

JUDICIAL COMMISSION ORDINANCE
KLAMATH TRIBAL CODE
Title 1 Chapter 5

5.01 Purpose and Authority.

This Judicial Commission 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 IV and V of the Constitution of the Klamath Tribes.

The purpose of this Ordinance is to establish a process for General Council oversight, and for the development and establishment of guiding policy for the Klamath Tribes Judiciary, while maintaining the Judiciary's constitutional independence as a distinct branch of tribal government that is separate from the Tribal Council. It is further the purpose of this Ordinance to establish a process to ensure that the Judiciary operates in a manner that best meets the needs of the Klamath Tribes membership and preserves the integrity of the Judiciary.

5.02 Policy.

It is the policy of the General Council that the Klamath Tribes Judiciary shall operate in accordance with the Constitution and laws of the Klamath Tribes as an independent branch of Tribal Government that is separate from the Tribal Council.

5.03 Establishment Of Judicial Commission.

There is established a Klamath Tribes *Judicial Commission* for the purpose of providing oversight and policy direction to the Klamath Tribes Judiciary.

5.04 Not An Advisory Committee.

The Judicial Commission is not an Advisory Committee to the Tribal Council under the Klamath Tribes Advisory Committee Ordinance.

5.05 Appointment Of Commission Members.

The Judicial Commission shall be appointed by the Tribal Council and confirmed by the General Council to serve terms of three (3) years. The Commission shall consist of five (5) members.

5.06 Qualifications.

- (a) Persons wishing to serve on the Judicial Commission must possess the following minimum qualifications:
- (1) Be an enrolled member of the Klamath Tribes;
 - (2) Be at least twenty-one years of age on the date of appointment;

JUDICIAL COMMISSION ORDINANCE
KLAMATH TRIBAL CODE
Title 1 Chapter 5

- (3) Not have been convicted of a felony or a misdemeanor involving dishonesty or moral turpitude within ten years from the date of appointment;
 - (4) Not be a member of the Tribal Council or running for a position on the Tribal Council;
 - (5) Be familiar with the Constitution and laws of the Klamath Tribes;
 - (6) Have a working knowledge of tribal government operations.
- (b) Persons wishing to serve on the Judicial Commission shall bear the burden of proving that he or she meets the minimum qualifications for service.
- (c) The Klamath Tribes Tribal Council or its delegate shall establish a process for accepting applications to serve on the Judicial Commission and determining whether applicants meet the minimum qualifications. The Tribal Council or its delegate shall further have authority to make mid-term determinations as to whether a Judicial Commission member continues to meet the minimum qualifications. Tribal Council decision as to minimum qualifications is final.

5.07 Duties and Powers.

- (a) The Judicial Commission shall have the following duties and powers:
- (1) To approve operating budgets for the Judiciary on an annual basis in accordance with Tribal budget processes.
 - (2) To approve contracts entered into between the Judiciary and third parties after obtaining legal review.
 - (3) To make recommendations as to the structure and programs of the Judiciary.
 - (4) To recommend and approve policies and procedures for the Judiciary.
 - (5) To approve grant applications and documents associated with such applications for the benefit of the Judiciary.
 - (6) To seek guidance from the General Council as to matters that may affect the Judiciary.
 - (7) To request written and oral reports from the Judiciary.
 - (8) To provide advice and guidance regarding multi-jurisdictional issues relating to the functions of the Judiciary.
 - (9) Other powers as may be necessary to ensure the efficient operation of the Judiciary in accordance with the laws of the Klamath Tribes and the direction of the General Council.
- (b) The Judicial Commission shall report to the General Council on a semi-annual basis, in May and November, and as requested by action of the General Council.

**JUDICIAL COMMISSION ORDINANCE
KLAMATH TRIBAL CODE
Title 1 Chapter 5**

5.08 Limitation of Powers.

The Judicial Commission shall not engage in the following:

- (1) Attempt to influence a decision of a Judge on a matter before the Court.
- (2) Engage or interfere in the day-to-day operations of the Judiciary.
- (3) Attempt to supervise or direct staff of the Judiciary.
- (4) Any other activities specifically prohibited by official action of the General Council.

5.09 Removal.

- (a) A member of the Judicial Commission may be removed from his or her position by a majority vote of the Tribal Council prior to the expiration of his or her term only upon a determination that:
 - (1) The commissioner no longer meets the qualifications for the position as set forth at section 5.06;
 - (2) The commissioner has engaged in a prohibited act(s) set forth at section 5.08;
 - (3) The commissioner has failed to perform member duties in accordance with this Judicial Commission Ordinance;
 - (4) The commissioner has acted in a manner that brings the Klamath Tribes or the Judiciary into disrepute.
- (b) The commissioner 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 allegations at a designated regular or special Tribal Council meeting. The member shall be given a written notice of all allegations against him or her at least ten (10) days before the meeting.

5.10 Vacancies.

- (a) Vacancies on the Judicial Commission created by removal, resignation or otherwise shall be filled by appointment in accordance with Section 5.05.
- (b) Commissioners appointed by reason of vacancy shall serve for the remainder of the vacated term.

5.11 Tribal Court Jurisdiction.

The Klamath Tribal Court shall have exclusive jurisdiction over all questions of interpretation and application of this Ordinance. The Tribal Court shall further have exclusive jurisdiction to enforce the terms of this Ordinance.

**JUDICIAL COMMISSION ORDINANCE
KLAMATH TRIBAL CODE
Title 1 Chapter 5**

5.12 Sovereign Immunity.

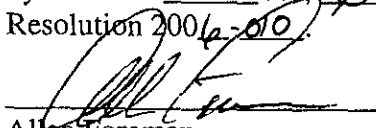
Nothing in this Ordinance shall be interpreted or construed as a waiver of the sovereign immunity of the Klamath Tribes or its officials or employees. The Klamath Tribes expressly reserve all attributes of sovereign immunity.

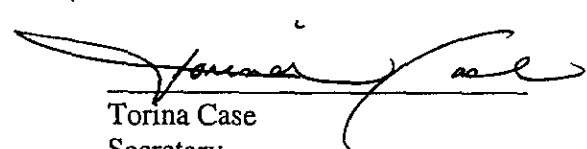
5.13 Severability.

Should any provision set forth in this Ordinance, or the application thereof to any person or circumstance, be held invalid by a court of competent jurisdiction the full remainder of such provision or the application of the provision to another person or circumstance shall not be effected thereby.

Certification

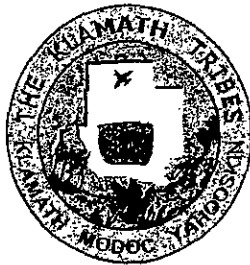
We, the undersigned, Tribal Council Chairman and Secretary of the Klamath Tribes, do hereby certify that at a Regular General Council meeting held on the 18th day of November, 2006 with a quorum present, the General Council took action and duly adopted this Ordinance by a vote of 45 for, 0 opposed, and 6 abstentions by General Council Resolution 2006-010.


Allen Foreman
Chairman
The Klamath Tribes


Torina Case
Secretary
The Klamath Tribes

Legislative History:

Originally adopted by the Klamath Tribes General Council on November 18, 2006 pursuant to General Council Resolution 2006-010.



The Klamath Tribes

TRIBAL COUNCIL RESOLUTION #2006-010

GENERAL COUNCIL RESOLUTION APPROVING AND ENACTING THE KLAMATH TRIBES JUDICIAL COMMISSION ORDINANCE

- Whereas,** The Klamath Tribes constitute a sovereign nation based on the inherent sovereignty of the Klamath, Modoc and Yahooskin Band of Snake Indians;
- Whereas,** The sovereignty of the Klamath Tribes was recognized and affirmed by the Treaty of 1864; and
- Whereas,** The sovereignty of the Klamath Tribes was once again recognized and affirmed by the Klamath Indian Tribes Restoration Act of August 27, 1986 (P.L. 99-398); and
- Whereas,** The General Council of the Klamath Tribal membership is the governing body of the Tribes, by the authority of the Constitution of the Klamath Tribes (Article VI, & VII, Section IV E) as approved and/or adopted by the General Council amended on November 25, 2000; and
- Whereas,** Article III, Membership, Enrollment and Voting of the Constitution of the Klamath Tribes recognizes the voting authority of the General Council members who have attained the age of 18 years; and
- Whereas,** The Klamath Tribes has established an independent Klamath Tribes Judiciary; and
- Whereas,** A draft Judicial Commission Ordinance has been prepared to establish a Judicial Commission for the purpose of providing oversight and policy direction to the Klamath Tribes Judiciary; and

GCR 2006-010

501 Chiloquin Blvd. – P.O. Box 436 – Chiloquin, Oregon 97624
(541) 783-2219 – Fax (541) 783-2029




Whereas, The Klamath Tribes General Council has reviewed the Judicial Commission Ordinance and recommends that it be enacted;

Now therefore be it resolved, That the Klamath Tribes General Council approves and enacts the attached Judicial Commission Ordinance to be effective from the date of approval;

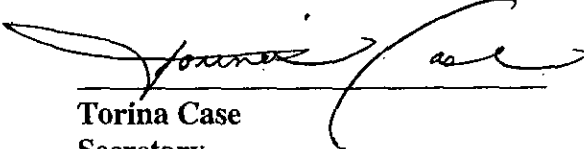
Be it further resolved, That until such time that the General Council confirms Tribal Council's appointment of new Judicial Commission members, Kathleen Mitchell, Marvin Garcia, and Brandi Decker shall serve as the Judicial Commission and Garrick Jackson shall serve as a liaison between the Commission and the Tribal Council.

Certification

We, the undersigned, Tribal Council Chairman and Secretary of the Klamath Tribes, do hereby certify that at a scheduled General Council meeting held on the 18th day of November, 2006, the Tribal Council duly adopted this resolution by a vote of 45 for, 0 opposed, and 6 abstentions.



Allen Foreman
Chairman
The Klamath Tribes



Torina Case
Secretary
The Klamath Tribes

