

Ordinance Number 2.700. Amended by Resolution No. 2005-361, dated September 16, 2005.

Original Date: December 16, 2000
Subject: Tribal Administrative Procedures Ordinance

TRIBAL ADMINISTRATIVE PROCEDURES ORDINANCE

Siletz Tribal Code § 2.700

PART I GENERAL PROVISIONS

§ 2.700 PURPOSE AND AUTHORITY

The purpose of this Ordinance is to establish clear procedures for resolving disputes regarding administration of Tribal programs with the authority to determine the rights, duties, or privileges of individual Tribal members. The Council of the Confederated Tribes of Siletz Indians hereby delegates its executive authority to departments as set forth herein, pursuant to Article IV, Section 1 of the Constitution.

§ 2.701 DEFINITIONS

(a) **Department** means any unit of Tribal government with authority to determine the rights, duties, or privileges of individual members. It does not include the Tribal Council, the Tribal courts, or any entity exempted from this Ordinance by the Tribal Council.

(b) **Department head** means the official in charge of the overall department and all lesser divisions of departments.

(c) **Department order** means a written determination of an individual's legal rights, duties, and privileges.

(d) **Person** means any individual, partnership, corporation, association, governmental subdivision or public or private organization of any character other than a department.

(e) **Rule** means any departmental directive, standard, regulation or statement of

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general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of any department. It does not include internal management directives, intra-department memoranda, or executive orders.

PART II ADOPTION OF RULES

§ 2.702 DEPARTMENTAL AUTHORITY TO DEVELOP RULES AND REGULATIONS

Departments shall develop regulations for the administration of any program with authority to determine the rights, duties, or privileges of Tribal members. Such regulations shall be subject to Tribal Council approval. Regulations shall be issued in clear and understandable language and shall ensure that the department performs its duties in compliance with applicable laws and regulations and protects the rights and privileges of Tribal members.

§ 2.703 PUBLIC NOTICE AND COMMENT ON RULES

(a) Departments shall give the public notice of proposed adoption of or amendment to rules by publishing the proposed rule in the *Siletz News* or other publication of similar distribution at least one month prior to the rule's effective date. Such notice shall state the name, address, phone number, and other appropriate information to allow the public to submit comments, as well as the time period in which comments must be received, which shall be not less than 14 days. The department may hold public hearings if the department head, Tribal Council or General Manager deem public hearings in the best interests of the Tribal membership.

(b) Departments may determine that a program will be operated only pursuant to federal regulations governing such program. The department must notify the public and print copies of the federal regulations. Any discretion reserved to such program, however, must be governed by department regulation.

§ 2.704 EMERGENCY WAIVER

A department head may waive provisions of this Ordinance if such waiver is required to prevent serious harm to the best interests of the Tribe, provided such waiver may not deprive a Tribal member of any right or privilege to which he or she is entitled.

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§ 2.705 DECLARATORY JUDGMENTS ON RULE APPLICABILITY

(a) A person whose interests may be affected by a departmental regulation may request that the department issue a declaratory judgment stating whether the rule applies to that person, property in which the person has an interest, or upon a discrete statement of facts.

(b) The department may, in its discretion:

(1) Issue a declaratory judgment; or

(2) Refer the petitioner's request to a more appropriate department.

(c) A declaratory ruling is binding between the department and the petitioner on the state of facts alleged, unless it is altered or set aside by a court of the Siletz Tribe with jurisdiction.

(d) The department's judgment under this section shall be considered a final department order for purposes of Part III of this Ordinance.

PART III APPEAL OF FINAL DEPARTMENT ORDERS

§ 2.706 APPEAL PROCEDURES

The appeal procedures contained in this Ordinance shall apply to all actions affecting the rights, duties or privileges of Tribal members not governed by another Ordinance or law, except for personnel matters.

§ 2.707 NOTICE OF DEPARTMENT ORDER

(a) Any department order or decision that denies a right or privilege to any Tribal member shall be issued in writing to affected parties and contain the following:

(1) The reason for the denial, including a citation of the rule, regulation or other reason relied upon;

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- (2) The procedures to appeal the order;
- (3) To whom the appeal is made; and
- (4) Time limits for appeals.

(b) The Notice of Department Order shall be in a model form approved by the Council.

§ 2.708 APPEAL OF DEPARTMENT ORDERS

(a) Affected parties receiving a department order have the right to appeal in writing on a form provided by the department within 30 days to the department head, who must respond in writing, either upholding or reversing the decision within 30 days of receipt of the appeal. The decision of the department head shall include the following:

- (1) The reason for the decision, including a citation of the rule, regulation or other reason relied upon;
- (2) The procedures to appeal the order to the oversight committee or General Manager; and
- (3) Time limits for appeals.

§ 2.709 APPEAL OF DEPARTMENT HEAD ORDERS

(a) Affected parties receiving a decision by a department head upholding a department order have the right to appeal in writing on a form provided by the department head within 30 days to the Standing Committee providing oversight for the department, or if there is no oversight committee, then to the General Manager. The oversight committee or General Manager must respond in writing, either upholding or reversing the decision within 30 days of the receipt of the appeal. The decision of the oversight committee or General Manager shall include the following:

- (1) The reason for the decision, including a citation of the rule, regulation or

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other reason relied upon;

- (2) The procedures to appeal the order to the oversight committee or General Manager; and
- (3) Time limits for appeals.

(b) If the department order is upheld, the order is a final department order and affected parties have the right to appeal to the Siletz Tribal Court, which may uphold or reverse the order.

§ 2.710 APPEALS TO TRIBAL COURT

All appeals to the Siletz Tribal Court shall be filed in accordance with the Siletz Tribal Civil Rules of Procedures.