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**Coquille Tribal Ordinance
Chapter 655**

Peacegiving Procedures

655.010 General

- (1) Purpose: The purpose of this Ordinance is to establish procedures for Tribal Peacegiving. This Ordinance is adopted to protect the health, welfare, and morals of the Tribal Reservation and its residents and visitors.

- (2) Background and Intent: This ordinance is needed to protect the health, welfare and morals of the Tribal Reservation and its residents and visitors. The Tribe adopts these procedures to provide for the orderly and just resolution of Tribal Court cases and alleged violations of the Tribal Civil Violations Ordinance that are transferred to the Peacegiving Program.

- (3) Definitions:
 - a. “Child” means an unemancipated and unmarried person under eighteen years of age.

 - b. “Disabled Person” means a person with a disability, as that term is defined in the federal Americans with Disabilities Act at 42 U.S.C. §12102(2), as it is amended from time to time.

 - c. “Child Abuse” and “Child Neglect” have the same meaning as defined under CITC Chapter 640, as it is amended from time to time.

 - d. “Peacegiver” means a person appointed by the Tribal Court who meet the qualifications of Peacegivers described below.

 - e. “Immediate Family” means parents, grandparents, siblings, spouses, parents-in-law, siblings-in-law, children-in-law, children, grandchildren, or domestic partners.

655.050 Establishment of Peacegiving. The Tribal Council establishes its Peacegiving program, placed under the supervision and control of the Chief Judge of the Coquille Tribal Court.

655.070 Powers of the Peacegiving Program.

- (1) Peacegivers shall have the authority to resolve disputes using restorative justice principles and traditional Tribal dispute resolution and community integration values and practices. Peacegivers do not have the authority to violate any applicable Tribal or Federal law or to jeopardize the health and welfare of any party to a case or of the Reservation or its residents. Peacegivers also do not have the authority expressly, impliedly, or otherwise through their status or activities to contractually bind the Tribe.
- (2) After transfer of a case by the Tribal Court, Peacegivers may convene Peacegiving sessions at reasonable times and places under the procedures outlined in this Ordinance. The Peacegiver, in his or her judgment, may involve all or some participants in each session. However, Peacegivers must not meet alone with children without a parent, grandparent, guardian, Tribal Court judge or Tribal Court clerk present.
- (3) Peacegivers may refuse to serve, or discontinue their service in any case at any time. If an assigned Peacegiver discontinues service, the Tribal Court will review whether to assign a new Peacegiver or withdraw a referral to Peacegiving.

655.080 Duties of Peacegivers. Peacegivers must schedule Peacegiving sessions at times and places that are reasonably convenient to all participants. At the outset of any participant's initial session, Peacegivers shall clearly state that they are not judges and have no authority to make a decision for parties or to force them to do anything, except as authorized by Tribal law. During Peacegiving, Peacegivers must at all times maintain an atmosphere that honors Tribal values and promotes healing between the parties and the community. Unless the Tribal Court and the parties consent otherwise, Peacegivers must not accept any case in which they or their immediate family have any personal or financial interest in the outcome of the Peacegiving proceeding. Peacegivers must also disclose to the assigning Tribal Court judge and to the parties any such interest and any family relationship between themselves and any Peacegiving party.

655.100 Qualifications of Peacegivers. Peacegivers shall be persons whom:

- (1) Satisfactorily complete a background investigation, including a determination by the Tribal Court that they have minimum standards of character at least as stringent as described in the Coquille Child Protection Ordinance (the Tribal Court shall conduct any related adjudication in its administrative capacity) as it is amended from time to time;
- (2) Have the respect of the Tribal community and a reputation for honesty, integrity, humanity and a demonstrated practice of resolving local problems;
- (3) Are able and willing to sign an oath of office and abide by any applicable ethical rules and Tribal laws;

- (4) Can, with or without reasonable accommodation, perform the duties and powers of Peacegivers;
- (5) Are appointed by the Tribal Court;
- (6) Must at all times conduct himself or herself as a positive role model for the community; and
- (7) Must be Tribal members or spouses of Tribal members.

655.110 Transfer of Case to Peacegiving.

- (1) With the consent of the parties, the Tribal Court may transfer any case or dispute to the Peacegiving Program.
- (2) With or without the consent of the parties, the Tribal Council may transfer any case involving a juvenile party to the Peacegiving Program.
- (3) At the time of transfer, the Tribal Court must assign one or more Peacegivers who will participate in the case. An assignment order may include a timeline for Peacegivers to provide reports, to meet certain deadlines, or to complete Peacegiving.

655.150 Peacegiving Court Coordinator. The Tribal Court may employ a coordinator to facilitate the review of Peacegiving cases and to assist the court with Peacegiving administration.

655.200 Confidentiality and Privilege. Communications made during Peacegiving shall be treated as confidential by all parties and participants. Such communications shall be privileged as settlement negotiations and may not be admitted to Tribal Court as evidence unless otherwise agreed to in writing by the parties, or as otherwise provided by Tribal law, including this Ordinance. This privilege will not apply to communications originally made for purposes other than Peacegiving, or made before Peacegiving begins. Notwithstanding any other provision of this paragraph, a Peacegiver must make a formal report to the appropriate government agency if he/she learns of any alleged abuse or neglect of a child during Peacegiving or otherwise. Subject to the other provisions of Tribal law, including this Ordinance, the Tribal Court may hold a party or a Peacegiver to be in contempt of court upon a finding that a person violated the confidentiality of Peacegiving. With the permission of all Peacegiving parties, a Peacegiver may testify at a hearing regarding Peacegiving proceedings.

655.250 Removal of Peacegiver.

(1) The Tribal Court may remove a Peacegiver if the Court, in its sole discretion, finds that the Peacegiver is no longer qualified under CITC 655.100.

(2) The Tribal Council, by a majority vote of Tribal Council members then holding office, may remove a Peacegiver, on the basis that the Peacegiver is no longer qualified under CITC 655.100.

655.300 Compensation of Peacegiver. Peacegivers are Tribal volunteers and shall receive no direct remuneration for their services. At the conclusion of Peacegiving proceedings Peacegivers may accept gifts of nominal value from parties in recognition of their services.

655.350 Immunity of Peacegivers. Peacegivers shall be officers of the Tribal Court. Subject to the provisions of this Ordinance, Peacegivers shall be immune from suit for good faith actions and omissions made in the scope of their authority, and in compliance with applicable laws.

655.400 Peacegiving-Related Motions.

- (1) Any party may file a Motion to Terminate Peacegiving. A Motion to Terminate Peacegiving must be based on one or more of the following grounds:
 - a. Lack of personal or subject matter jurisdiction; or
 - b. High Probability that Peacegiving will be unsuccessful
- (2) Any party may file a Motion to Change Peacegiver based on a conflict of interest or other good cause;
- (3) Any participant may file a Motion to be Excused from Peacegiving. Such motion must state the good cause grounds why such person should not be involved in Peacegiving;
- (4) A party having a complaint against a Peacegiver or the Peacegiving process should first seek to resolve the matter with the Peacegiver. If this effort does not resolve the matter, the party may make a motion to the Tribal Court for a protective order ending or limiting Peacegiving. The grounds for any such motion and order will include, without limitation:
 - a. Harassment by a Peacegiver or harassment during Peacegiving that is beyond the Peacegiver's control.

- b. Peacegiver conduct during the Peacegiving process that is degrading, inhumane, dangerous, assaultive, contrary to the laws or traditions of the Tribe, or otherwise violative of basic human rights.
- (5) On its own motion, and after making all necessary findings of fact and conclusions of law, the court may take any action described in this section.

655.500 Conduct of Peacegiving.

- (1) Facilitation by Peacegiver. Peacegiving shall be facilitated by Peacegivers in accordance with Tribal traditions and values. Peacegivers will establish and explain the basic Peacegiving rules and procedures to participants.
- (2) Participants. Peacegiving may include non-parties suggested by the parties. If a child is involved, a Peacegiver will consider participation by that child's legal parent or guardian. The Peacegiver will prepare a list of proposed non-party participants and consult with each party regarding the list prior to the first Peacegiving session. The list of non-party participants may be changed during Peacegiving. The Peacegiver may apply to the Court Clerk for a subpoena for any person who will not voluntarily participate. This subpoena may be in a letter format, and used only to require attendance at Peacegiving. Peacegivers may caucus with individual or subgroups of participants.
- (3) Authority to Settle. Except for the Tribe, every party participating in Peacegiving must have the authority to settle the matter, including any authorized party representatives. Violations of this requirement are subject to the contempt powers of the Tribal Court, and the Peacegiver or any party may file a motion for an order to show cause why a person who violates such obligation should not be held in contempt.
- (4) Good Faith. Any person who participates in Peacegiving without acting in good faith to resolve their differences may be excluded or have their participation restricted by the Peacegiver.
- (5) Lawyers or Spokespersons. Lawyers and Spokespersons may participate in Peacegiving only with the advance unanimous consent of the Peacegiver and all parties.
- (6) Peacegiving may include community and Tribal activities that do not reasonably threaten the welfare of participants. Any such activities involving a child must be pre-approved in writing by that child's parent or legal guardian.

655.600 Peacegiver Report to Tribal Court. When requested by the Tribal Court and when the Peacegiver feels that no further Peacegiving will occur, the Peacegiver will submit a status report to the Tribal Court. The status report may either be in writing or a verbal statement made on the record, and will detail what additional Peacegiving sessions are needed, and the degree to which the original dispute has been resolved. The report shall identify any unresolved issues and the parties involved in those issues.

655.700 Agreements Made During Peacegiving. All agreements involving at least one party made during Peacegiving must be in writing and fully executed before the Peacegiver makes a final status report to the Tribal Court. All agreements made during Peacegiving shall have no legal force and effect until they are approved by the Tribal Court.

655.800. Sovereign Immunity. Nothing in this Ordinance waives, expressly or impliedly, the sovereign immunity of the Coquille Indian Tribe or any of its officers, employees or representatives.

655.900. 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.