

**Redding Rancheria  
Judiciary Code**

# JUDICIARY CODE

## Title 1

### CHAPTER 1. AUTHORITY, JURISDICTION, SOVEREIGN IMMUNITY

#### 1.1 Authority

This Law and Order Code, Title 1, Judiciary, is adopted pursuant to the authority granted to the Redding Rancheria Tribal Council by the Redding Rancheria Constitution Article V, Section (1)(j). The short title of the Redding Rancheria Tribe's Law and Order Code shall be cited as the "Redding Rancheria Tribal Code" and shall be referred to in court documents by title and section number, e.g., 1 Redding Rancheria Tribal Code § 1.1.

#### 1.2 Establishment of the Tribal Court and Appellate Court

Through the authority of Section 1.1 of this Code, the Redding Rancheria Tribal Council does hereby establish and adopt this Law and Order Code of the Redding Rancheria Tribe and does hereby establish the Redding Rancheria Tribal Court and Appellate Court.

#### 1.3 Jurisdiction

1.3.1 General. The Tribal Council of the Redding Rancheria may exercise subject matter and personal jurisdiction on any basis consistent with the inherent sovereignty and the Constitution and laws of the Redding Rancheria; provided, however, that the Tribal Court shall only exercise jurisdiction in a case in which at least one of the parties is a member of the Redding Rancheria or an Indian of a federally recognized Indian Tribe, or the Redding Rancheria Tribe itself, or any of its agents, employees, subdivisions, enterprises or property, or when the parties consent to the jurisdiction of the Court, or as specifically provided in the Children's Code; and further provided that the Tribal Court shall exercise the jurisdiction of the tribe only as specifically delegated in Section 1.3.4 herein or as may be specifically delegated by resolution of the Tribal Council.

1.3.2 Territory. The jurisdiction of the Redding Rancheria Tribal Court and the effective area of this Code shall include all territory within the Redding Rancheria Indian Reservation, as defined by Article 1 of the Redding Rancheria Tribal Constitution, including fee patents, allotments, assignments, roads, waters, bridges and lands used or maintained for Tribal purposes, and existing and future lands outside the boundaries of the Reservation owned or controlled by the Redding Rancheria Tribe for the benefit of its members; provided that territorial jurisdiction shall not be a limitation on the Court's jurisdiction under the Children's Code.

1.3.3 Personal Jurisdiction. Bases for personal jurisdiction shall include, but are not limited to:

- (A) Presence, domicile, or residence on the Reservation;

- (B) Membership in the Tribe;
- (C) Consent, whether by contract, implication or otherwise, including marriage to a tribal member;
- (D) Appearance in Tribal Court, other than a special appearance for the sole purpose of contesting jurisdiction;
- (E) Contracting or attempt to contract to insure any person, property, or risk located within the Reservation;
- (F) Doing business or attempting to do business on the Reservation, including entering or attempting to enter into a contract for the sale, lease, or purchase of any property or services, when such contract is entered into or is to be performed within the exterior boundaries of the Reservation;
- (G) Using or attempting to use, or purchase or attempting to purchase any resource or service of the Tribe or the Reservation;
- (H) Engaging in an act on the Reservation;
- (I) Causing a foreseeable effect on the Reservation by an act or omission elsewhere;
- (J) Ownership, use, or possession of real or personal property on the Reservation.

#### 1.3.4 Subject Matter Jurisdiction

(A) The Tribal Court shall have jurisdiction over all real and personal property located on the Reservation to determine the ownership thereof, or rights therein, or to determine the application of such property to the satisfaction of a claim relating to the property.

(B) Subject to the limitations of subsection 1.3.1 of this section, the Tribal Court shall have subject matter jurisdiction over all civil adjudicatory causes of action arising on or having significant contacts with the Reservation regardless of whether the parties are Indian or non-Indian, in the following areas: torts, contracts.

(C) The Tribal Court shall have jurisdiction over appeals from the following tribal administrative matters:

- (1) Grievance appeals from employees of the Tribe, Win-River Casino, and tribal owned entities except as specifically prohibited by governing bodies of such entities;

- (2) Appeals from decisions of the Workers' Compensation Administration;
- (3) Appeals from rulings of the Tribal Gaming Commission
  - (a) as to procedural issues in licensing under the Tribe's Gaming Ordinance; and
  - (b) as to tort claims under the Dispute Resolution Gaming Patrons Claims Ordinance.
- (4) Appeals from the tribal tax commission; and
- (5) Appeals from the tribal administrative review process governing harassment and equal employment opportunity.
- (6) Tribal Labor Relations Ordinance.
- (7) Eminent Domain.

1.3.5. Limited Waiver of Sovereign Immunity for Employee Grievance, Equal Opportunity and Harassment Appeals. The Redding Rancheria Tribe makes a limited waiver of sovereign immunity for actions brought pursuant to Section 1.3.4(C)(1) and (5) of Title I of this Code in Tribal Court by an employee of the Redding Rancheria Tribe or its enterprises. If the employee prevails in Tribal Court, the Court shall have the power and jurisdiction to award money damages against the Tribe for back wages and benefits not to exceed \$10,000, to order reinstatement of a job, and to strike adverse commentary in an employee's personnel file (subject to the requirements of paragraph (E) below. The Redding Rancheria does not waive its immunity with respect to attorney's fees, punitive damages, tort damages, or any other form of relief not expressed above. This limited waiver of sovereign immunity extends only to the relief expressed in this waiver and does not include any waiver whatsoever for relief not stated in this waiver.

1.3.6 Sovereign Immunity; Waiver. The Court shall have no jurisdiction over any suit brought against the Tribe for money judgments without the consent of the Tribe. Nothing contained within this Code shall be deemed to constitute a waiver or renunciation of the sovereign immunity of the Tribe to suit. Such consent or waiver must be expressly made by the Redding Rancheria General Membership by majority vote through passage of an ordinance or resolution, including a resolution which authorizes such a waiver in a contract entered into by the Tribal Council or its designee, or other means adopted by the Redding Rancheria Tribal Council.

1.3.7 The Tribal Court may exercise jurisdiction to grant a custody order with respect to an Indian child:

- (A) Who is enrolled in the Tribe; or

- (B) Who qualifies for enrollment; or
- (C) In whom the Court has an interest pursuant to the Indian Child Welfare Act; or
- (D) Who is present on the Reservation
- (E) Who is otherwise subject to the Court's jurisdiction pursuant to the Children's Code.

1.3.8 The Tribal Court shall not exercise jurisdiction over any person unless there is proof on file with the Court that the person has been given notice of the proceedings in a manner which conforms with the requirements of the rules of the Court.

1.3.9 Except as otherwise provided by Tribal law (including Win-River Policies and Procedures), the Tribal Court shall have exclusive and original jurisdiction to adjudicate all complaint for the exclusion or removal of persons from the Reservation or parts of the reservation, including the issuance of temporary restraining orders and permanent injunctions; and appellate jurisdiction over exclusion decisions by Win-River management.

1.3.10 Except as otherwise provided by Tribal law, the Tribal Court shall have exclusive original jurisdiction, and the Tribal Court of Appeals shall have exclusive appellate jurisdiction, to construe the meaning of Tribal laws, and to determine the legality, under the Constitution and enactment of the Tribal Council, or any other agent, department, officer, or enterprise of the Tribe and the application of any such action or enactment to any person or situation. This subsection shall not be construed to effect a waiver of sovereign immunity.

1.3.11. 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.

#### **1.4 Enactment and Amendment of Rules**

1.4.1 It shall be the duty of the Chief Judge of the Tribal Court to enact or amend such rules as he/she believes to be necessary in the interests of improved judicial procedures.

1.4.2 Rules Not Announced. Where the Law and Order Code does not expressly address a question, and it is necessary for the proper adjudication of an action before the Court, the Court may adopt a rule, giving prior notice to the parties, and may issue any order to accomplish substantial justice. Such a rule shall only apply to the hearing for which it was adopted.

## CHAPTER 2. JUDGES AND STAFF; SOVEREIGN IMMUNITY

### 2.1 Number of Judges and Manner of Selection.

The Redding Rancheria Tribal Court shall consist of one Chief Judge selected by the Tribal Council for a term of 4 years. One or more Judges Pro Tem may be appointed by the Tribal Council as provided in Section 2.3.

### 2.2 Bonding

Before taking office, each judge of the Tribal Court shall, at tribal expense, post bond in an amount determined by the Tribal Council, or shall be covered by the Tribe's blanket bond.

### 2.3 Judges Pro-Tem

Whenever the need arises, the Tribal Council may make temporary appointments of persons who otherwise meet the qualifications in this Chapter, to serve as Trial or Appellate Judges Pro-Tem. The Tribal Council may, in its sound discretion, appoint more than one judge pro tem thereby creating a pool of qualified judges pro tem from which one may from time to time be selected as circumstances dictate. All pro tem judges, except those persons who serve as judges for other Indian Reservations, shall meet the requirements of Section 2.10.

### 2.4 Court Administrator

There is hereby created within the Redding Rancheria Tribal Court an Office of the Court Administrator. The Court Administrator shall be an exempt employee of the Tribe and:

2.4.1 Shall be responsible for drafting and monitoring all the budgets for the Court, including the submission of reports to the appropriate departments required by contract or policy;

2.4.2 Shall be the designated Code Revisor of the Law & Order Code and, when necessary, shall assist in the drafting of new legislation or amendments to current legislation in the Law & Order Code;

2.4.3 Shall be a designated signer for subpoenas;

2.4.4 Shall attend meetings as representative of the Court in absence of the Chief Judge;

2.4.5 Shall have delegated administrative authority in the absence of the Chief Judge to carry on the day-to-day operations of the Court;

2.4.6 Shall exercise the powers and perform the duties conferred and imposed upon the Court Administrator elsewhere by ordinance;

2.4.7 Shall perform his/her duties to conform to the directions of the Court.

2.4.8 Contract with the parties or organizations necessary to provide the judicial services of a Court of Appeals.

## **2.5 Court Clerk**

There is hereby created within the Office of the Court Administrator the office of Court Clerk. The Court Clerk shall be an exempt employee of the Tribe and :

2.5.1 Shall be responsible for or assist in monitoring all the budgets for the Court, including the submission of reports to the appropriate departments required by contract or policy;

2.5.2 Shall be responsible for receipting and depositing 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;

2.5.3 Shall be responsible for the calendaring of the Court cases and scheduling of appointments for the judges of the Court;

2.5.4 Shall maintain a Tribal Court Bar roster and provide annual updates on Code revisions to members in good standing of the Tribal Court Bar;

2.5.5 Shall draft and/or assist in the drafting of forms to be used by the public and others in proceedings heard by the Tribal Court;

2.5.6 Shall assist and/or give the general public information pertaining to court matters, filing of documents and procedures without giving legal advice;

2.5.7. Shall be a designated signer for subpoenas;

2.5.6 Shall maintain and submit disposition records to appropriate departments/agencies as required by contract or policy;

## **2.6 Compensation of Court Officers**

Each judge shall be compensated pursuant to a written contract with the Redding Rancheria Tribal Council. Under no circumstances shall any judge's compensation be reduced during his or her current term of office.

The Chief Judge and Judges Pro-Tem shall be compensated at negotiated hourly rates.

## **2.7 Compensation of Tribal Attorney, Court Administrator and Court Clerk**

The compensation of the Tribal Attorney shall be set by the Tribal Council. The Council may take into consideration without limitation experience with the Tribe, other tribes, and in private practice; prevailing attorney salaries in the area including without limitation those of Redding,

City Attorney and Redding Public Defender; any information available from current salary surveys conducted by the Tribe.

## **2.8 Sovereign Immunity of Court Officials and Tribal Attorney**

The judges of the Tribal Court, the Tribal Attorney, the Court Administrator and the Court Clerk are officers of the Court with the responsibility of carrying out discretionary functions delegated to them by the Redding Rancheria Tribal Government. Within the scope of carrying out these governmental duties these named officers of the Court are cloaked with the sovereign immunity of the Redding Rancheria, including immunity from suit, and with judicial immunity of officers of the Court.

## **2.9 Qualifications of Tribal Attorney**

The Tribal Attorney shall:

2.9.1 Have ten (10) or more years of experience as an attorney, at least five (5) of which shall be as attorney for a tribe or tribal organization, and at least five (5) years of experience advising business entities.

2.9.2 Shall be a member in good standing of a state bar association, and shall either be a member of the California State Bar or eligible to sit for the California Bar Examination and pass the California Bar Examination within one (1) year of employment.

## **2.10 Eligibility of Judges**

To be eligible to serve as a judge of the Tribal Court, and in order to qualify as a candidate for Chief Judge, a person must:

2.10.1 Be at least 30 years of age;

2.10.2 Never have been convicted of a felony, or been convicted, within the ten years preceding his/her election, of a misdemeanor involving moral turpitude, corruption or dishonesty;

2.10.3 Agree to be subject to a background investigation which shall be conducted by the Tribal law enforcement or gaming commission agency;

2.10.4 Live within 100 miles of the Reservation while holding office;

2.10.5 Have successfully completed a Tribal Court orientation session conducted by a judge of the Tribal Court, the Office of Tribal Attorney, or an attorney knowledgeable in Indian law and familiar with practice before Tribal Courts.



**2.11 Conflict of Interest; Nepotism**

Any judge of the Tribal Court or Appellate Court shall be disqualified to act as such in any case in which he or she has any direct interest, and shall not take part in the deliberation or determination of any matter (1) affecting his or her spouse, son, daughter, sister, brother, mother, father, granddaughter, grandson, grandmother, grandfather, aunt, uncle, niece, or nephew or any of the following in-laws: son, daughter, brother, sister, mother, or father; or (2) where for any other reason the judge cannot be impartial; or (3) where the judge finds that a reasonable person would believe that the Judge could not be impartial.

**2.12 Disqualification of Judge**

Any party to a case may bring a motion for disqualification based upon any grounds set forth in the preceding section. The Court shall conduct a hearing on the motion. If the Court grants the motion, the matter shall be transferred to a Judge Pro-Tem. If no Judge Pro-Tem is currently appointed, the Tribal Council shall appoint one, upon notification from the Court. If the Court denies the motion, it shall do so by written order setting forth the reason for denial.

**2.13 Removal of Judges**

Removal of any judge by the Tribal Council shall be automatic upon receipt of proof of a felony conviction at any time, or a misdemeanor conviction involving moral turpitude, corruption or dishonesty within ten years of election to office. Tribal Council, by a majority vote, may remove a judge for cause, including excessive use of intoxicants, immoral behavior, conviction of any offense other than traffic violations, use of official position for person gain, desertion of office, or failure to perform duties. The decision of the Council shall be final.

**2.14 Judicial Cooperation**

Judges and personnel of the Tribal Court shall cooperate with federal and state courts and agencies to the extent such cooperation is consistent with Tribal law.

**2.15 Oath of Office**

Before taking office, and in the presence of the Tribal Chairperson, all Tribal Judges shall be required to take the following oath of office:

Tribal Judge's Oath

I, \_\_\_\_\_, do solemnly swear:

- 1. I will respect and uphold the Constitution and by-laws and the Tribal Code of the Redding Rancheria Tribe;
- 2. I will, at all times, act in a professional manner and will promote the respect and integrity for the Constitution and by-laws and the Tribal Code of the

Redding Rancheria Tribe;

3. I will protect and promote the intent and purpose of the Code of the Redding Rancheria Tribe;

4. I will be faithful and honest to the office of the Tribal Judge for as long as I hold that office; and,

5. I will uphold the Tribal Code of the Redding Rancheria Tribe fairly and equally to all persons who may come before the Tribal Court.

\_\_\_\_\_  
Judge

Subscribed and sworn before me this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Tribal Chairperson

### **CHAPTER 3. COURT ADMINISTRATION**

#### **3.1 Sessions of Court**

Sessions of the Tribal Court for the trial of cases shall be held in open court by the Chief Judge, or in case of his/her disability, absence, or unavailability, by a Judge Pro-Tem, provided, however, that a Judge Pro-Tem may be called in to hear cases at any time for any reasonable cause by the Court Administrator.

#### **3.2 Acting Chief Judge**

The Tribal Council shall designate, in writing, a Judge Pro Tem to act as Chief Judge whenever the Chief Judge is absent from Shasta County, is on vacation, ill, or otherwise unable to perform the duties of his/her office. The Acting Chief Judge may exercise all powers of the Chief Judge.

#### **3.3 Rules of Court - Procedures**

The time and place of court sessions, and all other details of judicial procedure shall be governed by Title 2, Civil Actions, and Title 3 Rules of Court, promulgated as herein provided. The rules of court are subject to change by the Court with notice, but such changes shall not be interpreted so as to prejudice the rights of parties in pending cases.

#### **3.4 Means to Carry Jurisdiction into Effect**

When jurisdiction is vested in the Court, all the means necessary to carry into effect are also given, subject to the provisions of the Constitution and Bylaws of the Redding Rancheria Tribe and applicable federal law.

### **3.5 Annual Budget**

3.5.1 The Tribal Court shall be funded by the Tribe through an annual appropriation. Additional funding may be obtained through the levy of fines or fees. Federal, State or private grants may also be used to fund Court operations. The Tribal Council shall establish a base funding amount which shall be the basis for each annual appropriation. The base funding level shall not be decreased unless there is a significant reduction in total funds available to the Tribe for budgetary purposes. The Court Administrator may request additional funding from the Tribal Council. If the Tribal Council grants an increase, said increase shall not be considered a change in the base funding amount, unless specifically stated in the appropriation language.

3.5.2 The Court Administrator may expend funds for salaries and fringe benefits, capital additions, and operational expenses as he/she deems appropriate to meet the goals and objectives of the Court. All costs associated with the operation of the Tribal Court must be within the limits of the funds appropriated annually by the Tribal Council.

## **CHAPTER 4. SPOKESPERSONS**

### **4.1 Spokesperson Appearing in Tribal Court**

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

### **4.2 Tribal Court Bar - Admission**

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

- 4.2.1 Be of good moral character,
- 4.2.2 Be approved by the Court,
- 4.2.3 Sign and take the Spokesperson's Oath,
- 4.2.4 Pay the Tribal Court Bar admission fee,
- 4.2.5 Be at least 18 years of age.

### **4.3 Spokesperson's Oath**

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

"Spokesperson's Oath

Reservation, ss.

I, \_\_\_\_\_ do solemnly swear:

1. I have read the Redding Rancheria Constitution and Law and Order Code and am familiar with their contents;
2. I will respect and obey the Constitution of the Redding Rancheria Tribe in all respects;
3. I will abide by the rules established by the Council and the Redding Rancheria Tribal Court;
4. I will at all times maintain the respect due the Tribal Court and its officers;
5. 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 Tribe;
6. 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.
7. I will abstain from all offensive conduct in the Tribal Court.

\_\_\_\_\_

Subscribed and sworn to before me this \_\_\_ day of \_\_\_\_\_,  
20\_\_\_.

\_\_\_\_\_

**4.4 Tribal Court Bar Roster**

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

**4.5 Tribal Court Admission Fee/Annual Fee**

Every person wishing to appear as a spokesperson in the Court will pay an admission fee of \$25.00 and an annual fee thereafter of \$15.00. Included in the admission fee are the copying and handling costs for the Law and Order Code, a copy of which will be given to the spokesperson.

The annual fee is to be used for the purpose of maintaining a Tribal Court Law Library, covering copying and handling costs for updates to the Law and Order Code and to maintain a current bar roster. A judge may waive or lower the Tribal Court bar admission fee and/or annual fee for good cause shown.

#### **4.6 Tribal Court Bar - Disbarment**

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

#### **4.7 Contempt of Court**

Any spokesperson 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 of a fine not to exceed \$100.00.

#### **4.8 Appeal**

Any person denied admission to the Tribal Court Bar or any spokesperson 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 spokesperson shall have the right to a hearing within ten 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.

### **CHAPTER 5. JURIES**

Jury trial is an entitlement for complaints in which exclusive remedy is money damages

#### **5.1 Eligibility of Jurors**

A list of eligible jurors shall be prepared each year by the Court Clerk in cooperation with the Secretary of the Enrollment Committee. The Rules of Court shall make provision for the drawing of names eligible for service as jurors. Any person who is at least 18 years of age and who has resided within Shasta County for at least one year shall be eligible to be a juror. A person may decline jury duty upon good cause shown to the judge.

#### **5.2 Eligibility of Jurors**

5.2.1 To be eligible to serve as a juror, and in order to qualify as a candidate for juror, a person must never have been convicted of a felony, or been convicted, within the five (5) years preceding his/her election, of a crime involving moral turpitude, corruption or dishonesty;

5.2.2 Sitting members of the Redding Rancheria Tribal Council shall be prohibited from serving as jurors because of the potential for conflict of interest.

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

### **5.3 Number of Jurors**

In any case a jury shall consist of six jurors drawn from the current list of eligible jurors by the Court Clerk.

### **5.4 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.

### **5.5 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.

### **5.6 Fees**

Every person who is required to attend Court for selection or service as a juror shall be entitled to a fee of \$50.00 a day for each day his/her services are required in Court, plus the current approved tribal mileage rate for traveling to and from the Court.

## **CHAPTER 6. WITNESSES**

### **6.1 Subpoenas**

A judge of the Court or the court administrator shall issue subpoenas for the attendance of witnesses either on his or her own motion or on the request of the police chief or officer, or any of the parties to the case which subpoena shall bear the signature of the judge or court administrator issuing it. Service of such subpoena shall be by a regularly acting member of the police department or by a person appointed by the Court for that purpose.

### **6.2 Fees**

Each witness answering such subpoena shall be entitled to a fee of \$30.00 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. Witnesses who testify voluntarily shall be paid their actual traveling and living expenses incurred in the performance of their function by the party calling them. The fees of witnesses in civil actions shall be paid by the party calling them.

### **6.3 Subpoenas - Continued Trial/Hearing**

If a trial/hearing is continued, for any reason, counsel and/or the defendant must submit to the Court the names of witnesses they wish subpoenaed prior to each time a new trial/hearing is set.

## **CHAPTER 7. INTERTRIBAL AGREEMENTS**

7.1 By written resolution, the Tribal Council may enter into agreements with other Indian tribes to establish and participate in an organization which makes court personnel and/or administrative services available to participating tribes. In the event of such an agreement, such personnel shall be appointed, compensated, and removed, or payment for such services shall be accomplished, as provided for in the intertribal agreements.