

CHAPTER 1
GENERAL

1-1 CONSTITUTIONAL AUTHORITY

1-1.01 This Code is adopted pursuant to the authority vested in Tribal Council of the Kootenai Tribe of Idaho under Article IV, Section 1, of the Constitution of the Kootenai Tribe of Idaho as duly adopted April 10, 1947.

1-2 PRIOR INCONSISTENT LAW REPEALED

1-2.01 Any Code, Ordinance, or Resolution of the Kootenai Tribe of Idaho which conflicts in any way with the provisions of this Code is hereby repealed to the extent that it is inconsistent with or is contrary to the spirit or purpose of this Code.

1-3 CODE OF FEDERAL REGULATIONS NO LONGER APPLICABLE

1-3.01 Any provision of the Code of Federal Regulations, Title 25, Part 11, relating to Courts of Indian Offenses as presently constituted or hereafter constituted that is not specifically adopted herein shall no longer be applicable to the Reservation except that the Tribal Council reserves the right to reestablish a Court of Indian Offenses by resolution when necessary for the administration of justice.

1-4 AMENDMENT OF LAW AND ORDER CODE

1-4.01 This Code may be amended in the manner provided for the adoption of ordinances. Amendments and additions to this Code shall become a part of this Code for all purposes and shall be codified and incorporated herein in a manner consistent with the numbering and organization of this Code.

1-5 ADOPTION BY REFERENCE NOT A WAIVER OF SOVEREIGN POWER

1-5.01 The adoption of any law, code, or other document by reference into this Law and Order Code does not constitute a waiver or cession of any sovereign power of the Kootenai Tribe of Idaho, or diminish such sovereign power, but shall result in the law, code, or other document thus adopted becoming the Law of the Kootenai Tribe of Idaho.

1-6 SOVEREIGN IMMUNITY

1-6.01 Except as required by federal law, the Constitution of the Kootenai Tribe of Idaho or by Ordinances, Resolutions, or agreements adopted or approved by the Tribal Council which contain express waivers, the Kootenai Tribe of Idaho and their officers and employees shall be immune from any civil action or any liability arising from the performance of official duties. Nothing in any provision of this code is intended or may be construed to waive such immunity.

1-7 ATTORNEY-CLIENT PRIVILEGE

1-7.01 All communications between elected Tribal officials, officers, employees, or agents of the Tribe and its attorneys shall be protected by the attorney-client privilege and shall not be admissible or discoverable in any judicial or administrative proceeding. No waiver of the attorney-client privilege shall be effective against the Tribe without the express approval of the Attorney General. The Attorney General is authorized to waive the attorney-client privilege when such waiver will advance the overall legal interests of the Tribe.

1-8 - 1 -11 Reserved

1-12 DEFINITIONS

1-12.01 As used herein, except as may be specifically provided otherwise, the following definitions shall apply.

(1) "Agency" shall mean the Northern Idaho Agency of the United States Department of the Interior, Bureau of Indian Affairs, located at Lapwai, Idaho.

(2) "Council" shall mean the Tribal Council of the Kootenai Tribe of Idaho.

(3) "Court" shall mean the Tribal Court or Court of Indian Offenses, as the case may be, of the Kootenai Tribe of Idaho.

(4) "Indian" shall mean any person of Indian descent who is a member of a federally recognized Indian Tribe, or who is recognized as an Indian by his or her tribe or community.

(5) "Member" shall mean a member of the Kootenai Tribe of Idaho.

(6) "Off-Reservation Rights" shall mean aboriginal or treaty rights, as the case may be, held by members of the Kootenai Tribe of Idaho.

(7) "Reservation" shall mean all tribal and allotted lands held in trust by the United States as Indian land and any lands which may hereafter be placed in trust for the Tribe or any land occupied by the Tribe or members of the Tribe that is considered a dependant Indian Community.

(8) "Secretary" shall mean the Secretary of the Interior or an authorized representative thereof.

(9) "Superintendent" shall mean the superintendent of the agency.

(10) "Tribe" shall mean the Kootenai Tribe of Idaho.