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**THE CONFEDERATED TRIBES OF THE
GRAND RONDE COMMUNITY OF OREGON**

**CHAPTER 110
FREEDOM OF INFORMATION ORDINANCE**

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**THE CONFEDERATED TRIBES OF THE
GRAND RONDE COMMUNITY OF OREGON**

**Chapter 110
Freedom of Information Ordinance**

(a) AUTHORITY AND PURPOSE.

(1) The authority for this Ordinance is found in the Tribal Constitution under Article III, Section 1.

(2) The purpose of this Ordinance is to set forth an orderly method for Tribal members to request and receive copies of, or access to, certain Tribal records. The Tribal Council believes that Tribal Administration has a responsibility to inform its members about matters of interest to the entire membership, and that making Tribal records available to Tribal members helps fulfill this responsibility. The Tribal Council further believes that Tribal government should be open and transparent, but recognizes that the protection of Tribal sovereignty and culture prevents disclosure of some Tribal records.

(b) DEFINITIONS. For purposes of this Ordinance, the following terms shall be defined as follows:

(1) "Tribal Administration" means the Tribal Administration of the Confederated Tribes of the Grand Ronde Community of Oregon, and includes the Tribal Council, executive offices, and all programs and departments. Tribal Administration does not include Tribal corporations, Tribal enterprises, the Grand Ronde Gaming Commission, or the Spirit Mountain Community Fund.

(2) "Tribal member" means an enrolled member of the Confederated Tribes of the Grand Ronde Community of Oregon.

(3) "Record" includes, but is not limited to, a document, book, paper, photograph, file, map sound recording, or machine readable electronic record, regardless of physical form or characteristics, that is made, received, filed, or recorded in connection with the transaction of Tribal business, whether or not confidential. "Record" does not include:

(A) Items which the Cultural Resources Department or Records Administrator determine are too fragile to be handled or copied.

(B) Library materials in both the Tribal Library and the Cultural Resources Department's research library.

(C) Publications received by the Tribe.

(D) Messages on voice mail or other telephone message storage and retrieval systems.

(E) Electronic (e-mail) messages.

(F) Calendars and schedules.

(G) Law enforcement records related to the exercise of the authority granted to authorized tribal police officers under Chapter 644, Oregon Laws 2011.

(4) “*Smoke Signals*” is the Tribal newspaper and includes any and all successors.

(c) RETENTION, MANAGEMENT, AND DESTRUCTION OF RECORDS. Tribal Administration shall adopt policies for the retention, management, and destruction of Records that are in its custody. In developing these policies, the value of Records for cultural, historical, legal, administrative, and research purposes will be considered. The Tribe shall abide by any applicable records retention requirements of the United States and the State of Oregon.

(d) RECORDS ADMINISTRATOR.

(1) The Tribal Council shall name a Records Administrator. It will be the responsibility of the Records Administrator to receive and act upon requests to obtain copies of Records.

(2) The Records Administrator shall develop a form for Tribal members to use to request copies of or access to Tribal Records, and shall ensure that this form is readily available to Tribal members. Among other things, the form shall require the requestor identify the Record requested with sufficient specificity to allow the Records Administrator to locate the Record.

(3) Upon receiving a form requesting a copy of a Record, the Records Administrator shall send the requestor a letter or e-mail acknowledging receipt of the request.

(4) Nothing shall prohibit the Records Administrator from requesting additional information from the requestor to assist him or her in locating the requested Record. The Records Administrator shall have no obligation to search for a Record if, in his or her view, the request lacks sufficient information to locate the Record.

(5) After the Records Administrator determines that he or she has sufficient information to locate a Record, he or she shall proceed to obtain the Record; in doing so, the Records Administrator shall avoid unduly interfering with the regular duties of Tribal employees and officials that may be in possession of the requested Record.

(6) After conducting a reasonable search for a requested Record, the Records Administrator shall notify the Tribal member requesting a copy of the Record that:

(A) The Record is available (or if not, the reason why it is not available) and the cost, if any, of copying the Record; or

(B) Additional information is needed to locate the requested Record.

(7) If the requested Record is available on the Tribe's official website, the Records Administrator shall refer the requestor to the webpage and shall have no further obligation to provide a copy of the Record.

(8) If a Record is available, the Records Administrator will, upon approval from the appropriate department staff, provide the requestor with a copy of the Record by in-person pick-up, by mail to a mailing address identified in the request, or by providing an electronic version of the Record by email to a valid email address identified in the request.

(9) The Records Administrator shall keep a log of requests for Records. The log shall indicate whether the request was approved or denied. If the request was denied, the log shall reflect the reason for denial. This log shall be available to Tribal Council upon request.

(e) TRIBAL RECORDS

(1) In furtherance of the Tribe's policy to ensure to its members the right to know about the activities of Tribal government, Records are generally presumed to be available to the Tribal membership and *Smoke Signals* staff.

(2) Materials kept by the Tribe's Cultural Resources Department or those materials that are part of the museum collection may be available to the public. The availability of these materials is subject to the Cultural Resources Department policies.

(3) Photographs published in *Smoke Signals* may be available to Tribal members. The availability of these materials is subject to *Smoke Signals'* policies.

(4) Requests for audio or video Records of Tribal Council meetings, Work Sessions, general meetings, special meetings, or Legislative Action Committee meetings shall be submitted to the Tribal Council's Chief of Staff.

(5) Except as provided herein, the following are Records not available to the membership, but may be available to an individual Tribal member provided that the Record identifies the member:

(A) Records considered confidential under applicable Tribal, federal or state laws or policies. Examples of such records include, but are not limited to, an

individual's personnel, payroll, medical, alcohol and drug treatment, social services, foster care, housing, member services, and financial records (provided that an individual may obtain copies of Records relating to him or herself), or other Records containing personal information including, but not limited to, telephone numbers, Social Security numbers, copies of drivers licenses, and home addresses.

(B) Records related to any investigatory audit provided that the Tribal Council may authorize the release of any such Record identified by resolution.

(C) Security reports, provided that the General Manager may authorize the release of the report upon written request by the Tribal member(s) identified in the report.

(D) All material relating to the acquisition, management, and/or sale of land, provided that the Tribal Council may authorize the release of any such Record identified by resolution. This provision does not apply to any inventory of Tribal land provided to the membership.

(E) Records subject to a confidentiality provision or court order preventing disclosure.

(F) Records subject to attorney-client privilege or which might be considered attorney work product, provided that the Tribal Council may authorize the release of any such Record identified by resolution.

(G) Records, disclosure of which Tribal Council has determined might adversely impact Tribal political or business strategies, provided such determination is made by staff directive to the Chief of Staff.

(H) Investment Management directives, strategies, and actual investment holdings.

(6) A Record falling under Subsections (e)(5)(G) or (e)(5)(H) shall become available to Tribal members fifteen (15) years after the Record is created. The Records Administrator will notify the Tribal Council of any Record housed at the records center he or she knows will become available to Tribal members no less than thirty (30) days before the Record would be available. Tribal Council may extend the time for which the Record remains unavailable up to an additional fifteen (15) years.

(f) OBTAINING TRIBAL RECORDS.

(1) Right to Obtain Records.

(A) Only Tribal members and *Smoke Signals* staff acting in their official capacity have a right to obtain copies of Records as provided in this Ordinance.

Copies of Records obtained by *Smoke Signals* staff may only be used in connection with work for *Smoke Signals*. Any provision of this Ordinance pertaining to Tribal members obtaining copies of Records shall also apply to *Smoke Signals* staff.

(B) If a Tribal member is aware they are identified in a Record and knows the department in which the Record is located, the Tribal member may submit a written request to the department manager for a copy of the Record.

(C) If a Tribal member, who is a party to a judicial or administrative proceeding to which the Tribe is also a party, makes a request to obtain a copy of a Record that might relate to the proceeding, he or she must submit a Records request in writing to the Records Administrator and, at the same time, submit a copy of the request to the Tribal Attorney.

(D) In an effort to reduce printing costs and effectively utilize staff time, all requests under this Ordinance for records to be delivered electronically shall be free of charge. Requests for printed documents shall be provided subject to a per page charge for copying.

(2) Right to Supplement Records. If a Tribal member is identified in a Record, believes the Record contains false or misleading information, and the Tribal member wishes to supplement the Record, the Tribal member shall submit a written summary to the appropriate department manager and the appropriate executive that oversees the department stating why the information is false or misleading, and provide any additional information the Tribal member believes is necessary to supplement the Record. The supplemental information provided is to be kept with the applicable Record.

(3) Records Containing Both Exempt and Nonexempt Information. If any Record contains information which is available under this Ordinance, as well as information which is exempt from disclosure, the Records Administrator shall separate the exempt and nonexempt information and make the nonexempt information available through redaction or other means which makes clear that certain information has been withheld from disclosure.

(4) Reconsideration of Denials.

(A) Any Tribal member denied the right to obtain a copy of a Record, or portion of a Record, may request that the General Manager review the Record to determine if it may be provided for release under this Ordinance. If the Record is one kept in the General Manager's office, the Tribal member may request that Tribal Council's Chief of Staff review the Record to determine if it may be provided for release. If the General Manager or the Chief of Staff determines the denial for a Record falls under Subsections (e)(5)(B), (e)(5)(D), or (e)(5)(F), they

shall bring the denial to Tribal Council who may authorize the release of the Record by resolution. The General Manager shall issue an order denying or granting the request, or denying it in part and granting it in part, within twenty-one (21) days from the day he or she receives the request.

(B) If the General Manager grants the request and instructs the Records Administrator in writing to disclose the Record or a portion of the Record, or if Tribal Council releases the Record or a portion of the Record by resolution, the Records Administrator shall comply with the order in full within fifteen (15) days after issuance of the order. If the General Manager denies the petition in whole or in part, or if Tribal Council does not grant a release of the Record in whole or in part by resolution, the person seeking disclosure may appeal the decision to the Tribal Court by filing within thirty (30) days of the decision a petition for declaratory relief with the Court. A copy of this petition shall be served on the Records Administrator, the General Manager, and the Tribal Attorney in accordance with the rules of the Tribal Court.

(5) Tribal Court.

(A) In any suit filed under this Ordinance, the Tribal Court has jurisdiction to order the production of Records improperly withheld from the Tribal member seeking disclosure. The Court shall determine the matter de novo and the burden is on the Tribe to establish that the Records should not be released. The Court may view the documents in controversy in private, off the record, before reaching a decision.

(B) If a person seeking the right to obtain a copy of a Record prevails in his or her suit, the person may be entitled to reasonable court costs and attorney fees.

(g) INAPPROPRIATE DISCLOSURE AND POSSESSION OF TRIBAL RECORDS.

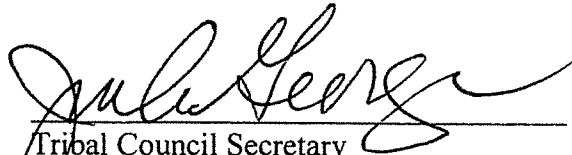
(1) It shall be a violation of Tribal law for any Tribal official or employee to provide a Record, or the information contained in a Record, to someone who is not authorized to have access to the Record under this Ordinance, unless it is otherwise part of the ordinary course of the Tribal official's or employee's position to provide the Record to such person or unless authorized by Tribal Council.

(2) It shall be a violation of Tribal law for anyone to knowingly possess or distribute a Record, or the information contained in a Record, that he or she is not authorized to possess or distribute.

(3) Any person found by the Tribal Court to have violated this Ordinance shall be subject to a civil fine of \$1,000 if it is his or her first violation. The civil fine shall be \$2,000 for a second violation and \$3,000 for a third violation. Anyone found by the

Tribal Court to be in violation of this Ordinance for a fourth time shall lose his or her right to view or obtain copies of Records.

I certify this to be a true copy of the Confederated Tribes of the Grand Ronde Community of Oregon Public Records Ordinance.


Tribal Council Secretary

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