

Ordinance Number 3.300. Amended by
Resolution No. 2005-361, dated September
16, 2005

Original Date: September 21, 2001
Subject: Siletz Community Law Court

SILETZ COMMUNITY LAW COURT

Siletz Tribal Code § 3.300

Chapter 1 General Provisions

§ 3.300 PURPOSE & CONSTRUCTION

(a) These rules are meant to provide formal support, structure and enforcement to traditional Siletz methods of resolving disputes through mediation and the use of traditional ways.

(b) These rules shall be interpreted liberally and formally with the goal of providing a fair, informal, inexpensive and traditional means of resolving disputes. The rules shall be used and applied in as close accordance with Siletz tribal tradition and custom as practical.

§ 3.301 ESTABLISHMENT

The Siletz Community Law Court of the Siletz Tribe is hereby established as part of the Tribal Court system. The Siletz Community Law Court Judge shall exercise supervisory control over any Gwe-shvt-naga (“GWAY-SHUT-NAH-GAH”: in between he, she, or it walks)/Peacemaker appointed pursuant to these rules.

§ 3.302 SUBJECT MATTER JURISDICTION: PERSONAL JURISDICTION; ATTORNEYS

SILETZ COMMUNITY LAW COURT
Siletz Tribal Code § 3.300

(a) The Siletz Community Law Court Judge may appoint and parties may stipulate to the appointment of one to three Gwe-shvt-naga/Peacemakers where the matter in dispute involves the following:

- (1) Marital disputes and disputes involving family strife;
- (2) Disputes among extended or traditional family relations;
- (3) Minor disputes between neighbors as to community problems such as nuisances, animal trespass or annoyance, disorderly conduct, breaches of the peace and like matters;
- (4) Alcohol use or abuse by family or neighbors;
- (5) Minor community business transactions involving a sum or value of \$2,500 or less;
- (6) Any other matter, which the Tribal Court finds should or can be resolved through the use of the Siletz Community Law Court, however, the Siletz Tribal Court is not yet authorized by Tribal Council to handle divorce, separation, or annulment cases.

(b) The Siletz Community Law Court shall have the power to compel all persons within the jurisdiction of the Siletz Tribe to appear and participate as witnesses in Siletz Community Law Court proceedings and to compel attendance of parties. Gwe-shvt -naga/Peacemakers shall not have authority to decide a disputed matter unless all parties to the dispute consent to such authority in writing. Subpoenas shall be issued and served by the Clerk of Tribal Court but only upon the request of the Gwe-shvt-naga/Peacemaker (parties or others may not have subpoenas issued and served.) A person who has been properly served with a subpoena and fails to appear or produce may be deemed in contempt of Tribal Court. Only the Gwe-shvt-naga/Peacemaker is authorized to request that contempt proceedings be initiated by the Tribal Court for failure to appear or produce. Tribal Court shall proceed with any such request made by a Tribal Court Judge or other party entitled to initiate contempt proceedings in Tribal Court.

(c) Members of the Siletz Bar and all attorneys are prohibited from participating in any proceedings of the Siletz Community Law Court unless they have

SILETZ COMMUNITY LAW COURT
Siletz Tribal Code § 3.300

been called as witnesses or are parties and except to the extent they may assist persons with respect to protective orders, complaints, and judgments.

Chapter 2
Gwe-shvt-naga/Peacemakers

§ 3.303 APPOINTMENT AND QUALIFICATIONS

(a) General Qualifications - A Gwe-shvt-naga/Peacemaker must be an enrolled Siletz Tribal Member, have the respect of the Siletz Community, an ability to work with Reservation residents and Tribal Members, a reputation for integrity, honesty, humanity and an ability to resolve local problems.

(b) No person while a member of the Tribal Council, the Siletz judiciary, or one of the Tribe's legal representatives, shall be eligible to be a Gwe-shvt-naga/Peacemaker.

(c) Appointment - Siletz Tribal Council will select and certify the names of individuals as Proposed Gwe-shvt-naga/Peacemakers to the Tribal Court. The individuals selected must agree in writing or by oath administered by Tribal Court to serve under the direction of the Tribal Court and work with individuals under the supervision of the Tribal Court. The Tribal Council shall maintain a roll of Gwe-shvt-naga/Peacemakers and the Siletz Community Law Court Judge shall appoint Gwe-shvt-naga/Peacemakers from that roll. The Tribal Council may add or delete names to or from the list from time to time.

(d) Action where no appointment - If the Tribal Council has failed to certify individual Gwe-shvt-naga/Peacemakers, the Siletz Community Law Court Judge shall request the Tribal Council to do so. The Council shall respond within ten working days.

(e) Agreement as to Gwe-shvt-naga/Peacemaker - The parties to any dispute may by mutual agreement have a specified individual who is a Tribal Member serve as Gwe-shvt-naga/Peacemaker for the resolution of their dispute if the Tribal Council has certified the individual.

§ 3.304 POWERS OF GWE-SHVT-NAGA/PEACEMAKERS

SILETZ COMMUNITY LAW COURT
Siletz Tribal Code § 3.300

(a) Gwe-shvt-naga/Peacemakers are officers of the Tribal Court when acting as a Gwe-shvt-naga/Peacemaker and performing the functions of the Siletz Community Law Court under these rules, and they shall have the same immunities as Tribal judges.

(b) Gwe-shvt-naga/Peacemakers shall have the power to:

- (1) Mediate disputes among persons involved in the peacemaking process by attempting to get them to agree as to the nature of the problems affecting them and to agree on what should be done to resolve those problems;
- (2) Use traditional ways of mediation and community problem solving;
- (3) Instruct or lecture individuals on the traditional tribal teachings relevant to their problem or conduct;
- (4) Compel persons involved in a dispute, affected by it or in any way connected with it to meet to discuss the problem being worked on and to participate in all necessary peacemaking efforts;
- (5) Use any reasonable means to obtain the peaceful, cooperative and voluntary resolution of a dispute subject to peacemaking. No force, violence or the violation of rights secured to individuals by the Indian Civil Rights Act or Tribal Law or custom will be permitted.

§ 3.305 LIMITATIONS; GWE-SHVT-NAGA/PEACEMAKERS NOT JUDGES; AGREED ARBITRATION

Gwe-shvt-naga/Peacemakers shall have the authority to use traditional and customary methods to mediate disputes and obtain the resolution of problems through agreement. Gwe-shvt-naga/Peacemakers shall not have the authority to decide a disputed matter unless all parties to the dispute agree to such authority in writing or before the Tribal Court. Any such decision will have the effect of a court judgment when entered by the Siletz Community Law Court Judge.

§ 3.306 DUTIES OF GWE-SHVT-NAGA/PEACEMAKERS

SILETZ COMMUNITY LAW COURT
Siletz Tribal Code § 3.300

Upon notice to an individual of his or her appointment as a Gwe-shvt-naga/Peacemaker for an individual matter the Gwe-shvt-naga/Peacemaker shall notify the Tribal Court in writing (A) any disqualifications or inability to serve in the matter or (B) acceptance of the appointment. If the Tribal Court is not notified within ten days of the mailing of the notice, another Gwe-shvt-naga/Peacemaker may be appointed. The Gwe-shvt-naga/Peacemaker will informally contact the parties to the dispute and any other persons involved, advise all interested persons of the Gwe-shvt-naga/Peacemaker authority to compel them to participate in the peacemaking, and make other necessary arrangements to conduct peacemaking sessions. The Gwe-shvt-naga/Peacemaker may conduct a reasonable number of sessions in an attempt to achieve peacemaking efforts using procedures and techniques that are accepted in the community. Where the parties involved accept or practice a given religious belief, discipline or teaching, the accepted methods and teaching of that religious way may be used.

§ 3.307 REPORTS TO TRIBAL COURTS

Either at the conclusion of the peacemaking or at such time as the Gwe-shvt-naga/Peacemaker(s) find(s) there can be no resolution of the matter, the Gwe-shvt-naga/Peacemaker(s) must report the results of Gwe-shvt-naga/Peacemaker efforts to the Tribal Court. The reports may be informal but must be reduced to writing, either by the Gwe-shvt-naga/Peacemaker(s) or the Siletz Community Law Court Judge. This written record shall be maintained in the Court file.

Chapter 3
Peacemaking

§ 3.308 REQUEST FOR PEACEMAKING

(a) Any individual may ask the assistance of the Siletz Community Law Court by filing a written request with the Tribal Court. The request may be informal and hand written, and it may be either on a form provided by the Tribal Court or any written request, which gives the Tribal Court the following information:

- (1) The name and address of the person who requests the use of the Siletz Community Law Court;

SILETZ COMMUNITY LAW COURT
Siletz Tribal Code § 3.300

- (2) The name of the persons involved in the dispute (parties), and their mailing addresses and their places of residence;
- (3) The reason the individual wants to use the Siletz Community Law Court and a short statement of the problem involved;
- (4) The names of and addresses of each person who should be contacted by the Gwe-shvt-naga/Peacemaker(s) and involved in the Siletz Community Law Court;
- (5) Information showing the status of each of the individuals involved as either Indian or non Indian and tribal affiliation and membership, if any.

§ 3.309 REQUESTS AND OBJECTIONS

(a) Any party can request transfer of their case to the Siletz Community Law Court.

(b) Any party can by objection prevent transfer of their case to Siletz Community Law Court.

(c) The written consent of all parties must be obtained by Tribal Court prior to transfer of a case to the Siletz Community Law Court. Parties cannot withdraw their consent to transfer absent a showing by clear and convincing evidence in Tribal Court that their consent was obtained by fraud or undue influence.

(d) Non parties can neither request nor prevent transfers to the Siletz Community Law Court.

§ 3.310 DUTIES OF CLERK OF TRIBAL COURT

Tribal Court will assist parties before the Siletz Community Law Court by providing information about the Siletz Community Law Court, assisting individuals in filling out requests, assisting the Gwe-shvt-naga/Peacemakers in making reports and obtaining subpoenas, advising individuals how to obtain a protective order or file a complaint and in giving whatever kind of assistance individuals may need to make the Siletz Community Law Court effective and to carry out the intent of these rules.

SILETZ COMMUNITY LAW COURT
Siletz Tribal Code § 3.300

**§ 3.311 COURT PROCEDURE UPON RECEIPT OF REQUEST FOR
TRANSFER TO THE SILETZ COMMUNITY LAW COURT**

Upon filing by a party of a request for a Siletz Community Law Court, the Court Administrator or Clerk will present the request to the Chief Judge. The Chief Judge may grant the request on the basis of the information provided in the request, grant or deny the request in open court or in chambers, or order an informal conference among the parties to the problem in chambers prior to making a decision on the request. If the request is denied, the Chief Judge shall give the reasons in a brief writing for the denial and send a copy to the parties requesting the peacemaking. If the request is granted, the Chief Judge will so indicate on the face of it or in a separate order, forward a copy of the request to the Siletz Community Law Court Judge. The Siletz Community Law Court Judge will recommend named Gwe-shvt-naga/Peacemaker(s) to conduct peacemaking proceedings, unless the Community Law Court Judge has already approved of a Gwe-shvt-naga/Peacemaker(s) designated by the parties according to the provisions of this code.

§ 3.312 APPOINTMENT OF GWE-SHVT-NAGA/PEACEMAKER

Each party may either consent to the Community Law Court Judge's recommendation of Gwe shvt naga/Peacemaker(s), or not consent. If one party does not or both parties do not consent, the Community Law Court Judge may recommend another Gwe-shvt -naga/Peacemaker(s) or may transfer the case to Tribal Court. If both parties consent to the Gwe-shvt-naga/Peacemaker(s) recommended by the Siletz Community Law Court Judge, the Community Law Court Judge shall appoint the designated Gwe-shvt- naga/Peacemaker(s).

§ 3.313 NOTICE TO BEGIN PROCEEDINGS

The Community Law Court Judge shall provide the Clerk of Court the name(s) of the appointed Gwe-shvt-naga/Peacemaker(s). The Clerk of the Court shall send copies of the request and order to the named Gwe-shvt-naga/Peacemaker(s) by first class mail. If the Clerk of Court does not receive notification from a Gwe-shvt-naga/Peacemaker of acceptance of the appointment within ten days, the clerk shall so advise the Siletz Community Law Court Judge for the purpose of appointing another person as Gwe-shvt-naga/Peacemaker. The Gwe-shvt-naga/Peacemaker is responsible to informally advise the parties, witnesses and participants of his appointment, and the copies of the request and order sent to the Gwe-shvt-naga/Peacemaker shall be evidence of his or her authority. The Court Clerk shall send to the parties written notice confirming the Gwe-shvt-

SILETZ COMMUNITY LAW COURT
Siletz Tribal Code § 3.300

naga/Peacemaker(s), explaining the process of the Siletz Community Law Court, stating that the Gwe-shvt-naga/Peacemaker will notify the parties, reminding the parties of costs and to notify the Court Administrator if the Gwe-shvt-naga/Peacemaker has not contacted parties within a reasonable time.

§ 3.314 COMPENSATION OF GWE-SHVT-NAGA/PEACEMAKER

The parties shall, at the time of making the request to use the Siletz Community Law Court, pay into the Tribal Court the sum of \$30.00 as compensation for Gwe-shvt-naga/Peacemaker services. The Court Clerk shall pay such to the Gwe-shvt-naga/Peacemaker or divide it among the Gwe-shvt-naga/Peacemakers, if more than one is involved, upon conclusion of the peacemaking proceedings and receipt of the final report from the proceedings. Upon the completion of the peacemaking, parties to the dispute shall, in equal shares, reimburse a Gwe-shvt-naga/Peacemaker for any actual out of pocket expenses incurred in the matter.

§ 3.315 SUBPOENAS

The Gwe-shvt-naga/Peacemaker(s) may obtain any necessary subpoena for the attendance of parties, witnesses or other interested persons from the Tribal Court Clerk. Such subpoenas shall be served in accordance with the Confederated Tribes of Siletz Indians Tribal Court Rules and Procedures.

§ 3.316 FEES

No filing fee shall be charged for Tribal Court appointments under these rules or for subpoenas.

Chapter 4
Resolution and Judgment

§ 3.317 METHOD OF PRESENTING PROPOSED RESOLUTION

(a) Where the parties in Siletz Community Law Court reach an agreement they wish to have confirmed and recorded by a formal judgment or order of the Siletz Community Law Court, they shall present a draft resolution to the Siletz Community Law Court Judge. Where necessary the Tribal Court staff shall assist the Gwe-shvt-naga/Peacemaker(s) in preparing a proper form of resolution. The Community Law

SILETZ COMMUNITY LAW COURT
Siletz Tribal Code § 3.300

Court Judge who shall convert the resolution into a judgment. The Community Law Court may enter a judgment only when the following conditions have been met:

- (1) The Siletz Community Law Court has jurisdiction over the parties and the subject matter of the agreement;
- (2) All necessary parties have actual knowledge of the resolution and have either agreed to it or have agreed to submit the question to the Gwe-shvt-naga/Peacemaker(s) for a decision;
- (3) The judgment contains the complete agreement of the parties and contains sufficient information regarding that full agreement so a dispute as to the provisions of the judgment is not likely to arise in the future;
- (4) The proposed judgment is otherwise proper and enforceable by the Court.

§ 3.318 **FORM OF JUDGMENT**

- (a) All judgments must contain the following information:
 - (1) The names and jurisdictional information with regard to each party (i.e. residence, consent to jurisdiction, etc.);
 - (2) A statement of the fact that all necessary parties to the dispute have actual knowledge of it and that they have all agreed to the proposed judgment;
 - (3) A statement of the fact that if the dispute was resolved by the agreement of all the parties that it would be submitted for the Gwe-shvt-naga's/Peacemaker's decision;
 - (4) A statement that the judgment is based upon Siletz Community Law Court proceedings, and the name and tribal affiliation of the Gwe-shvt-naga/Peacemaker(s);
 - (5) A general description of the dispute;

SILETZ COMMUNITY LAW COURT
Siletz Tribal Code § 3.300

- (6) The actual judgment of the Siletz Community Law Court.

§ 3.319 ENFORCEMENT OF JUDGEMENT

A judgment of the Siletz Community Law Court proceeding may be enforced as any judgment of the Tribal Court may be enforced.

§ 3.320 APPEALS OF JUDGMENTS

A Community Law Court judgment may not be appealed, however, either party may motion the Community Law Court Judge to modify the judgment to reflect the resolution. The party making the motion shall pay a \$30 fee to the Tribal Court upon making the motion.

§ 3.321 ACTION BY THE COURT

A petition for a protective order may be made in writing, and must be made in writing if the party seeking the order has counsel. Otherwise it may be made orally in open court. Upon considering the petition for a protective order, which may be heard ex parte, the Siletz Community Law Court Judge may issue an order for the purpose of conducting a hearing on the petition. The person seeking a protective order must pay a fee of \$10 to the Clerk of the Court at the time of the filing of the petition.

Chapter 5
Conduct of Gwe-shvt-naga/Peacemakers

§ 3.322 GENERAL STANDARDS

Gwe-shvt-naga/Peacemakers shall be bound by the Canons of Judicial Ethics, which apply to the Judges of the Tribal Court insofar as such canons are consistent with the nature and purpose of the Siletz Community Law Court. Gwe-shvt-naga/Peacemakers shall not participate in any matter in which they have a personal or financial interest or close relation to a party, and they shall conduct themselves with honesty, integrity and in harmony with traditional and customary Tribal ways.

SILETZ COMMUNITY LAW COURT
Siletz Tribal Code § 3.300

§ 3.323 **COMPLAINTS REGARDING GWE-SHVT-NAGA/PEACEMAKERS**

Complaints against Gwe-shvt-naga/Peacemakers shall be made in writing to the Siletz Community Law Court Judge.

§ 3.324 **ACTION ON COMPLAINT**

The Siletz Community Law Court judge shall investigate the matter within a reasonable time. Upon finding that an individual Gwe-shvt-naga/Peacemaker has violated an ethical standard, the Siletz Community Law Court Judge may suspend the name of the individual from the Gwe-shvt-naga/Peacemaker rolls. The Court shall notify in writing any Gwe-shvt-naga/Peacemaker who has been suspended from the rolls and the reason(s) therefore within 10 days. The Gwe-shvt-naga/Peacemaker shall have 14 days to appeal such suspension to the Tribal Appellate Court. Such appeals shall thereafter proceed pursuant to the Siletz Tribal Court Rules and Procedures.

Chapter 6

Transfer of cases from Tribal Court to Siletz Community Law Court

§ 3.325 **GENERAL POLICY**

Certain civil and criminal actions in Tribal Court may be transferred to the Siletz Community Law Court where they fall within the kinds of matters within the jurisdiction of the Siletz Community Law Court or where it is in the interests of justice to make such a referral for good cause shown, and where all parties consent to transfer.

§ 3.326 **CIVIL MATTERS**

Civil actions falling within the provisions of § 3.302 may be referred to Siletz Community Law Court with the written stipulation of all the parties to the action.

§ 3.327 **TRANSFER ON CONDITION**

Any case may be transferred to the Siletz Community Law Court on any reasonable condition, with a stay of proceedings before the Tribal Court, and the Tribal Court may resume jurisdiction over a case upon breach of or the failure to satisfy any condition imposed.

SILETZ COMMUNITY LAW COURT
Siletz Tribal Code § 3.300

**§ 3.328 TESTIMONY FROM COMMUNITY LAW COURT PROHIBITED
UPON TRANSFER TO TRIBAL COURT**

Where a case is transferred from Community Law Court to Tribal Court, testimony regarding the Community Law Court proceedings is prohibited.

Chapter 7
Miscellaneous provisions

§ 3.329 FORMS

The Tribal Court may adopt standard forms for the implementation of these rules.

§ 3.330 PLAIN LANGUAGE VERSION OF RULES

Informal or plain language versions of the Siletz Community Law Court Rules may be published for the use of persons not trained in law or formal legal language. The statute shall prevail over any inconsistencies between it and any plain language versions that may have been published.

§ 3.331 JUDGE

The Chief Judge may serve as Presiding Judge of the Siletz Community Law Court or appoint another judge to so act.

§ 3.332 RELATION TO TRIBAL COURT RULES AND PROCEDURES

This Siletz Community Law Court Ordinance is intended to be consistent with the Tribal Court Rules and Procedures, including but not limited to § 3.004 on Jurisdiction of the Siletz Community Law Court. However, with respect to § 3.016 on Mediators, this Siletz Community Law Court Ordinance supercedes any inconsistent provisions therein.

§ 3.333 INCONSISTENT PROVISIONS

This Siletz Community Law Court Ordinance supercedes any inconsistent provisions in the Siletz Civil Code.