

COQUILLE INDIAN TRIBAL CODE

Chapter 740

Part 7 – Domestic Relations

Marriage and Domestic Partnership

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Marriage and Domestic Partnership

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740.010 Purpose and Intent.

1. Pursuant to the Coquille Indian Tribe Constitution, Article VI, section 1, the Tribal Council has legislative authority to establish Tribal laws. In order to protect, preserve and promote the health and welfare of the Tribe and its members, the Tribal Council has established this Marriage and Domestic Partnerships Ordinance, which sets out rules to govern the recognition and formation of certain domestic relationships.

2. The Tribal Council finds that Marriages and Domestic Partnerships involving Tribal members are fundamental rights and fundamental institutions that preserve the Tribe's integrity, cohesiveness and continuity. The Tribe further finds that the formation, continuity and recognition domestic relationships are essential to the political integrity, economic security and the health and welfare of the Tribe. The Tribe further finds that this Ordinance deals with purely intramural relationships among persons who are recognized members of the Tribe's community.

3. Definitions

a. **Address** means a residence, mailing or contact address in the same state or reservation as the person's home.

b. **Marriages and Domestic Partners (or "Marriage" or "Domestic Partnership")** means a formal and express civil contract entered into between two persons, regardless of their sex, who are at least 18 years of age, who are otherwise capable of entering a Marriage or a Domestic Partnership (as provided below), and at least one of whom is a member of the Coquille Indian Tribe. For the purposes of this definition, "Domestic Partners" includes without limitation, persons engaged in domestic partnerships or civil unions.

c. **Sex** means the condition of being biologically female or male.

d. **Tribe** means the Coquille Indian Tribe.

e. **Tribal Court** means the Coquille Indian Tribal Court.

f. **Tribal member** means a person who is an enrolled member of the Coquille Indian Tribe.

g. **Tribal Member Services Program** means the program of that name within the Coquille Tribal Administration or such other Tribal Administration program designated by the Tribal Executive Director by regulation.

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h. **Coquille Indian Reservation** means those lands held in trust by the Federal government for the benefit of the Tribe

740.020 Jurisdiction and Background.

The Tribe has jurisdiction to govern the formation and recognition of a Marriage or Domestic Partnership between its members and between a member and a non-member regardless of the member's place of residence.

740.030 Recognition of Marriages and Domestic Partnerships from Other Jurisdictions

1. For the exclusive purpose of providing Tribal and Tribally-administered benefits, the Tribe shall recognize Marriages and Domestic Partnerships formed under the laws of other federally recognized tribes, U.S. states, (and their duly authorized subdivisions), and those foreign nations, jurisdictions and provinces that the United States Government formally recognizes, provided that:

- a. At least one member of the Marriage or Domestic Partnership is a Tribal member at the time that recognition is requested;
- b. Both parties to the Marriage or Domestic Partnership are at least 18 years old;
- c. The parties to the Marriage or Domestic Partnership are not first cousins or any nearer of kin to each other, whether of the whole or half blood, whether by blood or adoption, computing by the rules of the civil law. However, when the parties are first cousins by adoption only, this prohibition will not apply;
- d. The provision of any Tribally-administered benefit to the parties to the Marriage or Domestic Partnership does not conflict with the requirements of federal law;
- e. The parties to the Marriage or Domestic Partnership provide adequate proof of their Marriage or Domestic Partnership; and
- f. The parties to the Marriage or Domestic Partnership are not divorced or legally separated, and the Marriage or Domestic Partnership has not been annulled.

2. Notwithstanding any other provision of Tribal law, If a Marriage or Domestic Partnership at any time fails to comply with the requirements of 740.030(1)(f) the non-Tribal member spouse or domestic partner will become immediately ineligible for services and benefits available to spouses or domestic partners.

3. Nothing in this section 740.030 creates or authorizes a Marriage or Domestic Partnership under Coquille Tribal law.

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4. Nothing in this Ordinance limits the authority of the Tribal Council or the Tribal Administration to categorically prescribe, reduce or eliminate all or a portion of Tribal benefits or privileges, if any, to Spouses or Domestic Partners of Tribal members. Nothing in this Ordinance limits the authority of the Tribal Council or the Tribal Administration to categorically provide greater benefits to Tribal members than to Spouses and Domestic Partners of Tribal members.

740.050 Marriage License Required; Marriage Certificate.

1. No person may perform a Marriage under this Ordinance unless the parties have first obtained a Marriage license from the Tribal Member Services Program. Upon receipt of an application, and a fee to be set by the Tribal Administration, the Tribal Member Services Program shall immediately issue a Marriage license form to any couple that appears to be qualified.
2. The Tribal Member Services Program may request proof of age prior to issuing a license.
3. The Marriage license shall be valid for 60 days regardless of whether the final day ends on a legal holiday or Sunday.
4. The form of Marriage license shall contain a Marriage certificate for the person solemnizing the Marriage to complete and return to the Tribal Member Services Program, and shall include instructions clearly and prominently stating that the parties shall not be married until the Marriage certificate is completed and returned. These instructions will set forth clear instructions regarding how parties may solemnize a Marriage.
5. The Tribal Member Services Program must keep an official record of Marriage licenses and certificates issued.
6. The Tribal Member Services Program must use a Marriage license form that requests statistical data regarding both parties' age, place of birth, sex, occupation, residence and previous marital and domestic partnership status. The Tribal Member Services Program will develop the license and certificate forms consistent with the requirements of this Ordinance. Any licenses issued by the Tribe shall state: "Neither you nor your spouse is the property of the other. The laws of the Coquille Indian Tribe affirm your right to enter into Marriage and to live within the Marriage free from violence and abuse."
7. The license form shall require all applicants for a Marriage to expressly consent to the regulatory jurisdiction of the Coquille Indian Tribe to authorize this Marriage and to the adjudicatory jurisdiction of the Coquille Indian Tribal Court for the purpose of any action to obtain a judgment of dissolution or annulment of the Marriage, for legal separation of the spouses or for any other proceeding related to the spouses' rights and obligations, even if one or both partners cease to reside in, or to maintain a domicile on the Coquille

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Indian Reservation. The license form shall advise all applicants for a Marriage to seek out the advice of an attorney before signing.

8. The license form shall require individuals who wish to form a Marriage to:
- a. State that the individual is at least 18 years of age and is otherwise capable to enter into a Marriage at the time the individual signs the form;
 - b. State whether the individual is a Tribal member;
 - c. Provide a mailing address;
 - d. Sign the form with a declaration under oath that the representations made on the form are true, correct and contain no material omissions of fact to the best knowledge and belief of the individual;
 - e. Have a notary public attest to the individual's statement under oath; and
 - f. Sign a statement acknowledging the Sovereign Immunity of the Coquille Indian Tribe and its employees, representatives, officers and agents.

740.100 Who May Enter a Marriage.

No Marriage license may be issued or Marriage performed unless:

1. At least one party to the proposed Marriage is a Tribal member at the time that the license is issued and at the time that the Marriage is solemnized;
2. Both parties to the Marriage are at least 18 years old at the time of the Marriage; and
3. The parties to the Marriage are not first cousins or any nearer of kin to each other, whether of the whole or half blood, whether by blood or adoption, computing by the rules of the civil law. However, when the parties are first cousins by adoption only, the Marriage is not prohibited.

740.105 Who May Solemnize Marriages.

1. A Marriage may be solemnized and performed on the Reservation by the following:
 - a. The Tribal Council Chief;
 - b. A person or clergyman recognized by his or her religion as having authority to marry;
 - c. The Chief Judge of the Tribal Court; or

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- d. Any other person authorized by Tribal law.
2. The parties may choose for the Marriage to be solemnized according to Tribal customs and traditions, provided that the solemnization is consistent with the requirements of Tribal law, including this Ordinance.
3. No Marriage solemnized by a person professing to have authority to marry will be invalid for lack of authority, if it is both parties' belief that the person had the authority and that the parties have been lawfully married.
4. A person solemnizing a Marriage may charge for the service. Such charge shall not exceed \$50.00, plus actual costs for food and lodging as verified by receipts.

740.110 Duty of Person Solemnizing Marriage.

Any person solemnizing a Marriage must review the Marriage license, and must ascertain:

1. The parties' identities; and
2. That the parties' are of sufficient age to marry; and
3. That, at the time of solemnization, the license remains valid under the time requirements in CITC 740.050.

740.120 Form of Solemnizing; Witnesses; Procedure.

1. In solemnizing a Marriage no particular practice is required except that the parties will assent or declare in the presence of the person solemnizing and at least two other witnesses that they take each other freely as spouses.
2. The person solemnizing the Marriage may administer oaths or question the parties and the witnesses to determine that the parties are qualified to be married under this Chapter.
3. The person solemnizing the Marriage must complete the solemnization portion of the Marriage license form and return it to the Tribal Member Services Program before the license expiration date.
4. Persons solemnizing Marriages under this Ordinance shall maintain a log indicating each Marriage solemnized, the date of the Marriage and the names of the parties.

740.190 Surname May Be Retained After Marriage.

Upon entering into a Marriage, either person may either retain her or his prior surname or adopt his or her spouse's prior surname. The Marriage license form shall accommodate these requirements.

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740.210 Void Marriages.

The following marriages are not recognized by the Tribe, are prohibited, and, if solemnized within the Tribe's jurisdiction, are absolutely void:

1. When either party has a spouse or domestic partner living at the time of the marriage, or
2. When the parties to the marriage are first cousins or any nearer of kin to each other, whether of the whole or half blood, whether by blood or adoption, computing by the rules of the civil law. However, when the parties are first cousins by adoption only, the marriage is not prohibited or void.

740.220 Voidable Marriages.

When the Tribal Court finds that either party to a marriage is incapable of making a marital contract or consenting to the contract for want of legal age or sufficient understanding, or when the consent of either party was obtained by fraud or force, the marriage is void from the time it is so declared by a judgment of a court having jurisdiction of the marriage. However, a marriage void under this subsection does not relieve a party to the marriage from the spousal support and property settlement requirements of Tribal law or other applicable law.

740.230 Legitimacy of Children.

When a Marriage is contracted in good faith and in the belief that it is a valid Marriage, the children of the Marriage born or conceived prior to the Marriage's voiding or the Tribal Court's order invalidating the Marriage for any reason are presumed to be the legitimate issue of both parents.

740.300 Rulemaking Authority.

Using the procedures set forth in CITC Chapter 120, the Executive Director shall have the authority to prescribe such regulations and procedures as it deems necessary to carry out the purpose of this ordinance and to facilitate its operation.

740.400 Tribal Benefits

Notwithstanding any other provision of Tribal law, if the parties to a Marriage at any time become divorced or legally separated, or if a Marriage becomes annulled, the non-Tribal member spouse or domestic partner will become immediately ineligible for services and benefits available to spouses and domestic partners.

740.500 Effective Date of CITC 740.050 – 740.190.

CITC 740.050 to 740.190 shall not become effective until all of the following have been completed:

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1. The Executive Director's promulgation of regulations to implement those provisions, including form documents for use by the Tribal Member Services Program,
2. The adoption of Tribal Ordinances to govern the dissolution of Marriages formed under CITC 740.050 to 740.190, and
3. The adoption of a Tribal ordinance to govern private child custody proceedings between parties to a Marriage formed under CITC 740.050 to 740.190.

740.990 Prohibited Acts; Penalty

1. No person may perform a Marriage unless authorized to do so by Tribal law.
2. No person may knowingly give false information to any Coquille Tribal government official on an application for a Marriage license.
3. Any person who intentionally violates subsections 1 or 2 of this section 740.990 is punishable as a civil violation under CITC Chapter 650, in addition to any other penalty conviction or punishment under Tribal or other applicable law.

740.995 Severability

If any provision of this ordinance or the application of any provision of this ordinance to any person or circumstance is held invalid by a court of competent jurisdiction, that provision shall be severed from the ordinance and the remainder of this ordinance shall remain in full force and effect.

740.997 Sovereign Immunity

Nothing in this ordinance shall be construed as a waiver of sovereign immunity of the Tribe or of any Tribal official, agent, employee or representative, which the Tribe expressly asserts.

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History of Amendments to Chapter 740 Marriage and Domestic Partnership Ordinance:

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