

COQUILLE TRIBAL ORDINANCE
Chapter 652
Trespass Ordinance

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652.010 General

1. Purpose

This ordinance provides a means for the Tribe to protect its property and the property of those living on the Reservation from theft, vandalism and other harm and to protect the Tribe, its members, and other persons living on the Reservation from people whose presence on the Reservation is harmful to, or threatens harm to the peace, health, safety, environment, morals and general welfare of the Reservation.

2. Background and Intent. The Tribal Council has determined that acts of third parties that interfere with the property rights and / or welfare of the Tribe, Tribal members, residents and guests threaten the peace, health, safety, environment, morals and general welfare of the Reservation and the health, welfare, environment, political integrity and economic security of the Tribe. It is the intent of the Tribal Council to make such acts a Civil Violation with the desire to protect such property rights.

3. Definitions

As used in this ordinance, the following words or phrases shall have the following definitions:

- (a) “Indian” shall mean a member of a federally recognized Indian Tribe.
- (b) “Tribal Council” shall mean the Tribal Council of the Coquille Indian Tribe.
- (c) “Reservation” shall mean all lands that are part of the Coquille Tribe’s reservation and all other lands held in trust by the United States for the Tribe or any of its members.
- (d) “Tribe” or “Tribal” shall mean or refer to the Coquille Indian Tribe.
- (e) “Tribal member” shall mean a member of the Coquille Indian Tribe.
- (f) “Tribal Court” shall mean or refer to the Coquille Indian Tribal Court.
- (g) “Tribal Police” or “Coquille Tribal Police” shall mean the Coquille Tribal Police, and officers of any other jurisdiction duly deputized to serve the Coquille Tribal Police Department.

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- (h) “Landowner” shall mean any person or entity who owns land in fee or whose land is held in trust by the United States and shall include the Coquille Indian Tribe.
- (i) “Property” shall mean real estate, as well as governmental, commercial, or residential dwellings.

4. This ordinance shall apply to all trespasses as herein defined occurring on or after its date of adoption.

652.020 Jurisdiction.

The Tribal Council has the inherent jurisdiction to protect the peace, health, safety, environment, morals and general welfare of the Reservation and to regulate its internal affairs.

CIVIL VIOLATION OF TRESPASS

652.100 Civil Violation of Trespass

The Tribe hereby establishes the civil violation of Trespass to be prosecuted as a civil violation in accordance with CITC Chapter 650 as a violation of Tribal law (*see* section currently numbered CITC 650.900). The Tribal Council declares that persons committing the Civil Violation of Trespass threaten the peace, health, safety, environment, morals and general welfare of the Reservation and the health welfare, environment, political integrity and economic security of the Tribe.

652.150 Civil Trespass Defined

A person commits the Civil Violation of Trespass if the person enters or otherwise occupies land of another without consent or permission of the landowner, and commits any of the following acts, unless otherwise authorized under applicable law:

1. Cuts down, destroys, or injures any wood, timber, plant, vegetation, or crop standing on the land of another, or carries away any wood, timber, plant, vegetation or crop of another;
2. Discharges a firearm, releases arrows from a bow, or otherwise uses any weapon;
3. Engages in any act, or attempted act of hunting, trapping or fishing;

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4. Digs, takes, or carries away from the land of another, earth, soil, minerals, cultural resources, or any other property;
5. Erects, puts up, fastens, prints, or paints upon another's property, notices, advertisements, signs or other writing designed to communicate to the general public;
6. Dumps, deposits, places, throws, burns, emits or leaves rubbish, refuse, debris, substances, or other objects upon a highway, road, air, waters or any land;
7. Opens, damages, renders inoperable, or destroys a fence, or gate on enclosed land of another;
8. Destroys or injures land, waters, livestock, poultry, buildings, equipment, or any property or another;
9. Permits or allows livestock or any other domesticated animal to enter upon or remain upon the land;
10. Parks or drives any vehicle on the land of another;
11. Refuses to leave land to which the person has no reasonable claim or right of possession when requested to do so;
12. Enters upon such land with knowledge, actual or constructive, that permission by the landowner for such person to enter such land does not exist, or has been expressly denied or revoked;
13. Uses or possesses leased or subleased lands beyond the possessory rights granted by such lease or sublease or other contract; or
14. Violates any restraining order, including a domestic restraining order issued or recognized by the Coquille Tribal Court.
15. Enters upon lands owned by or leased from the Tribe in violation of regulations governing access to such lands.

652.250 Acts Not Constituting Civil Violation of Trespass

The following acts shall not constitute the Civil Violation of Trespass:

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1. Compliance with a properly issued Coquille Tribal Court subpoena, summons or order to show cause; or
2. Compliance with a request or demand authorized by majority vote of the Coquille Tribal Council.

REMOVAL AND EXCLUSION OF PERSONS

652.300 Penalty Cumulative

In addition to any penalty imposed for the Civil Violation of Trespass under CITC Chapter 650, a trespasser may be excluded from the reservation as provided in this Ordinance.

652.350 Prosecution of Removal and Exclusion Proceedings During Pending Criminal Matter

The Tribal Court must stay removal and exclusion proceedings until the completion of any criminal investigation or prosecution arising out of the same facts as the alleged trespass.

652.375 Tribal Removal and Exclusion

1. Persons violating this Ordinance may be removed and excluded from all or any part of the lands within the exterior boundaries of the Reservation, upon a showing by a preponderance of the evidence, of any of the following grounds:

(a) Commission of a crime or civil offense or violation as defined by laws of the United States, the Tribe or the State of Oregon;

(b) Hunting, fishing, or trapping on the Reservation without authority from the Tribe or contrary to the rules and regulations of the Tribe governing such activities;

(c) Trading, or conducting business upon the Reservation in violation of federal or Tribal regulations;

(d) Prospecting, mining, cutting timber or other plant life, grazing or other use, abuse or damage to the Reservation environment or Tribal or Tribal entity infrastructure without authority from the Tribe or the Secretary of the Interior;

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(e) Exploring for or excavating items, sites, or locations of historic, religious, scientific or cultural resources without authority from the Tribe or in violation of federal, Tribal, or state laws, ordinances or regulations; or

(f) Doing or threatening to do any act upon the Reservation that seriously threatens the peace, health, safety, environment, morals or general welfare of the Reservation, or the health, welfare, environment, political integrity, or economic security of the Tribe, or its members.

2. The provisions of removal and exclusion shall not be invoked to exclude persons:

(a) From lands owned by, or held in trust by the United States for the Coquille Indian Tribe, when such person are authorized by federal statute or regulation to be present on such lands; or

(b) From access to federal or state highways within the exterior boundaries of the Coquille Indian Tribe Reservation unless it is determined in a proceeding that the person poses a clear and continuing danger to the safety of persons or property on such highways which outweighs the particular interest of the person in using these highways.

3. An exclusion may authorize an excluded person to travel on any part of the Reservation for certain limited purposes, which include without limitation, maintaining employment, fulfilling familial duties, or meeting educational requirements.

652.380 Term of Exclusion

The Tribal Court shall have the absolute discretion to determine the term of any exclusion; *provided*, that repeat offenders of this Ordinance should be excluded for significantly greater periods of time.

652.385 Application for Exclusion

1. The Tribal attorney or any resident of the Reservation may make an application, in writing, to the Tribal Court requesting that a person be excluded from any part or all of the Reservation and stating the grounds for the exclusion, which must be one of the grounds described in CITC 652.375.

2. Based on the content of the application, an order to show cause shall be issued by the Tribal Court upon an express finding that there exists a reasonable basis for belief that the proposed exclusion is justified under one or more of the grounds stated above. Such order to

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show cause shall state the ground or grounds for the proposed exclusion, a brief summary of the facts relied upon to justify the proposed exclusion, and the names and addresses of witnesses who will be produced to support the proposed exclusion. The order shall

- (a) Name a time and a place where the person may appear in Tribal Court to show cause why he or she should not be excluded from the designated areas of the Reservation.
- (b) Clearly state that, at the show cause hearing, the person may
 - (1) Be represented, at his or her own expense, by legal counsel admitted to practice before the Coquille Tribal Court;
 - (2) Call witnesses and present evidence on his or her on behalf; and
 - (3) Request a continuance in advance of the original hearing in order to prepare his or her defense.
- (c) Clearly state that if the person fails to appear at the show cause hearing or to request a timely continuance, the Tribal Court may enter an order and judgment excluding the person from all or part of the Reservation.

3. The Coquille Tribal Court Rules of Civil Procedure and Rules of Evidence shall govern the exclusion proceedings; *provided*, that at the time that the Tribal Attorney files an application for exclusion, he or she must also provide a copy of the application to the Tribal Council.

4. If the Coquille Tribal Police Department has probable cause to believe that an emergency threatens the peace, health, safety, morals or general welfare of the Tribe, its members, or other persons living on the Reservation the Tribal Police may remove persons from the Reservation; *provided*, that within five (5) working days, either the Tribal Police shall rescind such removal order, or the Tribal Attorney shall commence show cause proceedings under this section. If the Tribal Attorney commences such proceedings, the emergency removal order shall remain in effect until the court has the opportunity to rule on the emergency exclusion.

652.400 Rulemaking Authority

Using the regulations procedures set forth in CITC 120.120(5), the Executive Director shall have the authority to prescribe such rules and regulations as it deems necessary to carry out the purpose of this ordinance and to facilitate its operation.

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652.480 Certain Reservation Lands

This Ordinance shall not apply to the property described in the Business Lease between CEDCO and the Tribe dated February 9, 1995, including the property underlying the Mill Casino and Hotel; *provided*, that this Ordinance shall apply to the property described in this paragraph if the Coquille Gaming Commission ever lacks the authority to remove trespassers.

652.500 Penalties Cumulative

The penalties described in this ordinance are cumulative to other penalties available under Tribal or other applicable laws.

652.600 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.

652.700 Sovereign Immunity; No Application Against Tribe Authorized.

Nothing in this ordinance shall be construed as a waiver of sovereign immunity of the Tribe or any entities chartered, established, or otherwise created under Tribal law, including, without limitation the Coquille Economic Development Commission, the Coquille Indian Housing Authority, the Coquille Cyberwire Corporation and the Nasomah Health Group. No exclusion order may issue for directors, officers, employees, agents and representatives of the Tribe or such entities, acting within the scope of their employment or authority.

652.800 Cooperative Enforcement

The Tribal Council or its delegate is authorized to enter into cooperative intergovernmental law enforcement agreements to carry out the provisions of this ordinance. However, no such agreements are required to make this ordinance effective.