

TITLE 1 GENERAL PROVISIONS

CHAPTER 1-1 PRELIMINARY PROVISIONS/ADMINISTRATION OF TRIBAL COURT

PRELIMINARY PROVISIONS

1-1-1 Constitutional Authority

This Code is adopted pursuant to the authority vested in the Colville Business Council under Article V of the Constitution of the Colville Confederated Tribes.

1-1-2 Prior Inconsistent Codes and Ordinances Repealed

Any Code or Ordinance of the Tribes which conflicts in any way with the provisions of this Code is hereby repealed to the extent that it is inconsistent with or is contrary to the spirit or purpose of this Code.

1-1-3 C. F. R. No Longer Applicable

Any provision of the Code of Federal Regulations, Title 25, Part 11, as presently constituted or hereafter constituted which deals with the subjects covered in this Code or is otherwise inconsistent with or contrary to the spirit or purpose of this Code is declared to be no longer applicable to the Reservation.

1-1-4 Amendment of Law and Order Code

This Code may be amended in the manner provided in the Colville Tribal Business Council Rules of Procedure. Amendments and additions to this Code shall become a part of the Code for all purposes and shall be codified and incorporated herein in a manner consistent with the numbering and organization of this Code.

1-1-5 Adoption by Reference Not A Waiver of Sovereign Power

The adoption of any law, Code or other document by reference into this Law and Order Code shall in no way constitute a waiver or cession of any sovereign power of the Colville Confederated Tribes to the jurisdiction whose law or Code is adopted or in any way diminish such sovereign power, but shall result in the law or Code thus adopted becoming the law of the Colville Confederated Tribes.

1-1-6 Sovereign Immunity

Except as required by a federal law, or the Constitution of the Colville Confederated Tribes, or as specifically waived by a resolution or ordinance of the Council specifically referring to such, the Colville Confederated Tribes shall be immune from suit in any civil action, and their officers and employees immune from suit for any liability arising from the performance of their official duties.

1-1-7 Principles of Construction

The following principles of construction will apply to all of the Law and Order Code unless a different construction is obviously intended:

(a) Masculine words shall include the feminine, and singular words shall include the plural, and vice versa.

(b) Words shall be given their plain meaning and technical words shall be given their usually understood meaning where no other meaning is specified.

(c) Whenever a term is defined for a specific part of this Code, that definition shall apply to all parts of this Code unless a contrary meaning is clearly intended.

(d) This Code shall be construed as a whole to give effect to all its parts in a logical, consistent manner.

(e) Whenever the meaning of a term used in this Code is not clear on its face or in the context of the Code, such term shall have the meaning given to it by the laws of the State of Washington, unless such meaning would undermine the underlying principles and purposes of this Code.

(f) If any provision of this Code or the application of any provision or any person or circumstance is held invalid, the remainder of this Code shall not be affected thereby and to this end the provisions of this Code are declared to be severable.

(g) Any typographical errors or omissions shall be ignored whenever the intended meaning of the provision containing the error or omission is otherwise reasonably certain to the Court.

(h) Any other issues of construction shall be handled in accordance with generally accepted principles of construction giving due regard for the underlying principles and purposes of this Code.

(i) In the event that typographical, citational, reference or other errors appear in this Code as a result of recodification, reorganization, amendment or other changes to this Code, and where, as a result of such changes, it is clear that the legislative intention differs from the literal language in the Code, the Court shall reasonably interpret and follow the general intent of the provision(s) in question in order to avoid unlikely, inconsistent, or strained consequences which may result from a literal reading.

(j) Any references to this Code in any statute, regulation, policy, resolution, Tribal Court opinion or other material adopted or produced by any department or entity of the Colville Confederated Tribes existing before any duly adopted re-codification, reorganization or other changes in the material referenced shall be deemed to conform to and reflect such changes to the extent necessary and practical.

(k) When there is a conflict between one provision of this Code which treats a subject in a general way and another which treats the same subject in a specific manner, the specific provisions will prevail.

ESTABLISHMENT OF COURT

1-1-40 Establishment of Court

A Court is hereby established for the Reservation, to be known as the Colville Tribal Court.

1-1-41 Establishment of Court of Appeals

An appellate court is established for the Reservation, to be known as the Court of Appeals.

(Adopted 9/2/10, Resolution 2010-653)

JURISDICTION

1-1-70 Colville Tribal Court Jurisdiction—Defined

The jurisdiction of the Tribal Court and the effective area of this Code shall include all territory within the Reservation boundaries, and the lands outside the boundaries of the Reservation held in trust by the United States for Tribal members of the Tribes, and it shall be over all persons therein. Provided, however, that criminal jurisdiction of the Court shall not extend to trial of non-Indians. It shall include jurisdiction over all persons subject to the jurisdiction of the Tribes when fishing or hunting under Tribal authority in the area ceded under the 1891 North Half Cession Agreement, as ratified by the Act of June 21, 1906 (34 Stat. 325). To the greatest extent permissible by law, the jurisdiction of the Tribal Court shall apply to all persons on lands in the North Half and on other lands where the Colville Confederated Tribes may be authorized to enforce its interests or rights and members asserting rights held by the Tribe without regard to location.

1-1-71 Concurrent Jurisdiction

The jurisdiction invoked by this Code over any person, cause of action or subject shall be exclusive and shall preempt any jurisdiction of the United States, any state, or any political subdivision thereof; except in those instances in which federal law provides otherwise. This Code does not recognize, grant or cede jurisdiction to any other political or governmental entity in which jurisdiction does not otherwise exist in law.

APPOINTMENT AND REMOVAL OF JUDGES

1-1-100 Chief Judge and Associate Judges, Bonding

The Tribal Court shall consist of one Chief Judge whose duties shall be regular and permanent and at least two Associate Judges who may be called into service when the occasion arises. Among other duties assigned by the Business Council and this Chapter, Associate Judges shall preside over court proceedings as assigned by the Chief Judge, sign court documents, complete case dispositions' monitor court officer conduct to maintain respect due to the Court and abide by the Tribes' Judicial Code of Conduct.

(Amended 9/2/10, Certified 9/9/10, Resolution 2010-653)

1-1-101 Appointment, Compensation and Term

Each judge shall be appointed by the Council and shall be compensated on a basis to be determined by the Council. Each judge appointed by the Council shall hold office for a period of four years, unless sooner

removed for cause as provided in this subchapter or by reason of the abolition of the office, but shall be eligible for reappointment.

1-1-102 Judicial Cooperation

All judges and personnel of the Tribal Court shall cooperate with all branches of the BIA, with all federal, state, county and municipal agencies, when such cooperation is consistent with this Code, but shall ever bear in mind that their primary responsibility is to the people of the Tribes.

1-1-103 Removal of Judges

During tenure in office, a judge may be suspended, dismissed or removed for cause by a vote of the Council. Copies of a written statement setting forth the facts and the reasons for such proposed action must be delivered to the judge and to members of the Council at least ten (10) days before the meeting of the Council before which he is to appear. A hearing shall then be held by the Council wherein the accused judge shall be given an adequate opportunity to answer any and all charges. Causes judged sufficient for removal shall include, by way of example and not limitation:

- (a) Excessive use of intoxicants,
- (b) Immoral behavior,
- (c) Conviction of any offense other than minor traffic violations,
- (d) Use of official position for personal gain,
- (e) Desertion of office, or
- (f) Failure to perform duties.

The decision of the Council shall be final. Action taken under or interpretation of this section shall be consistent with Amendment X of the Constitution and By-laws of the Colville Confederated Tribes.

1-1-104 [RESERVED]

(Amended 9/2/10, Certified 9/9/10, Resolution 2010-653)
(Amended 2/7/85, Resolution 1985-67)
(Amended 9/7/76, Resolution 1976-554)
(Adopted 2/22/83, Resolution 1983-140)

1-1-105 Magistrates

In addition to judges provided by this Chapter, the Business Council may appoint, up to three (3) magistrates to exercise the powers provided for herein. Such person must meet all the requirements of this Chapter and shall be bound by all the provisions herein. Provided however, that such persons need be over twenty-one (21) years of age. Such persons shall have the power to issue search or arrest warrants, receive bail, set the amount of bail where no amount has been set by tribal law or the Chief Judge, and set and continue trial dates. Magistrates shall exercise these powers when assigned to them by a Tribal Judge or at any time a Tribal Judge is not reasonably available. Any such action of a magistrate shall be subject to

review and modification by any judge of the Tribal Court. The term of office, compensation, and removal of magistrates shall be governed by the provisions of this Chapter applying to judges.
(Adopted 2/17/96, Resolution 1976-111)

1-1-106 Judges Pro-Tem

In emergency situations, where a judge from the Tribal Court cannot be available, a judge, from an established Tribal Court, or an Indian Reservation may hear cases and attend to other court duties until a Colville Tribal Judge again becomes available. Such Judge Pro-tem shall be selected by the Business Council. Payment for the Judge Pro-tem shall be as provided by the Business Council.
(Amended 2/2/76, Resolution 1976-81)

GENERAL COURT PROCEDURES

1-1-140 Sessions of Court

(a) Sessions of the Court for the trial of cases shall be held by the Chief Judge, or in case of his disability, absence or unavailability, by an associate judge, provided, however, that an associate judge may be called in to hear cases at any time for any reasonable cause by the Chief Judge.

In the case of disability, absence or unavailability of both the Chief Judge and the associate judges, the Chief Judge shall appoint a trial judge from the current list of pro-tem judges who have presided in the Colville Tribal Court as an appellate judges. In the case of recusal of the Chief Judge, the Court Administrator shall select a name from the above-referenced list.

(b) Upon the assignment of a case to a judge other than a Chief Judge or associate judge, notice shall be given to all parties of the assignment. The parties will then be given the opportunity to file a written objections, within seven (7) days after receipt of notice, stating: 1) the party seeking the objection; 2) the reason for the objection; and 3) a request for reassignment.

(c) If recusal is made by an associate, the Chief Judge shall review the matter and make a determination. If recusal is made by the Chief Judge, an associate shall make a determination.

If recusal is made by both the Chief Judge and the associate judges, the Court Administrator shall automatically reassign the matter to another pro-tem on the list. The determination of whether or not to assign to another pro-tem judge is within the sole discretion of the reviewing judge. Each party is limited to one such objection per case.

(Amended 9/19/85, Resolution 1985-462)

1-1-141 Acting Chief Judge

The Chief Judge of the Court shall designate, in writing, one associate judge to act as Chief Judge whenever the Chief Judge is absent from the Reservation, is on vacation, ill or otherwise unable to

perform the duties of his office. The acting Chief Judge may exercise all the powers of the Chief Judge. The duly appointed Chief Judge may at any time change his designation of the judge empowered to act as Chief Judge. In the event that the Chief Judge fails to designate a judge to act in his absence, the Council shall designate an associate judge as acting Chief Judge.

1-1-142 Rules of the Court, Procedures

The time and place of court sessions, and all other details of judicial procedure not prescribed by the Colville Tribal Code shall be governed by Rules of Court promulgated as herein provided. It shall be the duty of judges of the Court to make recommendations to the Council for enactment or amendment of such Rules of Court as they believe to be in the interests of improved judicial procedures.

(Amended 9/2/10, Certified 9/9/10, Resolution 2010-653)

1-1-143 Disqualification of Judge

Any party to any legal proceeding hereunder, including trials and appeals, may accomplish a change of assignment of his case from one judge to another upon filing an Affidavit of Prejudice with the Court, giving satisfactory reasons for the change. The Affidavit shall be in written form and must be filed with the Court before any trial action whatever has been taken by the initial judge. The initial judge shall refer the affidavit to another judge for decision.

Such an order of the Trial Court may be appealed immediately under Court of Appeals procedures and all further actions in the case will be stayed pending outcome of the appeal. Such an order of the Appellate Court shall not be appealable.

(Amended 9/2/10, Certified 9/9/10, Resolution 2010-653)

1-1-144 Means to Carry Jurisdiction Into Effect

When jurisdiction is vested in the Court, all the means necessary to carry into effect are also given and in the exercise of this jurisdiction, if the course of proceeding is not specified in this Code, any suitable process or mode of proceeding may be adopted which appears most conformable to the spirit of Tribal Law.

1-1-145 Court Administrator

There is within the Colville Tribal Court an Office of the Court Administrator whose duties shall be to:

- (a) Draft and monitor all the budgets for the Court, including the submission of reports to the appropriate departments required by contract or policy;
- (b) Provide receipts and deposit money paid to the Court for fines, bar fees, restitution, bail, judgments, and any other money that shall be paid pursuant to the Court order;
- (c) Calendar the Court cases and schedule appointments for the judges of the Court;
- (d) Maintain a Tribal Court Bar roster;
- (e) Draft and/or assist in the drafting of forms to be used by the public and others in proceedings heard by the Tribal Court;
- (f) Assist and/or give the general public information pertaining to court matters, filing of documents and procedures without giving legal advice;
- (g) Keep the timekeeping and personnel records for the Court Staff;
- (h) Be a designated signer for subpoenas;
- (i) Maintain and submit disposition records to appropriate departments/agencies as required by

contract or policy;

(j) Attend meetings in absence of the Chief Judge;

(k) Have delegated administrative authority in absence of Chief Judge to carry on the day-to-day operations of the Court;

(l) Exercise the powers and perform the duties conferred and imposed upon the Court Administrator elsewhere by statute; and

(m) Perform his/her duties to conform to the directions of the Court, to the extent that the direction of the Court is compatible with the Colville Plan of Operations.

(Passed 7/6/89, Resolution 1989-513)
(Amended 2/18/99, Resolution 1999-96)
(Amended 4/4/02, Resolution 2002-207)

SPOKESMEN

1-1-180 Spokesmen Appearing in Tribal Court

Any person appearing in Court shall have the right to a spokesman, at his own expense, to assist him in presenting his case, provided that such spokesman shall first have been admitted to the Tribal Court Bar. The Court may appoint a spokesman to assist any person, if in the discretion of the Court, it appears necessary to protect such per'on's rights. A spokesman need not be an attorney.

1-1-181 Tribal Court Bar—Admission

To be admitted to the Tribal Court Bar, a person must:

(a) Be of good moral character,

(b) Be approved by the Court,

(c) Sign and take the Spokes'an's Oath,

(d) Pay the Tribal Court Bar admission fee,

(e) Be at least 18 years of age.

1-1-182 Spokesman's Oath

The oath which all persons desiring to appear as spokesmen in the Court shall take is as follows:

“Spokesman's Oath”

Colville Indian Reservation, ss.

I, _____ do solemnly swear:

(a) I have read the Colville Law and Order Code and am familiar with its contents;

(b) I will respect and obey the Constitution of the Colville Confederated Tribes in all respects;

(c) I will abide by the rules established by the Council and the Colville Tribal Court;

(d) I will at all times maintain the respect due the Tribal Court and its officers;

(e) I will not counsel or speak for any suit or proceeding which shall appear to me to be unjust, or any defense except such as I believe to be honestly debatable under the law of the Tribes unless it be in defense of a person charged with a public offense;

(f) I will employ such means only as are consistent with truth and honor and will never seek to mislead a judge or jury by any false statement.

(g) I will abstain from all offensive conduct in the Tribal Court.

Subscribed and sworn to before me this ____ day of _____, 20____.

1-1-183 Tribal Court Bar Roster

The clerk of the Court will maintain a roster of all spokesmen admitted to practice before the Court. The clerk will also keep on file the signed oaths of all such persons.

1-1-184 Tribal Court Admission Fee/Annual Fee

Every person wishing to appear as a spokesman in the Tribal Court will pay an admission fee of \$25.00 and an annual fee thereafter of \$15.00.

(a) These fees will be used by the Tribal Court to maintain a Tribal Court Law Library and a current bar roster.

(b) A judge may waive or lower the Tribal Court bar admission fee and/or annual fee for good cause shown.

(c) The Tribal Court will refer bar members to the Code Reviser to purchase their copy of the Colville Tribal Code.

(Amended 2/22/83, Resolution 1983-143)
(Amended 4/4/02, Resolution 2002-207)

1-1-185 Tribal Court Bar—Disbarment

Any spokesman violating the Spokes' an's Oath shall be subject to disbarment. The Judge shall prepare in writing a complaint against such spokesman, including reasons for disbarment. Within ten (10) days of receipt of such complaint, the Council shall hold a hearing at which time the spokesman involved may present witnesses and a defense of his actions. The decision of the Council shall be final.

1-1-186 Contempt of Court

Any spokesman failing to maintain the respect due any Colville Court or engaging in offensive conduct in the courtroom shall be deemed guilty of contempt of court and subject to immediate sentencing by the judge to imprisonment for a period not to exceed three (3) days, or a fine not to exceed \$100.00, or both the jail sentence and fine.

(Amended 9/2/10, Certified 9/9/10, Resolution 2010-653)

1-1-187 Appeal

Any person denied admission to the Tribal Court Bar or any spokesman found guilty of contempt of court by the judge may appeal in accordance with the subchapter on Appellate Proceedings under this Chapter. Such person or spokesman shall have the right to a hearing within ten (10) days of his denial or conviction and shall have the right to present witnesses and present a defense. The decision of a majority of the Appellate Court shall be final.

JURIES

1-1-220 Eligibility of Jurors

A list of eligible jurors shall be prepared by the Council each year. The Rules of Court shall make provision for the drawing of names eligible for service as jurors. Any tribal member who is at least 18 years of age and who has resided on the Reservation for at least one (1) year shall be eligible to be a juror. A person may decline jury duty upon good cause shown to the judge.

A tribal member who is sixty (60) years of age or older shall automatically and permanently be excused from the jury pool if that person indicates to a judge or clerk of the Tribal Court, either orally or in writing, that he or she wishes to be excused from the jury pool and does not want to be called for jury duty in the future.

Sitting members of the Colville Business Council shall be prohibited from serving as jurors because of the potential for conflict of interest.

(Adopted 4/6/95, Resolution 1995-277)

In emergency situations where there is a shortage of jurors the Tribal Court may use on campus tribal member employees as prospective jurors.

(Amended 2/15/01, Resolution 2001-082)

(Certified 2/20/01)

(Adopted 6/19/78, Resolution 1978-420)

1-1-221 Number of Jurors

In any case a jury shall consist of six (6) jurors drawn from the current list of eligible jurors by the Court clerk or judge.

1-1-222 Challenges

Any party to the case may challenge and have dismissed not more than three jurors selected from the list of eligibles without cause, but there shall be no limit to challenges for cause. The judge shall decide as to the sufficiency of a challenge for cause.

1-1-223 Instructions

The judge shall instruct the jury in the laws governing the case, and the jury shall decide in accordance with this Code. The judge will render judgment in accordance with the verdict and existing law.

1-1-224 Fees

Every person who is required to attend Court for selection or service as a juror shall be entitled to a fee of \$20.00 a day for each day his services are required in Court, plus the current approved tribal mileage rate for traveling to and from the Court.

WITNESSES

1-1-250 Subpoenas

(a) Subpoenas:

- (1) Any Judge of the Court, Administrative Law Judge, Court Administrator, Spokesperson representing any party in a case, and anyone else empowered by this code are authorized to issue subpoenas for attendance at any hearings in the Colville Tribal Courts or any administrative agency of the Tribes authorized to conduct hearings and issue subpoenas.
- (2) Service of such subpoenas shall be by regularly acting members of the Tribal Police Department, by a person appointed by the Judge of the Court, an Administrative Law Judge of the Agency, or by any person over the age of 18 years who is not a party to the case.
- (3) The subpoena shall contain as part of its language a boldface notice stating the following:

FAILURE TO OBEY THIS SUBPOENA WITHOUT GOOD CAUSE MAY SUBJECT YOU TO SANCTIONS BY THE COURT, WHICH MAY INCLUDE PUNISHMENT FOR CONTEMPT OF COURT AND/OR A WARRANT BEING ISSUED FOR YOUR ARREST. FURTHERMORE, IF THE SCHEDULED HEARING IS CANCELLED OR CONTINUED TO ANOTHER DATE AND TIME, YOU ARE REQUIRED TO CONTACT THE PERSON WHO ISSUED THIS SUBPOENA TO FIND OUT THE NEW COURT DATE AND TIME AND ATTEND THE HEARING AT THAT TIME. THIS SUBPOENA SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL THE COURT OR THE PERSON ISSUING THE SUBPOENA EXCUSES YOU FROM ATTENDENCE.

(4) Subpoena shall be signed by the person issuing them with their title listed under their name.

(5) The subpoena shall be in substantially the same form as the following form set forth in

subsection (b) of this code section.

(6) Subpoenas issued by anyone not a Judge of the Court shall have the same effect as those issued by a Judge. Failure to honor such subpoena shall subject the person or party failing to appear, as directed in the subpoena, to sanctions or actions provided elsewhere in this Tribal Law and Order Code. The intent of this section is not to limit or expand the authority of any persons to issue subpoenas as may be specifically provided for in other sections of this Tribal Law and Order Code.

(7) Copies of all subpoenas must be served on the opposing party.

(8) No person may subpoena a member of the Colville Tribal Business Council except by order of the Colville Tribal Court.

(b) Subpoena Form: Subpoenas shall be in substantially the same form as the following:

**IN THE TRIAL COURT OF THE
CONFEDERATED TRIBES OF THE COLVILLE RESERVATION**

Plaintiff,	CASE NO.
vs.	SUBPOENA TO TESTIFY
Defendant.	

TO:
YOU ARE HEREBY COMMANDED to appear before the Colville Tribal Court (or named administrative agency) located at Agency Campus, Joe Moses Road, Nespelem, Washington on _____ at the hour of _____ to testify in the above-captioned matter. This subpoena is issued by _____.

FAILURE TO OBEY THIS SUBPOENA WITHOUT GOOD CAUSE MAY SUBJECT YOU TO SANCTIONS BY THE COURT, WHICH MAY INCLUDE, PUNISHMENT FOR CONTEMPT OF COURT AND/OR A WARRANT BEING ISSUED FOR YOUR ARREST. FURTHERMORE, IF THE SCHEDULED HEARING IS CANCELLED OR CONTINUED TO ANOTHER DATE AND TIME, YOU ARE REQUIRED TO CONTACT THE PERSON WHO ISSUED THIS SUBPOENA, TO FIND OUT THE NEW COURT DATE AND TIME AND ATTEND THE HEARING AT THAT TIME. THIS SUBPOENA SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL THE COURT OR THE PERSON ISSUING THE SUBPOENA EXCUSES YOU FROM ATTENDENCE.

Dated this _____ day of _____, 20__
By: _____
Title:
Address:
Phone:

(c) Subpoena Duces Tecum: All subpoena duces tecum for hearings in the Trial Court shall be issued by and signed by a Judge of the Trial Court and by an Administrative Law Judge for Agency administrative hearings.

(d) Proof of Service Form: Proof of service of the subpoenas may be made in an affidavit, in a declaration or by a certification of service. The proof of service shall state substantially the same information as set forth in the following:

CERTIFICATION OF SERVICE

I _____ hereby swear and affirm upon penalty of perjury that I'm over the age of 18 years, and not a party to these proceedings. I further swear or affirm upon penalty of perjury:

- I have been directed to serve the following documents:
- Summons Notice of Hearing Order To Show Cause Hearing
- Motion and Affidavit for TRO Complaint Petition
- Motion and Affidavit for Fee Reduction/Waiver Subpoena
- Other: _____

To the following individual:
Name: _____
Physical Address: _____

- I successfully served him/her as follows:
- personal service, **OR**,
- by leaving the document(s) with a person believed to be 18 years or older at the following address:

- I served him/her on the following date and time **OR**
- I made a diligent search for the subject and was not able to locate him/her or to serve.

Date Time	Location	Additional Information
_____	_____	_____
_____	_____	_____

By: _____
Address: _____
Phone: _____

(Amended 9/7/05, Resolution 2005-439)
(Amended 5/24/82, Resolution 1982-294)

1-1-251 Fees

(a) Each witness answering a subpoena in a criminal case shall be entitled to a fee of \$20.00 a day for each day his services are required in Court, plus the current approved tribal mileage rate for travel to and from the Court.

(b) In civil cases where the Tribal Police Department serves subpoenas or any other court documents where the party seeking the service of the documents is not indigent, there shall be a \$15.00 service of process fee paid to the Police Department for each subpoena or each set of documents at the time they are presented for service. Parties determined by the Court to be indigent, shall have the service fee waived.

(c) Service of process fees shall not be required for subpoenas or other court documents presented to the Tribal Police Department for service by the Tribes or any agencies of the Tribes; the Court, administrative hearing bodies, the prosecutor and public defenders.

(Amended 9/7/05, Resolution 2005-439)

- 1-1-280 [RESERVED] (Amended 9/2/10, Certified 9/9/10, Resolution 2010-653)
- 1-1-281 [RESERVED] (Amended 9/2/10, Certified 9/9/10, Resolution 2010-653)
- 1-1-282 [RESERVED] (Adopted 8/15/83, Resolution 1983-602) (Amended 9/2/10, Certified 9/9/10, Resolution 2010-653)
- 1-1-283 [RESERVED] (Amended 9/2/10, Certified 9/9/10, Resolution 2010-653)
- 1-1-284 [RESERVED] (Adopted 8/15/83, Resolution 1983-603) (Amended 9/2/10, Certified 9/9/10, Resolution 2010-653)
- 1-1-284 [RESERVED] (Amended 9/2/10, Certified 9/9/10, Resolution 2010-653)
- 1-1-286 [RESERVED] (Amended 8/15/83, Resolution 1983-600 & 601) (Amended 9/2/10, Certified 9/9/10, Resolution 2010-653)
- 1-1-287 [RESERVED] (Amended 9/2/10, Certified 9/9/10, Resolution 2010-653)
- 1-1-288 [RESERVED] (Amended 9/2/10, Certified 9/9/10, Resolution 2010-653)
- 1-1-289 [RESERVED] (Amended 9/2/10, Certified 9/9/10, Resolution 2010-653)
- 1-1-290 [RESERVED] (Amended 9/2/10, Certified 9/9/10, Resolution 2010-653)

CLERK AND RECORDS

- 1-1-320 **Clerk**
 The Chief Judge with the concurrence of the Council shall appoint a clerk of the Court. The clerk shall be under the supervision of the Chief Judge. The clerk shall render assistance to the Court, to police officers and to individual tribal members in the drafting of complaints, subpoenas, warrants, and commitments and any other documents incidental to lawful court functions. It shall be the further duty of the clerk to attend and to keep a written record of all court proceedings, to administer oaths to witnesses, and to perform such other duties as the Chief Judge shall designate. The clerk, before entering upon his duties, shall, at Tribal expense, post bond in an amount determined by the Council, or shall be covered by the blanket bond provided for all Tribal employees.
- 1-1-321 **Records**
 The Court shall keep for its own information and, unless otherwise provided in this Code, for inspection by the general public, a record of all Court proceedings, which shall in each case reflect the title of the case; the names of the parties; the subject matter of the complaint; the names and addresses of all witnesses; the date of the hearing and trial; by whom conducted; the findings of

the Court or jury; and the judgment, together with any other facts or circumstances deemed of importance to the case; Provided, that the records of proceedings involving juveniles, adoptions, and proceedings deemed by written order of the Court, after an open hearing on the issue, to be of a sensitive or personal nature to the parties and not of public interest, shall not be open to inspection without Court Order.

(Amended 11/19/84, Resolution 1984-731)

1-1-322 **Copies of Laws**

The Court shall be provided with copies of this Code, all other enactments of the Council, Rules of Court and all other regulations which may be applicable to the conduct of business of the Court.

DEFINITION

1-1-350 **Adult**

The term “adult” as used in this Code shall mean a person 18 years of age or older.

1-1-351 **Agency**

The term “Agency” as used in this Code shall mean the Colville Indian Agency of the United States Department of the Interior, Bureau of Indian Affairs, Nespelem, Washington.

1-1-352 **Bodily Injury**

The term “bodily injury” as used in this Code shall mean any physical pain, illness or any impairment of physical condition.

1-1-353 **Child or Minor**

The term “child” or “Minor” as used in this Code shall mean any human of less than 18 years of age unless a lesser age is specified.

1-1-354 **Code**

The term “Code” or “CTC” as used in this Code shall mean this Code and all Ordinances and other enactments of the Council.

1-1-355 **Tribes**

The term “Tribes” as used in this Code shall mean the Confederated Tribes of the Colville Indian Reservation, Washington.

1-1-356 **Council**

The terms “Business Council”, “Council” or “CBC” as used in this Code shall mean the Business Council of the Colville Confederated Tribes of the Colville Indian Reservation, Washington.

1-1-357 **Court**

The terms “Court” and “Tribal Court” as used in this Code shall mean the Colville Tribal Court.

1-1-358 **Deadly Weapon**

The term “deadly weapon” as used in this Code shall mean any explosive or loaded or unloaded firearm or other weapon, destructive device, instrument, material or substance, whether animate or inanimate (other than a penknife without a switchblade) which in the manner it is used, attempted to be used, threatened to be used or intended to be used is readily capable of causing death or serious bodily injury.

1-1-359 **Member**

The term “member” or “tribal member” as used in this Code shall mean any enrolled member of the Colville Confederated Tribes.

1-1-360 **Officer, Police**

The terms “Officer”, “Tribal Officer”, “Police Officer”, “Police”, “Tribal Police”, and “Tribal Law Enforcement Officer” as used in this Code shall mean qualified law enforcement personnel of the Tribes or the Bureau of Indian Affairs.

1-1-361 Person

The term “person” as used in this Code shall mean any natural person, corporation, trust, unincorporated association, partnership, and federal, state, or local governments, agencies or subdivisions thereof.

1-1-362 Reservation

The term “Reservation” as used in the Code shall mean the Colville Reservation set apart by Executive Order of July 2, 1872, as modified by the Agreement of May 9, 1891. For purposes of the Tribes civil regulatory authority, “Reservation” shall also mean all lands, wherever located, owned by the Confederated Tribes of the Colville Reservation, or any interest in lands held by the Tribes, whether or not such lands or interests are held in trust for the Tribes by the United States, and any lands, wherever located, held in trust by the United States for a member or members of the Colville Tribes.

(Amended 8/6/98, Resolution 1998-603)
(Certified 8/11/98)

1-1-363 Indian

The term “Indian” means a person who is recognized by an Indian Tribe as a member of that Tribe or is a descendant of such member.

1-1-364 Indian Tribe

The term “Indian Tribe” means any Indian Tribe, band, nation or other organized group or community including Alaska Native village, or regional village, corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C §§ 1606-1628) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(Adopted 1/29/80, Resolution 1980-77)

1-1-365 Signature

The term “signature” as used in this Code shall mean the written signature, official seal or the thumb print or mark of any individual.

1-1-366 Time

In computing any period of time prescribed under this Code, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, a Sunday, nor a legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

(Adopted 9/20/82, Resolution 1982-529)

RELATIONS WITH THE COURT

1-1-400 Contempt of Court

Any person failing to maintain the respect due the Tribal Court or engaging in offensive conduct in the courtroom shall be deemed guilty of contempt of court and subject to immediate sentencing by the judge to imprisonment for a period not to exceed three (3) days, or a fine not to exceed \$100.00, or both the jail sentence and fine.

1-1-401 Acts or Failures to Act Which Constitute Contempt of Court

Any person may be held in contempt of Court for any of the following reasons:

- (a) Disorderly or contemptuous or insolent behavior, committed in immediate view and presence of the Court while in session;

- (b) Any breach of the peace, noise or other disturbance which interrupts the proceedings of the Court;
- (c) Willful disobedience or resistance to any process, judgment, summons or order lawfully issued by the Court;
- (d) Deceit or abuse of process of the Court by a party or attorney to a judicial proceeding;
- (e) Acting as an attorney, officer spokesman or official of the Court without authority;
- (f) Refusing to be sworn or answer as a witness; and
- (g) Any other interference with the process, proceedings, or dignity of the court or a judge of the Court while the Court is in session.

1-1-402 Civil Contempt

A civil contempt consists of the willful refusal to perform an act that is yet in the person's power to perform after being ordered by the Court to perform the act, or the failure, in the presence of the Court, to comply with an order of the court or Court rule. Relief in a civil contempt may include:

- (a) A fine payable to the Court; or
- (b) The imposition of a fine or imprisonment for the purpose of coercing performance. Imprisonment shall remain in effect for so long as the party in contempt has the ability to comply with the Court order or directive, and refuses. Persons incarcerated under this statute shall be brought to Court on a regular basis for the Court to determine if the contempt or continues in his refusal to purge of the contempt. A person shall not be entitled to reimbursement of a fine for the reason that he subsequently complies with the Court order.

Compliance with the Tribal Court's order prior to a contempt hearing held in relation to such order shall be a full defense to prosecution for civil contempt for refusal to comply with such order.

1-1-403 Criminal Contempt

- (a) Criminal contempt is a past act where a person knowingly or willfully violates a Tribal Court rule or order of the Court.
- (b) Criminal contempt is a Class B offense as provided by the Criminal Offenses provisions of this Code.

1-1-404 Contempt Procedure

- (a) A direct contempt is one committed in the presence of the Court or so near thereto as to be disruptive of the Court proceedings, and as such may be adjudged and punished summarily as provided in this subchapter.
- (b) All other contempt's shall be determined at an outside hearing. Notice of the hearing shall be given orally by the judge in open Court in the presence of the defendant, upon the filing of a complaint by the prosecutor, by an order to show cause or the issuance of an arrest warrant. The notice shall state:

- (1) The time and place for the contempt hearing, allowing a reasonable time for the preparation of the defense;
- (2) The exact contempt charges and the essential facts constituting such charges;
- (3) Whether the contempt proceedings are civil or criminal as provided by this Chapter;

and

(4) The sanctions which may be imposed against the defendant.

(c) In proceedings involving other than direct contempt cases if the charge involved disrespect to or criticism of a judge, such judge is disqualified from presiding at the trial or hearing except with the defendant's consent. If the defendant does not consent the case shall be presided over by any other available Tribal Judge.

CONSENT TO JURISDICTION

1-1-430 Implied Consent

Entrance by any person or his property into the Reservation or Tribal Court jurisdiction as defined in this Code, shall be deemed equivalent to and construed to be a consent to the civil jurisdiction of the Tribes and the Tribal Court, and a consent to criminal jurisdiction of the Tribes concerning any legal action pursuant to this Code, and shall further be deemed a consent to service or summons or process by registered mail with return receipt requested at his last known address; provided, however, that criminal jurisdiction of the Tribal Court shall not extend to trial of non-Indians.

1-1-431 Acts Submitting Person to Jurisdiction of Tribal Court

(a) The Colville Confederated Tribes shall have civil jurisdiction over:

- (1) Any person residing or present within the Reservation or lands outside the boundaries of the Reservation held in trust by the United States for Tribal members of the Tribes;
- (2) Any person who transacts, conducts, or performs any business or activity within the Reservation by being present on the Reservation or by mail, phone, broadcast, cable either in person or by an agent or representative;
- (3) Any person who owns, uses or possesses any real or personal property situated within the Reservation, for any civil cause of action arising from such ownership, use or possession;
- (4) Any person who commits a tortious act or engages in tortious conduct within the Reservation;
- (5) Any person who damages a natural resource of the Confederated Tribes or any individual member of the Tribes;
- (6) Children and their parent(s), guardian, legal custodians or other persons with responsibility for or control of the child who leave the exterior boundaries of the Reservation and over whom the Court had jurisdiction at the time they left;
- (7) Persons living in a marital relationship within the Reservation notwithstanding subsequent departure from the Reservation, so long as the petitioning party has continued to reside on the Reservation;
- (8) Persons engaging in the act of sexual intercourse within the Reservation with respect to which a child may have been conceived;
- (9) Any real or personal property located on the Reservation, the determination of ownership thereof or rights therein or to determine the application of such property to the satisfaction of a claim for which the owner of the property may be liable;
- (10) All causes of action, which involve either the Tribe, its officers, agents, employees,

property or enterprises, a member of the Tribe, a member of a federally recognized tribe, or any other matter which effects the interest or rights of the Tribe;

(11) Any child custody proceeding as defined in the Indian Child Welfare Act, 25 USC §1903(1); or

(12) Person who commit a civil infraction as currently defined in Chapter 2-3 under this Code, or as may otherwise be adopted by the Colville Confederated Tribes.

(13) Persons who choose to enter into domestic relationships with tribal members and commit an offense involving domestic violence whether the offender is Indian or non-Indian. These persons shall be subject to the civil provisions of Chapter 5-5 including but not limited to traditional cultural disposition.

(Amended 6/3/04, Resolution 2004-385)

(b) The Colville Confederated Tribes shall criminal jurisdiction over:

(1) All crimes committed by any Indian within the boundaries of the Colville Reservation; and

(2) To the greatest extent permissible by law, all violation of the Colville Fish and Wildlife Chapter of this Code committed by a member of the Colville Tribes outside the Colville Reservation.

1-1-432 Personal Service off the Reservation

Service of process upon any person who is subject to the jurisdiction of the Courts of the Colville Tribes of the Colville Reservation, as provided in section 1-1-431, may be made by personally serving the defendant within or outside to the Reservation in the same manner as provided by CTC § 2-2-70; Provided, however, that if service is made on the defendant outside the Reservation, the defendant shall have thirty (30) days in which to appear and answer the complaint.

(a) Only causes of actions arising from acts enumerated in section 1-1-431, may be asserted against a defendant in an action in which personal jurisdiction is based upon service outside of the Reservation.

(Amended 8/17/89, Resolution 1989-610)

(b) Nothing in this section shall limit or affect the right to serve any process in any other manner now or hereafter provided by law.

(Chapter 1-1 Adopted 9/17/87, Resolution 1987-546)

Legislative History:

Section 5-1-252 Subpoenas-Continued Trial/Hearings was repealed by Resolution 2005-439.