reservation” means all land, the title to which is held in trust by the United States for the benefit of the Klamath Tribes, held by the Klamath Tribes or a member of the Klamath Tribes subject to a restriction by the United States and all other lands that may hereafter be acquired or conveyed to or held in trust for the benefit of, the Klamath Tribes, whether by purchase, gift, act of Congress, or otherwise

(l) “Klamath Territory” means:

(1) All lands within the exterior boundaries of the Former Reservation; and

(2) All Klamath Tribal Lands.

(m) “Klamath Tribal Code” means the Klamath Tribal Code, as adopted by the General Council of the Klamath Tribes;

(n) “Klamath Tribal Common Law” means the decisions of the Tribal Courts and the customs and traditions of the Klamath Tribes, as may be modified by Klamath Tribal Law;

(o) “Klamath Tribal Lands” means all Klamath Reservation lands and all other lands that may hereafter be acquired or conveyed in fee to the Klamath Tribes, whether by purchase, gift, act of Congress, or otherwise;

(p) “Klamath Tribal Law” means the Constitution of the Klamath Tribes, the Klamath Tribal Code and any rules promulgated thereunder, other ordinances and enactments of the General Council, and Klamath Tribal Common Law;

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(q) “Klamath Tribes” or “Tribes” means the Klamath Indian Tribe of Oregon, a federally-recognized Indian tribal government;

(r) “Member” means a member of the Klamath Tribes;

(s) “Non-Member” means any person who is not a member of the Klamath Tribes;

(t) “Ordinance” means this Tribal Court Ordinance;

(u) “Party” means a person whose name is designated on record as a plaintiff or defendant and, in a civil action, by or whom against a legal suit is brought, whether in law or equity;

(v) “Person” means an individual natural person, trust, firm, association, partnership, limited liability company, public or private corporation, political subdivision, government agency, municipality, industry, or any other entity whatsoever;

(w) “Property” means both real and personal property;

(x) “Tribal Council” means the Tribal Council of the Klamath Tribes; and

(y) “Visiting Justices” means those persons appointed to serve as the Klamath Supreme Court.

**11.03 Principles of Construction.** The following principles of construction apply to this Ordinance unless a different construction is obviously intended to obtain a reasonable result:

(a) masculine words shall include the feminine, and singular words shall include the plural and vice versa;

(b) words shall be given their plain meaning and technical words shall be given their usually understood meaning where no other meaning is specified;

(c) this Ordinance shall be construed as a whole to give effect to all its parts in a logical, consistent manner; and

(d) all other issues of construction shall be decided using a generally accepted principle of construction that will effect the underlying principles and purposes of this Ordinance.

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**11.04 Severability.** If any provisions of this Ordinance or the application of any provision to any person or circumstance is held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable the remainder of this Ordinance and its application to any other person or circumstances and, to this end, the provisions of this Ordinance are severable.

**11.05. Sovereign Immunity.** Except as expressly and specifically waived by a resolution of the Klamath Tribes or by Klamath Tribal Law, the Klamath Tribes shall be immune from suit, and their officers and employees also shall be immune from suit for liability arising from the performance of their official duties.

**11.06 Bases for Judicial Determinations of Law; Choice of Law.**

(a) In all cases, the Tribal Courts shall apply any laws of the United States that are applicable and Klamath Tribal Law not prohibited by applicable federal law. The following principles shall govern such application:

(1) Questions of tribal customs and traditions are questions of law, not questions of fact. Where doubt arises as to the customs and traditions of the Klamath Tribes, the Court may request the advice of members of the Klamath Tribes generally recognized in the community as being familiar with such customs and traditions, consider such other reliable sources of information as the Court deems necessary under the circumstances to determine the applicable tribal custom or tradition, including a Judge's personal knowledge of Klamath Tribal customs and traditions, and/or consult with any committee or advisory body established by the Klamath Tribes for this purpose.

(2) The Tribal Courts shall apply the provisions of the Klamath Tribal Code and any other ordinances and enactments of the General Council in a way that gives effect to the intent and purposes of the General Council as expressed in such enactments.

(3) Tribal Courts other than the Klamath Supreme Court shall render their decisions in accordance with the precedent established by the Klamath Supreme Court.

(b) The Tribal Courts shall not be bound by the law of any other jurisdiction unless so required by applicable federal law, Klamath Tribal Law, or Klamath Supreme Court precedent.

(c) In any case or action where existing Klamath Tribal Law or applicable federal law is not decisive of a question of law, upon its own initiative or at the request of a party, a Court may consider for guidance and advisory purposes, the laws of any federal, tribal, state, or international

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jurisdiction; *provided* that no federal, tribal, state, or international law, including their common law, shall be applied as guidance or for advisory purposes under this Subsection if such law would be inconsistent with the laws, policies, or needs of the Klamath Tribes.

**11.07 Adoption of Foreign Law by Reference or Incorporation.**

(a) The adoption of any law or other document into this Ordinance, the Klamath Tribal Code, or any other ordinance or enactment of the General Council, by reference or incorporation, shall not constitute a waiver, cession, or diminishment of any sovereign power of the Klamath Tribes to the jurisdiction whose law is adopted, but shall result in such law becoming the law of the Klamath Tribes. In such an instance, the omission of any part of that law from the part adopted shall not be construed as a negative statement about the principles embodied in the omitted part, unless such negative statement is expressly made.

(b) Whenever a law or other document of another jurisdiction is adopted by reference or incorporation as the law of the Klamath Tribes, the decisions of the courts of that other jurisdiction interpreting such law or other document shall be merely advisory and not binding on the Tribal Courts unless the Klamath Tribal Code or any other ordinance or enactment of the General Council expressly so provides.

**11.08 Seal of the Tribal Courts.** The Tribal Courts may adopt a seal for use on their official records, orders, decisions, and judgments; *provided* that failure to affix the seal on any document shall not affect its validity.

**JURISDICTION**

**11.09 Jurisdiction.**

(a) The Tribal Courts may exercise subject matter and personal jurisdiction on any basis consistent with applicable laws, the inherent sovereignty and immunity of the Klamath Tribes, the Constitution of the Klamath Tribes, and Klamath Tribal Laws; *provided* that the Tribal Courts shall only exercise jurisdiction in a case in which at least one of the parties is a member of the Klamath Tribes, an Indian, a Klamath Child, or the Klamath Tribes including any of their agents, subdivisions, departments, agencies, commissions, committees, corporations, enterprises, or property, or when the parties consent to the jurisdiction of the Court.

(b) Bases for personal jurisdiction over any person include, but are not limited to:

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- (1) presence, domicile, or residence on Klamath Tribal Lands;
- (2) membership in the Klamath Tribes or status as a Klamath Child;
- (3) consent, whether by contract, implication, or otherwise, including marriage to a member of the Klamath Tribes;
- (4) appearance in the Tribal Courts, other than a special appearance for the sole purpose of contesting jurisdiction;
- (5) contracting or attempting to contract to insure any person, property, or risk located on Klamath Tribal Lands;
- (6) doing business or attempting to do business on Klamath Tribal Lands, either in person or by an agent, including entering or attempting to enter into a contract for the sale, lease, or purchase of any property, resource, or services, when such contract is entered into or is to be performed on Klamath Tribal Lands;
- (7) using or attempting to use, purchasing or attempting to purchase, or otherwise affecting any natural or cultural resource or service of the Klamath Tribes;
- (8) engaging in an act on Klamath Tribal Lands;
- (9) engaging in an act within the Klamath Territory affecting the rights of the Klamath Tribes or their members, which rights were reserved, recognized, and protected by the Treaty Between the United States of America and the Klamath and Modoc Tribes and Yahooskin Band of Snake Indians, 16 Stat. 707 (Oct. 14, 1864);
- (10) causing a foreseeable effect on Klamath Tribal Lands by an act or omission elsewhere; and/or
- (11) ownership, use, or possession of real or personal property on Klamath Tribal Lands.

(c) Subject to any contrary provisions, exceptions, or limitations contained in Klamath Tribal Law or applicable federal law or regulations, the Tribal Courts shall have jurisdiction over all real and personal property located within Klamath Tribal Lands to determine the ownership thereof, or rights therein, or to determine the application of such property to the satisfaction of a claim relating to the property.

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(d) Subject to the limitations of Subsection (a) of this Section, the Tribal Courts shall have subject matter jurisdiction over all civil causes of action, regardless of whether the parties are Indian or non-Indian, and all cases in law and equity arising under the Constitution of the Klamath Tribes and Klamath Tribal Law.

(e) The Tribal Courts shall have subject matter jurisdiction over all criminal actions in which an Indian is alleged to have violated the criminal provisions of the Klamath Tribal Code; *provided that*, in civil expulsion actions, the Tribal Courts shall have subject matter jurisdiction to determine whether or not a non-Indian defendant has violated the criminal provisions of the Klamath Tribal Code, whenever, pursuant to tribal law, such violation would be grounds for expulsion.

(f) The Tribal Courts shall have jurisdiction to grant a divorce, separation, annulment, or protective injunction or restraining order to a husband or wife, based on jurisdiction over the marriage, even without the presence before the Court of both parties, if either the husband or wife is a bona fide resident of Klamath Tribal Lands, and is a member of the Klamath Tribes, and if the civil notice requirements of the Klamath Rules of Civil Procedure have been met.

(g) Except as otherwise limited by applicable federal law, the Tribal Courts shall exercise jurisdiction over child custody proceedings in accordance with and to the fullest extent permitted under the Klamath Juvenile Ordinance and under any other provisions of the Klamath Tribal Code requiring or permitting the Tribal Courts to exercise authority over juveniles.

(h) The Tribal Courts shall not exercise jurisdiction over any person unless there is proof on file with the Court that the person has been given notice of the proceedings in a manner which conforms with applicable requirements of the Klamath Rules of Civil Procedure or Klamath Rules of Criminal Procedure.

(i) Except as otherwise provided by Klamath Tribal Law, the Klamath Tribal Court shall have exclusive and original jurisdiction to adjudicate all complaints for the exclusion or removal of persons from Klamath Tribal Lands.

(j) Except as otherwise provided in this Ordinance or by Klamath Tribal Law, the Tribal Courts shall have exclusive original jurisdiction, and the Klamath Supreme Court shall have exclusive appellate jurisdiction, to construe the meaning of Klamath Tribal Laws, and to determine the legality, under the Constitution of the Klamath Tribes, and the Indian Civil Rights Act, 25 U.S.C. § 1301 *et seq.*, of any action or enactment of the General Council, Tribal Council, or any other agent, department, committee, officer, or enterprise of the Klamath Tribes and the application of any such action or enactment to any person or situation. This Subsection shall not be construed to effect a

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waiver of sovereign immunity of the Klamath Tribes.

(k) The jurisdiction of the Tribal Courts over any person, cause of action, or subject matter may be concurrent with any valid jurisdiction over the same person, cause of action, or subject matter by any courts of the United States, any state, or any subdivision thereof; *provided*, however, that this Ordinance does not recognize, grant, or cede jurisdiction to any other governmental entity in which jurisdiction does not otherwise lawfully exist.

**KLAMATH TRIBES JUDICIARY**

**11.10 Establishment of the Klamath Tribal Courts.** The judicial power of the Klamath Tribes shall be vested in the independent Klamath Tribes Judiciary, which shall consist of the Klamath Supreme Court , Klamath Tribal Court, Klamath Juvenile Court Klamath Peacemaker Court, and such other lower courts that the Klamath Tribes may from time to time establish.

**11.11 Klamath Tribal Court.** There is hereby established the Klamath Tribal Court, which, except as otherwise provided in this Ordinance or in the Klamath Tribal Code, shall have general jurisdiction over all matters arising under Klamath Tribal Law and exclusive jurisdiction to hear administrative appeals. The Klamath Tribal Court’s power shall include, but not be limited to:

- (a) enforcing civil and criminal Klamath Tribal Law;
- (b) reviewing and ruling on the constitutionality of Klamath Tribal legislative and executive actions under the Constitution of the Klamath Tribes; and
- (c) hearing appeals from final administrative judgments and decisions of departments, commissions, agencies, and other administrative bodies of the Klamath Tribes as authorized by the Klamath Tribal Code; *provided* that all decisions of the Klamath Tribal Court in administrative appeals shall be final and not further appealable in any court or forum; *provided further* that nothing in this Section shall be construed as affecting or limiting the General Council’s legislative authorities to avoid similar future decisions by changing existing laws or enacting new laws.

**11.12 Klamath Juvenile Court.** There is hereby established the Klamath Juvenile Court, which shall have limited jurisdiction over all matters arising under the Klamath Juvenile Ordinance and any other provisions of the Klamath Tribal Code requiring or permitting the Court to exercise authority over juveniles.

**11.13 Klamath Peacemaker Court.** There is hereby established the Klamath Peacemaker Court,

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which shall have limited jurisdiction over all matters arising under and authorized by the Klamath Peacemaker Ordinance.

**11.14 Klamath Supreme Court.**

(a) There is hereby established the Klamath Supreme Court, which, except as otherwise provided in this Ordinance or the Klamath Tribal Code, shall be the final forum for the review of the decisions of the Klamath Tribal Court, Klamath Peacemaker Court, and Klamath Juvenile Court, and such other lower courts that may be established by the General Council from time to time.

(b) The Klamath Supreme Court shall have jurisdiction to:

(1) except as otherwise provided in the Klamath Tribal Code, hear appeals from final judgments and other appealable orders of the Klamath Tribal Court, Klamath Juvenile Court, Klamath Peacemaker Court, and such other lower courts that may be established by the General Council from time to time; and

(2) issue any order in aid of its jurisdiction as it deems necessary and proper, including orders to the Klamath Tribal Court, Klamath Juvenile Court, Klamath Peacemaker Court, and such other lower courts that may be established by the General Council from time to time.

(c) All decisions of the Klamath Supreme Court shall be final and not further appealable in any court or forum; *provided that* nothing in this Section shall be construed as affecting or limiting the General Council's legislative authorities to avoid similar future decisions by changing existing laws or enacting new laws.

**11.15 Composition of the Courts.**

(a) The General Council shall designate one (1) Judge to serve as the Chief Judge throughout his or her term. The Chief Judge shall preside over the Klamath Tribal Court, *provided that*, in his or her temporary absence, disability or disqualification, or for such other reasons as he or she deems necessary, the Chief Judge may appoint an Associate Judge or a Judge Pro Tempore to act in his or her place.

(b) The Chief Judge shall designate annually an Associate Judge to serve as the Judge of the Klamath Juvenile Court or the Chief Judge also shall serve as the Judge of the Klamath Juvenile Court.

(c) The Chief Judge shall oversee the Klamath Peacemaker Court, which shall consist of

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one (1) or more peacemakers.

- (d) The Klamath Supreme Court shall be composed of three (3) Visiting Justices.

**11.16 Appointment of Visiting Justices.**

(a) The Chief Judge shall appoint three (3) Visiting Justices to hear cases before the Klamath Supreme Court. The Chief Judge shall appoint one (1) Visiting Justice to serve as the Chief Justice.

(b) All Visiting Justices shall meet the judicial qualification requirements of this Ordinance.

(c) The Tribal Council may authorize the Chief Judge to use or enter into an agreement with an intertribal or other organization that provides appellate services to tribal governments as a means of appointing Visiting Justices under this Section.

**11.17 Election of Chief and Associate Judges.**

- (a) The General Council shall elect the Chief Judge and any Associate Judges.

(b) Following the first election of the Chief Judge and any Associate Judges, the General Council shall elect Judges at the next general election of the Klamath Tribes to serve three (3) year terms or such other terms set by the General Council at the time of their election, subject to the forfeiture and removal provision of this Ordinance. Thereafter, Judges shall be elected by the General Council to serve three (3) year terms or such other terms set by the General Council at the time of their election, subject to the forfeiture and removal provision of this Ordinance, and in accordance with the following requirements:

(1) Any person who is certified by the Tribal Council as meeting the judicial qualification requirements of this Ordinance shall be eligible to be placed on an election ballot of the Klamath Tribes or be otherwise nominated to fill a vacancy on the Tribal Courts. Requests for a certification from the Tribal Council shall be made in writing on the forms provided by the Tribal Council, and submitted not later than the second Tuesday of January before the judicial election.

(2) Except as otherwise provided in this Ordinance, elections of Judges shall be governed by the Elections Ordinance of the Klamath Tribes.

- (c) All qualified Judges shall be eligible for re-election.

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**11.18 Qualifications for Judges.**

(a) To be eligible to serve as a Judge of the Tribal Courts, a person must possess the following qualifications:

(1) A Judge must be a Native American that is at least thirty (30) years of age and who:

(A) has never been convicted in any court of a felony or within the last twelve (12) months of a misdemeanor, nor dishonorably discharged from any military service;

(B) has a juris doctor from an accredited school of law or has served as a judge for at least one year;

(C) is not a candidate for the office of the Chairman, Vice-Chairman, Secretary, Treasurer, or member of the Tribal Council; and

(D) does not hold the office of Chairman, Vice-Chairman, Secretary, Treasurer, or member of the Tribal Council.

(b) In addition to the qualifications in Subsection (a) of this Section, no Visiting Justice may be a Chief Judge or Associate Judge.

**11.19 Forfeiture and Removal.**

(a) Any person holding the position of Judge shall automatically forfeit said position for any of the following reasons:

(1) conviction of a felony in any court;

(2) conviction of a misdemeanor in any court; or

(3) seeking election to the office of Chairman, Vice-Chairman, Secretary, Treasurer, or member of the Tribal Council; *provided* that the term of any Judge who must forfeit his or her position under this Subsection shall end when he or she becomes a candidate for such office by having his or her name placed on an election ballot of the Klamath Tribes or otherwise, or when he or

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she announces publicly an intent for candidacy to such office.

(b) A Judge also may be removed from his or her position by 2/3 majority vote of the qualified voters of the General Council present at a validly called regular or special meeting for abuse of office, neglect of duty, or gross misconduct. Evidence of abuse of office, neglect of duty, or gross misconduct shall include, but not be limited to any breach of the standards of conduct for Judges set forth in this Ordinance. The Judge whose removal is being attempted shall be given a full and fair opportunity to confront his or her accusers, to present evidence, and to reply to any and all charges at a designated regular or special General Council meeting. The accused Judge shall be given written notice of all charges against him or her at least ten (10) days before the meeting.

**11.20 Vacancies.**

(a) In the event of a vacancy the Tribal Council shall appoint a person to serve as the Judge until the next regular Chief Judge election.

(b) In the discretion of the General Council, a Judge may be elected under this Section to serve for the duration of the term of the vacated position being filled or for such other term set by the General Council at the time of a Judge's election, subject to the forfeiture and removal provisions of this Ordinance.

**11.21 Compensation.**

(a) Judges, including Visiting Justices and Judges Pro Tempore, shall be paid for actual time spent by such Judge in the performance of his or her judicial duties on an hourly basis, at such rates established by the Tribal Council, or as otherwise provided for in a written contract between the Judge and the Klamath Tribes. A Judge's pay shall not be diminished by any amount or increased by any amount beyond a reasonable cost of living allowance during his or her term as Judge.

(b) Unless otherwise provided for in a written contract between the Judge and the Klamath Tribes, expenses, including costs for food, travel and lodging, which are incurred by a Judge, including Visiting Justices and Judges Pro Tempore, in the performance of judicial duties shall be reimbursed by the Klamath Tribes on a per diem basis, at a rate established by the Tribal Council. No expenses shall be allowed when a Judge holds court in the town or location where such Judge resides.

(c) Each Judge shall submit for approval and payment a voucher to the Klamath Tribes every three (3) months, or more often if required by the Tribal Council or a contract, reporting his or her expenses incurred and, if the Judge is paid on an hourly basis, his or her hours worked.

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**11.22 Disqualification of Judge to Hear a Case; Cause.**

(a) Any Judge shall be disqualified or shall disqualify himself or herself from hearing any case, or determining any matter in a case, in which the Judge has a bias, prejudice, or direct interest in the outcome.

(b) Unless both parties stipulate to retaining the Judge on their case, a Judge shall be disqualified or shall disqualify himself or herself from hearing any case wherein a party or counsel for a party is one of the following relatives to the Judge:

- (1) spouse;
- (2) uncle or aunt;
- (3) niece or nephew;
- (4) grandparent or grandchild;
- (5) brother or sister;
- (6) mother or father including step-parents;
- (7) son or daughter;
- (8) first or second cousin; or
- (9) a spouse of one of the preceding.

(c) The relationships requiring disqualification in Subsection (b) above shall apply whether based on the whole blood, half blood, adoption, or marriage.

(d) In addition to the grounds set forth herein for disqualification or recusal, unless both parties stipulate to retaining the Judge on their case, a Judge shall disqualify himself or herself from hearing a case in which:

- (1) a close relative is a party or witness; or

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(2) the Judge has personal or financial interests that may be affected by the outcome, has formed an opinion about the merits of the case, or has personal knowledge of the facts that would prevent him or her from considering all sides impartially.

(e) Any Judge who disqualifies himself or herself from any case or from determining any matter in a case shall state in writing the basis for that disqualification. The Judge shall file that statement in the Court's file for the case, and provide a copy to the parties.

**11.23 Appointment of Judges Pro Tempore.**

(a) In any case in which, due to recusal, disqualification, or any other cause, including stipulation of the parties, the Chief Judge determines that there is no Associate Judge available to hear the matter, the Chief Judge, in consultation with the Associate Judges, if any, may appoint a Judge Pro Tempore to hear such matter, subject to the prior approval of the Tribal Council. A Judge Pro Tempore shall meet the judicial qualifications set forth in this Ordinance.

(b) A Judge Pro Tempore shall have all the judicial powers of a regular elected Judge of the particular Court to which said person is appointed.

(c) Judges Pro Tempore shall be compensated for their services, and reimbursed for their expenses necessarily arising from such services in accordance with this Ordinance.

(d) A person who has been a Judge Pro Tempore may not act as counsel in a proceeding in which he or she has served as a Judge or in any other proceeding related thereto.

**11.24 Judicial Standards of Conduct.** The following standards of conduct shall govern all Judges of the Tribal Courts:

(a) A Judge shall promote justice under Klamath Tribal Law.

(b) A Judge shall promote and protect the independence of the Tribal Courts. As to independence, a Judge shall:

(1) not engage in outside activity that would be inconsistent with his or her judicial duties; and

(2) not be swayed by public criticism or clamor regarding his or her official actions.

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(c) A Judge shall assume administrative responsibility for the prompt, efficient, and careful exercise of Court business.

(d) A Judge shall avoid impropriety and the appearance of impropriety in all activities. Specifically, a Judge shall:

(1) not use his or her judicial position to promote financial or business dealings nor shall he or she be influenced by family, social, or other relationships in his or her judicial conduct or judgment; and

(2) comply with the law and conduct himself or herself at all times in a manner that promotes public confidence in the integrity and independence of the Klamath Tribes Judiciary.

(e) A Judge shall perform his or her duties of office with impartiality and diligence. As to fairness and diligence, a Judge shall:

(1) maintain his or her professional competence;

(2) be patient, courteous, careful, and conscientious in the performance of all official duties;

(3) maintain order in the courtroom;

(4) except as otherwise authorized by applicable Klamath Tribal Law, not initiate nor consider *ex parte* or other communications about a case or proceeding which is or may be before the Court; *provided* that a Judge may obtain the advice of a disinterested expert on the law applicable to a proceeding and consult with other Judges, the Tribal Court Administrator, and Clerks of the Court; and

(5) except in the course of official proceedings, abstain from public comment about a pending or impending proceeding in any of the Tribal Courts and require similar abstention on the part of other Judges, the Tribal Court Administrator, and Clerks of the Court.

**11.25 Additional Powers of the Courts.** Judges shall have the following powers, which they may use in addition to any other powers granted to them in the Klamath Tribal Code or otherwise by the General Council:

(a) to preserve order when engaged in the performance of official duties;

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- (b) to compel compliance with lawful orders of the Court;
- (c) to issue subpoenas, summons, and arrest warrants in the manner provided by the Klamath Tribal Code to compel the presence of persons to testify in proceedings and to compel the production of documents or other evidence;
- (d) to administer oaths; and
- (e) to punish for contempt.

**11.26 Contempt of Court.**

- (a) The following acts and omissions may be punished as contempt of Court:
  - (1) a breach of the peace, or other disorderly or insulting behavior toward the Court during judicial proceedings which interrupts the proceedings, undermines the dignity of the Court, or otherwise interferes with the administration of justice;
  - (2) willful neglect or violation of duty, or abuse of office by an officer of the Court;
  - (3) deceit or abuse of process or proceedings of the Court;
  - (4) disobedience of a lawful judgment, order, or process of the Court;
  - (5) impersonating an officer of the Court;
  - (6) interfering with or threatening a party, witness, officer of the Court, juror, or counsel, in or out of Court, in such a way as to obstruct the administration of justice by the Court; and/or
  - (7) refusing to be sworn as a witness, or to testify in a judicial proceeding when ordered by the Judge to do so, except in the case of a defendant in a criminal proceeding, or a person holding any other privilege against compelled testimony recognized by Klamath Tribal Law.
- (b) Imposition of sanctions for contempt of Court is a civil matter if its purpose is to compel obedience to a Court order or judgment and the sanctions imposed terminate when the person complies with the judgment or order. Civil contempt shall be sanctioned by monetary sanctions of not more than five thousand dollars (\$5,000.00) per single act of civil contempt.

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(c) Imposition of sanctions for contempt of Court is a criminal matter if its purpose is to punish an Indian who is in contempt by imposing sanctions that will continue past the time of compliance with the judgment or order, or the termination of the act of contempt. Criminal contempt must be punished and prosecuted in accordance with the Klamath Rules of Criminal Procedure; *provided* that no Indian shall be imprisoned for a single act of criminal contempt for more than one (1) year and/or subjected to monetary sanctions exceeding five thousand dollars (\$5,000.00).

(d) A direct civil contempt is one committed in the presence of the Court or so near to it as to be disruptive of the Court proceedings, and may be adjudged and punished immediately by the Judge presiding over the hearing.

(e) All other civil contempt shall be adjudged at a hearing at which the person accused of contempt is given notice and an opportunity to be heard.

(f) All orders of contempt shall recite the facts and shall be signed by the Judge and entered of record.

**11.27 Rules of Court.**

(a) The Chief Judge of the Klamath Tribal Court, in consultation with Associate Judges and Visiting Justices, may promulgate rules of court to govern the proceedings and operation of each of the Klamath Tribal Courts, subject to the approval of the Tribal Council.

(b) Rules of court shall not abridge any rights of parties to actions before the Court, and shall not conflict with procedural provisions of the Klamath Tribal Code.

**11.28 Judicial Training.** The Tribal Council may establish educational training requirements and programs for Judges or require Judges to attend other available training sessions.

**ADMINISTRATION OF THE KLAMATH TRIBAL COURTS**

**11.29 Court Sessions.** Sessions of the Tribal Courts shall be held on weekdays during regular working hours at such places designated by the Chief Judge, or in exceptional circumstances, at such other reasonable places, days, and times as the Chief Judge may designate.

**11.30 Court Decorum.**

Except as otherwise provided in the Klamath Tribal Code, the following rules shall govern

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Court decorum:

- (a) a person authorized and designated by the Chief Judge shall open each session of the Court and be present to keep order in the courtroom and to carry out orders of the presiding Judge;
- (b) the public will be permitted in the courtroom during Court sessions unless the Judge prohibits their presence in order to promote the effective administration of justice;
- (c) all men must remove their hats, and all persons shall be dressed in a clean, neat manner;
- (d) no person shall smoke or chew gum in the courtroom;
- (e) while in the courtroom, no person shall make a loud or unusual noise, use profane language, or otherwise disturb the proceedings;
- (f) no person shall enter the courtroom under the influence of intoxicating liquor or drugs;
- (g) all persons shall show respect and courtesy to the Judge, parties, and officers of the Court; and
- (h) no person shall sketch, take photographs, or make auditory or video recordings during any proceedings of the Tribal Courts; *provided* that this Subsection shall not prohibit the Court from so recording proceedings.

**11.31 Officers of the Court.** Officers of the Klamath Tribal Courts shall include:

- (a) The Tribal Court Administrator, Clerk(s) of the Court, and any deputies, probation officers, referees, or masters;
- (b) persons authorized to enforce the Klamath Tribal Code, including but not limited to special officers, rangers, conservation officers, wildlife management agents, or other persons carrying out orders of the Court;
- (c) persons representing parties before the Court, including but not limited to counsel and the prosecutor, juvenile officer, and General Counsel of the Klamath Tribes; and
- (d) bailiffs and process servers.

**11.32 Staff of the Klamath Tribal Courts.**

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(a) The Chief Judge may hire in accordance with any applicable personnel policies of the Klamath Tribes a full- or part-time Tribal Court Administrator to help in administering the Klamath Tribal Courts under the supervision of the Chief Judge, including but not limited to performing the following tasks:

- (1) compiling and maintaining records and statistics of pending cases and other business of the Tribal Courts;
- (2) assigning all motions, pretrial conferences, trials, and other matters for disposition, and maintaining and publishing all assignments and calendars;
- (3) advising the parties or their counsel of the status of various calendars;
- (4) coordinating with and supervising the Clerks of the Courts, if any, to accomplish the prompt and orderly disposition of the business of the Tribal Courts;
- (5) making suitable courtroom and personnel arrangements for Visiting Justices and Judges Pro Tempore as directed by the Chief Judge;
- (6) supervising all other Court personnel assigned thereto except Judges;
- (7) in the absence of a Clerk of the Court, performing the duties of the Clerk; and
- (8) performing such other duties as the Chief Judge shall direct.

(b) The Chief Judge may hire in accordance with any applicable personnel policies of the Klamath Tribes one (1) or more full- or part-time Clerk(s) of the Court to assist the functioning of the Tribal Courts under the direction of the Tribal Court Administrator. The duties of a Clerk of the Court shall include, but are not limited to the following:

- (1) keeping all records, files, dockets and other information required to be kept by this Ordinance, rules of court, or orders of the presiding Judge;
- (2) maintaining tape or stenographically recorded records of Court proceedings as required by the Court or requested by the parties;
- (3) administering oaths;

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(4) collecting and accounting for all fines, bail or bond money, filing fees, and such other money or property as may accrue to the Tribal Courts, and disbursing such money or property as required by law and as directed by the Tribal Courts;

(5) aiding the public in their dealings with the Tribal Courts;

(6) providing Court forms to the public upon request and providing assistance, but not legal advice, to persons who need help filling them out;

(7) accepting and marking for filing all pleadings and other Court documents;

(8) maintaining a Roll of Counsel, listing all attorneys, lay advocates, and law students authorized or certified to practice before the Tribal Courts under this Ordinance;

(9) maintaining the Court calendar under the supervision of the Tribal Court Administrator;

(10) in the absence of the Tribal Court Administrator, performing the duties of the Tribal Court Administrator; and

(11) performing such other duties as the Chief Judge or Tribal Court Administrator shall direct.

(c) A Tribal Court Administrator or Clerk of the Court must:

(1) be twenty-one (21) years of age or older;

(2) be of good moral character; and

(3) have completed at least twelve (12) years of education or received a graduate equivalency degree.

(c) The Tribal Court Administrator and Clerk(s) of the Court shall be paid a salary to be determined by the Chief Judge, subject to approval by the Tribal Council.

(d) No Tribal Court Administrator or Clerk of the Court shall give legal advice or represent anyone before the Klamath Tribal Courts while employed by the Court.

(e) The Tribal Court Administrator and Clerks of the Court shall be bonded to secure the

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honest collection of bonds, fines, and other monies paid into the Tribal Courts.

**11.33 Court Records and Library.** The Tribal Courts shall be courts of records and the following requirements shall apply.

(a) A complete record shall be kept of all matters brought before the Tribal Courts. This record shall include the files of all cases which are or have been before the Courts.

(b) Each case file shall be stored in a manner which makes it possible to locate it by the name of either the plaintiff or the defendant, or the Court number.

(c) Each file shall contain all pleadings, motions, orders, and other documents that have been filed by the parties and the Court in that case. The file also shall contain a Transcript Index, which shall indicate for each courtroom proceeding whether or not a transcript or recording of the proceeding has been prepared, and if so, the location of that transcript or recording. Each transcript or recording shall be filed in such a manner as to make it possible to locate it using the information on the relevant Transcript Index.

(d) Each file shall contain an Appearance and Filing Docket in which shall be entered:

(1) the date of each Court hearing which occurs in the case, a brief description of the purpose and the outcome of the hearing, a list of the parties, counsel, and witnesses participating in the hearing, and the name of the Judge presiding; and

(2) the date on which each document is filed in the case, the name of the document, and the name of the party or Judge who filed it.

(e) The files and records of the Tribal Courts, except for the internal working documents not relating to specific cases, shall be public and open for inspection during Court business hours except as otherwise provided by this Ordinance or the Klamath Tribal Code.

(f) Files and records of the Klamath Juvenile Court and those relating to adoptions shall be available only to the parties and their counsel except as specifically provided by Court order in particular cases. Such files shall be conspicuously marked or filed in a separate place to avoid accidental public release.

(g) The Tribal Courts shall be provided with or have access to all applicable tribal, federal, and state laws and regulations of the Bureau of Indian Affairs. To the extent resources permit, the General Council shall provide such materials.

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(h) There shall be kept available for public inspection during regular business hours at the office of the Tribal Court Administrator, copies of the Klamath Tribal Code, including all amendments, and a copy of any rules of court.

(i) Except as otherwise provided in the Klamath Tribal Code, any party or any counsel to a party involved in a proceeding before the Tribal Courts may obtain a certified copy of the Court proceedings from the Clerk of the Court by paying a copying fee of twenty-five cents (25¢) per page or such other the fee established by the Chief Judge.

**PRACTICE BEFORE THE KLAMATH TRIBAL COURTS**

**11.34 Representation Before the Klamath Tribal Courts.**

(a) Except as otherwise limited by the Klamath Tribal Code, any person may represent himself or herself before the Tribal Courts or may be represented by a counsel at his or her own expense, subject to the provisions of Subsection (b) of this Section.

(b) No person may practice before the Klamath Tribal Courts without first having been admitted to the Klamath Tribal Bar.

(c) No Tribal Court employee, including but not limited to Clerks of the Court, Tribal Court Administrator, prosecutor, bailiff, and probation officers, shall be allowed while employed in such positions to represent any party before the Tribal Courts or to accept compensation for giving legal advice to parties before the Tribal Courts; *provided* that this Subsection shall not be construed to prohibit the prosecutor from representing the Klamath Tribes in criminal actions brought to enforce Klamath Tribal Law.

(d) No Tribal Council member or officer shall be allowed to serve as counsel to a party before the Tribal Courts while sitting on the Tribal Council.

**11.35 Authority to Practice Before the Klamath Tribal Courts.**

(a) In order to practice before the Tribal Courts, every attorney must:

(1) apply for a license and obtain membership in the Klamath Tribal Bar and be:

(A) an attorney in good standing, licensed by and an active member of the

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State Bar of Oregon; or

(B) an attorney in good standing, licensed by and an active member of any other state bar association, who passes the Klamath Tribal Bar examination; or

(2) in the discretion of the Court, be permitted to make a special appearance and practice before the Tribal Courts only in a particular case upon making a motion to the Judge having jurisdiction over the case.

(b) In order to practice before the Klamath Tribal Courts, every lay advocate who is not an attorney must apply for a license, obtain membership in the Klamath Tribal Bar, and pass the Klamath Tribal Bar examination.

(c) A licensed lay advocate shall be permitted to practice before the Tribal Courts in criminal matters only when the defendant has knowingly waived his or her right to counsel.

(d) Every applicant for a license must submit a sworn statement signed by the applicant that he or she:

(1) has read and is familiar with this Ordinance and any rules of court pertaining to attorney and lay advocate conduct and will abide by the provisions thereof;

(2) has read and is familiar with the Oregon Code of Professional Responsibility and will abide by the provisions thereof to the extent that such Code is not inconsistent with Klamath Tribal Law;

(3) submits to the jurisdiction of the Klamath Tribal Court for disciplinary purposes; and

(4) has not been disciplined by the Tribal Courts or the courts of any jurisdiction within the past five (5) years.

(e) No person meeting the requirements of this Section shall be authorized to practice before the Tribal Courts until the applicant has been authorized to do so by order of the Chief Judge of the Klamath Tribal Court. A copy of the order authorizing the practice of law shall be filed in the records of the Klamath Tribal Court.

(f) Law students who are certified under the following provisions will be permitted to

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practice on Klamath Tribal Lands and before the Tribal Courts for a specified time. In order to make an appearance pursuant to this Subsection, the law student must:

(1) be duly enrolled in a law school approved and accredited by the American Bar Association, be supervised by an attorney who is a member of the Klamath Tribal Bar, and be authorized by the Klamath Tribal Court to make appearances;

(2) have successfully completed legal studies amounting to at least three (3) semesters, or the equivalent if the school is on some basis other than a semester basis;

(3) be certified by the dean of the law school as being of good character and competent legal ability, and as being adequately trained to perform as legal intern including instruction in civil, criminal, and courtroom procedure;

(4) neither ask for nor receive any compensation or remuneration of any kind for his or her services from the person on whose behalf he or she renders services, but this shall not prevent an attorney, legal aid bureau, law school, public defender agency, or the Klamath Tribes from paying compensation to the eligible law student;

(5) certify in writing that he or she has read and is familiar with this Ordinance and any rules of court pertaining to attorney and lay advocate conduct, and will abide by the provisions thereof;

(6) certify in writing that he or she has read and is familiar with the Oregon Code of Professional Responsibility and will abide by the provisions thereof to the extent that such Code is not inconsistent with Klamath Tribal Law; and

(7) submits to the jurisdiction of the Klamath Tribal Court for disciplinary purposes.

**11.36 Licensing.**

(a) The fee for an initial license to practice before the Tribal Courts shall be fifty dollars (\$50.00) for attorneys and twenty-five dollars (\$25.00) for lay advocates or such other fees established by the Chief Judge from time to time by rule of court.

(b) All licenses to practice before the Tribal Courts must be renewed annually on or before February 1 of each year by completing the license renewal forms established by the Klamath Tribal Court and paying fifty dollars (\$50.00) for attorneys and twenty-five dollars (\$25.00) for lay

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advocates or such other fees established by the Chief Judge from time to time by rule of court. Expired licenses may not be renewed, and such applicants must apply for and meet all the requirements for a new license to practice before the Tribal Courts.

(c) The Chief Judge of the Tribal Court shall establish standards and procedures for the licensing of attorneys and lay advocates and shall make the final decision as to the granting of each license.

(d) A Roll of Counsel, listing the names of all counsel currently licensed or certified to practice before the Tribal Courts, shall be used by the Tribal Courts to determine if a particular counsel is authorized to appear before the Courts.

(e) Any applicant denied a license to practice before the Tribal Courts may appeal to the Klamath Supreme Court in accordance with the Klamath Rules of Appellate Procedure.

**11.37 Klamath Tribal Bar Examination.**

(a) The Chief Judge, in consultation with an attorney who is a member in good standing of the Klamath Tribal Bar, shall develop and oversee the administration of the Klamath Tribal Bar examination, which shall be a minimum standards test that will require an applicant to demonstrate an adequate, general working knowledge of Klamath Tribal Law, federal Indian law, and rules of the court.

(b) The fee for all applicants taking the Klamath Tribal Bar examination shall be fifty dollars (\$50.00) or such other fee established by the Chief Judge from time to time by rule of court.

**11.38 Discipline of Counsel Licensed to Practice Before the Klamath Tribal Courts.**

(a) Upon the receipt by the Chief Judge of a verified complaint alleging that a counsel has acted unethically, or improperly, or violated a rule of court relating to the standards of conduct and professional responsibility, or alleging that there are reasonable grounds to believe that any counsel authorized to practice before the Tribal Courts has been disbarred, suspended from practice, or disciplined relating to his or her practice of law in any other jurisdiction, such counsel shall immediately be served with notice that he or she will be suspended from the practice of law in the Tribal Courts unless he or she appears in the Klamath Tribal Court before the Chief Judge within ten (10) days of receipt of the notice and shows cause why he or she should not be suspended.

(b) Any Judge who finds a counsel in contempt of Court may, in addition to imposing any other sanctions provided by this Ordinance, order the counsel to appear as in Subsection (a), above.

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(c) Any counsel who is ordered to appear pursuant to this Section may be requested to provide an accounting of monies received and expended on behalf of the client and to justify the accounting.

(d) Any counsel who is ordered to appear pursuant to this Section shall be afforded a full and fair hearing, with the rights to confront his or he accuser, to present evidence, and to subpoena and call witnesses. If after the hearing the Chief Judge finds on the basis of the evidence that counsel is guilty of misconduct which requires the imposition of disciplinary action, he or she may:

- (1) verbally censure counsel;
- (2) issue a written reprimand to counsel, which shall be recorded on the Roll of Counsel maintained by the Clerk of the Court;
- (3) suspend counsel for a specific period of time from practicing before the Tribal Courts;
- (4) suspend counsel for an indefinite period of time, setting a date for review of the matter to determine the necessity of continued suspension; or
- (5) disbar counsel permanently from practicing before the Tribal Courts.

(e) Any final order sanctioning counsel may be appealed to the Klamath Supreme Court in accordance with the Klamath Rules of Appellate Procedure.

**JURIES AND JURORS**

**11.39 Trial by Jury.** Any defendant in a criminal proceeding who is accused of an offense punishable by imprisonment shall be entitled to a trial by jury.

**11.40 Jury Size.** Unless otherwise required or allowed under the Klamath Tribal Code, a jury shall consist of six (6) qualified persons and at least one (1) alternate juror.

**11.41 Jury List.** Each year, after the Klamath Tribal Court begins to hear criminal cases, the Tribal Council, or the Chief Judge at the direction of the Tribal Council, shall prepare a list of persons eligible to serve as jurors. Based on this jury list, the Clerk of the Court shall prepare a ballot in the name of each eligible person and protect the ballots from unauthorized access.

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**11.42 Eligible Jurors.** To be eligible to serve as a juror for a case being heard by the Tribal Courts, a person:

- (a) must be a member of the Klamath Tribes, a spouse of a member of the Klamath Tribes residing within the Klamath Tribes' service area as designated by the Tribal Council
- (b) must be eighteen (18) years of age or older;
- (c) must never have been convicted in any court of a felony; and
- (d) must not at the time the jury list is made, or at the time of the trial, be a judge, employee, or officer of the Tribal Courts, be a member or officer of the Tribal Council, or be employed as a person authorized to enforce Klamath Tribal Law.

Any non-member of the Klamath Tribes who claims to be a spouse of a member of the Klamath Tribes for the purposes of this Section may register for jury duty by giving the Tribal Council a written statement of his or her qualifications for such status under this Section.

**11.43 Selection for Jury Duty.**

- (a) Not less than seven (7) days before the date set for the beginning of a jury trial, the Chief Judge shall draw, at random, the number of ballots determined by the Chief Judge as sufficient for the particular trial. The Clerk of the Court shall then issue and cause to be served upon each person whose ballot was drawn a jury summons.
- (b) The jury summons shall notify the person being summoned to appear in Court on the date set for the beginning of the trial, one hour before the time set for the trial. Failure of a person served with a jury summons to appear shall constitute contempt of Court, and the summons shall contain a warning to that effect. Upon request, the judge shall have the power to excuse any person from jury duty due to sickness, disability, severe hardship, or for other good cause, however, excuse from jury duty shall be disfavored.
- (c) On the day of the trial, the Clerk of the Court shall deposit in a ballot box the ballots containing the names of each of the summoned potential jurors who have appeared by the time set for their appearance. Those persons whose names are in the ballot box shall be known as the jury panel. After the judge calls the Court to order, he or she shall draw from the ballot box, at random, the names of ten (10) members of the jury panel or such other number determined by the judge, who shall then be seated in the jury area. The Clerk of the Court shall make a list of the names in the order in which they were called.

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(d) After the first members of the jury panel have been seated, the judge shall conduct an examination of them as to their qualifications and may permit the parties or their counsel to conduct or participate actively in such examination. The judge and each party shall have unlimited challenges to disqualify a potential juror from the jury panel for cause, but all such challenges must be made in good faith. "Cause" shall exist on the grounds that a potential juror:

- (1) is not qualified;
- (2) has a personal or financial interest in the outcome of the case;
- (3) is related to one of the parties;
- (4) has formed an opinion about the case; or
- (5) is unlikely to be able to render a fair, impartial verdict.

(e) For purposes of Subsection (d)(3) of this Section, a potential juror should be disqualified for cause if a party is one of the following relatives to the potential juror, whether based on the whole blood, half blood, adoption, or marriage:

- (1) spouse;
- (2) uncle or aunt;
- (3) niece or nephew;
- (4) grandparent or grandchild;
- (5) brother or sister;
- (6) mother or father including step-parents;
- (7) son or daughter;
- (8) first or second cousin; or
- (9) a spouse of one of the preceding.

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(f) The judge shall excuse any juror he or she believes to be unqualified. After all disqualified jurors have been excused, enough additional ballots shall be drawn by the judge to replace the disqualified persons with new members of the jury panel. The Clerk of the Court shall add their names to the list in the order in which they were called. The procedure for challenge for cause shall continue until ten (10) qualified persons remain seated in the jury area.

(g) Unless otherwise provided for in the Klamath Tribal Code, each party shall have one (1) peremptory challenge to remove one (1) person from the jury without stating any reason. If there is more than one defendant, the defendants jointly shall have only one (1) peremptory challenge. If there is more than one plaintiff, the plaintiffs jointly shall have only one (1) peremptory challenge. A party may waive his or her right to use a peremptory challenge.

(h) The Clerk of the Court shall then read aloud the first six (6) remaining names on the list, or such other number that is otherwise authorized under the Klamath Tribal Code, and those persons shall be jurors for the trial. The Clerk also shall read aloud the next name on the list, and that person shall be the alternate juror for the trial. Additional alternates, if any, shall be selected in the same manner. An alternate juror shall act in all respects as a juror, except that he or she shall not vote during jury deliberations unless one of the other jurors has been excused by the judge during the course of the trial.

**11.44 Compensation of Jurors.** Each juror, including each alternate juror, who serves on a jury shall receive such compensation for his or her daily services as may be authorized and established by rule of court or by resolution of the General Council.

**Certification**

We, the undersigned, Tribal Council Chairman and Secretary of the Klamath Tribes, do hereby certify that at a Regular General Council meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2003 with a quorum present, the General Council took action and duly adopted this Ordinance by a vote of \_\_\_\_\_ for, \_\_\_\_\_ opposed, and \_\_\_\_\_ abstentions by General Council Resolution 2003-4.

\_\_\_\_\_  
Allen Foreman  
Chairman  
The Klamath Tribes

\_\_\_\_\_  
Torina Case  
Secretary  
The Klamath Tribes

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Date Adopted: 11/25/00

Most Recent Amendment: 11/22/03