

BURNS PAIUTE TRIBAL CODE

Adopted by the Burns Paiute Tribal Council
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Burns Paiute Tribe

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PREAMBLE

PREAMBLE

The purpose of these Tribal Laws of the Burns Paiute Indian Reservation is to provide a system of criminal justice, law enforcement, and resolution of civil matters for the people of the Reservation and members of the Burns Paiute Indian Tribe.

If any part of this Code or its application to any particular person is held invalid by a court of competent jurisdiction, the remainder of this Code or the application of the pertinent part to other persons shall remain valid.

TRIBAL CONSTITUTION

CONSTITUTION
OF THE
BURNS PAIUTE TRIBE

PREAMBLE

We, the adult members of the Burns Paiute Tribe, Burns, Oregon, a federally recognized Indian tribal entity, acting pursuant to the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended, do hereby adopt this constitution in order to:

1. Protect our inherent rights as Indians and to secure the rights and powers inherent in our sovereign status;
2. Promote the social well-being of our people and protect the individual rights of our members;
3. Preserve our culture and tribal identity;
4. Protect and develop our common resources; and
5. Maintain peace and order.

This constitution shall revoke and replace the Constitution and Bylaws of the Burns Paiute Tribe, approved by the Secretary of the Interior on June 13, 1968, as amended, and shall govern the Burns Paiute Tribe from its effective date on.

ARTICLE I – TERRITORY JURISDICTION

Section 1. Name The legal name of the tribal organization shall be the Burns Paiute Tribe.

Section 2. Reservation Except as prohibited by Federal law, the Burns Paiute Tribe shall have jurisdiction over all persons, property, lands, water, and resources and all activities occurring within the exterior boundaries of the Burns Paiute Reservation established pursuant to the Act of October 13, 1972 (86 Stat. 806, P.L. No. 92-448).

Section 3. Other Areas To the fullest extent possible under Federal law, the Burns Paiute Tribe shall have jurisdiction over all tribal members and other persons who are not members of the Burns Paiute Tribe that are exercising or purporting to exercise any right reserved by the community under Federal law.

ARTICLE II – SOVEREIGN IMMUNITY

Section 1. Tribe Immune from Suit The Burns Paiute Tribe hereby states that it, in exercising self-determination and sovereignty to its fullest extent, declares that the Burns Paiute Tribe is immune from suit except to the extent the Tribal Council expressly waives sovereign immunity.

Section 2. Tribal Employees and Council Members Immune from Suit No Tribal Employee or Tribal Council member acting within the scope of his or her duties or authority is subject to suit.

ARTICLE III – MEMBERSHIP

Section 1. Members The membership of the Burns Paiute Tribe shall consist of:

- (a) All persons of Paiute blood whose names appear on the official census roll of the community as of January 1, 1940. This roll may be corrected by the Burns Paiute General Council subject to approval by the Secretary of the Interior.
- (b) All lineal descendants of persons who qualify for membership under subsection 1(a) above; provided, that such descendants possess the blood quantum of one-eighth (1/8) Indian blood and be a descendent of the Burns Paiute 1940 roll. (amended June 18, 1997)

Section 2. Dual Enrollment No person shall qualify for membership in the Burns Paiute Tribe who is a member of any other organized tribe, band or Indian community officially recognized by the Secretary of the Interior unless he or she has relinquished in writing his or her membership in such tribe, band or community.

Section 3. Adoption The tribal council shall have the power to enact ordinances governing the adoption of persons as members; however, each individual adoption must be voted upon by the general council. Adoption ordinances shall be subject to approval of the Secretary of the Interior.

Section 4. Regulation of Membership The tribal council shall have the power to enact ordinances regulating admission to and loss of membership, provided, however, that any person who may lose his or her tribal membership is entitled to a hearing before the Tribal Council and to thirty (30) days notice of such hearing.

ARTICLE IV – GENERAL COUNCIL

Section 1. Electorate Duly-enrolled tribal members eighteen (18) years old or older, and who are registered voters, shall be members of the General Council of the Burns Paiute Tribe and shall be qualified to vote in all tribal elections, referenda and meetings of the general council.

Section 2. Regular Meetings of the General Council The general council shall meet at least two (2) times each year beginning on the first Wednesday of January and June. If unavoidable circumstances, as determined by the tribal council, prevent the general council from meeting on one of the days listed in this section, the meeting shall be held on the next possible day. The chairperson of the tribal council shall preside at general council meetings and, in the absence of the tribal chairperson, the tribal council vice-chairperson shall preside. If both the chairperson and vice-chairperson are absent, the general council may elect from the members present a person to preside over that specific meeting.

Section 3. Special Meetings of the General Council Special meetings of the general council may be called by the tribal council or by at least twenty-five (25) members of the general council who sign a petition which states the subjects to be addressed at the meeting. Within five (5) days after receipt of the petition, the tribal council shall set a day for the meeting as provided in Section 4 of this article. The meeting shall be held within twenty (20) days after receipt of the petition.

Section 4. Notice of General Council Meetings At least five (5) days before each general council meeting, the tribal council shall notify the general council membership of the date, time, place and agenda for the meeting.

Section 5. Quorum A quorum of the general council shall be twenty-five (25) registered voters.

Section 6. Powers of the General Council The exercise of the powers listed in this section by the general council is subject to the express limitations contained in this constitution or in Federal law.

- (a) No branch, agency or officer of the Burns Paiute Tribe except the general council shall exercise the following powers:
 - (1) To sell or relinquish land owned by the Burns Paiute Tribe or land held by the United States in trust for the Tribe;
 - (2) To consent to the termination of the Burns Paiute Tribe and Reservation;
 - (3) To relinquish any tribal jurisdiction to another government, agency, person or organization, provided that cooperative law enforcement agreements shall not be considered relinquishment of tribal jurisdiction;
 - (4) To elect tribal council members in accordance with Article V and Article IX;

- (5) To decide on initiative, referendum, and recall issues in accordance with Article IX; and,
- (6) To adopt or reject constitutional amendments in accordance with Article XII.

The general council shall not be deemed to have given its consent to any action described in subsection (1) through (3) of this section unless at least seventy-five percent (75%) of all members of the general council have voted in favor of such action.

The foregoing enumeration of powers shall not be construed to limit the powers of the general council but all powers of local government not expressly entrusted to the tribal council by this constitution shall be reserved to the general council of the Burns Paiute Tribe. Such powers may be exercised by the Tribe's registered voters at a validly called meeting of the General Council.

ARTICLE V – TRIBAL COUNCIL

Section 1. Governing Body Except as it is expressly limited by this constitution and by Federal law, the governing power of the Burns Paiute Tribe shall be exercised by the tribal council.

Section 2. Composition of the Tribal Council The tribal council shall be composed of seven (7) persons duly elected by the general council.

Section 3. Qualification of Tribal Council Members All members of the Burns Paiute Tribe who physically reside in Harney County, Oregon, who are twenty-one (21) years old or older and are qualified voters shall be eligible to become candidates for and serve on the tribal council. No more than one (1) immediate family member or any person already on the tribal council shall become a candidate for or serve on the council. "Immediate family member" shall mean mother, father, brother, sister, spouse, son or daughter.

Section 4. Quorum A quorum of the tribal council shall be five (5) members.

Section 5. Terms of Office Each tribal council member shall be elected for a term of three (3) years, except as provided in Section 6 of this Article and shall hold office until a successor has been certified and seated. Terms of office for the seven (7) council members shall be staggered with two (2) members being elected each year for two (2) consecutive years and three (3) members being elected in the third year.

Section 6. First Elections Within three (3) months following the effective date of this constitution, all seven (7) members of the tribal council shall be elected. Those tribal officials incumbent under the previous constitution shall serve until those elected pursuant to this section are duly elected and installed. In the first election, three (3) council

members shall be elected to serve for three (3) years, two (2) members shall be elected to serve for three (3) years, two (2) members shall be elected to serve for (2) years, and two (2) members shall be elected to serve for one (1) year. Those three (3) candidates receiving the highest number of votes shall be considered elected to the three year terms. Those two (2) candidates who receive the fourth and fifth highest number of votes shall be elected for the two (2) year terms. The two (2) candidates receiving the sixth and seventh highest vote shall serve the one (1) year terms. Thereafter, there shall be annual elections and all terms shall be three (3) years in length.

Section 7. Officers of the Tribal Council Each time an election of a tribal council member has been held, the tribal council shall elect from within its own membership an chairperson, vice-chairperson, secretary-treasurer, and sergeant-at-arms. The tribal council may appoint such other officials and committees as are considered necessary; however, those appointees shall have no vote in the deliberations of the tribal council.

Section 8. Regular Meetings of the Tribal Council The Tribal Council shall meet at least once each month at a designated regular time. The tribal council shall cause to be published locally the schedule of all regular meetings.

Section 9. Special Meetings of the Tribal Council Special meetings of the tribal council may be called by the council chairperson, or by three (3) council members. The person(s) calling the special meetings shall make reasonable efforts to provide written notice of the meetings to every council member and to the general council.

Section 10. Procedures of the Tribal Council

- (a) Except as provided in this constitution, the tribal council shall establish its own rules of procedure, and official tribal council actions shall be taken by a majority vote of the quorum of the members present.
- (b) All meetings of the tribal council shall be open to the general membership, except that the council may recess at its discretion to go into executive session to discuss any matter in closed session as long as the subject matter to be discussed is expressed in the motion calling for a closed session and no official action is taken in the closed session. Copies of all ordinances and resolution adopted by the tribal council and minutes of all open meetings of the tribal council, its committees and subcommittees, shall be maintained at a tribal office and shall be available for inspection by all interested members.

ARTICLE VI – POWERS OF THE TRIBAL COUNCIL

Section 1. Enumerated Powers The tribal council of the Burns Paiute Tribe shall be authorized to exercise the following powers, subject to the express limitations and restrictions upon such powers imposed by this constitution and applicable Federal law:

- (a) To negotiate with the Federal, State and local governments on behalf of the Tribe and to advise and consult with representatives of the Department of the Interior on all activities of the Department that may affect the Burns Paiute Tribe.
- (b) To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior so long as such approval is required by Federal law.
- (c) To approve or veto any disposition, lease or encumbrance of tribal lands, interest in lands, or other tribal assets; provided that tribal lands shall not be encumbered unless such encumbrance is authorized by Federal law, nor any tribal lands be leased for a period exceeding the time authorized by Federal law.
- (d) To advise the Secretary of the Interior with regard to all appropriation estimates of federal projects for the benefit of the Burns Paiute Tribe prior to the submission of such estimates to the Office of Management and Budget and to Congress.
- (e) To manage all economic affairs and enterprises of the community.
- (f) To appropriate any available funds for tribal purposes.
- (g) To levy assessments and taxes on all person, property and activities within the tribe's jurisdiction.
- (h) To prescribe conditions upon which nonmembers may remain within the territory of the community. Such conditions shall be enforced by order of the tribal court.
- (i) To enact ordinances and laws to govern the conduct of all persons and to maintain order and protect the safety, health and welfare of all persons within the Burns Paiute Tribe's jurisdiction; and to enforce said ordinances and laws.
- (j) To charter and regulate corporations, cooperatives, associations, special districts, educational and charitable institutions, political subdivisions and any other organization.
- (k) To provide for the tribal court to appoint guardians for minors and incompetents.
- (l) To regulate and define the duties and procedures of the tribal council, of all tribal council members and/or subordinate tribal committees and

organizations and otherwise establish policies and procedures for tribal government personnel.

- (m) To purchase or accept any land or property for the Burns Paiute Tribe.
- (n) To request the Secretary of the Interior to confer trust or reservation status on lands granted to or purchased by the community.
- (o) To accept gifts on behalf of the Burns Paiute Tribe.
- (p) To develop, manage, protect and regulate the use of water, minerals and all other natural resources within the community's jurisdiction.
- (q) To deal with questions concerning the encumbrance, lease, use, management, assignment, zoning, exchange, mortgage, purchase, acquisition, sale, placement in trust and disposal of land and other assets owned by the community or held in trust for the community; and regulate land use and development in areas within the community's jurisdiction.
- (r) To exercise any power or duty which may now or in the future be delegated to the tribal council by the Federal or state government or by the general council.
- (s) To take any and all actions necessary and proper for the exercise of the foregoing powers and duties and all other powers and duties now or hereafter delegated to or vested in the tribal council.

ARTICLE VII – TRIBAL COURT

Section 1. Judges and Authority The tribal court shall consist of one (1) chief judge and such associate judge(s) and staff as are deemed necessary by the tribal court. The tribal court is empowered to exercise all judicial authority of the community. Said authority includes but is not limited to the power to review and nullify tribal legislative and executive actions which violate this constitution or the Federal Indian Civil Rights Act of 1968 as well as to perform all other judicial and court functions. The tribal council shall set forth qualifications for the tribal court chief judge, associate judge(s) and staff positions by ordinance and shall appoint persons to fill said positions for a term of not less than two (2) years for chief judge and not less than two (2) years for associate judges. During the tenure of his or her appointment, the chief judge or associate judge(s) may be suspended or dismissed by the general council only for criminal conviction, misconduct, negligence or absence from duty upon due notice and an opportunity for an open hearing.

Section 2. Civil Jurisdiction of the Tribal Court The Tribal Court of the Burns Paiute Tribe shall have exclusive civil jurisdiction except that prevented by Federal Law.

Section 3. Criminal Jurisdiction of the Tribal Court The Tribal Court of the Burns Paiute Tribe shall have concurrent criminal jurisdiction with the Federal Courts and may prosecute those criminal offenses which are violation of the Law and Order Code of the Burns Paiute Tribe.

Section 4. Civil Rights Violation Jurisdiction The Tribal Court of the Burns Paiute Tribe shall have exclusive jurisdiction with regard to violations and alleged violations of the Indian Civil Rights Act of 1968, codified at, Title 25, United States Code, section 1302 et seq. and violations and alleged violations of the Bill of Rights contained in this Constitution.

ARTICLE VIII – BILL OF RIGHTS

The Burns Paiute Tribe, in exercising its powers of self-government shall not:

- (a) Make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances;
- (b) Violate the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, nor issue warrants but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;
- (c) Subject any person for the same offense to be twice put in jeopardy;
- (d) Compel any person in any criminal case to be witness against himself;
- (e) Take any private property for public use without just compensation;
- (f) Deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense to have the assistance of counsel for his defense;
- (g) Require excessive bail, impose excessive fines, inflict cruel and unusual punishment, or impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of one (1) year or a fine of \$5,000, or both;
- (h) Deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law;
- (i) Pass any bill of attainder or ex post facto laws; and,

- (j) Deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury or not less than six (6) persons.

ARTICLE IX – TRIBAL ELECTIONS

Section 1. Election Dates The tribal council shall appoint an election board whose three (3) members shall serve three (3) year staggered terms of office. Election board members shall be subject to removal from office by the general council for criminal activity, misconduct, negligence or absence from duty upon due notice and an opportunity for an open hearing. The election board shall be responsible for impartially carrying out the provisions of the election ordinance as described in Section 2 of this article. No person who holds any elective or appointive tribal office or is a candidate for such office shall serve on the election board.

Section 2. Election Procedure The tribal council shall enact an election ordinance, consistent with this constitution, setting forth the procedures to be followed in conducting each of the various types of tribal elections called for in this constitution. The ordinance shall include mandatory provisions for secret balloting, voter registration, maintaining a current list of qualified voters, absentee voting, screening of prospective candidates and settling election disputes. Further, the ordinance shall spell out the procedure and format to be used whenever it is necessary to submit petitions and describe how such petitions are to be determined valid.

Section 3. Initiative The qualified voters may propose legislation by submitting to the tribal council a petition signed by at least one-third (1/3) of the registered voters. Each page of the petition shall contain a description of the proposed enactment. Within thirty (30) days from the tribal council's receipt of a valid petition, the chairperson shall call an election to be held in conjunction with a special meeting of the general council making provisions for absentee balloting, provided, that if an initiative petition is received within thirty (30) days before a meeting of the general council is scheduled, the initiative election shall be delayed until that meeting. An affirmative vote by at least a majority of those who vote shall be necessary to decide the issue or question; provided, that no less than one-third (1/3) of the registered voters cast ballots in the election. The decision of the voters shall be binding on the tribal council until it expires by its own terms or is otherwise changed by action of the voters. Once an initiative issue has been submitted to the voters and decided, that same issue cannot again be considered for at least six (6) months.

Section 4. Referendum The tribal council, by an affirmative vote of at least four (4) of its members, shall call an election to be conducted within forty-five (45) days of such tribal council decision for the purpose of deciding issues or questions that are either within authority of the general council or those powers vested in the tribal council. A referendum may be demanded on any enacted or proposed ordinance or resolution of the Burns Paiute Tribal Council by a petition of at least one-third (1/3) of the registered voters of the Burns Paiute Indian Reservation. An affirmative vote by at least a majority of those who vote shall be necessary to decide the issue or question; provided, that no less than one-third (1/3) of the registered voters cast ballots in that election. The decision of the voters

shall be binding on the tribal council until it expires by its own terms or is otherwise changed by action of the voters.

Section 5. Recall Upon receipt of a valid petition signed by at least one-third (1/3) of the registered voters requesting the recall of an individual official holding an elective office, it shall be the duty of the tribal council to call a special election to vote on the recall of that official. Such election shall be held within forty-five (45) days of receipt of the valid petition; provided, that if the petition is submitted within two (2) months of the next annual elections, the tribal council may direct that the matter be placed on the ballot for that election. If a majority of those actually voting favor the recall of the official, that office shall be declared vacant and filled in accordance with Section 2 of Article X. No individual shall be subjected to a recall vote more than twice during his/her term of office,.

ARTICLE X – REMOVAL FROM OFFICE AND FILLING VACANCIES

Section 1. Removal

- (a) Should any of the following circumstances occur involving a tribal council member, the remaining members of the tribal council may by resolution remove such person from office:
 - (1) Failure to satisfy the requirements for holding office in Section 3 of Article V.
 - (2) Absence from three (3) successive tribal council meetings without being excused by the tribal council.
 - (3) Gross misconduct in office or neglect of duty as defined by tribal ordinance, or conviction of a felony after his or her election; and,
 - (4) Becoming physically or mentally incapable of performing his or her duties.
- (b) Any tribal council member subject to removal shall, before a vote is taken, be provided with a reasonable and detailed written statement of the charges against him or her and with fair opportunity to reply to such charges and present evidence on his or her behalf at an open hearing for that purpose. Notice of the charge must be presented to the accused at least five (5) days prior to the hearing. At least four (4) of the remaining members of the council must vote in favor of removal to make it valid. The Chairperson shall be permitted to vote if he/she is not the object of removal proceedings.

Section 2. Filling of Vacancies If any vacancies occur due to removal, recall, resignation or death, the tribal council shall appoint a new member, who qualifies pursuant to Section 3 of Article V, to serve until the next regular election when a successor shall be

elected to fill the remainder of the term so as to preserve the system of staggered terms of office.

ARTICLE XI – AMENDMENTS

This constitution may be amended by a majority vote of the qualified voters of the community voting at an election called for that purpose by the Secretary of the Interior and conducted pursuant to federal regulations; provided, that at least thirty percent (30%) of those entitled to vote shall vote in such election. Amendments shall become effective when approved by the Secretary of the Interior.

ARTICLE XII – SAVINGS CLAUSE

All enactments of the tribe adopted before the effective date of this constitution shall continue in effect to the extent that they are consistent with this constitution.

ARTICLE XIII – SEVERABILITY

If any provision of this constitution shall in the future be declared invalid by a court of competent jurisdiction, the invalid provision or provisions shall be severed and the remaining provisions shall continue in full force and effect.

ARTICLE XIV – ADOPTION

This constitution, when adopted by a majority vote of the qualified voters of the Burns Paiute Tribe, voting in an election called for that purpose by the Secretary of the Interior and conducted pursuant to Federal Regulations, provided, that at least thirty percent (30%) of those entitled to vote cast ballots in that election, shall become effective when approved by the Secretary of the Interior or his authorized representative.

RESERVATION DESCRIPTION

RESERVATION DESCRIPTION

Legal Description of Main Reservation:

Parcels 1 and 2 of sections 1, 12 and 13, Township 23 South, Range 30 East, Willamette Meridian, Harney County, Oregon, as shown on the approved Bureau of Land Management Plat dated May 8, 1978 and described as: Parcel 1; commencing at the northwest corner of section 1, Township 23 South, Range 30 East, thence south 7 degrees, 57' east 279.84 feet to the true point of beginning, thence south 0 degrees 27' west 5030.62 feet to the southwest corner of said section 1, thence along the south line of said section north 89 degrees 33' 1337.16 feet, thence south 1 degree 02' west 2556.84 feet, thence north 88 degrees 55' east 1332.54 feet, thence north 1 degree 09' east 1272.48 feet, thence north 89 degrees 14' east 2665.74 feet, thence north 2 degrees 13' west 701.58 feet, thence north 4 degrees 46' east 389.4 feet, thence north 0 degrees 09' east 165.66 feet to the southeast corner of said section 1, thence north 0 degrees 09' east 2597.1 feet to the east quarter corner of section 1, thence north 0 degrees 47' west 1750.32 feet, thence north 89 degrees 16' east 9.9 feet, thence north 0 degrees 49' west 678.48 feet, thence north 19 degrees 26' west 132 feet, thence south 69 degrees 01' west 76.56 feet, thence south 7 degrees 37' east 167.64 feet, thence south 33 degrees 54' west 81.84 feet, thence south 79 degrees 41' west 186.12 feet, thence north 72 degrees 45' west 242.22 feet, thence north 88 degrees 54' west 4713.72 feet to the true point of beginning, containing 761.70 acres more or less and being within sections 1 and 12.

Parcel 2; commencing at the northwest corner of section 13, Township 23 south, Range 30 East, the true point of beginning, thence along the west line of said section 13, south 0 degrees 36' west 646.8 feet, thence south 89 degrees 20' east 660.0 feet, thence north 0 degrees 05' west 667.26 feet to the north line of said section 13, thence south 88 degrees 50' west 658.68 feet to the true point of beginning, containing 9.90 acres more or less, EXCEPT a 10.88 acre parcel of land in Part of the NW1/4 of section 1, Township 23 South, Range 30 East, W.M., Harney County, Oregon, included within the unrecorded plat of Tu-Kwa-Hone' dated July 2, 1976 containing 760.72 acres, more or less, after the above exception.

Legal Description of Indian Joe Allotment Land:

Land in Harney County, Oregon, Township 23 South, Range 32 ½ East, Willamette Meridian as follows:

Section 32: NW ¼.

Containing 160.0 acres, more or less.

Legal Description of Old Camp:

Land in Harney County, Oregon, Township 23 South, Range 30 East, Willamette Meridian, included within the plat of Tu-Kwa-Hone, unrecorded in the County, dated July 2, 1976, prepared by James E. Bussard, registered land surveyor, containing 10.88 acres, more or less.

**PUBLIC LAW 280;
RETROCESSION BY STATE
OF OREGON**

PUBLIC LAW 280; RETROCESSION BY STATE OF OREGON

18 USC § 1162. State jurisdiction over offenses committed by or against Indians in the Indian country

PART I - CRIMES

(a) Each of the States or Territories listed in the following table shall have jurisdiction over offenses committed by or against Indians in the areas of Indian country listed opposite the name of the State or Territory to the same extent that such State or Territory has jurisdiction over offenses committed elsewhere within the State or Territory, and the criminal laws of such State or Territory shall have the same force and effect within such Indian country as they have elsewhere within the State or Territory:

State or Territory of Indian country affected

Alaska All Indian country within the State, except that on Annette Islands, the Metlakatla Indian community may exercise jurisdiction over offenses committed by Indians in the same manner in which such jurisdiction may be exercised by Indian tribes in Indian country over which State jurisdiction has not been extended.
California All Indian country within the State.
Minnesota All Indian country within the State, except the Red Lake Reservation.
Nebraska All Indian country within the State.
Oregon All Indian country within the State, except the Warm Springs Reservation.
Wisconsin All Indian country within the State.

(b) Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto; or shall deprive any Indian or any Indian tribe, band, or community of any right, privilege, or immunity afforded under Federal treaty, agreement, or statute with respect to hunting, trapping, or fishing or the control, licensing, or regulation thereof.

(c) The provisions of sections 1152 and 1153 of this chapter shall not be applicable within the areas of Indian country listed in subsection (a) of this section as areas over which the several States have exclusive jurisdiction.

(Added Aug. 15, 1953, ch. 505, Sec. 2, 67 Stat. 588; amended Aug. 24, 1954, ch. 910, Sec. 1, 68 Stat. 795; Pub. L. 85-615, Sec. 1, Aug. 8, 1958, 72 Stat. 545; Pub. L. 91-523, Secs. 1, 2, Nov. 25, 1970, 84 Stat. 1358.)

28 USC § 1360. State civil jurisdiction in actions to which Indians are parties

PART IV - JURISDICTION AND VENUE

(a) Each of the States listed in the following table shall have jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in the areas of Indian country listed opposite the name of the State to the same extent that such State has jurisdiction over other civil causes of action, and those civil laws of such State that are of general application to private persons or private property shall have the same force and effect within such Indian country as they have elsewhere within the State:

State of - Indian country affected

Alaska - All Indian country within the State.

California - All Indian country within the State.

Minnesota - All Indian country within the State, except the Red Lake Reservation.

Nebraska - All Indian country within the State.

Oregon - All Indian country within the State, except the Warm Springs Reservation.

Wisconsin - All Indian country within the State.

(b) Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto; or shall confer jurisdiction upon the State to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of such property or any interest therein.

(c) Any tribal ordinance or custom heretofore or hereafter adopted by an Indian tribe, band, or community in the exercise of any authority which it may possess shall, if not inconsistent with any applicable civil law of the State, be given full force and effect in the determination of civil causes of action pursuant to this section.

(Added Aug. 15, 1953, ch. 505, Sec. 4, 67 Stat. 589; amended Aug. 24, 1954, ch. 910, Sec. 2, 68 Stat. 795; Pub. L. 85-615, Sec. 2, Aug. 8, 1958, 72 Stat. 545; Pub. L. 95-598, title II, Sec. 239, Nov. 6, 1978, 92 Stat. 2668; Pub. L. 98-353, title I, Sec. 110, July 10, 1984, 98 Stat. 342.)

HISTORICAL DOCUMENTS