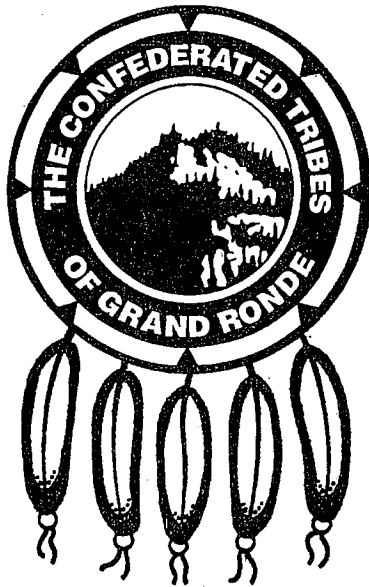


# TRIBAL COURT

## CONFEDERATED TRIBES OF GRAND RONDE ENROLLMENT REVIEW PACKET



*These instructions, information and forms are not a complete statement of the law. The Court assumes no responsibility and accepts no liability for actions taken by users of these documents, including reliance on their contents. For legal information, please talk to a lawyer, or visit your local law library.*

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

**TRIBAL COURT**

**ENROLLMENT REVIEW PACKET**

Enclosed are the instructions and forms for a review of an enrollment decision in Tribal Court. Read the instructions and the Tribe's Enrollment Ordinance carefully to identify what is required. If you have any questions you should contact the **Tribal Court Clerk at (503) 879-2303**.

It is highly recommended that you make copies of the blank forms to assemble the information needed. Once you have all your information, prepare the final documents for filing with the Court.

Contents of Packet:

1. Instructions
2. Forms
  - a. Petition For Judicial Review of Enrollment Decision [Adult]
  - b. Petition For Judicial Review of Enrollment Decision [Minor]
  - c. "Exhibit A"
  - d. Summons
  - e. Certificate of Service [Adult]
  - f. Certificate of Service [Minor]
3. Tribe's Enrollment Ordinance
4. Tribal Constitution
5. Rule 4 of the Federal Rules of Civil Procedure
6. Rule 5 of the Federal Rules of Civil Procedure

**CONFEDERATED TRIBES OF GRAND RONDE**

**TRIBAL COURT**

**ENROLLMENT REVIEW INSTRUCTIONS AND INFORMATION**

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## NOTICE ABOUT THESE INSTRUCTIONS AND INFORMATION

*These instructions and information are not a complete statement of the law. They cover basic information for review of an Enrollment Decision in Tribal Court. For legal information, please talk to a lawyer, or visit your local law library. It may be helpful to consult an attorney regarding a review of an Enrollment Decision, and the services of an attorney may be obtained through a lawyer referral service, independent legal services, or legal aid organization.*

If you wish to have your Enrollment Decision reviewed by the Tribal Court, **it is important for you to read, very carefully, THE ENTIRE INSTRUCTION PACKET, AS WELL AS THE TRIBAL ENROLLMENT ORDINANCE AND TRIBAL CONSTITUTION.**

### I. WHO CAN FILE FOR REVIEW OF AN ENROLLMENT DECISION?

Any person may file for review of an enrollment decision if one of the following situations exist:

1. An applicant has:
  - a. received a determination from the Enrollment Committee with a finding that they do not appear to meet the requirements of the Enrollment Ordinance for enrollment in the Tribe; **and**
  - b. filed a protest with the Enrollment staff for reconsideration and whose application was rejected after such reconsideration.
2. An applicant's application for enrollment was rejected by Tribal Council; or
3. A person may file for review of an enrollment decision resulting in a loss of membership for themselves or on behalf of a minor child.

**Applicant:** may be an adult applying for enrollment on behalf of themselves, or an adult applying for enrollment on behalf of a minor child.

## II. WHAT STEPS DO I HAVE TO TAKE TO FILE FOR A REVIEW OF AN ENROLLMENT DECISION IN TRIBAL COURT?

*Notice: The Petition for Judicial Review of an Enrollment Decision must be notarized. The notary may require current picture identification. The Tribal Court provides notary services at no cost. DO NOT SIGN THE PETITION UNTIL YOU ARE IN THE PRESENCE OF A NOTARY.*

### 1. Complete the “Petition for Judicial Review of an Enrollment Decision” and Summons Form.

- In the case of an adult enrollment applicant, or person subject to loss of membership, the adult is the Petitioner. Complete the form titled “Petition for Judicial Review of Enrollment Decision [Adult].”
- In the case of a minor enrollment applicant, or minor subject to loss of membership, an adult must Petition on behalf of the minor. Complete the form titled “Petition for Judicial Review of Enrollment Decision [Minor].”
- The Respondent is the person, group, or committee against whom you are filing your case. The Court cannot advise you as to the proper party to be named as the Respondent.
- Determine the basis for your request for review i.e. violates Tribal Constitution, or arbitrary and capricious.
- In the presence of a notary, sign the Petition for Judicial Review of an Enrollment Decision. The document shall be signed under penalty of perjury, which is the same as being sworn to testify in Court.
- Once the Petition is signed and notarized, obtain a copy of the Petition and all attachments for your records and a copy for each Respondent named in the Petition.
- Complete the appropriate Summons form with all the necessary information. The summons form will be presented to the Court clerk for completion.

### 2. Filing a Petition for Review of an Enrollment Decision with the Tribal Court.

- The Petition for Review of an Enrollment Decision must be filed with the Tribal Court on or before the fourteenth (14<sup>th</sup>) day after receiving the written determination of the Enrollment Committee or Tribal Council.

- The Tribal Court is located in the Administration Building at 9615 Grand Ronde Rd., Grand Ronde, OR 97347.
- The Petition may be filed in person or mailed to the Tribal Court at the address listed above. **(Caution: Petitions must be received, by the Tribal Court on or before the fourteenth (14<sup>th</sup>) day after receiving the written determination of the Enrollment Committee or Tribal Council. Postmark dates will not be adequate.) THE COURT CANNOT ACCEPT FILINGS BY FAX.**
- There is a \$40.00 filing fee for filing a Petition for Review of an Enrollment Decision. The filing fee must be paid or a waiver granted before a Petition can be accepted for filing. For information regarding a waiver of the filing fees contact the Court at 503-879-2303.
- Upon filing, the Court Clerk will assign a case number to your case.

**3. Serve Petition and Summons.**

- The Petition and Summons must be served on the Respondent and their legal representative. The Respondent may be the Enrollment Committee or the Tribal Council depending upon whom made the decision. The Tribal Attorney's Office represents the Tribe including the Enrollment Committee and the Tribal Council.
- The Court has adopted the Federal Rules of Civil Procedure (FRCP) which specify how a person or entity is to be served. The Respondent shall be served in accordance with these rules. Rule 4 is attached and sets out the requirements for service. The Tribal Court staff cannot provide advice about how to serve a Respondent.
- After service is made, have the person providing service complete the "Certificate of Service" form and file the form with the Tribal Court.

**IF THE "CERTIFICATE OF SERVICE" IS NOT FILED WITH THE TRIBAL COURT, YOUR CASE MAY BE DISMISSED.**

**4. Filing of a Answer or Motion.**

- The Respondent has sixty (60) days from the date of service to file an answer. The answer may be in the form of a Motion or Answer.
- As with all documents filed with the Court, you shall receive a copy.

5. **Pre-Trial Hearing/Scheduling Conference.**

- A Pre-Trial Hearing/Scheduling Conference will be held after a Motion or Answer is filed by the Respondent.
- You will receive a Notice of Pre-Trial Hearing/Scheduling Conference with a time and date set to go before the Judge.
- The Pre-Trial Hearing/Scheduling Conference may deal with such matters as:
  - A. Motions to dismiss;
  - B. clarification of the specific claims presented by the petition
  - C. scheduling of briefs or other written argument;
  - D. setting of the date for a hearing on oral argument; and
  - E. such deadlines and other matters as may be necessary.

6. **Filing of Record**

- On or before the date set out in the pre-trial/scheduling order, the Tribe shall file with the Court the underlying record relating to the Enrollment Decision.
- The record includes the information presented to the Enrollment Committee or Tribal Council.
- A copy of the record will be sent to you.
- On or before the date set out in the pre-trial/scheduling order, you may file a written request with the Tribal Court to add documents to the record. *A copy of such request shall be served upon the Tribal Attorneys Office and a certificate of service form must be filed with the Court.*
- On or before the date set out in the pre-trial/scheduling order, the Tribe may file a written response to your request to add documents. You will be served with a copy of the response.

**\*The Judge will make the determination about whether or not the documents are added.**

7. **Briefs.**

**Opening Brief:** On or before the date set out in the pre-trial/scheduling order, you, the Petitioner, will need to file an Opening Brief with the Tribal Court. The brief shall set forth legal arguments and shall refer to portions of the Record to support your arguments. The Brief must be typed or handwritten in clearly legible handwriting. *The Brief must be served on the Tribal Attorneys Office in accordance with the Federal Rules of Civil Procedure. Rule 5 is attached for reference.*

**Response Brief:** On or before the date set out in the pre-trial/scheduling order, the respondent shall file a response brief with the Tribal Court. *You will receive a copy of Response Brief.*

**Reply Brief:** On or before the date set out in the pre-trial/scheduling order, you, the Petitioner, may file a Reply Brief with the Tribal Court. The reply brief is limited to addressing issues and arguments raised in the Response Brief. The Brief must be typed or handwritten in clearly legible handwriting. *The brief must be served on the Tribal Attorneys Office in accordance with the Federal Rules of Civil Procedure. Rule 5 is attached for reference.*

8. **Oral Argument Hearing**

- After all the briefs have been filed with the Tribal Court, the Court clerk will schedule an Oral Argument Hearing. All parties will receive notice of the hearing.
- At the hearing, you and the Tribe, will have the opportunity to present arguments to the Court. The Judge may also ask questions regarding the briefs and/or the arguments presented.

9. **Court Order.**

- The Judge will prepare an order following the Oral Argument Hearing.
- The Judge may do any of the following:
  - A. Uphold the Final Enrollment Decision; or
  - B. Remand the case to the Enrollment Committee or Tribal Council for reconsideration.



10. **Court of Appeals.**

- If you are not satisfied with the decision of the Tribal Court, and believe the Court made an error when deciding your case, you may appeal the decision to the Tribal Court of Appeals. Please contact the Court for further information regarding the appellate process.

**IV. GENERAL INFORMATION**

**The Tribal Court has adopted the Federal Rules of Civil Procedure, the Federal Rules of Evidence, and Federal Rules of Appellate Procedure.** The case shall be conducted pursuant to those rules unless otherwise stated in the Tribal Enrollment Ordinance or Tribal Court Ordinance.

1                                   **IN THE TRIBAL COURT OF THE CONFEDERATED TRIBES OF THE**  
2                                   **GRAND RONDE COMMUNITY OF OREGON**

3  
4 **In the Matter of:**                                    ) **Case No.:** \_\_\_\_\_  
5 \_\_\_\_\_,    ) )  
6 **Petitioner,**                                        ) **PETITION FOR JUDICIAL REVIEW OF**  
7 **v.**    ) **ENROLLMENT DECISION**  
8    ) **[Adult]**  
9 \_\_\_\_\_,                                        )  
10 **Respondent.**                                     )

11 I, the undersigned Petitioner, without full representation of an attorney, petition the Tribal  
12 Court for review of my Enrollment Decision and declare that the following facts are true on the  
13 date that this Petition is filed with the Court:

14 1. My Enrollment Decision was made on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

15 2. I received the Enrollment Decision on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

16 3. I have exhausted all administrative procedures.

17 4. I am petitioning the Court for review on the grounds that the Enrollment Decision:  
18 *(CHECK ALL THAT APPLY)*

19  violates applicable provisions of the Constitution of the Confederated Tribes of the Grand  
20 Ronde.

21  is arbitrary and capricious.

22 5. A full written explanation is attached to this Petition as Exhibit A.

23 ///

24 ///

25 ///

26 ///

1           Petitioner respectfully requests the Court issue an Order remanding my case to the  
2 Enrollment Committee or Tribal Council for further proceedings.

3  
4           DATED, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_,

5  
6  
7 \_\_\_\_\_  
8 Petitioner's Signature

\_\_\_\_\_   
Print Name

9 \_\_\_\_\_  
Address or Contact Address

\_\_\_\_\_   
City, State, Zip Code

10 \_\_\_\_\_  
Telephone or Contact Telephone Number

\_\_\_\_\_   
Email

11  
12 County of \_\_\_\_\_ )

ss.)

13 State of \_\_\_\_\_ )

14  
15           SIGNED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_,  
16 20 \_\_\_\_\_, by \_\_\_\_\_.

17 \_\_\_\_\_  
18 Notary Public – State of Oregon

19 My Commission Expires: \_\_\_\_\_  
20  
21  
22  
23  
24  
25  
26

1                                    **IN THE TRIBAL COURT OF THE CONFEDERATED TRIBES OF THE**  
 2                                    **GRAND RONDE COMMUNITY OF OREGON**

3  
 4   **In the Matter of:** )   **Case No.:** \_\_\_\_\_  
 5   \_\_\_\_\_ )  
 6                                    **Petitioner,** )   **PETITION FOR JUDICIAL REVIEW OF**  
 7   **For** \_\_\_\_\_ )   **ENROLLMENT DECISION**  
 8                                    **Minor,** )   **[Minor]**  
 9                                    **v.** )  
 10   \_\_\_\_\_ )  
 11                                    **Respondent.** )

12            I, the undersigned Petitioner, without full representation of an attorney, petition the Tribal  
 13 Court for review of my minor child's Enrollment Decision and declare that the following facts  
 14 are true on the date that this Petition is and on the date it is filed with the Court:

- 15 1. My minor child's full legal name is \_\_\_\_\_.
- 16 2. My minor child's date of birth is \_\_\_\_\_.
- 17 3. My minor child's Enrollment Decision on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.
- 18 4. I received the Enrollment Decision on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.
- 19 5. I have exhausted all administrative procedures.
- 20 6. I am petitioning the Court for review on the grounds that the Enrollment Decision:  
 21 *(CHECK ALL THAT APPLY)*
- 22      violates applicable provisions of the Constitution of the Confederated Tribes of the Grand  
 23      is arbitrary and capricious.
- 24 7. A full written explanation is attached to this Petition as Exhibit A.
- 25  
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IN THE TRIBAL COURT OF THE CONFEDERATED TRIBES OF THE  
GRAND RONDE COMMUNITY OF OREGON

In the Matter Of: ) Case No.: )  
 ) )  
\_\_\_\_\_ ) SUMMONS )  
 ) Petitioner, ) [Adult] )  
 ) )  
 v. ) )  
 ) )  
\_\_\_\_\_ ) Respondent. )  
 ) )

TO: (Respondents name and address) \_\_\_\_\_

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it)—or 60 days if you are The Confederated Tribes of the Grand Ronde Community of Oregon, the United States or a United States agency, or an officer or employee of The Confederated Tribes of the Grand Ronde Community of Oregon, or the United States described in Fed. R. Civ. P. 12(a)(2) or (3)- you must serve on the Petitioner an answer to the attached Petition or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the petitioner or petitioner's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the Petition. **YOU ALSO MUST FILE YOUR ANSWER OR MOTION WITH THE COURT.**

CLERK OF COURT

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk*

1                                   **IN THE TRIBAL COURT OF THE CONFEDERATED TRIBES OF THE**  
2   **GRAND RONDE COMMUNITY OF OREGON**

3 **In the Matter Of:**                                   ) **Case No.:**  
4   ) )  
5 \_\_\_\_\_) **SUMMONS**  
  ) **[Minor]**  
6   ) **Petitioner,**  
**For**    )  
7 \_\_\_\_\_) **Minor,**  
  )  
8   ) **v.**  
9 \_\_\_\_\_) **Respondent.**  
  )

10  
11 **TO:** (Respondents name and address) \_\_\_\_\_  
12 \_\_\_\_\_

13                   A lawsuit has been filed against you.

14                   Within 21 days after service of this summons on you (not counting the day you received  
15 it)—or 60 days if you are The Confederated Tribes of the Grand Ronde Community of Oregon,  
16 the United States or a United States agency, or an officer or employee of The Confederated  
17 Tribes of the Grand Ronde Community of Oregon, or the United States described in Fed. R. Civ.  
18 P. 12(a)(2) or (3)- you must serve on the Petitioner an answer to the attached Petition or a motion  
19 under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on  
20 the petitioner or petitioner’s attorney, whose name and address are:  
21 \_\_\_\_\_  
22 \_\_\_\_\_

23 If you fail to respond, judgment by default will be entered against you for the relief demanded in  
24 the Petition. **YOU ALSO MUST FILE YOUR ANSWER OR MOTION WITH THE**  
25 **COURT.**

26   **CLERK OF COURT**

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk*

1 IN THE TRIBAL COURT OF THE CONFEDERATED TRIBES OF THE  
2 GRAND RONDE COMMUNITY OF OREGON

3 In the Matter Of: )

Case No.: )

4 )  
5 ) CERTIFICATE OF SERVICE  
6 ) [Adult]

7 )  
8 ) Petitioner, )  
9 )

10 )  
11 ) v. )  
12 )

13 ) Respondent. )  
14 )

15 I, \_\_\_\_\_, of \_\_\_\_\_, \_\_\_\_\_,  
(Print Name of Server) (Address) (City)

16 \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_-\_\_\_\_-\_\_\_\_, certify that I am over the age of 18 years old, and  
(State) (Zip Code) (Phone number)  
17 that I am not a party to this case. I further certify that I served true copies of this

18 **PETITION FOR JUDICIAL REVIEW OF ENROLLMENT DECISION, dated**

19 \_\_\_\_\_, \_\_\_\_\_, 20\_\_\_\_, and **SUMMONS** upon \_\_\_\_\_  
(Name of Party Served)

20  personally at: (Name and Address of Place Served) \_\_\_\_\_  
21

22  by sending a copy of the Petition and Summons by registered or certified mail via United  
23 States Postal Service to (name): \_\_\_\_\_

24 Date Service was executed: \_\_\_\_\_

25 I declare under penalty of perjury that the foregoing information contained in this  
26 Certificate of Service is true and correct.

\_\_\_\_\_  
(Signature of Server)

**IN THE TRIBAL COURT OF THE CONFEDERATED TRIBES OF THE  
GRAND RONDE COMMUNITY OF OREGON**

**In the Matter Of:** \_\_\_\_\_ )  
 \_\_\_\_\_ )  
**Petitioner,** )  
**For** \_\_\_\_\_ )  
 \_\_\_\_\_ )  
**Minor,** )  
**v.** \_\_\_\_\_ )  
 \_\_\_\_\_ )  
**Respondent.** )

**Case No.:** \_\_\_\_\_  
**CERTIFICATE OF SERVICE**  
**[Minor]**

I, \_\_\_\_\_, of \_\_\_\_\_, \_\_\_\_\_,  
(Print Name of Server) (Address) (City)  
 \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_, certify that I am over the age of 18 years old, and  
(State) (Zip Code) (Phone number)  
 that I am not a party to this case. I further certify that I served true copies of this **PETITION**

**FOR JUDICIAL REVIEW OF ENROLLMENT DECISION** dated \_\_\_\_\_, \_\_\_\_\_,

20\_\_\_\_, and **Summons** upon \_\_\_\_\_,  
(Name of Party Served)

personally at: (Name and Address of Place Served) \_\_\_\_\_

by sending a copy of the Petition and Summons by registered or certified mail via United States Postal Service to (name): \_\_\_\_\_

Date Service was executed: \_\_\_\_\_

I declare under penalty of perjury that the foregoing information contained in this Certificate of Service is true and correct.

\_\_\_\_\_  
(Signature of Server)

DATE ORIGINALLY ADOPTED: 6/25/85  
DATE AMENDED: 6/23/86; 1/15/88; 4/12/89;  
9/30/93; 4/2/97; 9/17/97; 11/3/99; 1/3/01; 3/3/04;  
6/2/10  
SUBJECT: Enrollment  
RESOLUTION NUMBER: 69-85; 195-86A; 264-  
88; 338-89; 068-93; 004-97; 027-97; 087-97; 131-  
99; 005-01; 023-04; 069-10

THE CONFEDERATED TRIBES OF THE  
GRAND RONDE COMMUNITY OF OREGON

**ENROLLMENT ORDINANCE**

Tribal Code § 4.10

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

**ENROLLMENT ORDINANCE**

(a) AUTHORITY AND PURPOSE:

- (1) The authority for this Ordinance is found in the Grand Ronde Constitution Article V.
- (2) The purpose of this Ordinance is to provide for the development and maintenance of the membership roll of the Tribe, and to ensure the integrity and accuracy of the roll.

(b) MEMBERSHIP REQUIREMENTS:

- (1) The membership of the Tribe shall consist of all persons who are not enrolled as members of another recognized tribe, band or community and, who for five years have fully and unconditionally relinquished membership in another Indian Tribe and;
  - (A) whose names validly appear on the official tribal membership roll prepared under the Grand Ronde Restoration Act; provided, that such roll may be corrected by the Tribal Council with the approval of the Secretary of the Interior; or
  - (B) whose names validly appear on the official tribal membership roll as of September 14, 1999; provided that such roll may be corrected by the Tribal Council in accordance with the Tribal Enrollment Ordinance; or
  - (C) who possess at least one-sixteenth (1/16) degree Grand Ronde blood quantum and were born to a parent who was a member of the Tribe at the time of the applicant's birth and who, unless deceased, is a member of the Grand Ronde Tribe at the time the applicant files an application for enrollment; have filed an application for enrollment according to procedures established pursuant to this Ordinance, and have been accepted as members in accordance with this Ordinance.
- (2) For purposes of this Section, Grand Ronde blood is defined as all Indian blood derived from a direct ancestor whose name validly appears on the official tribal membership roll prepared under the Grand Ronde Restoration Act; provided, that such roll may be corrected by the Tribal Council with the approval of the Secretary of the Interior.
- (3) (A) If the mother of the applicant is a member of the Tribe, the applicant shall be deemed to possess one-half the Grand Ronde blood quantum possessed by the

mother. If the father of the applicant is a member of the Tribe, the applicant shall be deemed to possess one-half the Grand Ronde blood quantum of the father if the application is accompanied by an order of paternity by a court of competent jurisdiction or by certification of paternity based on genetic parentage testing of father and applicant establishing the father of the applicant at a cumulative paternity index of at least 99. The Tribe will reimburse an applicant for the reasonable cost of genetic parentage testing if such testing establishes the father of the applicant through whom Grand Ronde blood is derived and the applicant's name is added to the membership roll. In the event genetic parentage testing is impossible to conduct because the father is deceased, then paternity may be established by a preponderance of the evidence using affidavits of the mother and Tribal members familiar with the father-child relationship and use of blood test analysis, if available.

(B) The Tribal Indian Child Welfare Program shall provide to the Enrollment Office any information about paternity of children in its care or custody or being considered for same that are being considered for enrollment.

(4) Persons adopted by members of the Tribe or by the Tribe are not eligible for enrollment unless they independently meet the requirements of this Ordinance.

(5) Notwithstanding any requirements prescribed in this Ordinance, the Council may adopt any person as an honorary member of the Tribe pursuant to Article V, Section 4 of the Tribal Constitution; provided that no honorary member shall have any right to vote, share in tribal assets or distributions, or participate in the government of the Tribe. Provided further, that no person shall be adopted as an honorary member by the Council unless that person shall have a significant community relationship with the Tribe. A significant community relationship shall include, but not be limited to, continued and dedicated service to the Tribe, its government, or its membership. The decision of the Council in adopting any person as an honorary member shall be final and not subject to review; provided that denial of honorary membership to any person by the Council may be reconsidered in light of new or additional evidence supporting the case for honorary membership; provided further, the Council may, for cause shown, revoke the honorary membership of any persons by majority vote of the Council.

(c) ENROLLMENT STAFF AND COMMITTEE:

(1) Enrollment Staff. The Executive Officer shall authorize the hiring of such staff as it deems necessary to fulfill the functions identified in this Ordinance. The Enrollment Staff shall be hired in accordance with Tribal personnel policy and be subject to all Tribal personnel policies in the same manner as other Tribal employees.

(2) Duties and Powers of Enrollment Staff. The Enrollment Staff shall establish enrollment procedures, with the consent of the Council, and which are consistent with this Ordinance. The Enrollment Staff shall make a semi-annual report to the Tribal and

General Council of its proceedings and activities, including the number of new enrollees during the preceding six months and the current number of Tribal members. The Enrollment Staff shall maintain the roll. The records shall include originals or certified copies of documents received to support the applications. The Enrollment Staff shall review and evaluate all applications for membership, and submit its proposed recommendations for adult applicants (those who are 18 years of age or older) to the Enrollment Committee for the Committee's consideration. The Enrollment Staff shall review and evaluate all applications for membership for minor applicants and shall forward such applications for determination as follows:

(A) For minors between 6 months and 18 years of age who are not subject to the emergency enrollment provisions of Subsection (c)(2)(C) of this Section, the Enrollment Staff shall submit its proposed recommendations to the Enrollment Committee for the Committee's consideration.

(B) For minors between newborn and 6 months of age who are not subject to the emergency enrollment provisions of Subsection (c)(2)(C) of this Section, the Enrollment Staff shall submit its proposed recommendations directly to Tribal Council for its consideration.

(C) For minors who may be eligible for enrollment and who are the subject of a Tribal or state court proceeding involving the custody of the child, the Enrollment Staff shall determine whether the child is eligible for enrollment as soon as practicable. If the child is eligible for enrollment, the ICW Program or the state agency having custody of the Child shall file an application for the child's enrollment on behalf of the parent(s), legal guardians or legal custodians and, if the application otherwise meets the criteria established by this Ordinance, shall forward such application directly to Tribal Council for its consideration.

(3) Enrollment Committee. The Enrollment Committee shall be appointed by the Council and selected from the Tribal membership. Committee members may be compensated for their services at a rate set by Tribal Council and shall be reimbursed for expenses according to such policy as the Tribal Council may adopt. Upon accepting appointment, each Committee member shall sign an oath which shall become part of the Enrollment Records stating that he or she will serve according to the best of his or her ability and will follow the Grand Ronde Constitution and this Ordinance.

(4) Duties and Powers of the Enrollment Committee. The Committee's responsibilities shall include the adoption or rejection of the Enrollment Staff's proposed recommendations regarding applications for enrollment. If the Committee's recommendation is to approve an application for membership, said recommendation shall be submitted to the Tribal Council by the Enrollment Staff pursuant to Section (d) of this Ordinance. If the Committee's recommendation shall be to reject an application for membership, said recommendation shall be subject to the right to protest as set forth in Section (d) of this Ordinance. The Committee shall hold no more than four regular



meetings per year to consider applications for membership, provided that special meetings may be held to hear protests of Committee decisions filed in accordance with Section (d)(4)(C) of this Ordinance.

(5) Access to Records; Confidentiality.

(A) The term "Enrollment Records" means all documents contained in Enrollment Department enrollment files and any compilation of information prepared by the Enrollment Department from information contained in enrollment files whether in written or electronic form.

(B) All Enrollment Records, except adoption records, shall remain open during business hours to inspection by the Executive Officer, the Tribal Attorneys and Enrollment Staff. Tribal Members and applicants for membership may review documents filed by such Tribal Member or applicant with Enrollment Staff. Except as thus provided, all Enrollment Records shall be confidential. Enrollment Records, except adoption records, may also be inspected by Tribal members pursuant to a Tribal Court order authorizing access to Enrollment Records; provided however, that such order may only be issued upon a showing by the requesting Tribal member of a good faith basis or reason for accessing the requested Enrollment Records. Revealing information in the Enrollment Records to someone other than a Tribal member, the Executive Officer, or the Tribal Attorney, the Committee or Enrollment Staff shall be deemed grounds for termination of employment, recall of an elected Tribal official, or cause for removing a committee member.

(C) Nothing in this Section shall prohibit the Enrollment Staff from providing Tribal member identifying information, such as name, address, telephone number, roll number and social security number, to Tribal government programs, agencies, departments or wholly owned enterprises for use in providing information, services and benefits to Tribal members or the Tribe's use of this information for such authorized purposes. Any unauthorized use of this information shall be a violation of this Ordinance.

(D) Notwithstanding the above, the official Tribal membership roll shall be available for inspection by any interested Tribal member at the Enrollment department office during regular business hours.

(d) PROCEDURES FOR MEMBERSHIP APPLICATION:

(1) Application Form. Enrollment Staff shall develop an application form which must be used when making an application for enrollment. The form shall be entitled "Application for Enrollment" and shall contain space for the following information:

(A) Name and address of the applicant;

- (B) All names by which the applicant is or has been known;
- (C) Date of birth of the applicant;
- (D) Names of the parents of the applicant and the Tribal ancestor on the Restoration Act Roll through whom Grand Ronde blood quantum is traced;
- (E) If the applicant is under the age of 18 or incompetent, the name, address and relationship of the person making the application on behalf of such minor or incompetent;
- (F) Certification by the applicant, or by the person making the application on behalf of the minor or the incompetent applicant, that the information is true.

(2) Supporting Documents. Documentation evidencing eligibility for enrollment shall accompany the application. Enrollment Staff shall have the authority to require applicant to furnish such additional evidence or proof as is necessary to make a determination. Any handwritten corrections or additions on documentation will be considered alterations. Altered documents will be unacceptable for enrollment purposes. Enrollment Staff shall establish the nature and types of acceptable evidence, which will include but not be limited to, court documents, and state or federal records. Copies of these documents may be submitted in lieu of originals, provided the copies are certified to be true copies by the office having custody of the original record. Enrollment Staff may copy such certified true copies and return the original true copy to the applicant provided Enrollment Staff retain a copy which is certified by Enrollment Staff to be a true copy.

(3) Who May Apply. Any person who believes that he or she meets the requirements for membership in the Tribe may submit an application for enrollment to the Enrollment Staff. Applications for minor children under the age of eighteen (18) and incompetents may be filed by a parent, legal guardian, other person who has custody of the child under tribal law or custom or to whom physical care, custody, and control has been transferred by the parent of such child, or a member of the Council.

(4) Processing Applications; Right to Protest; Tribal Council Action.

(A) Except as provided in Sections (c)(2)(B) and (C) of this Ordinance, the Enrollment Staff shall process each complete application and make recommendations to the Committee at the next regular meeting. In the event staff needs further information necessary to make its proposed recommendation, it shall inform the applicant by letter, with a request for the information needed. Upon receiving the additional information, the staff shall process the application. The applicant has the responsibility of proving the statements made in his or her application. In the event the information needed is not provided by the date specified in the Enrollment Staff's request, the application will be forwarded to

the Committee at its next regular meeting as an incomplete application with a recommendation of denial.

(B) If the Committee finds that an application is complete and the applicant appears to meet the requirements of this Ordinance, the Enrollment Staff shall prepare a written statement within sixty (60) days for the Council. The staff shall mail notice to the applicant of when the application will be considered by the Council.

(C) If the Committee finds that an applicant appears not to meet the requests of this Ordinance, the Enrollment Staff shall mail notice of this finding by certified mail to the applicant. The applicant may file a protest with the Enrollment Staff within thirty (30) days of receipt of the certified letter, stating the reasons he or she believes the application should be approved.

(D) If a protest is filed, the Enrollment Staff may reconsider the application in light of the information submitted with the protest and shall submit its proposed recommendations, with justification, together with the protest, to the Enrollment Committee within fifteen (15) days of receipt. The Enrollment Committee shall make its decision within forty-five (45) days of receiving the Enrollment Staff's proposed final recommendation. If the Committee's decision is to reject the application, the applicant may appeal the Committee's determination in accordance with Subsection (H) of this Section.

(E) If the Committee recommends that an application be approved the Council shall act on the Committee's recommendation at its next regular meeting following the expiration of thirty (30) days of receipt of the recommendation.

(F) When the Council approves an application for enrollment, the Enrollment Staff shall enter the name of the applicant on the official tribal membership roll and notify the applicant. If the Council decides to reject an application for enrollment, the applicant shall be notified by certified mail and advised of his or her right to appeal the decision in accordance with Subsection (H) of this Section. If the Council decides to remand an application to the Enrollment Committee for further investigation and redetermination, the applicant shall be notified by certified mail of the remand determination.

(G) The Council may, by majority vote, reopen rejected applications when new substantial evidence is submitted to support the applicant's position and when the Council determines that justice requires such recognition.

(H) An applicant who has exhausted his or her appeal rights under Subsections (D) and (F) of this Section and is aggrieved by the enrollment decision of the Enrollment Committee or Tribal Council has the right to appeal the determination of the Committee or Council to the Tribal Court, but only on the grounds that the

determination was arbitrary and capricious or a violation of Tribal Constitutional rights. Such appeal must be filed with the Court in writing on or before the fourteenth (14<sup>th</sup>) day following receipt of the written determination of the Committee or action by Council. The Court shall review, on the record, the determination of the Committee or Council. The party appealing the Committee or Council's decision shall have the burden of persuading the Tribal Court that the enrollment decision appealed from was arbitrary or capricious or a violation of Tribal Constitutional rights. The Tribal Court shall give due deference to the rule of nonprejudicial error and matters within the expertise or judgment of the Committee or Council. The Tribal Court shall recognize the obligations of the Tribe and the Committee under the Tribal Constitution. The only remedy which the Tribal Court may order in matters appealed under this Ordinance is referring the matter back to the Enrollment Committee or Tribal Council for reconsideration in light of the Tribal Court's ruling in such matter. An applicant denied enrollment shall not, under any circumstances, be compensated in money damages against the Tribe, its employees or officers.

- (5) Burden of Proof and Standard of Proof. The burden of proof shall be upon the Applicant to establish all elements of the Applicant's qualification for to enrollment under the Tribal Constitution and rules and regulations of this Ordinance, unless otherwise specifically stated herein. Any matters required to be proved under this Ordinance, unless otherwise specifically stated, must be proved to the satisfaction of the Enrollment Committee or the Tribal Council, as provided herein, by clear and convincing evidence.

(e) PROCEDURES FOR CORRECTION OF MEMBERSHIP ROLL – BLOOD DEGREE CORRECTION:

- (1) Initiation. Blood degree corrections may be initiated only by:
- (A) Enrollment Staff; or
  - (B) Tribal members wishing to make correction to their own or their minor dependent's blood degree.
- (2) Application to Correct Blood Quantum.
- (A) Any Tribal member may file an application for blood degree correction with the Enrollment Office for correction of the member's blood degree or that of a minor dependent.
  - (B) Enrollment Staff may file an application to correct blood degree pertaining to any member or groups of members.

(C) All applications shall be accompanied by documents supporting the requested change. To the extent reasonably possible, Enrollment Staff will verify the information in the supporting documents accompanying the application.

(3) Notification to Affected Members.

(A) The Enrollment Staff will provide members affected by the requested change with a true and correct copy of the application and supporting documents, not otherwise confidential under the Enrollment Ordinance. Enrollment Staff will make reasonable efforts to identify affected members using Tribal Enrollment Records, but it is recognized that all affected members may not be known or able to be reasonably identified.

(B) Affected members will have 30 days to file, if they so desire, a response to the proposed blood degree correction. The response shall be accompanied by supporting documents. To the extent reasonably possible, Enrollment Staff will verify the information in the supporting documents accompanying the response.

(4) Standard of Proof. In all proceedings regarding blood degree corrections, the person seeking a blood degree correction shall be required to prove by clear and convincing evidence that a blood degree other than that listed on the Official Tribal Membership Roll, for the person whose blood degree is at issue, is the correct blood degree, and also to so establish what the precise blood degree to be listed on the roll should be. There shall be a presumption, rebuttable by the applicant or affected member, that the blood degree listed on the roll is correct.

(5) Recommendation of Enrollment Staff. Enrollment Staff will prepare a written report to the Enrollment Committee recommending whether the proposed or any other blood degree corrections should be made related to the application. The Enrollment Staff will state in the report the reasons for the recommendation. The report will be presented to the Enrollment Committee within a reasonable time after the receipt of the application and verification of documentation by the Enrollment Staff.

(6) Enrollment Committee Action.

(A) Enrollment Staff will deliver its report to the Enrollment Committee. Upon receipt of the report, the Enrollment Committee will schedule a time for presentation by the Enrollment Staff and applicant, if applicant wishes, at a special meeting. After consideration of the report the Enrollment Committee shall make a determination on each application presented.

(B) The Enrollment Committee's denial of an application for blood quantum change is final.

(C) If the Enrollment Committee determines that a blood degree correction is necessary, it will report its determination with the reasons for its recommendation to the Enrollment Staff.

(D) Enrollment Staff will make a recommendation to Tribal Council consistent with the Enrollment Committee's determination and recommendation.

(E) Enrollment Staff will notify by certified mail, the applicants, as well as any affected members, of the Enrollment Committee's determination and reason for its recommendation.

(7) Tribal Council Action.

(A) Upon receipt of the Enrollment Staff's recommendation that a blood degree correction is necessary, Tribal Council will review the Enrollment Staff's report and supporting documentation and the Enrollment Committee's determination and recommendation and vote on the Enrollment Committee's recommendation.

(B) No application for blood degree correction is approved until approved by Tribal Council resolution.

(8) Appeals. The Enrollment Staff will provide, by certified mail, the applicant with notice of the Tribal Council's action and a copy of the Tribal Council Resolution taking action on the resolution. Enrollment Staff will inform the applicant of the right to appeal the Tribal Council decision in accordance with Section (d)(4)(H) of this Ordinance.

(9) Notification of Correction. Enrollment Staff will change the Official Tribal Membership Roll according to the resolution approved by Tribal Council and shall notify the applicant and any persons found to be affected by the decision of such actions.

(10) Reapplication After Rejection. Unless prohibited by Tribal Council resolution, Enrollment Staff will accept new applications by rejected applicants provided the new application contains information not previously considered by Enrollment Staff or the Enrollment Committee.

(f) PROCEDURES FOR CORRECTION OF MEMBERSHIP ROLL – NON-BLOOD DEGREE CORRECTION:

(1) Technical Corrections.

(A) Anytime a correction to the Official Tribal Membership Roll is deemed necessary by Enrollment Staff due to a misprint or other similar action, the Member Services Program Manager will correct the records.

(B) Such technical corrections may be initiated by anyone by informing the Enrollment Staff of the error and clearly identifying the error.

(C) Upon learning that a technical correction may be necessary, the Enrollment Staff will identify the possible error and confirm through Tribal Enrollment Records and other supporting documentation as may be deemed necessary to confirm the error and determine the correction. For example, if a Tribal member's date of birth is incorrect on the Official Tribal Membership Roll, Enrollment Staff will review the member's official birth certificate on file to confirm the correct date of birth or will obtain such birth certificate if not available in the current Tribal records.

(2) Corrections Due to Status Change.

(A) Anytime a change to the Official Tribal Membership Roll is deemed necessary by Enrollment Staff due to a change in a Tribal member's status, such as a name change, the Member Services Program Manager will correct the records.

(B) Any member may file a written request with the Enrollment Office to correct information on the Official Tribal Membership Roll for that member or the member's children. The Enrollment Staff may also initiate corrections.

(C) All requests for correction under this Section shall be accompanied by documents supporting the requested change, such as a copy of the official document that effected a name change (marriage license, corrected birth certificate, court order, etc.).

(D) Upon receipt of a request for correction under this Section, Enrollment Staff shall promptly review the request with accompanying documentation and determine if a correction is necessary.

(g) PROCEDURES FOR CORRECTION OF THE OFFICIAL TRIBAL MEMBERSHIP ROLL PREPARED UNDER THE GRAND RONDE RESTORATION ACT ("RESTORATION ROLL"):

(1) Correction. Corrections to the Restoration Roll shall be limited to:

(A) Correcting typographical, spelling or blood quantum errors; and

(B) Adding the name of a Tribal member or deceased individual whose name was mistakenly omitted despite the fact that, as of the date of the Restoration Roll, the individual met the requirements for inclusion under the Grand Ronde Restoration Act.

- (2) Initiation. Restoration Roll corrections may be initiated only by:
- (A) Enrollment Staff; or
  - (B) Tribal members wishing to make correction to the Restoration Roll.
- (3) Application to Correct Restoration Roll.
- (A) Any Tribal member may file an application for Restoration Roll correction with the Enrollment Office for themselves, their lineal ancestors or their lineal descendants.
  - (B) Enrollment Staff may file an application to correct the Restoration Roll pertaining to any member or groups of members.
  - (C) All applications shall be accompanied by documents supporting the requested correction. To the extent reasonably possible, Enrollment Staff will verify the information in the supporting documents accompanying the application.
- (4) Notification to Affected Members.
- (A) The Enrollment Staff will provide members affected by the requested correction with a true and correct copy of the application and supporting documents, not otherwise confidential under the Enrollment Ordinance. Enrollment Staff will make reasonable efforts to identify affected members using Tribal Enrollment Records, but it is recognized that all affected members may not be known or able to be reasonably identified.
  - (B) Affected members will have 30 days to file, if they so desire, a response to the requested Restoration Roll correction. The response shall be accompanied by supporting documents. To the extent reasonably possible, Enrollment Staff will verify the information in the supporting documents accompanying the response.
- (5) Requirements for Inclusion on Restoration Roll. To be eligible for inclusion on the Restoration Roll an individual must meet the following requirements:
- (A) Individual is living and a member of the Tribe or deceased; and
  - (B) Individual was living at the time the Restoration Roll was established; and
  - (C) Individual's name was listed on final membership roll published on April 6, 1956, in the Federal Register; or
  - (D) Individual was entitled to be on the membership roll of the Tribe on August 13, 1954 [date of Termination Act], but was not listed, or



(E) Individual is a descendant of an individual described in (C) or (D) immediately above and possesses at least 1/4<sup>th</sup> degree of blood of members of the tribe.

(6) Standard of Proof. In all proceedings regarding Restoration Roll corrections, the person seeking a correction shall be required to prove by clear and convincing evidence that the Restoration Roll is in error and to establish what the correction should be. There shall be a presumption, rebuttable by the applicant or affected member, that the Restoration Roll is correct. To establish that the Restoration Roll is in error, the applicant must provide documented evidence of a typographical, spelling or blood quantum error or that the individual meets the requirements in paragraph (g)(5) above.

(7) Recommendation of Enrollment Staff. Enrollment Staff will prepare a written report to the Enrollment Committee recommending whether the proposed or any other corrections should be made related to the application. The Enrollment Staff will state in the report the reasons for the recommendation. The report will be presented to the Enrollment Committee within a reasonable time after the receipt of the application, necessary research and verification of documentation by the Enrollment Staff.

(8) Enrollment Committee Action.

(A) Enrollment Staff will deliver its report to the Enrollment Committee. Upon receipt of the report, the Enrollment Committee will schedule a time for presentation by the Enrollment Staff and applicant, if applicant wishes, at a special meeting. After consideration of the report the Enrollment Committee shall make a determination on each application presented.

(B) The Enrollment Committee's denial of an application for Restoration Roll correction is final.

(C) If the Enrollment Committee determines that a correction is necessary, it will report its determination with the reasons for its recommendation to the Enrollment Staff.

(D) Enrollment Staff will make a recommendation to Tribal Council consistent with the Enrollment Committee's determination and recommendation.

(E) Enrollment Staff will notify by certified mail, the applicants, as well as any affected members, of the Enrollment Committee's determination and reason for its recommendation.

(9) Tribal Council Action.

(A) Upon receipt of the Enrollment Staff's recommendation that a Restoration Roll correction is necessary, Tribal Council will review the Enrollment Staff's

report and supporting documentation and the Enrollment Committee's determination and recommendation and vote on the Enrollment Committee's recommendation.

(B) If Tribal Council finds a correction to the Restoration Roll is appropriate, it will pass a Tribal Council Resolution finding the correction appropriate and request the Secretary of the Interior approve the Restoration Roll correction. No correction of the Restoration Roll is approved and authorized until approved by the Secretary of the Interior.

(C) If Tribal Council finds a correction to the Restoration Roll is not appropriate, it shall deny the correction by Tribal Council Resolution and such decision shall be final.

(10) Notification of Correction. Enrollment Staff will correct the Tribe's Restoration Roll record according to approval of the Secretary of the Interior and will notify the applicant and any persons found to be affected by the decision of such actions.

(11) Reapplication After Rejection. Unless prohibited by Tribal Council resolution, Enrollment Staff will accept new applications by rejected applicants provided the new application contains information not previously considered by Enrollment Staff or the Enrollment Committee.

(h) RELINQUISHMENT OF MEMBERSHIP: Any member of the Tribe may relinquish his or her membership in the Tribe with the consent of the Council. Upon receipt of written notice of relinquishment, Council shall, if it consents to the relinquishment, direct Enrollment Staff to remove the name of the individual from the roll. The individual may reapply for membership three (3) years after relinquishment but must comply with the requirements of this Ordinance. Upon reaching eighteen (18) years of age, a child whose membership was relinquished may reapply for membership without waiting three (3) years. An individual or agency acquiring legal custody of a minor whose enrollment has been relinquished by a previous legal custodian is not required to comply with the three-year limitation on re-enrollment in this Section. Such succeeding legal custodian may apply for re-enrollment of the minor in the Tribe in accordance with this Ordinance.

(i) LOSS OF MEMBERSHIP:

(1) Grounds. Enrollment Staff shall recommend to the Enrollment Committee the removal from the Tribal roll, of any person who becomes ineligible for membership because of enrollment in another federally recognized tribe, band or community or has been enrolled in error because he or she did not meet the requirements set for membership at the time of enrollment.

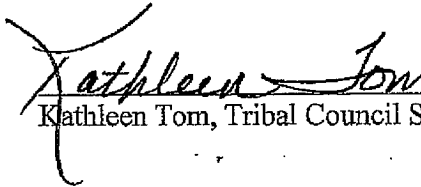
(2) Procedure. Prior to removal, a person shall be given notice by certified mail by the Enrollment Staff of the right to a hearing before the Enrollment Committee and to

hear the evidence against him or her, confront witnesses, be represented by legal counsel at his or her own expense and to present evidence. A request for hearing with the Enrollment Committee must be made within 30 days of receipt of notice of the right to a hearing. If the Committee recommends to Tribal Council removal from the roll, the Council shall act on the Committee's recommendation at its next regular meeting following thirty (30) days of receipt of the recommendation. Enrollment Staff shall mail notice to the applicant of when the disenrollment recommendation will be acted upon by the Council. Any disenrollment shall be made by the Council, directing the Enrollment Staff to make such change subject to the appeals procedure set forth in Section (d)(4)(H) of this Ordinance.

(j) DECEASED MEMBERS: The Enrollment/Vital Statistics Offices shall keep a record of deceased Tribal members.

(k) PUBLICATION: An updated Tribal roll shall be compiled in March of every year by Enrollment Staff and shall be made available to all Tribal members. The Tribal roll shall be kept in the Tribal office at Grand Ronde, Oregon, and shall be available for inspection upon request of any Tribal member.

I hereby certify this to be a true copy of the Confederated Tribes of Grand Ronde Enrollment Ordinance.

  
Kathleen Tom, Tribal Council Secretary

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

PREAMBLE

We, the Indians of the Confederated Tribes of the Grand Ronde Community of Oregon, being a federally recognized Indian tribe pursuant to the Grand Ronde Restoration Act of November 22, 1983 (97 Stat. 1064) hereby adopt this Constitution in accordance with the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended, and establish our tribal government in order to form a better tribal organization, secure the rights and powers inherent in our sovereign status and guaranteed to us by Federal Law, preserve our culture and tribal identity, promote the social and economic welfare of our people, protect and develop our common resources, maintain peace and order, and safeguard individual rights.

ARTICLE I - AUTHORITY OF GOVERNMENT

Section 1. Jurisdiction and Territory

The authority of the government established by this Constitution shall extend over all persons, property, and activities within the jurisdiction of the Confederated Tribes of the Grand Ronde Community of Oregon, except as limited by this Constitution and by Federal Law.

The jurisdiction of the Confederated Tribes of the Grand Ronde Community of Oregon shall extend, to the fullest extent possible under Federal Law, over all lands, waters, property, airspace, minerals and other natural resources, and any interest therein, either now or in the future, owned by the Tribe or individual members held in trust status or located within the boundaries of the tribal reservation which will be established pursuant to the Grand Ronde Restoration Act, notwithstanding the issuance of any existing or future patent or right-of-way.

Sec. 2. Hunting, Fishing and Gathering Rights. Nothing in this Article shall be construed as restricting the exercise of hunting, fishing or gathering rights of members, if any, consistent with Federal Law.

ARTICLE II - GENERAL COUNCIL

Section 1. Powers. There shall be a General Council, comprised of all duly enrolled members of the Confederated Tribes of Grand Ronde Community of Oregon who are eighteen (18) years of age or older, which shall have the power to:

- (a) Elect tribal council members in accordance with Article VI.
- (b) Exercise the power of initiative by submitting to the Election Board a petition of at least one-third (1/3) of the members of the General Council, setting forth a proposed ordinance or resolution. Upon verification of the petition by the Election Board, the proposed ordinance or resolution shall be submitted by the Election Board to a vote of the General Council, at a regular or special election to be held within sixty (60) days of said verification. The vote of a two-thirds (2/3) majority of those actually voting shall be conclusive and binding on the Tribal Council, at an election in which at least thirty percent (30%) of those qualified to vote shall have voted.

- (c) Exercise the power of referendum by submitting to the Election Board a petition of at least one-third (1/3) of the members of the General Council, setting forth any proposed or previously enacted ordinance or resolution of the Tribal Council for reconsideration by the General Council. Upon verification of the petition by the Election Board, the proposed or previously enacted ordinance or resolution shall be submitted by the Election Board to a vote of the General Council at a regular or special election to be held within sixty (60) days of said verification. The vote of a two-thirds (2/3) majority of those actually voting shall be conclusive and binding on the Tribal Council, in an election at which at least thirty percent (30%) of those qualified to vote shall have voted.
- (d) Exercise the power of recall of elected tribal officials who are guilty of improper conduct or gross neglect of duty, which terms shall be defined in the election ordinance, by submitting to the Election Board a petition of at least one-third (1/3) of the General Council, setting forth the basis for recall. Upon verification of the petition by the Election Board, the Election Board shall call a special election to consider the recall of the elected tribal official named in the petition. The election shall be held within thirty (30) days of verification of the petition by the Election Board; provided, that if the petition is submitted within six (6) months of the next annual election, the Election Board may direct that the matter be placed on the ballot for that election. The accused tribal officials shall be given full opportunity to reply to any and all charges at a General Council meeting called at least five (5) days in advance of the election. If a two-thirds (2/3) majority of those actually voting at the recall election favor the recall of the elected official, the office shall be declared vacant and filled in accordance with Article VI, Section 6, so long as at least thirty percent (30%) of those qualified to vote shall have voted.
- (e) Amend this Constitution by submitting to the Secretary of the Interior pursuant to his regulations a petition of at least one-third (1/3) of the members of the General Council, setting forth the section(s) of this Constitution to be amend and the proposed amendment(s). Upon verification of the petition by the Secretary of the Interior, it shall be the duty of the Secretary of the Interior to authorize the calling of an election to consider amendments to the Constitution, in accordance with regulations as set forth by the Secretary of the Interior. The affirmative vote of a two-thirds (2/3) majority of those actually voting shall be conclusive, so long as at least thirty percent (30%) of those qualified to vote shall have voted; provided, that nothing in this section shall prevent the Tribal Council from submitting proposed amendments to the Secretary of the Interior pursuant to Article III, Section 1 of this Constitution. Provided further, that amendments to this Constitution shall not become effective until approved by the Secretary of the Interior.

- (f) Make advisory recommendations to the Tribal Council upon a majority vote of those actually voting.
- (g) Exercise those powers over fundamental changes in the Tribe s jurisdiction, reservation or rights, set forth in Section 2 of Article III.
- (h) Exercise the power over adoption procedures set forth in Article V, Section 4 of this Constitution.

Sec. 2. Procedures. The General Council shall hold meetings in accordance with the following procedures:

- (a) Regular meetings of the General Council shall be held during the months of September, October, November, December, January, February, March, April and May, at a time and place to be set by the Tribal Council. The September meeting shall include the annual election of the Tribal Council except as provided in Article VI, Section 5.
- (b) Special meetings of the General Council may be called by the Tribal Council upon one (1) week s notice of the membership of the General Council. The Tribal Council may call such meetings upon its own motion, but it must call such a meeting upon presentation of a properly verified petition signed by one-third (1/3) or more of the General Council of the Confederated Tribes of the Grand Ronde Community of Oregon.
- (c) The agenda for General Council meetings shall be set by the Tribal Council; provided, that any member may submit in writing items to the Tribal Council for consideration for the agenda, and; provided further, that each agenda shall include time for discussion of items from the floor regardless of whether said items appear on the agenda.
- (d) The Tribal Council Chairperson shall chair General Council meetings.
- (e) A quorum of the General Council shall consist of thirty (30) members of the General Council. Matters of business shall be decided by a majority vote, except as otherwise required by this Constitution.
- (f) Procedures for exercising the General Council powers in Article II, Sections 1(b), 1(c), 1(d) and 1(e) shall be set forth by tribal ordinance duly enacted by the Tribal Council; provided, that said procedures shall not be in conflict with any provisions of this Constitution or regulations of the Secretary of the Interior.

### ARTICLE III - TRIBAL COUNCIL

Section 1. Powers. There shall be a Tribal Council which shall have the power to exercise all legislative authority, except that vested in the General Council, and all executive authority of the Tribe, including the right to delegate authorities as the Tribal Council deems appropriate. Said authority shall include but is not limited to the authority to employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior as long as this is required by Federal Law; the power to prevent the sale, disposition, lease, or encumbrance of tribal land, interests in lands or other tribal assets without the consent of the Tribe and the power to negotiate with the Federal, state and local Governments. The Tribal Council shall have the power to submit to the Secretary of the Interior proposed amendments to this Constitution, notwithstanding the procedures set forth in Article II, Section

1(e) of this Constitution. Upon receipt of a proposed amendment from the Tribal Council, an election to vote on its adoption shall be called by the Secretary of the Interior in accordance with his rules and regulations. The affirmative vote of a two-thirds (2/3) majority of those actually voting shall be conclusive, so long as at least thirty percent (30%) of those qualified to vote shall have voted; provided, that amendments to this Constitution shall not become effective until approved by the Secretary of the Interior.

Sec. 2. Fundamental Decisions. Before taking any action with regard to the following matters, the Tribal Council must obtain the approval of a three-fourths (3/4) majority of the membership of the General Council:

- (a) The termination or diminishment of the tribal reservation which will be established pursuant to the Grand Ronde Restoration Act;
- (b) The relinquishment of any tribal criminal or civil jurisdiction; provided, that cooperative law enforcement agreements shall not be considered relinquishment of tribal jurisdiction.

Sec. 3. Procedures. The Tribal Council shall hold meetings and take actions in accordance with the following procedures, which it may augment by its own rules of procedure so long as they do not conflict with any provisions of this Constitution:

- (a) Regular meeting of the Tribal Council shall be held every two (2) weeks at a time and place to be set by the Tribal Council.
- (b) Special meetings of the Tribal Council may be called by the Chairperson at his or her discretion, but the Chairperson must call a special meeting upon written request of three (3) or more members of the Tribal Council. If after such a written request the Chairperson fails to call a special meeting within one (1) week of said request, the Tribal Court shall have jurisdiction to direct that a meeting be called and conducted. No special meeting shall be called without at least twelve (12) hours notice to each member, unless each member shall waive the notice requirement in writing.
- (c) The agenda for all Tribal Council meetings shall be set by the chairperson; provided, that it shall include any item submitted upon the written request of three (3) or more members of the Tribal Council. Items may be added to the agenda at a Tribal Council meeting upon the concurrence of three (3) or more members.
- (d) The Tribal Council shall consist of nine (9) elected members. Five (5) members of the Tribal Council shall constitute a quorum. Matters of business shall be decided by majority vote, except where otherwise required by this Constitution or the Tribal Council's own rules as set forth by ordinance. The Chairperson shall vote only in case of a tie.
- (e) The Officers of the Tribal Council shall consist of a Chairperson and such other officers as are elected by vote of the Tribal Council. The duties and the terms of office of the officers of the Tribal Council shall be set forth by ordinance; provided, that those duties shall not be in conflict with any provisions of this Constitution.
- (f) All meetings of the Tribal Council shall be open to the public; however, the Tribal Council may recess at its discretion to discuss any matter in a closed or executive session; provided, that the general subject matter to be discussed in executive session is expressed in the motion calling for such session and no final or official action is taken thereon in the

closed or executive session.

- (g) All final decisions of the Tribal Council on matters of general and permanent interest to the members of the Tribe shall be embodied in ordinances. The ordinances shall be collected and made available to tribal members and others affected upon reasonable request.
- (h) All final decisions of the Tribal Council on matters of temporary interest or relating especially to particular individuals shall be embodied in resolutions. The resolutions shall be collected and made available to tribal members and others affected upon reasonable request.
- (i) All questions of procedure shall be decided by motion duly passed, or by the ruling of the Chairperson if no objection is heard.
- (j) A written record shall be kept of Tribal Council proceedings. The record shall be open for inspection by all members of the Confederated Tribes of Grand Ronde.
- (k) The Tribal Council shall not deny to any person within its jurisdiction freedom of speech, press, or religion or the right to assemble peacefully. The Tribal Council shall not deny to any person the equal protection of tribal laws or deprive any person of liberty or property without due process of law. The Tribe shall provide to all persons within its jurisdiction the rights guaranteed by the Indian Civil Rights Act of 1968.

#### ARTICLE IV - TRIBAL COURT

Section 1. Ordinance. There shall be a Tribal Court, consisting of one (1) Chief Judge and such Associate Judges and staff as are designated by tribal ordinance. The Ordinance shall set forth the terms of office and the qualifications for Tribal Court Chief Judge, Associate Judge and staff.



Sec. 2. Rules of Pleading, Practice and Procedure. The Chief Judge, in consultation with the Tribal Council, shall promulgate rules of pleading, practice and procedure applicable to any and all proceedings of the Tribal Court.

Sec. 3. Powers. The Tribal Court shall be empowered to exercise all judicial authority of the Tribe. Said authority shall include but not be limited to enforcement of the Indian Child Welfare Act of 1978 and the American Indian Religious Freedom Act of 1978, as well as the power to review and overturn tribal legislative and executive actions for violation of this Constitution or the Indian Civil Rights Act of 1968.

## ARTICLE V - MEMBERSHIP

Section 1. Requirements. The membership of the Confederated Tribes of the Grand Ronde Community of Oregon shall consist of all persons who are not enrolled as members of another recognized tribe, band or community and,

- (a) whose names validly appear on the official tribal membership roll prepared under the Grand Ronde Restoration Act; provided, that such roll may be corrected by the Tribal Council with the approval of the Secretary of the Interior; or
- (b) who possess one-sixteenth (1/16) or more degree Indian blood quantum of a federally recognized tribe or tribes, are descended from a member of the Confederated Tribes of the Grand Ronde Community of Oregon, have filed an application for enrollment according to procedures established pursuant to Section 3 of this Article, and have been accepted as members in accordance with the tribal ordinance adopted under Section 3 of this Article.

For purposes of this section, descent from a member of the Confederated Tribes of the Grand Ronde Community of Oregon shall include lineal descent from any person who was named on any roll or records of Grand Ronde members prepared by the Department of the Interior prior to the effective date of this Constitution.

Sec. 2. Dual Membership Prohibited. No person who is an enrolled member of any other organized tribe, band, or Indian community officially recognized by the Secretary of the Interior shall be qualified for membership in the Confederated Tribes of the Grand Ronde Community of Oregon, unless he or she has relinquished in writing his or her membership in such tribe, band or community.

Sec. 3. Ordinance. The Tribal Council shall, within six (6) months of the Tribal Council's initial election to office under this Constitution, enact an ordinance establishing procedures for processing membership matters, including but not limited to application procedures, procedures for correction of the tribal roll, the right to appeal from a rejected application for membership, loss of membership, procedures for voluntary relinquishment of membership, and procedures governing reinstatement of former members who have relinquished membership.

Sec. 4. Adoption. The Tribal Council shall have the power, with the prior approval of the General Council, to enact an ordinance governing the adoption of persons as members who have a significant community relationship with the Confederated Tribes of the Grand Ronde Community of Oregon. Such ordinance shall define what constitutes a significant community relationship.

Sec. 5. Loss of Membership. The Tribal Council shall by ordinance prescribe rules and regulations governing involuntary loss of membership. The reasons for such loss shall be limited exclusively to failure to meet the requirements set forth for membership in this Constitution; provided, that nothing in

this section shall prohibit a member from voluntarily relinquishing membership in the Confederated Tribes of the Grand Ronde Community of Oregon, with the consent of the Tribal Council.

## ARTICLE VI- ELECTIONS

Section 1. Voters. All duly enrolled members of the Confederated Tribes of the Grand Ronde Community of Oregon who are eighteen (18) years of age or older shall have the right to vote in all tribal elections.

Sec. 2. Manner of Voting. All elections shall be by secret ballot, except that the General Council may make advisory recommendations to the Tribal Council by voice vote or show of hands at General Council meetings. Voting by mail and absentee balloting shall be permitted and procedures shall be provided for by ordinance under Section 4 of this Article. The ordinance shall require that such ballots be made available to members sufficiently in advance of any election, to permit the ballots to be received by the Election Board no later than the scheduled date of the election. Ballots so submitted shall be counted along with ballots cast in person at the polls.

Sec. 3. Tribal Council Election. Elections for Tribal Council shall be held annually in September, except as provided in Section 5 of this Article. The times and places for voting shall be designated by the Election Board. New members shall take office upon certification of election results by the Election Board established pursuant to Section 4 of this Article.

Candidates for Tribal Council must be duly enrolled members of the Confederated Tribes of the Grand Ronde Community of Oregon who will be at least eighteen (18) years of age on the date of the election.

Each voter shall be allowed to cast one (1) vote for each vacancy on the Tribal Council. No more than one (1) vote per candidate shall be cast. The winners shall be chosen by plurality according to the rank order of votes received. In the event of a tie, the winner shall be chosen according to the terms of the ordinance enacted pursuant to Section 4 of this Article.

Sec.4. Election Ordinance. The Tribal Council shall, within six (6) months of the Tribal Council's initial election to office under this Constitution, enact an election ordinance consistent with the provisions of this Constitution. The ordinance shall include provision for appointment by the Tribal Council of an impartial Election Board. The Election Board shall supervise all tribal elections, determine the validity of tribal petitions and perform such other duties as are set forth in the election ordinance. The ordinance shall include, but not be limited to, provisions for secret balloting, absentee voting, validation of tribal petitions, and the settlement of any and all election disputes, including the right to appeal to the Tribal Court.

Sec. 5. First Election. The members first elected to the Tribal Council under this Constitution pursuant to Section 6(d) of the Grand Ronde Restoration Act shall hold office until their successors are duly elected and installed following the Tribal Council election in September 1987.

At the Tribal Council election in September 1987, three (3) members shall be elected to three-year (3) terms, three (3) members shall be elected to two-year (2) terms, and three (3) members shall be elected to one-year (1) terms. Thereafter, there shall be annual elections in September and, in order to maintain the concept of staggered terms of office, all Tribal Council members shall be elected to three-year (3) terms or until their successors are duly elected and installed.

Sec.6. Vacancies. In the event that any elective tribal office becomes vacant between elections, the Chairperson shall recommend a person who meets the requirements of a candidate for that position to fill

the vacancy. Such person shall assume office to serve the remainder of the term upon approval of the appointment by a majority of the elected members of the Tribal Council.

If a Tribal Council member fails to attend three (3) consecutive regular meetings of the Tribal Council, without a written excuse accepted by a majority vote of the other members of the Tribal Council, that member's seat will be declared vacant and the vacancy shall be filled in accordance with this Section.

#### ARTICLE VII - AMENDMENTS

This Constitution may be amended in accordance with procedures adopted pursuant to Article II, Section 1(e), Article II, Section 2(f) and Article III, Section 1.

#### ARTICLE VIII - ADOPTION OF THE CONSTITUTION

This Constitution, when adopted by a majority of the qualified voters of the Confederated Tribes of the Grand Ronde Community of Oregon who actually vote at an election called for that purpose by the Secretary of the Interior, and conducted pursuant to his regulations, shall be submitted for approval to the Secretary of the Interior, and shall become effective from the date of such approval.

#### ARTICLE IX - CERTIFICATE OF ADOPTION

Pursuant to an order issued on August 6, 1984, by John Fritz, Deputy Assistant Secretary - Indian Affairs (Operations), this Constitution of the Confederated Tribes of the Grand Ronde Community of Oregon, was submitted for adoption to the qualified voters of the tribe and was on November 10, 1984, duly adopted by a vote of 145 for and 14 against, in an election in which only a majority of those actually voting is required in accordance with Section 6(c) of the Grand Ronde Restoration Act of November 22, 1983 (97 Stat. 1064).

/s/ John Weddel  
Chairman, Election Board

/s/ Kathryn Harrison  
Election Board Member

/s/ Barbara Mercier  
Election Board Member

ARTICLE X - CERTIFICATE OF APPROVAL

In that this Constitution was duly adopted as evidenced by Article IX, I, Theodore C. Krenzke, Acting Deputy Assistant Secretary - Indian Affairs (Operations), by virtue of the authority granted to the Secretary of the Interior by the Act of June 18, 1934 (48 Stat. 984), as amended, and delegated to me by D.M. 8.3, do hereby approve this Constitution of the Confederated Tribes of the Grand Ronde Community of Oregon. It is effective as of this date; provided, that nothing in this approval shall be construed as authorizing any action under this document that would be contrary to Federal Law.

/s/ Theodore C. Krenzke  
Acting Deputy Assistant Secretary -  
Indian Affairs (Operations)

Washington, D.C.

Date: November 30, 1984

AMENDMENT  
CONSTITUTION OF THE  
CONFEDERATED TRIBES OF THE  
GRAND RONDE COMMUNITY OF OREGON

AMENDMENT No. 1

ARTICLE V-MEMBERSHIP shall be amended as follows:

Section 1. Requirements. The membership of the Confederated Tribes of the Grand Ronde Community of Oregon shall consist of all person who are not enrolled as members of another recognized tribe, band or community and, who for one year have fully and unconditionally relinquished membership in another Indian Tribe and;

(a) whose names validly appear on the official tribal membership roll prepared under the Grand Ronde Restoration Act; provided, that such roll may be corrected by the Tribal Council with the approval of the Secretary of the Interior; or

(b) whose names validly appear on the official tribal membership roll as of September 14, 1999; provided that such roll may be corrected by the Tribal Council in accordance with the tribal enrollment ordinance; or

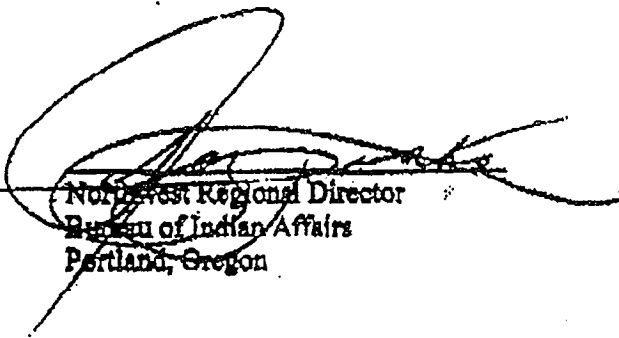
(c) who possess at least one-sixteenth (1/16) degree Grand Ronde blood quantum and were born to a parent who was a member of the Tribe at the time of the applicant's birth and who, unless deceased, is a member of the Grand Ronde Tribe at the time the applicant files an application for enrollment; have filed an application for enrollment according to procedures established pursuant to Section 3 of this Article, and have been accepted as members in accordance with the tribal ordinance adopted under Section 3 of this Article.

For purposes of this section, Grand Ronde blood is defined as all Indian blood derived from a direct ancestor whose name validly appears on the official tribal membership roll prepared under the Grand Ronde Restoration Act; provided, that such roll may be corrected by the Tribal Council with the approval of the Secretary of the Interior.

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## APPROVAL

I, Northwest Regional Director, Bureau of Indian Affairs, Portland, Oregon, by virtue of the authority granted to the Secretary of the Interior of the United States, by the Act of June 18, 1934, (48 Stat. 984), as amended, and delegated to me by 10 BIAM, Section 2, Release 44, February 18, 1989, incorporating 230 DM Release No. 2784, dated March 16, 1988, do hereby approve the foregoing Amendment No. 1 to the Constitution of the Confederated Tribes of Grand Ronde Community of Oregon. This Amendment was adopted by a majority of the qualified voters of the said Confederated Grand Ronde Community on July 27, 1999.



Northwest Regional Director  
Bureau of Indian Affairs  
Portland, Oregon

Dated

09/14/99

AMENDMENT  
CONSTITUTION AND BYLAWS  
of the  
CONFEDERATED TRIBES OF THE  
GRAND RONDE COMMUNITY OF OREGON

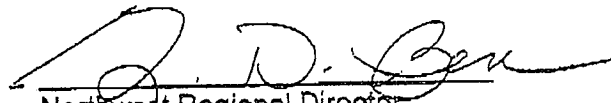
AMENDMENT II

Article V, MEMBERSHIP, Section 1 will be amended to read as follows:

Section 1. Requirements. The membership of the Confederated Tribes of the Grand Ronde Community of Oregon shall consist of all persons who are not enrolled as members of another recognized tribe, band or community and, who for five years have fully and unconditionally relinquished membership in another Indian Tribe and;

APPROVAL

I, Northwest Regional Director, Bureau of Indian Affairs, Portland, Oregon, by virtue of the authority granted to the Secretary of the Interior of the United States, by the Act of June 18, 1934, (48 Stat. 984), as amended, and delegated to me pursuant to 209 DM 8, 230 DM 1, 3 IAM 4, 4A do hereby approve the foregoing Amendment II to the Constitution and Bylaws of the Confederated Tribes of the Grand Ronde Community of Oregon. This Amendment was adopted by a majority of the qualified voters of the Confederated Tribes of the Grand Ronde Community of Oregon at an election held February 8, 2008



Northwest Regional Director  
Bureau of Indian Affairs  
Portland, Oregon

Date 3-4-2008



## I. SCOPE OF RULES—ONE FORM OF ACTION

### RULE 1. SCOPE AND PURPOSE OF RULES

These rules govern the procedure in the United States district courts in all suits of a civil nature whether cognizable as cases at law or in equity or in admiralty, with the exceptions stated in Rule 81. They shall be construed and administered to secure the just, speedy, and inexpensive determination of every action.

[Amended December 29, 1948, effective October 20, 1949; February 28, 1966, effective July 1, 1966; April 22, 1993, effective December 1, 1993.]

### RULE 2. ONE FORM OF ACTION

There shall be one form of action to be known as "civil action."

## II. COMMENCEMENT OF ACTION; SERVICE OF PROCESS, PLEADINGS, MOTIONS, AND ORDERS

### RULE 3. COMMENCEMENT OF ACTION

A civil action is commenced by filing a complaint with the court.

### RULE 4. SUMMONS

(a) **Form.** The summons shall be signed by the clerk, bear the seal of the court, identify the court and the parties, be directed to the defendant, and state the name and address of the plaintiff's attorney or, if unrepresented, of the plaintiff. It shall also state the time within which the defendant must appear and defend, and notify the defendant that failure to do so will result in a judgment by default against the defendant for the relief demanded in the complaint. The court may allow a summons to be amended.

(b) **Issuance.** Upon or after filing the complaint, the plaintiff may present a summons to the clerk for signature and seal. If the summons is in proper form, the clerk shall sign, seal, and issue it to the plaintiff for service on the defendant. A summons, or a copy of the summons if addressed to multiple defendants, shall be issued for each defendant to be served.

#### (c) Service With Complaint; by Whom Made.

(1) A summons shall be served together with a copy of the complaint. The plaintiff is responsible for service of a summons and complaint within the time allowed under subdivision (m) and shall furnish the person effecting service with the necessary copies of the summons and complaint.

(2) Service may be effected by any person who is not a party and who is at least 18 years of age. At the request of the plaintiff, however, the court may direct that service be effected by a United States marshal, deputy United States marshal, or other person or officer specially appointed by the court for that purpose. Such an appointment must be made when

the plaintiff is authorized to proceed in forma pauperis pursuant to 28 U.S.C. § 1915 or is authorized to proceed as a seaman under 28 U.S.C. § 1916.

#### (d) Waiver of Service; Duty to Save Costs of Service; Request to Waive.

(1) A defendant who waives service of a summons does not thereby waive any objection to the venue or to the jurisdiction of the court over the person of the defendant.

(2) An individual, corporation, or association that is subject to service under subdivision (e), (f), or (h) and that receives notice of an action in the manner provided in this paragraph has a duty to avoid unnecessary costs of serving the summons. To avoid costs, the plaintiff may notify such a defendant of the commencement of the action and request that the defendant waive service of a summons. The notice and request

(A) shall be in writing and shall be addressed directly to the defendant, if an individual, or else to an officer or managing or general agent (or other agent authorized by appointment or law to receive service of process) of a defendant subject to service under subdivision (h);

(B) shall be dispatched through first-class mail or other reliable means;

(C) shall be accompanied by a copy of the complaint and shall identify the court in which it has been filed;

(D) shall inform the defendant, by means of a text prescribed in an official form promulgated pursuant to Rule 84, of the consequences of compliance and of a failure to comply with the request;

(E) shall set forth the date on which the request is sent;

(F) shall allow the defendant a reasonable time to return the waiver, which shall be at least 30 days from the date on which the request is sent, or 60 days from that date if the defendant is addressed outside any judicial district of the United States; and

(G) shall provide the defendant with an extra copy of the notice and request, as well as a prepaid means of compliance in writing.

If a defendant located within the United States fails to comply with a request for waiver made by a plaintiff located within the United States, the court shall impose the costs subsequently incurred in effecting service on the defendant unless good cause for the failure be shown.

(3) A defendant that, before being served with process, timely returns a waiver so requested is not required to serve an answer to the complaint until 60 days after the date on which the request for waiver of service was sent, or 90 days after that date if the defendant was addressed outside any judicial district of the United States.

(4) When the plaintiff files a waiver of service with the court, the action shall proceed, except as provided in paragraph (3), as if a summons and complaint had been served at the time of filing the waiver, and no proof of service shall be required.

(5) The costs to be imposed on a defendant under paragraph (2) for failure to comply with a request to waive service of a summons shall include the costs subsequently incurred in effecting service under subdivision (e), (f), or (h), together with the costs, including a reasonable attorney's fee, of any motion required to collect the costs of service.

**(e) Service Upon Individuals Within a Judicial District of the United States.** Unless otherwise provided by federal law, service upon an individual from whom a waiver has not been obtained and filed, other than an infant or an incompetent person, may be effected in any judicial district of the United States:

(1) pursuant to the law of the state in which the district court is located, or in which service is effected, for the service of a summons upon the defendant in an action brought in the courts of general jurisdiction of the State; or

(2) by delivering a copy of the summons and of the complaint to the individual personally or by leaving copies thereof at the individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein or by delivering a copy of the summons and of the complaint to an agent authorized by appointment or by law to receive service of process.

**(f) Service Upon Individuals in a Foreign Country.** Unless otherwise provided by federal law, service upon an individual from whom a waiver has not been obtained and filed, other than an infant or an

incompetent person, may be effected in a place not within any judicial district of the United States:

(1) by any internationally agreed means reasonably calculated to give notice, such as those means authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents; or

(2) if there is no internationally agreed means of service or the applicable international agreement allows other means of service, provided that service is reasonably calculated to give notice:

(A) in the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction; or

(B) as directed by the foreign authority in response to a letter rogatory or letter of request; or

(C) unless prohibited by the law of the foreign country, by

(i) delivery to the individual personally of a copy of the summons and the complaint; or

(ii) any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the party to be served; or

(3) by other means not prohibited by international agreement as may be directed by the court.

**(g) Service Upon Infants and Incompetent Persons.** Service upon an infant or an incompetent person in a judicial district of the United States shall be effected in the manner prescribed by the law of the state in which the service is made for the service of summons or other like process upon any such defendant in an action brought in the courts of general jurisdiction of that state. Service upon an infant or an incompetent person in a place not within any judicial district of the United States shall be effected in the manner prescribed by paragraph (2)(A) or (2)(B) of subdivision (f) or by such means as the court may direct.

**(h) Service Upon Corporations and Associations.** Unless otherwise provided by federal law, service upon a domestic or foreign corporation or upon a partnership or other unincorporated association that is subject to suit under a common name, and from which a waiver of service has not been obtained and filed, shall be effected:

(1) in a judicial district of the United States in the manner prescribed for individuals by subdivision (e)(1), or by delivering a copy of the summons and of the complaint to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant, or

(2) in a place not within any judicial district of the United States in any manner prescribed for individu-

als by subdivision (f) except personal delivery as provided in paragraph (2)(C)(i) thereof.

**(i) Serving the United States, Its Agencies, Corporations, Officers, or Employees.**

(1) Service upon the United States shall be effected

(A) by delivering a copy of the summons and of the complaint to the United States attorney for the district in which the action is brought or to an assistant United States attorney or clerical employee designated by the United States attorney in a writing filed with the clerk of the court or by sending a copy of the summons and of the complaint by registered or certified mail addressed to the civil process clerk at the office of the United States attorney and

(B) by also sending a copy of the summons and of the complaint by registered or certified mail to the Attorney General of the United States at Washington, District of Columbia, and

(C) in any action attacking the validity of an order of an officer or agency of the United States not made a party, by also sending a copy of the summons and of the complaint by registered or certified mail to the officer or agency.

(2)(A) Service on an agency or corporation of the United States, or an officer or employee of the United States sued only in an official capacity, is effected by serving the United States in the manner prescribed by Rule 4(i)(1) and by also sending a copy of the summons and complaint by registered or certified mail to the officer, employee, agency, or corporation.

(B) Service on an officer or employee of the United States sued in an individual capacity for acts or omission occurring in connection with the performance of duties on behalf of the United States—whether or not the officer or employee is sued also in an official capacity—is effected by serving the United States in the manner prescribed by Rule 4(i)(1) and by serving the officer or employee in the manner prescribed by Rule 4(e), (f), or (g).

(3) The court shall allow a reasonable time to serve process under Rule 4(i) for the purpose of curing the failure to serve:

(A) all persons required to be served in an action governed by Rule 4(i)(2)(A), if the plaintiff has served either the United States attorney or the Attorney General of the United States. or

(B) the United States in an action governed by Rule 4(i)(2)(B), if the plaintiff has served an officer or employee of the United State sued in an individual capacity.

**(j) Service Upon Foreign, State, or Local Governments.**

(1) Service upon a foreign state or a political subdivision, agency, or instrumentality thereof shall be effected pursuant to 28 U.S.C. § 1608.

(2) Service upon a state, municipal corporation, or other governmental organization subject to suit shall be effected by delivering a copy of the summons and of the complaint to its chief executive officer or by serving the summons and complaint in the manner prescribed by the law of that state for the service of summons or other like process upon any such defendant.

**(k) Territorial Limits of Effective Service.**

(1) Service of a summons or filing a waiver of service is effective to establish jurisdiction over the person of a defendant

(A) who could be subjected to the jurisdiction of a court of general jurisdiction in the state in which the district court is located, or

(B) who is a party joined under Rule 14 or Rule 19 and is served at a place within a judicial district of the United States and not more than 100 miles from the place from which the summons issues, or

(C) who is subject to the federal interpleader jurisdiction under 28 U.S.C. § 1335, or

(D) when authorized by a statute of the United States.

(2) If the exercise of jurisdiction is consistent with the Constitution and laws of the United States, serving a summons or filing a waiver of service is also effective, with respect to claims arising under federal law, to establish personal jurisdiction over the person of any defendant who is not subject to the jurisdiction of the courts of general jurisdiction of any state.

(l) **Proof of Service.** If service is not waived, the person effecting service shall make proof thereof to the court. If service is made by a person other than a United States marshal or deputy United States marshal, the person shall make affidavit thereof. Proof of service in a place not within any judicial district of the United States shall, if effected under paragraph (1) of subdivision (f), be made pursuant to the applicable treaty or convention, and shall, if effected under paragraph (2) or (3) thereof, include a receipt signed by the addressee or other evidence of delivery to the addressee satisfactory to the court. Failure to make proof of service does not affect the validity of the service. The court may allow proof of service to be amended.

(m) **Time Limit for Service.** If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be

effected within a specified time; provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period. This subdivision does not apply to service in a foreign country pursuant to subdivision (f) or (j)(1).

**(n) Seizure of Property; Service of Summons Not Feasible.**

(1) If a statute of the United States so provides, the court may assert jurisdiction over property. Notice to claimants of the property shall then be sent in the manner provided by the statute or by service of a summons under this rule.

(2) Upon a showing that personal jurisdiction over a defendant cannot, in the district where the action is brought, be obtained with reasonable efforts by service of summons in any manner authorized by this rule, the court may assert jurisdiction over any of the defendant's assets found within the district by seizing the assets under the circumstances and in the manner provided by the law of the state in which the district court is located.

[Amended January 21, 1963, effective July 1, 1963; February 28, 1966, effective July 1, 1966; April 29, 1980, effective August 1, 1980; amended by Pub.L. 97-462, § 2, January 12, 1983, 96 Stat. 2527, effective 45 days after January 12, 1983; amended March 2, 1987, effective August 1, 1987; April 22, 1993, effective December 1, 1993; April 17, 2000, effective December 1, 2000.]

**RULE 4.1 SERVICE OF  
OTHER PROCESS**

**(a) Generally.** Process other than a summons as provided in Rule 4 or subpoena as provided in Rule 45 shall be served by a United States marshal, a deputy United States marshal, or a person specially appointed for that purpose, who shall make proof of service as provided in Rule 4(l). The process may be served anywhere within the territorial limits of the state in which the district court is located, and, when authorized by a statute of the United States, beyond the territorial limits of that state.

**(b) Enforcement of Orders: Commitment for Civil Contempt.** An order of civil commitment of a person held to be in contempt of a decree or injunction issued to enforce the laws of the United States may be served and enforced in any district. Other orders in civil contempt proceedings shall be served in the state in which the court issuing the order to be enforced is located or elsewhere within the United States if not more than 100 miles from the place at which the order to be enforced was issued.

[Adopted April 22, 1993, effective December 1, 1993.]

**RULE 5. SERVICE AND FILING  
OF PLEADINGS AND  
OTHER PAPERS**

**(a) Service: When Required.** Except as otherwise provided in these rules, every order required by

its terms to be served, every pleading subsequent to the original complaint unless the court otherwise orders because of numerous defendants, every paper relating to discovery required to be served upon a party unless the court otherwise orders, every written motion other than one which may be heard ex parte, and every written notice, appearance, demand, offer of judgment, designation of record on appeal, and similar paper shall be served upon each of the parties. No service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of summons in Rule 4.

In an action begun by seizure of property, in which no person need be or is named as defendant, any service required to be made prior to the filing of an answer, claim, or appearance shall be made upon the person having custody or possession of the property at the time of its seizure.

**(b) Making Service.**

(1) Service under Rules 5(a) and 77(d) on a party represented by an attorney is made on the attorney unless the court orders service on the party.

(2) Service under Rule 5(a) is made by:

(A) Delivering a copy to the person served by:

(i) handing it to the person;

(ii) leaving it at the person's office with a clerk or other person in charge, or if no one is in charge leaving it in a conspicuous place in the office; or

(iii) if the person has no office or the office is closed, leaving it at the person's dwelling house or usual place of abode with someone of suitable age and discretion residing there.

(B) Mailing a copy to the last known address of the person served. Service by mail is complete on mailing.

(C) If the person served has no known address, leaving a copy with the clerk of the court.

(D) Delivering a copy by any other means, including electronic means, consented to in writing by the person served. Service by electronic means is complete on transmission; service by other consented means is complete when the person making service delivers the copy to the agency designated to make delivery. If authorized by local rule, a party may make service under this subparagraph (D) through the court's transmission facilities.

(3) Service by electronic means under Rule 5(b)(2)(D) is not effective if the party making service learns that the attempted service did not reach the person to be served.

**(c) Same: Numerous Defendants.** In any action in which there are unusually large numbers of defendants, the court, upon motion or of its own initia-

tive, may order that service of the pleadings of the defendants and replies thereto need not be made as between the defendants and that any cross-claim, counterclaim, or matter constituting an avoidance or affirmative defense contained therein shall be deemed to be denied or avoided by all other parties and that the filing of any such pleading and service thereof upon the plaintiff constitutes due notice of it to the parties. A copy of every such order shall be served upon the parties in such manner and form as the court directs.

(d) **Filing; Certificate of Service.** All papers after the complaint required to be served upon a party, together with a certificate of service, must be filed with the court within a reasonable time after service, but disclosures under Rule 26(a)(1) or (2) and the following discovery requests and responses must not be filed until they are used in the proceeding or the court orders filing: (i) depositions, (ii) interrogatories, (iii) requests for documents or to permit entry upon land, and (iv) requests for admission.

(e) **Filing With the Court Defined.** The filing of papers with the court as required by these rules shall be made by filing them with the clerk of court, except that the judge may permit the papers to be filed with the judge, in which event the judge shall note thereon the filing date and forthwith transmit them to the office of the clerk. A court may by local rule permit or require papers to be filed, signed, or verified by electronic means that are consistent with technical standards, if any, that the Judicial Conference of the United States establishes. A local rule may require filing by electronic means only if reasonable exceptions are allowed. A paper filed by electronic means in compliance with a local rule constitutes a written paper for the purpose of applying these rules. The clerk shall not refuse to accept for filing any paper presented for that purpose solely because it is not presented in proper form as required by these rules or any local rules or practices.

[Amended January 21, 1963, effective July 1, 1963; March 30, 1970, effective July 1, 1970; April 29, 1980, effective August 1, 1980; March 2, 1987, effective August 1, 1987; April 30, 1991, effective December 1, 1991; April 22, 1993, effective December 1, 1993; April 23, 1996, effective December 1, 1996; April 17, 2000, effective December 1, 2000; April 23, 2001, effective December 1, 2001; April 12, 2006, effective December 1, 2006.]

### RULE 5.1 CONSTITUTIONAL CHALLENGE TO A STATUTE—NOTICE, CERTIFICATION, AND INTERVENTION

(a) **Notice by a Party.** A party that files a pleading, written motion, or other paper drawing into question the constitutionality of a federal or state statute must promptly:

(1) file a notice of constitutional question stating the question and identifying the paper that raises it, if:

(A) a federal statute is questioned and neither the United States nor any of its agencies, officers, or employees is a party in an official capacity, or

(B) a state statute is questioned and neither the state nor any of its agencies, officers, or employees is a party in an official capacity; and

(2) serve the notice and paper on the Attorney General of the United States if a federal statute is challenged—or on the state attorney general if a state statute is challenged—either by certified or registered mail or by sending it to an electronic address designated by the attorney general for this purpose.

(b) **Certification by the Court.** The court must, under 28 U.S.C. § 2403, certify to the Attorney General of the United States that there is a constitutional challenge to a federal statute, or certify to the state attorney general that there is a constitutional challenge to a state statute.

(c) **Intervention; Final Decision on the Merits.** Unless the court sets a later time, the attorney general may intervene within 60 days after the notice of constitutional question is filed or after the court certifies the challenge, whichever is earlier. Before the time to intervene expires, the court may reject the constitutional challenge, but may not enter a final judgment holding the statute unconstitutional.

(d) **No Forfeiture.** A party's failure to file and serve the notice, or the court's failure to certify, does not forfeit a constitutional claim or defense that is otherwise timely asserted.

[Effective December 1, 2006.]

### RULE 6. TIME

(a) **Computation.** In computing any period of time prescribed or allowed by these rules, by the local rules of any district court, by order of court, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, or, when the act to be done is the filing of a paper in court, a day on which weather or other conditions have made the office of the clerk of the district court inaccessible, in which event the period runs until the end of the next day which is not one of the aforementioned days. When the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. As used in this rule and in Rule 77(c), "legal holiday" includes New Year's Day, Birthday of Martin Luther King, Jr., Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday by the President or