

REVISED LAW AND ORDER CODE OF THE SPOKANE TRIBE OF INDIANS

PREAMBLE

For the purpose of exercising self-government, providing the law enforcement machinery, and protecting the health, safety and welfare of the residents of the Spokane Reservation, the Tribe hereby adopts this Law and Order Code.

CHAPTER 1 - SPOKANE TRIBAL COURT

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Section 1-1 Name

Name. The Spokane Tribe hereby establishes a Tribal Court to be known as the Spokane Tribal Court.

Section 1-2 Jurisdiction

1-2.01 Jurisdiction.

- (a) The Spokane Tribal Court shall be the court of general jurisdiction of the Spokane Tribe, and shall have jurisdiction over all matters now or hereafter described in this Code.
- (1) The Court may also exercise its inherent authority as a court of general jurisdiction.
 - (2) Any reference to Spokane Tribal jurisdiction in this code shall also mean Tribal Court jurisdiction.
 - (3) The jurisdiction of the Tribal Court, and the effective area of the Law and Order Code, shall include all territory within the Reservation boundaries, the lands outside the boundaries of the Reservation held in trust by the United States for Tribal members or the Tribe, and any other land considered to be within the jurisdiction of the Spokane Tribe by law.
 - (4) Any reference in this Code to the "Reservation" includes the foregoing lands.

- (b) Entrance by any person onto any lands or property of the Spokane Indian Reservation or any other land or property under the jurisdiction of the Spokane Tribe of Indians shall be deemed equivalent to and construed to be consent to the jurisdiction of the Tribe. Such consent shall be to both civil and criminal jurisdiction, in accordance to all applicable law, and shall be consent to all provisions of the Spokane Tribal Law and Order Code.
- (c) In addition, any person who utilizes any process of the Spokane Tribal Court, in any manner, shall have consented to the civil and criminal jurisdiction of the Spokane Tribe for any cause of action arising under the same operative set of facts.
 - (1) Such use of Tribal Court process shall act as waiver of any jurisdictional defense.
- (d) All criminal complaints filed by persons other than law enforcement agents, Tribal Court personnel, or the authorized Tribal Prosecutor shall contain an express waiver in accordance with this section or they will be dismissed for lack of jurisdiction.

Legislative History-Amended 12/15/93, Resolu. 94-52; Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524.

1-2.02 [Reserved]

Legislative History-Amended 12/15/93, Resolu. 94-52; Readopted 8/01/06, Resolu. 2006-524.

1-2.03 Indian Service Employees. All persons employed in the Indian service of the Spokane Reservation shall be subject to the jurisdiction of the Spokane Tribal Court.

Legislative History-Amended 6/30/97, Resolu. 97-359; Readopted 8/01/06, Resolu. 2006-524.

1-2.04 Means to Make Jurisdiction Effective. When jurisdiction is vested in the Court, the Court presumptively has the means necessary to the effective exercise of the Court's jurisdiction.

- (a) If the course of proceeding is not specifically provided for in this Code, any suitable process or mode of proceeding may be adopted that appears most comfortable within the spirit of Tribal law.
- (b) By way of example and not limitation, the Court may order the seizure and, following a hearing, the civil forfeiture of personal property used to violate a Court order.

Legislative History-Amended 6/30/97, Resolu. 97-359; Readopted 8/01/06, Resolu. 2006-524.

Section 1-3 Judges

1-3.01 Number and Compensation of Judges.

- (a) The Spokane Tribal Court shall consist of a Chief Judge whose duties shall be regular and permanent and up to 3 Associate judges, who shall be called to service when the occasion requires.
- (b) The judges shall be compensated from Tribal or other available funds, at rates to be set by the Spokane Tribal Council.

Legislative History-Amended 6/30/97, Resolu. 97-359; Readopted 8/01/06, Resolu. 2006-524.

1-3.02 Qualifications of Judges.

- (a) An individual shall be qualified to serve as Chief Judge of the Spokane Tribal Court only as follows:
 - (1) Has at least 5 years of experience as a Judge, with extensive experience in:
 - (A) Criminal Prosecution;

- (B) Juvenile Delinquency and Protection;
- (C) Family Law and Support;
- (D) Civil Issues, including complex litigation under the Federal Rules of Evidence;
- (E) Probate and Guardianship; and
- (2) Is knowledgeable in the following areas:
 - (A) Current and historical federal Indian law issues;
 - (B) Tribal customs and traditions;
 - (C) Code reading and writing; and
- (3) Is at least 25 years of age; and
- (4) Has never been convicted or pleaded guilty to any felony, or a misdemeanor involving dishonesty within the past year.

Legislative History-Amended 6/30/97, Resolu. 97-359; Readopted 8/01/06, Resolu. 2006-524; Amended 01/11/08; Resolu. 2008-151.

1-3.03 Appointment of Judges.

- (a) Each Judge shall be appointed by Resolution of the Spokane Tribal Council at a regular or special meeting called for that purpose and shall hold office for a period of 3 years unless sooner removed for cause or by reason of abolition of office, resignation, death, or inability to serve.
- (b) Judges shall be eligible for reappointment.

Legislative History-Amended 6/30/97, Resolu. 97-359; Readopted 8/01/06, Resolu. 2006-524.

1-3.04 Designation of Alternate Judge. In the event a Tribal Judge is unable, or for any reason unwilling, to complete the Judge's term of office, the Spokane Tribal Council shall appoint a successor to fill the unexpired term.

Legislative History-Readopted 8/01/06, Resolu. 2006-524.

1-3.05 Disqualification of Judge.

- (a) Recusal.
 - (1) No judge shall be qualified to act in any proceeding wherein:
 - (A) the Judge is a party to the proceeding;
 - (B) the Judge has direct interest in the subject matter in controversy; or
 - (C) a relative by marriage or blood in the 1st degree:
 - (ii) is a party;
 - (iii) is acting as a lawyer or spokesperson in the proceeding;
 - (iv) is known by the Judge to have a direct interest that could be affected substantially by the outcome of the proceeding;
 - (v) is to the judge's knowledge likely to be a material witness to the proceeding.
 - (2) A judge shall not be disqualified to act in any proceeding because they are a member of the Spokane Tribe of Indians and the Tribe is a party to the proceeding.
 - (3) The Judge shall enter an Order of disqualification, and the Court shall enter an order transferring and removing the cause to another Judge.
- (b) Definitions. For the purposes of this section, the following words or phrases shall have the meanings indicated:
 - (1) "Proceeding" includes pretrial, trial, appellate review, or other stages of litigation;
 - (2) "Direct interest" means a direct, absolute interest and does not include any per capita, fractional, proprietary, or equitable interest arising from a person's membership in an Indian tribe;

- (3) "Discretionary ruling" does not include the arrangement of the calendar, the setting of an action, motion or proceeding for hearing or trial, the arraignment of the accused in a criminal action or setting conditions of release.
 - (4) "Timely" means before the Judge makes a discretionary ruling in a matter, and before trial is commenced, unless a motion and affidavit alleges a particular incident, conversation, or utterance by the Judge that was not known to the party before a discretionary ruling is issued or trial commenced.
 - (5) "Tribe" means the Spokane Tribe of Indians.
- (c) Affidavit of Prejudice. When a party believes that the Judge assigned to the proceeding would be disqualified under grounds set forth in this section that party, in good faith, may request the Judge to withdraw.
- (1) The party seeking the disqualification shall file with the Judge a timely petition for disqualification and a supporting affidavit setting out in detail the facts alleged to constitute the grounds for disqualification.
 - (2) At the discretion of the Court, an opposing party may be permitted to respond to the allegations in the affidavit.
 - (3) The Judge shall issue a written ruling on the matter.
 - (4) Only one (1) such motion and affidavit shall be filed on behalf of the same party in a case, and the motion and affidavit shall be made as to only one (1) of the Judges of the Court.
 - (5) If a Judge rules against disqualification, the Judge shall place all matters relating to such claims of disqualification into the record.
 - (6) A party who believes that they are aggrieved by a disqualification decision of the trial court Judge may not seek interlocutory review, but may raise the issue on appeal upon conclusion of the case.
- (d) The provisions of disqualification and affidavit of prejudice shall not be applicable to the Spokane Tribal Appellate Court.

Legislative History-Amended 06/30/97, Resolu. 97-359; revised 07/27/06, Resolu. 2006-512; Readopted 08/01/06, Resolu. 2006-524; Amended 12/18/06, Resolu. 2007-105

1-3.06 Visiting Judges. In the event that a Judge or Judges are disqualified, and the Court does not have a trial judge or a sufficient number of Judges to hear a case on appeal, the Chief Judge of the Spokane Tribe shall appoint a visiting Judge or Judges.

- (a) The Chief Judge shall choose such Judge or Judges by contacting the Judges listed on the visiting Judge list.
- (b) This list shall be compiled by the Chief Judge, in consultation with the Tribal Council, and updated annually.
- (c) The list shall contain the names of those qualified to sit on the bench of the Spokane Tribal Court, and shall consist of those that are Judges for other Tribes and those attorneys from the private sector that are qualified to act as judges pro tem.
- (d) The Tribal Council, in consultation with the Chief Judge, shall annually set the amount of compensation payable to the visiting Judges.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524.

1-3.07 Suspension or Removal of Judge. Any Judge of the Spokane Tribal Court may be suspended or removed for cause by the Spokane Tribal Council following a hearing before the Tribal Council.

- (a) At the hearing, the accused judge shall be given an adequate opportunity to answer all charges against him.

- (b) Causes sufficient for removal shall include, by way of example and not limitation, excessive use of intoxicants, immoral behavior, conviction of any offense other than a minor misdemeanor, use of official position for personal gain, desertion of office or failure to perform duties.
- (c) Causes may be further defined by contract with the judge.

Legislative History-Amended 6/30/97, Resolu. 97-359; Readopted 8/01/06, Resolu. 2006-524.

1-3.08 Authority. The duly appointed Chief Judge and Associate Judges shall be empowered to hear and decide all matters properly brought before the Spokane Tribal Court.

Legislative History-Readopted 8/01/06, Resolu. 2006-524.

1-3.09 Legal Training of Judges. The Tribal Council may establish educational and in-service training requirements for Tribal Judges and set up programs therefore.

Legislative History-Readopted 8/01/06, Resolu. 2006-524.

Section 1-4 Court Procedure

1-4.01 Presiding Judge. Sessions of the Tribal Court for the trial of cases shall be held by the Chief Judge, or in case of his disability, absence, disqualification, or unavailability, by an Associate Judge, provided, however, that an Associate Judge may be called in to hear cases at anytime for any reasonable cause by the Chief Judge.

Legislative History-Readopted 8/01/06, Resolu. 2006-524.

1-4.02 Designation of Alternate Chief Judge. The Chief Judge of the Tribal 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.

- (a) The acting Chief Judge may exercise all of the powers of the Chief Judge.
- (b) The Chief Judge may at any time change his designation of the Judge empowered to act as Chief Judge.
- (c) In the event that the Chief Judge fails to designate a Judge to act in his absence, the Tribal Council shall designate an Associate Judge as acting Chief Judge.

Legislative History-Amended 6/30/97, Resolu. 97-359; Readopted 8/01/06, Resolu. 2006-524.

1-4.03 Rules of Court.

- (a) The time and place of court sessions, and all other details of judicial procedure not prescribed in this Code, shall be set out in Rules of Court approved by the Spokane Tribal Council.
- (b) It shall be the duty of the Judges of the Spokane Tribal Court to make recommendations to the Spokane Tribal Council for the enactment or amendment of such rules of Court.

Legislative History-Readopted 8/01/06, Resolu. 2006-524.

Section 1-5 Juries

1-5.01 Number of Jurors. A jury shall consist of six (6) jurors and one (1) alternate juror.

Legislative History - Readopted 8/01/06, Resolu. 2006-524; Amended 12/08/21, Resolu. 2022-071.

1-5.02 Request for Jury Required.

All cases both civil and criminal shall be a bench trial unless a jury trial is requested. Further, nothing in this section shall grant the right to a jury trial where another section of this Code specifically commands that the hearing shall be without a jury.

- (a) The defendant in a criminal case may orally request a jury trial at the time of his arraignment, or by written application to the Court within ten (10) business days after arraignment.
- (b) At the time of the defendant's first appearance before the Court, the Court shall advise him of his rights, including but not limited to the defendant's right to request a jury trial.
- (c) In all non-criminal cases a request for jury trial must be submitted to the Court in writing no later than five (5) days after the date of trial has been set.
- (d) Failure to request a jury trial in the time required shall be deemed a waiver of the right to a jury trial.

Legislative History - Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524; Amended 12/08/21, Resolu. 2022-071.

1-5.03 Juror List.

- (a) Each year the Court Administrator of the Tribal Court shall prepare a list of Eligible Jurors. This Juror List shall be kept separately from the Tribe's enrollment records. The Tribal Court shall be authorized to coordinate with tribal departments to obtain information necessary to create and maintain this Juror List.
- (b) An Eligible Juror is defined as:
 - (1) any enrolled member of the Spokane Tribe of Indians who is at least 18 years of age and resides anywhere within the Tribe's adjudicated aboriginal territory;
 - (2) any individual, regardless of the individual's membership in a Federally-recognized tribe or lack thereof, who is at least 18 years of age, and resides within the exterior boundaries of the Spokane Indian Reservation as established by the Executive Order of 1881; and
 - (3) any individual, regardless of the individual's membership in a Federally-recognized tribe or lack thereof, who is at least 18 years of age, and is an employee of the Spokane Tribal Government, Spokane Tribal Enterprises, or Spokane Indian Housing Authority and whose duty station is within the exterior boundaries of the Spokane Indian Reservation as established by the Executive Order of 1881.
- (c) A person may be excused from jury duty for good cause shown to the trial judge.
- (d) A person excused from, or ineligible for, jury duty shall not be responsible for securing a replacement juror.

Legislative History - Readopted 8/01/06, Resolu. 2006-524; Amended 10/14/08, Resolu 2009-014; Amended 12/08/21, Resolu. 2022-071.

1-5.04 Jury Venire.

A jury venire of no less than fifty (50) names shall be drawn by the Court Clerk, Court Administrator, or the Judge from the current Juror List in preparation for a jury trial.

- (a) The Judge may dismiss any prospective juror for reasonable cause.

- (b) In addition to any dismissed for cause, any party to the case may strike not more than three (3) names from those named remaining on the jury venire.
- (c) The first seven (7) of the remaining names shall be called for seating on the jury.
- (d) At the conclusion of the trial, if an alternate juror is not needed, the Court shall, by a random draw, discharge one of the seven (7) jurors.

Legislative History - Readopted 8/01/06, Resolu. 2006-524; Amended 12/08/21, Resolu. 2022-071.

1-5.05 Jury Instructions.

- (a) The Judge shall instruct the jury in the law governing the case.
- (b) In a civil action, the jury shall bring a verdict for the plaintiff or the defendant.
- (c) A less than unanimous verdict or judgment may be rendered in all civil actions provided at least four (4) jurors agree.
- (d) In a criminal action, the jury shall bring a verdict of guilty or not guilty.
- (e) A verdict of guilty in all criminal actions shall be by the unanimous accord of the jury.
- (f) The Judge shall render judgment in accordance with the verdict and existing law.

Legislative History - Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524; Amended 12/08/21, Resolu. 2022-071.

1-5.06 Discharge of Jury.

- (a) The jury may be discharged by the Court on account of sickness of a juror, or other accident or calamity requiring their discharge, or by consent of both parties, or after they have been kept together until it satisfactorily appears that there is no probability of their agreeing.
- (b) Where this happens, the action may thereafter be set for a new trial.

Legislative History - Readopted 8/01/06, Resolu. 2006-524; Readopted 12/08/21, Resolu. 2022-071.

1-5.07 Compensation of Jurors.

Each juror who serves upon a jury shall be entitled to compensation and expenses as provided in the rules of Court.

Legislative History - Readopted 8/01/06, Resolu. 2006-524; Readopted 12/08/21, Resolu. 2022-071.

1-5.08 Lack of jurors; Mistrial.

- (a) If a reasonably sufficient number of prospective jurors summoned by the Court for the jury venire fail to report for jury duty, then the Court, through its inherent authority, may recruit for jury service any individual who meets the definition of an Eligible Juror as defined by this Section.
- (b) The jury venire may be discharged by the Court on account of a reasonably sufficient number of potential jurors fail to report for jury duty. In this instance, the Court shall declare a mistrial.

- (c) Where the Court declares a mistrial pursuant to this Section:
 - (1) the action may thereafter be set for a new trial; and
 - (2) any speedy trial rights shall be reset and calculated from the date the order declaring a mistrial is entered.

Legislative History - Adopted 12/08/21, Resolu. 2022-071.

1-5.09 Failure of Juror to Appear.

- (a) The Court may, at its discretion, use its civil contempt authority under RSLOC Chapter 1, Section 1-8 to levy sanctions against Eligible Jurors who fail to report for jury duty after being properly summoned for jury duty by the Court.
- (c) Any Eligible Juror who intentionally fails to appear for jury service may, with the consent of the Court, be assigned a new date for future jury service. If the person successfully completes the future jury service, the Court shall expunge any related sanctions and/or contempt findings.

Legislative History - Adopted 12/08/21, Resolu. 2022-071.

Section 1-6 Witnesses

1-6.01 Subpoenas.

- (a) The Judges of the Spokane Tribal Court shall have the power to issue subpoenas for the attendance of witnesses either on their own motion, on the request of the Chief of Police, or of any of the parties to the case.
- (b) Each subpoena shall bear the signature of the Judge issuing it.

Legislative History-Readopted 8/01/06, Resolu. 2006-524.

1-6.02 Compensation of Witnesses.

- (a) Each witness answering a subpoena shall be entitled to a fee and expenses in accord with the Rules of Court.
- (b) Witnesses who testify voluntarily shall be paid by the party calling them.

Legislative History-Readopted 8/01/06, Resolu. 2006-524.

Section 1-7 Appellate Procedure

1-7.01 Court of Appeals. The Spokane Tribe hereby establishes an appellate court, to be known as The Spokane Tribal Court of Appeals.

Legislative History-Readopted 8/01/06, Resolu. 2006-524.

1-7.02 Location. The Court of Appeals shall sit, hold hearings, and keep offices and records on the Spokane Indian Reservation or at another location as established by Resolution of the Spokane Tribal Council.

Legislative History-Readopted 8/01/06, Resolu. 2006-524.

1-7.03 Appellate Justices.

- (a) The Court of Appeals shall be composed of 3 Justices: a Chief Justice and 2 Associate Justices.
- (b) The appellate justices shall be selected by lot at the time of filing a Notice of Appeal by the Clerk of the Court of Appeals from among the Chief Judge and Associate Judges of the Tribal Court, or

such other qualified judges from a pool as selected by the Tribal Council in consultation with the Chief Judge, excepting Judges who heard or decided the case which is the subject of the appeal.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524.

1-7.04 Qualifications.

- (a) An Appellate Justice shall be an enrolled member of a federally recognized Tribe, at least 25 years old, informed respecting Tribal and Federal Indian law, and neither found guilty of a felony nor found guilty of a misdemeanor concerning dishonesty.
- (b) The Spokane Tribal Council shall have sole and final discretion to pass on the qualifications of the persons to serve on the pool of appellate justices.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524.

1-7.05 Administration. The Chief Judge shall administer the Court of Appeals, select a clerk and, if the budgets allow, a solicitor, present budgets and personnel policies to the Tribal Council for its approval and advance the orderly evolution of Tribal law by semi-annual reports to the Tribal Council.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524.

1-7.06 Compensation. The compensation of the Appellate Justices shall be set by the Spokane Tribal Council and shall not be diminished while they are in office.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524.

1-7.07 Appeals – Jurisdiction. Parties to Tribal Court suits have a right to appeal judgments and orders of the Tribal Court to the Court of Appeals; the Tribal Council reserves the right to bar appeals respecting specified subject matter, but neither retroactively applicable to suits pending in the Court of Appeals nor specific to a party.

Legislative History-Readopted 8/01/06, Resolu. 2006-524.

1-7.08 Interlocutory Appeals. Appeals from interlocutory Tribal Court orders - orders entered before final judgment of the Tribal Court - shall not be permitted except in the instance of a writ of habeas corpus, injunctive relief, or on the certification of the Tribal Court in its sound discretion.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524.

1-7.09 Notice of Appeal. Permissible appeals shall be taken by filing a written notice of appeal with the Clerk of the Spokane Tribal Court; a notice of appeal shall specify the parties taking the appeal and the judgment or order from which the appeal is taken; a notice of appeal shall concisely specify the grounds for the appeal; Appellate Form no. 1, appended hereto, shall be completed by appellants; the Clerk of the trial court shall mail photocopies of the notice of appeal to respondents.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524.

1-7.10 Filing Fee for Appeal. The filing fee for an appeal shall be \$75, or as otherwise established by rules of Court with the approval of the Spokane Tribal Council; appellants may seek an in forma pauperis order if they cannot afford the filing fee; the Spokane Tribe and its agents, subdivisions and chartered entities shall not be required to submit a filing fee.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524.

1-7.11 Assembly of Record on Appeal. The Clerk of the Spokane Tribal Court shall assemble the record on appeal, inclusive of all papers filed or lodged with the Spokane Tribal Court, minutes, exhibits, orders and,

upon the request of appellant or respondent, and at their cost, the transcript of all hearings, proceedings and the trial of the matter; the request for transcript shall accompany the notice of appeal; the record shall be submitted to the Court of Appeal no later than 7 days following filing of a notice of appeal from an interlocutory Tribal Court order, and no later than 45 days following filing of the notice of appeal from a final Tribal Court order.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524.

1-7.12 Time of Appeal.

- (a) Notices of appeal shall be filed no later than 45 calendar days following issuance of the final Tribal Court order; late appeals shall be dismissed.
- (b) Notices of appeal from interlocutory Tribal Court orders shall be filed no later than 5 days following issuance of the order.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524.

1-7.13 Briefs. Written briefs are mandatory and shall be completed no later than 70 days subsequent to submission of the record to the Court of Appeals by the Clerk of the Tribal Court.

- (a) The Chief Justice shall issue a briefing schedule to the parties, allowing 20 days for submission of Opening Brief by Appellant, 20 days for submission of a Responding Brief by Respondent, and 10 days for submission of a Reply Brief by Appellant; the time for briefing can be shortened or extended upon application by a party and for good cause.
- (b) Appeals shall not be dismissed for failing to submit briefs.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524.

1-7.14 Oral Argument.

- (a) Oral argument shall be scheduled by the Chief Justice no later than 20 days following the time for submission of the last brief.
- (b) Oral argument can be waived by agreement of the parties.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524.

1-7.15 Motions. Motion practice in the Court of Appeals shall follow Spokane Tribal Court procedures.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524.

1-7.16 Stays. A stay of execution on appeal shall not be issued by the Spokane Tribal Court except upon a showing of substantial and irrevocable harm and the submission of a bond or security in an amount sufficient to pay for respondent's costs of appeal and the amount of the underlying judgment; a stay of execution or denial thereof shall be an appealable order.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524.

1-7.17 Bonds.

- (a) Bonds or other security shall be posted upon order of the Spokane Tribal Court, in its sound discretion, subsequent to filing a notice of appeal; appellants may seek an order to proceed in forma pauperis; provided that nothing herein is intended to be inconsistent with the application of 1-7.16.
- (b) The Spokane Tribe and its agents, subdivisions and chartered entities shall not be required to post a bond pending appeal.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524.

Standard Appeals Form No. 1

Appellant Name _____
Address _____
Telephone No. _____

SPOKANE TRIBAL COURT
SPOKANE INDIAN RESERVATION, WASHINGTON

_____,) No. _____
_____,)
)
Appellant[s],) NOTICE OF APPEAL
)
v.)
)
_____,)
_____,)
)
Respondent[s].)
_____)

Comes _____, Appellant herein, to notice an appeal from the order or judgment of the Spokane Tribal Court issued on _____, _____, an accurate and complete photocopy of which is affixed hereto.

Legal grounds for this Appeal are that the order or judgment is contrary to law; specifically [list laws to which Order is Contrary]:

_____.

Factual grounds for this Appeal are that the order or judgment is not supported by substantial evidence on the record; specifically [list facts not supported by substantial evidence on the record]:

_____.

Further statement:

_____.

Appellant [check box, as appropriate]
 seeks a stay of execution
 shall submit a bond or undertaking as security for the appeal.

Dated: _____

Appellant

Section 1-8 Contempt of Court

1-8.01 Contempt of Court - Definitions.

- (a) "Civil Contempt" means a contempt proceeding in which the contemplated remedy is remedial and coercive in nature. A contempt remedy is considered civil if it either coerces a defendant into compliance with a court order or compensates the complainant for losses sustained. Where a fine is not compensatory, it is civil only if the contemnor has an opportunity to purge, such as with per diem fines and fixed, suspended fines.
- (b) "Contempt of Court" means any act which is calculated to embarrass, hinder, or obstruct a court in its administration of justice, or is calculated to lessen its authority or dignity.
- (c) "Criminal Contempt" means a contempt proceeding in which the contemplated remedy is punitive in nature. The hallmark of a criminal contempt is a fixed fine or jail time as punishment for prior action or inaction. Criminal Contempt proceedings are initiated when the Tribal Prosecutor files a criminal complaint alleging a violation of RSLOC 14-07.01
- (d) "Direct Contempt" means a contemptuous act performed in the presence of the Court.
- (e) Indirect Contempt means a contemptuous act performed outside the presence of the Court. Indirect Contempt typically involves the failure by a contemnor to perform an act as ordered by the Court.

Legislative History - Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524; Amended 12/08/21, Resolu. 2022-071.

1-8.02 Direct Contempt of Court.

Direct contempts can be penalized summarily in light of the court's substantial interest in maintaining order and because the need for extensive factfinding and the likelihood of an erroneous deprivation are reduced. Any person who, after warning from the Court, fails to maintain the respect due the Court or engages in offensive conduct in the courtroom shall be deemed guilty of contempt of court and subject to immediate sanction by the Tribal Court judge of imprisonment for a period not to exceed 20 days, a fine not to exceed \$300.00, or both.

- (a) Offensive conduct includes:
 - (1) Disorderly, contemptuous, or insolent behavior committed in immediate view and presence of the court and directly tending to interrupt its proceedings or to impair the respect due to its authority; or
 - (2) Any breach of the peace, noise, or other disturbance directly tending to interrupt the proceedings of the court.
- (b) The judge shall impose the sanctions immediately after the contempt of court or at the end of the proceeding and only for the purpose of preserving order in the court and protecting the authority and dignity of the court. The person committing the contempt of court shall be given an opportunity to speak in mitigation of the contempt unless compelling circumstances demand otherwise. The order of contempt shall recite the facts, state the sanctions imposed, and be signed by the judge and entered on the record.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524; Amended 12/08/21, Resolu. 2022-071.

1-8.03 Civil Contempt of Court.

- (a) Any person may be found in civil contempt of court for any of the following reasons:
- (1) Disobedience of any process or order lawfully issued by the court;
 - (2) Resistance offered by any person to the lawful order or process of the court;
 - (3) Failure to appear on the date jury trial is scheduled after making a request for a jury trial;
or
 - (4) Failure to appear at a judicial proceeding in response to any duly issued subpoena, summons, citation, notice from the clerk of the court, or court order, commanding such appearance.
- (b) Civil contempt remedies are coercive or compensatory in nature.
- (c) There is no right to a jury trial in a civil contempt proceeding.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524; Amended 12/08/21, Resolu. 2022-071.

1-8.04 Intentionally Blank.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524; Repealed 12/08/21, Resolu. 2022-071 (Criminal Contempt now processed pursuant to RSLOC 14-07.01).

1-8.05 Intentionally Blank.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524; Repealed 12/08/21, Resolu. 2022-071 (Prior language now incorporated into Section 1-8.03).

1-8.06 Civil Contempt Hearing.

- (a) The contemnor is entitled to notice and a hearing in civil contempt matters. The notice of civil contempt must include:
- (1) Mailing by the clerk to the contemnor, a copy of the notice of hearing, the act(s) alleged to support the charge of civil contempt, a statement that the proceeding is a civil contempt proceeding, and a statement of the defendant's rights; and
 - (2) a statement that defendant has an opportunity to have a hearing before the court without a jury and without the services of a public defender, if any, to explain the circumstances surrounding the contempt and show cause as to why sanctions should not be imposed by the Tribal Court.
- (b) The contemnor shall have the right to an appeal before the Spokane Tribal Court of Appeals if there is a finding of contempt.
- (c) Civil contempt must be established by a preponderance of the evidence. The court can impose any of the following upon a finding of civil contempt by the Court:
- (1) Imprisonment until the contemnor does the act or purges him/herself of the contemptuous

conduct; or

- (2) Payment of a compensatory fine to the other party, or to the Court; or
- (3) Payment of a fine to the Court, not to exceed \$500.00 for each day the contempt continues, unless s/he performs the act required by the Court's order, i.e., a "conditional fine."

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524; Amended 12/08/21, Resolu. 2022-071.

1-8.07 Default on Fine.

When a defendant defaults in the payment of a fine or any installment thereof, the court on its own motion shall order the defendant to show cause why defendant should not be held in contempt and may issue a summons or an arrest warrant for the defendant's appearance.

- (a) If good faith is shown, the court may allow additional time for payment or revoke all or part of the unpaid fine; otherwise, the court may order the imprisonment of the defendant until the fine is paid.
- (b) The court may order the seizure and sale of any personal property of the defendant found within the jurisdiction of the Spokane Tribe.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524; Readopted 12/08/21, Resolu. 2022-071.

1-8.08 Disposition of Property Confiscated by the Court.

- (a) Any property, including equipment, which may have been confiscated by lawful order of the court under the provisions of this code shall be sold at a public auction and the proceeds thereof deposited by the clerk of the court into the general Tribal treasury.
- (b) The funds shall be recorded upon the accounts of the Tribe and shall be available for expenditure upon order of the judge and for such other purposes as the Spokane Tribal Council may direct.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524; Readopted 12/08/21, Resolu. 2022-071.

Section 1-9 Spokesperson or Professional Attorney

1-9.01 Spokesperson. Any person appearing in Tribal Court, at their own expense, shall have the right to a spokesperson, which shall include the right to be represented by a professional attorney.

- (a) Such spokesperson may appear at any proceedings before the Tribal Court to assist the individual in presenting his/her case, provided that such spokesperson shall have first been approved to so act by the Tribal Court.
- (b) The Court shall adopt such standards for approval of spokespersons as the Court may deem necessary, with the advice and consent of the Tribal Council.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524.

1-9.02 Prosecution. The Tribe in a criminal case or a civil case, in which the Tribe is a party, may make use of either a Tribal official or a professional attorney, who shall have first been approved to so act by the Tribal Court to represent the Tribe as prosecutor or attorney.

Section 1-10 Clerks

1-10.01 Clerks. The Spokane Tribal Court shall hire a Clerk of the Spokane Tribal Court at a rate of pay to be determined by the Tribal Council and subject to availability of funds.

- (a) The Clerk may render assistance to the Court, to the police force of the Reservation, and to individual members of the Tribe in the drafting of complaints, subpoenas, warrants, commitments, and any other documents incidental to the lawful functions of the Court.
- (b) It shall be the further duty of said Clerk to attend and keep a written record of all proceedings of the Court, to administer oaths to witnesses, collect all fines paid to payees authorized in this Code, and to make an accounting thereof to the disbursing agent of the Tribe and to the Tribal Council.
- (c) Before beginning duties, the Clerk shall be bondable in an amount determined by the Tribal Council.

Section 1-11 Records

1-11.01 Records. The Spokane Tribal Court shall keep, for inspection by duly qualified officials, a record of all proceedings of the Court.

- (a) These records shall reflect the title of each case, the names of the parties, and their attorneys or spokesperson, the name of the Judge, the substance of the complaint, the names and addresses of all witnesses, the date of the hearing or trial, the findings of the Court or jury, and its verdict or judgment, together with any other facts or circumstances deemed of importance to the case.
- (b) This obligation to keep such records may be extended, elaborated, and clarified by the rules of the Court.
- (c) A record of all proceedings shall be kept at the Agency as required by 25 U.S.C. 200.

1-11.02 Dismissal of Cases on Clerk's Motion.

- (a) Notice. In all civil cases wherein there has been no action of record during the 12 months just past, the clerk of the Tribal Court shall mail notice to the parties that such case will be dismissed by the court for want of prosecution, unless within 30 days following said mailing, action of record is made, or an application in writing is made to the court, and good cause shown why it should be continued as a pending case. If such application is not made, or good cause is not shown, the court shall dismiss each such case without prejudice. The cost of filing such order of dismissal with the Clerk shall not be assessed against either party.
- (b) Mailing Notice. The notice shall be mailed in every eligible case not later than 30 days before June 15th and December 15th of each year, and all such cases shall be presented to the court by the clerk for action thereon on or before June 30th and December 31st of each year. These deadlines shall not be interpreted as a prohibition against mailing of notice and dismissal thereon as cases may become eligible for dismissal under this rule.
- (c) Applicable Date. This dismissal procedure is mandatory as to all cases filed after January 1, 1987, and permissive as to all cases filed before that date. This rule is not a limitation upon any other power that the court may have to dismiss any action upon motion or otherwise.

Section 1-12 Copies of Law-Legal Revisor

1-12.01 Legal Revisor. The Spokane Tribal Council shall appoint a person who shall be known as the Legal Revisor of the Spokane Tribe of Indians.

Readopted 8/01/06, Resolu. 2006-524.

1-12.02 Definitions.

- (a) "Law" as used in this section means any and all provisions of the Spokane Revised Law and Order Code, as passed by any Tribal Resolution.
 - (1) Law also includes all other Resolutions, for example, Resolutions of policy, adopted or enacted by the Spokane Tribe of Indians Tribal Council.
 - (2) Law also includes any regulations authorized or be adopted or implemented under some enabling statutory authority of a Tribal Council Resolution or this Tribal Code.
- (b) "Official version" as used in this section means the version of law or regulations which is in effect at the time of adoption the Resolution authorizing this section.
- (c) "Regulation" as used in this section mean any rule or regulation adopted by any commission, committee, or authority which is chartered or authorized by the Spokane Tribe of Indians.

Legislative History-Readopted 8/01/06, Resolu. 2006-524.

1-12.03 Duties of the Legal Revisor. The Legal Revisor shall:

- (a) Maintain 2 matching, complete and current copies of all Tribal law.
 - (1) These copies shall be considered the official version of the law of the Spokane Tribe of Indians.
- (b) Maintain 2 matching, complete and current copies of all Regulations.
 - (1) These copies shall be considered the official version of regulations of the Spokane Tribe of Indians.
- (c) Distribute official versions of all law and regulations to any interested party.
 - (1) The Legal Revisor shall use the Revisor's discretion for the need for distribution and the need for applicable monetary charges for distribution.
- (d) Distribute and update the official version of the Revised Law and Order Code of the Spokane Tribe of Indians to the Spokane Tribal Court.
- (e) Publish a listing of any change to the official version of any law or regulation semi-annually and in accordance with Section 1-12.02(b).
- (f) Act under the direction of the Spokane Tribal Council, in good faith, to ensure properly the satisfaction of the provisions of section 1-12.

Legislative History-Readopted 8/01/06, Resolu. 2006-524.

1-12.04 New Law and Regulations.

- (a) At such time any law or regulation is promulgated or amended, it shall be the duty of the body enacting the law or regulation to forward immediately a copy of the law or regulation to the Legal Revisor who in turn shall incorporate the law or regulation into the official version.
- (b) Within a reasonable time from the enactment of the law or regulation, the Legal Revisor shall:
 - (1) post a copy in at least 2 public and conspicuous places on the Reservation; and
 - (2) distribute the new law or regulations to any interested party.

Legislative History-Readopted 8/01/06, Resolu. 2006-524.

1-12.05 Prior inconsistent law and regulations.

- (a) Any law or regulation that conflicts in any way with the official version held by the Legal Revisor is presumptively repealed to the extent that it is inconsistent with or is contrary to that of the official version.

- (b) If any law or regulation inconsistent with the official version held by the Legal Revisor is presented to the Spokane Tribal Court it shall be the burden of the offering party to show why the law or regulation was not included in the official version.

Legislative History-Amended 9/14/93, Resolu. 93-226; Readopted 8/01/06, Resolu. 2006-524.

Section 1-13 Sovereign Immunity

1-13.01 Sovereign Immunity of the Spokane Tribe. The Spokane Tribe of Indians shall be immune from suit unless it is clearly shown that an official duly authorized by the Spokane Tribal Business Council has clearly waived the Tribe's sovereign immunity in writing.

Legislative History-Amended 03/11/2002, Resolu. 2002-147, Readopted 8/01/06, Resolu. 2006-524; Amended 04/18/2014, Resolu. 2014-188; Amended 01/31/17, Resolu. 2017-135.

1-13.02 Sovereign Immunity of Tribal Officials.

- (a) The sovereign immunity of the Spokane Tribe shall extend to Tribal Council members, the Executive Director of the Spokane Tribe, Tribal Judges, Chief of Police, Tribal Law Enforcement Officers, Tribal Attorney, and all other employees, agents, attorneys, or representatives of the Tribe, acting in their official capacity at the time the acts complained of occurred, if the acts were not in excess of their authority.
- (b) The Tribal officials are protected by absolute immunity, and need not specifically prove that they were acting in good faith.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524. Amended 4/18/2014; Resolu. 2014-188

Section 1-14 Habeas Corpus

1-14.01 Power to Grant Writ.

- (a) Writs of habeas corpus may be granted by the Appellate Court, any justice thereof, or the Trial Court and any Trial Court judge. The order of the Appellate Court shall be entered in the records of the Trial Court.
- (b) The Appellate Court, and any justice thereof, may decline to entertain an application for a writ of habeas corpus and may transfer the application for hearing and determination to the Trial Court.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524.

1-14.02 Who May Prosecute Writ.

- (a) Every person imprisoned or otherwise restrained of liberty on the Reservation or by order of the Spokane Tribal Court, may petition for a writ of habeas corpus to inquire into the reasons for such imprisonment or restraint, and if such reasons are found to be illegal the detainee shall be released from custody by order of the court.
- (b) An application for a writ of habeas corpus made by a person in custody under the judgment of the Spokane Tribal Court must first be filed in the Spokane Tribal Court of Appeals before filing in the federal district court for the Eastern District of Washington.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524.

1-14.03 Writ For Purpose of Bail. When a person is imprisoned or detained in custody on any criminal charge for want of bail, such detainee is entitled to a writ of habeas corpus for the purpose of giving bail, after stating that fact in the detainee's petition and without stating that the detainee is illegally confined.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524.

1-14.04 Application. Application for a writ of habeas corpus shall be in writing signed and verified by oath or affirmation by the person for whose relief it is intended or by someone acting in his behalf, and must state facts to show:

- (a) That the person in whose behalf the writ is applied for is unlawfully imprisoned or restrained of liberty;
- (b) Why the imprisonment or restraint is unlawful;
- (c) The officer or person by whom the detainee is so confined or restrained, and the place where held;
- (d) Name all the parties responsible for confinement, if they are known, or describing them if they are not known.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524.

1-14.05 Issuance of Writ; Return. When the judge or justice is satisfied that the writ ought to be issued, it must be issued without delay or an order must be issued directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled to relief.

- (a) The writ or order to show cause shall be directed to the person having custody of, or restraining, the detainee. It shall be returned within 3 days unless for good cause additional time, not exceeding 20 days, is allowed.
- (b) The issue or issues to be determined upon return of the writ may be stated, either in the writ or in an order attached to the writ or in a copy of the petition attached to the writ.
- (c) The person to whom the writ or order is directed shall make a return certifying:
 - (1) the true cause of the detention;
 - (2) whether he or she has the detainee in custody or under power or restraint and the authority for so holding the detainee; and
 - (3) if he or she had, but no longer has, the detainee in his or her custody or under his or her power or restraint, the return must state particularly to whom, at what time and place, for what cause and by what authority custody was released.
- (d) The return must be signed by the person making the return, and, except when such person is a sworn public officer and makes such return in an official capacity, it must be verified by the oath of the person making the return.
- (e) The allegations of a return to the Writ or Order to Show cause in a habeas corpus proceeding, if not overcome, shall be accepted as true except to the extent that the judge finds from the evidence that they are not true.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524.

1-14.06 Hearing on Return.

- (a) The detainee shall be brought before the person to whom the writ is directed when possible. The hearing must be held within 2 days of the filing of the return and may be summary in nature.
- (b) Unless the application for the writ and the return present only issues of law, the person to whom the writ is directed shall be required to produce at the hearing the body of the person detained.
- (c) Evidence may be taken orally or by deposition, or, in the discretion of the judge, by affidavit.
 - (1) If affidavits are admitted any party shall have the right to present written interrogatories to the affiant, or to file answering affidavits.
 - (2) Transcripts of proceedings upon arraignment, plea and sentence and a transcript of the oral testimony introduced on any previous similar application by or in behalf of the same petitioner shall be admissible in evidence.
 - (3) Transcripts may be by taped recording of the original proceedings.

- (4) The certificate of the judge who presided at the trial resulting in the judgment, setting forth the facts occurring at the trial, shall be admissible in evidence.
- (5) Copies of the certificate shall be filed with the court in which the application is pending and in the court in which the trial took place.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524.

1-14.07 Service of the Writ. The writ must be served upon the person to whom it is directed and must be served in the same manner as a summons.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524.

1-14.08 Finality of Determination.

- (a) If the detainee is in official custody, the detainee may only be released on a writ of habeas corpus if such commitment affects the detainee's substantial rights and not for any technical defect in commitment.
- (b) Following the hearing, the judge or justice shall make such judgment regarding the custody of the detained person as the facts and circumstance warrant and such order shall be effective immediately.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524.

1-14.09 Duties of Respondent. Upon application for a writ, the respondent shall promptly file with the court certified copies of the indictment, plea of petitioner and the judgment, or such of them as may be material to the questions raised, if the petitioner fails to attach them to his petition, and same shall be attached to the return to the writ, or to the answer to the order to show cause.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524.

1-14.10 Indigent Petitioner. If the petitioner is indigent, the clerk of the court shall furnish to the petitioner without cost certified copies of such documents or parts of the record on file as may be required by order of the judge before whom the application is pending.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524.

1-14.11 Notice. Prior to the hearing of a habeas corpus proceeding in behalf of a person in custody of the Spokane Tribe or by virtue of Spokane Tribal or federal laws, notice shall be served on the Tribal attorney or other appropriate officer as the justice or judge at the time of issuing the writ shall direct.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524.

1-14.12 Appeal.

- (a) In a habeas corpus proceeding, the final order shall be subject to review, on appeal, by the Spokane Tribal Court of Appeals.
- (b) There shall be no right of appeal from a final order in a proceeding to test the validity of a warrant to remove to another district or place for commitment or trial a person charged with a criminal offense against the Spokane Tribe or the United States, or to test the validity of such person's detention pending removal proceedings.
- (c) Unless the Tribal Court issues a certificate of appeal ability, an appeal may not be taken to the Court of Appeals.

Legislative History-Amended 12/10/97, Resolu. 1998-055; Readopted 8/01/06, Resolu. 2006-524.

Section 1-15 Priority of Laws

1-15.01 Priority of Laws. [blank]

Section 1-16 Severability

1-16.01 Severability. If any provision of this Law and Order Code of the Spokane Tribe of Indians or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions or applications of the Code which can be given effect without the invalid provision or application.