

# **COQUILLE INDIAN TRIBAL CODE**

## **Chapter 624**

### **Tort Claims Ordinance**

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**624.010 Applicability**

This Ordinance shall apply to claims asserted in the Tribal Court arising from the conduct of an “authorized tribal police officer” as that phrase is defined in ORS 181.781.

**624.100 Findings and Purpose**

1. The Tribal Council finds that Coquille Indian Tribe provides governmental services which promote health, safety, welfare and economic security for residents of and visitors to the lands of the Tribe.
2. The Tribal Council recognizes that the Indian tribes are immune from suit, except to the extent such immunity is expressly waived, and that Tribal sovereign immunity serves an important function in preserving limited Tribal resources so that the Tribe can continue to provide governmental services which promote health, safety, welfare and economic security for the residents of and visitors to the lands of the Tribes.
3. The Tribal Council declares that the purpose of this Ordinance is to establish a limited waiver of Tribal sovereign immunity consistent with the ability of the Tribe to continue to fulfill one of the conditions that the Tribes must satisfy for Tribal Police officers to exercise the powers granted by Chapter 644, Oregon Laws 2011 (SB 412).

**624.200 Definitions**

1. Agent: Any person, whether paid or unpaid, acting on behalf of the Tribe.
2. Employee: Any person who is an employee, whether full time or part time, permanent or temporary, of the Tribe.
3. Injury: Injury to a person, death, damage to or loss of property of whatever kind.
4. Officer or Official: An officer, whether elected or appointed, whether paid or unpaid, acting on behalf of the Tribe.
5. Tort: “tort” means the breach of a legal duty that is imposed by law, other than a duty arising from contract or quasi-contract, the breach of which results in injury to a specific person or persons for which tribal, state, or federal law provides a civil right of action for damages.
6. Tribal Court: The Tribal Court established pursuant to the Constitution of the Coquille Indian Tribe.
7. Tribal Law: The Constitution of the Tribe, initiatives or referendums adopted by members of the Tribe in accord with the Tribe's Constitution, ordinances and other legislative enactments adopted by the Tribal Council, and common law of the Tribal Court.

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8. Tribe: The Coquille Indian Tribe.

**624.300 Jurisdiction**

Jurisdiction under this Ordinance shall be with the Tribal Court. This Ordinance does not create, provide or recognize the jurisdiction of the State of Oregon or any of its entities, including but not limited to, its courts.

**624.350 Tort Claims Arising From Conduct of Tribal Officers Exercising Authority Under Chapter 644, Oregon Laws 2011 (SB 412)**

1. The Tribe waives sovereign immunity as to tort claims asserted in the Tribal Court arising from the conduct of an authorized tribal police officer to the same extent as the State of Oregon has waived its immunity from similar tort claims, except that the waiver does not extend to any claim that could be brought in federal court under the Federal Tort Claims Act.

2. A tort claim subject to this section shall proceed in Tribal Court in every respect as though the claim arose from the conduct of a police officer other than a tribal police officer and was governed by ORS 30.260 to 30.300, except notice must be given to the Tribe's Executive Director. Without limiting the foregoing principle, the waiver provided in this section:

- A. Requires the tribal government to defend and indemnify its authorized police officers to the same extent as the State of Oregon or by a police officer employed by a political subdivision of the State of Oregon are required by Oregon law to defend and indemnify their police officers;
- B. Applies to the conduct of authorized tribal police officers occurring while the provisions of tribal law satisfying the requirements of Chapter 644, Oregon Laws 2011 are in effect; and
- C. Allows for recovery against the tribal government in an amount equal to or greater than the amounts listed in ORS 30.260 to 30.300 and applicable to a local public body.

3. The Tribal Administrator or the Administrator's designee shall purchase and maintain in force vehicle liability, vehicle property, and police professional liability insurance sufficient in amount and terms to satisfy Section 3(4) and (6) of Chapter 644, Oregon Laws 2011.

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**624.400 Limited Waiver of Tribal Sovereign Immunity**

This limited waiver of sovereign immunity shall not be construed to include any claim not specifically enumerated under this Ordinance.

**624.500 Applicable Law**

Tribal law and applicable federal law shall apply and shall govern all claims and actions brought under this Ordinance.

**624.600 Severability**

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

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History of Amendments to Chapter 624 Tort Claims Ordinance:

Approved December 13, 2012, Resolution CY12123

Adopted February 23, 2013, Resolution CY1322