

TRIBAL COURT CODE

OF THE KENAITZE INDIAN TRIBE

KENAITZE INDIAN TRIBE

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TRIBAL COURT CODE

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KENAITZE TRIBAL COURT STRUCTURE

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SECTION 1. NAME OF CODE

This law shall be referred to as the Kenaitze Indian Tribe, Tribal Court Code (hereinafter “the Code”).

SECTION 2. NAME OF COURT

The Court of the Kenaitze Indian Tribe shall be referred to as the Kenaitze Tribal Court (hereinafter “the Court”).

SECTION 3. PURPOSE

A. HISTORY

Since time immemorial, we the Dena’ina Athabascan people, including the Kenaitze Indian Tribe, have resolved dispute and conflict, maintained community peace, and delivered justice within our Tribal Territory through the use of our Traditional Athabascan Laws, Customs, and Practices.

B. MODERN PURPOSE

The purpose of this Code is to honor and acknowledge our prior Customs, History, Traditions, and Experience for the purpose of preserving, strengthening, and continuing the Tribal Court into the future. To ensure the efficient and fair administration of justice, the Tribal Court shall continue to resolve conflicts and disputes and enforce Tribal Laws through the application of Cultural Traditions, Customary and Traditional Values, Written Law, Codes, and Ordinances.

SECTION 4. AUTHORITY

The Kenaitze Indian Tribe, represented by the duly elected governing body of the Tribal Council, has the authority to operate the Tribal Court pursuant to its inherent sovereign authority and the powers set forth in the Tribe’s Constitution, By-Laws, Ordinances, Resolutions and Codes.

SECTION 5. JURISDICTION

The Kenaitze Tribal Court shall have the authority to exercise jurisdiction that is permitted as their valid existing rights as a sovereign nation. These powers include, but are not limited to, matters relating to the governmental processes internal to the Tribe and over matters arising:

1. In the Tribe's Dena'ina Indian Country, including but not limited to all lands and waters customarily and traditionally used by the Dena'ina people; and/or
2. Over all tribal members, enrolled or eligible, regardless of where they live or do business; and/or
3. Over all persons and entities who enter into consensual relations with the Tribe or tribal members, or whose activities affect the political integrity, economic security, or the health or welfare of the Tribe or tribal members.

SECTION 6. COURT STRUCTURE

The Tribal Court will consist of a panel of judges. The Judges shall be appointed by a majority vote of the Tribal Council. At least two and no more than five judges will hear each case. A quorum of no less than two judges shall be convened to hear and decide a case. It shall be a preference that at least one elder judge presides over every case that comes before the Tribal Court. In emergency situations and/or due to disqualification as outlined in the code, the presiding judge may solicit from a list of members who have already pre-qualified or from qualified judges from an associated Tribe to act as judges to make a quorum.

- A. Chief Judge: The Tribal Court will select a Chief Judge to be approved by the Council. The role of the Chief Judge is to oversee the functioning of the Tribal Court.

SECTION 7. JUDGES

A. QUALIFICATIONS

In order to be qualified to serve as a Tribal Court Judge, a person must, at a minimum:

1. Be an enrolled Tribal Member, and
2. Be domiciled within the Tribe's customary and traditional Dena'ina Indian Country;
3. Be at least 31 years of age;
4. Not have been convicted of a non-violent crime within the previous two years, unless otherwise approved by the Tribal Court and except that fishing, hunting, and gathering violations will not exclude a person from serving as a judge;
5. Not have been convicted of a violent crime within the previous ten years, unless otherwise approved by the Tribal Council;
6. Not have been convicted of any crime involving sexual assault, molestation, sexual abuse or sexual exploitation in his/her lifetime;
7. Agree to participate in Judicial Trainings as they are made available by the Tribe;
8. Provide Criminal Background Investigation/Child Protection Clearance/Drug and Alcohol Free Workplace Statement.

B. SELECTION OF JUDGES

Judges will be appointed by an affirmative vote of the Tribal Council. Selection of the Judges shall be at the discretion of the Council.

C. TERMS

Judges will serve on the Court unless and until they resign or are removed as described in section D, below.

D. JUDICIAL DISCIPLINARY PROCEEDINGS

Any judge may be dismissed, suspended, removed, or fined if a majority of the Council determines that it is in the best interest of the Tribe. In dismissing, suspending, removing, or fining a Judge, the following procedure must be followed:

1. The person or people desiring to remove the Judge shall file a Grievance Petition with the Tribal Council;
2. The Council shall notify the Judge of the Grievance Petition within 20 days. The notice shall be in writing and shall contain a copy of the Petition;
3. The Judge may request that the Council hold a special meeting so that the Judge may present his or her side to the Council. The Judge and the Petitioner(s) shall be allowed to present witnesses and evidence to the Council.
4. Once the Council makes a decision regarding the Grievance Petition, it shall issue a written decision, explaining the reason(s) for its decision. A copy of the decision shall be given to both the Judge and the Petitioner(s).

E. FILLING JUDICIAL VACANCIES

Should a judicial vacancy occur through death, resignation, removal or otherwise, the Tribal Council shall appoint a qualified Tribal member or a Council member to fill the vacancy.

F. JUDICIAL ETHICS

No judge shall be involved in a case where he or she:

1. Has a direct personal, political, or financial interest; or

2. Has an immediate family member that is a party to the case.
Immediate family members include: spouse, mother, father, sister, brother, son, daughter, or member of the Judge's household; or
3. Does not think that he or she can be fair or impartial for any reason.

SECTION 8: ELDERS AND OTHER ADVISORS

The Tribal Court may confer with and/or request oral or written responses from Tribal Elders, Tribal Council Members, and/or other cultural leaders which may be kept for and relied on by future generations.

SECTION 9: LEGAL AND PROFESSIONAL CONSULTATION

Judges can have access to attorneys and other professionals for consultation including but not limited to legal opinions.

SECTION 10: APPEALS

Parties to Tribal Court proceedings shall be permitted to appeal the Court's final decision. A panel of three members of the Tribal Council shall sit as the Appellate Court. A person may not serve as a Judge on the Appellate Court if he or she is already serving as a Judge on the Tribal Court.

- A. Starting an Appeal: To appeal a final decision of the Kenaitze Tribal Court the appealing party must file a Petition to Appeal with the Tribal Council and provide a copy to the Tribal Court Clerk. A copy shall also be provided to any other parties to the case.
 - i. Time Limit: A Petition to Appeal must be filed within 30 days of the date written on the Tribal Court's final order.
 - ii. Contents of the Petition: The Petition must state with specificity all of the reasons that the party is appealing. A copy of the Tribal Court's final Order must be attached to the Petition.
 - iii. No New Facts or Evidence: Parties to an appeal are not permitted to present new facts or evidence to the Appellate Court.
 - iv. Filing Fee: A party shall be required to pay \$50 to the Tribal Council.

- B. Appointing an Appellate Court Panel: Within 10 business days of a Petition to Appeal being filed, the Tribal Council shall call a special meeting. At the special meeting, the Tribal Council shall, without discussing the merits or substance of the appeal, appoint three Council members to sit as the Appellate Court. Within 5 business days of being appointed, the Appellate Court shall convene to review the Petition.
- C. Hearing on Petition, Frivolous Petitions:
- i. Unless the Appellate Court finds the Petition to be frivolous (see subsection (ii), below), it shall schedule a hearing within 30 days of reviewing the Petition. Notice must be provided to both parties at least 20 days in advance of the hearing. Notice shall also be sent to the Tribal Court Clerk. At the hearing, both parties shall be permitted adequate time to present their position on the issues that are on appeal. The parties are not permitted to present new evidence at this hearing.
 1. If the Appellate Court wishes for the parties to submit their position in writing prior to the hearing, it may direct them to do so. They shall be permitted adequate time to prepare their written statements. Each party shall be given a chance to respond to the other party's statement.
 2. The original or a true copy of the Tribal Court record of the case at-issue, including recordings and/or transcripts of hearings, shall be made available for review by the Appellate Court and both parties. The party that is appealing the case shall bear the initial cost of copying the file. The parties may refer to the record in the hearing and/or their written statements. The Appellate Court may also consult the record.
 - ii. Frivolous Appeals: The Appellate Court may dismiss the Petition to Appeal without hearing from the other party if it finds the Petition to be frivolous, *i.e.*, there is no sound basis for reviewing the Tribal Court's Order. If the Court finds an appeal to be frivolous, it shall issue a written

Order dismissing the Petition to Appeal and state with specificity why the appeal is frivolous.

D. Role of the Appellate Court: It is the role of the Appellate Court to consider only the issues set forth in the Petition to Appeal and determine whether an error has been made as to those issues. It shall not consider any new facts or evidence, *i.e.*, facts or evidence that were not presented to the Tribal Court.

- i. Fact Issues on Appeal: If the appeal is regarding an issue of fact or the Tribal Court's fact-finding, the Appellate Court can take action adverse to the Tribal Court's decision only if it finds that the Tribal Court has abused its discretion. This is because the Tribal Court, as the trial court that heard all of the witnesses and saw all of the evidence, is in the best position to make findings regarding the facts. If the Appellate Court finds that the Tribal Court has abused its discretion, it can direct the Tribal Court to re-visit its ruling or it can overturn its ruling.
- ii. Issues of Tribal Law, Custom or Procedure on Appeal: If the petition to appeal alleges that the Tribal Court has made an error in applying or interpreting Tribal Law, Custom or Procedure, the Court shall review the applicable law, custom and/or procedure to determine whether the Tribal Court has correctly applied or interpreted the law. If the Appellate Court finds that an error was made, it can direct the Tribal Court to review its ruling or it can overturn its ruling.

E. Decision of the Appellate Court

- i. After the Appellate Court has held a hearing, reviewed the parties' written statements (if any), and made any necessary review of the record, it shall issue a written decision either affirming the Tribal Court's ruling, directing that the Tribal Court re-visit its ruling, or overturning the Tribal Court's ruling. If the Appellate Court affirms the Tribal Court's ruling, it shall explain in detail why it is affirming the ruling. If the

Appellate Court is directing the Tribal Court to review its ruling, it shall state with specificity why it feels the Tribal Court erred and what part of the ruling must be re-visited. If the Appellate Court overturns the Tribal Court's ruling, it shall explain in detail why it is overturning the ruling. *Note:* The Appellate Court may also find itself in the position of affirming one part of the Tribal Court's ruling and overturning or directing the Tribal Court to re-visit a different part of its ruling. This is acceptable as long as the Appellate Court specifies what part of the ruling it agrees with and what part it disagrees with.

ii. A copy of the Appellate Court's decision shall be sent to all parties and to the Tribal Court.

F. Confidentiality: Any case that is made confidential in the Tribal Court including but not limited to, Child In Need of Aid cases, Guardian/Conservator cases, and Elder Protection Cases, shall remain confidential during the Appellate Court process. If any information regarding the Appellate Court's ruling is made public, all names and personal information shall first be changed and/or redacted.

G. Code of Conduct: When acting as Judges for the Appellate Court, Council Members shall adhere to the Judicial Ethics set forth in Section 7(F) of this Code. They shall also be required to take the Oath of Confidentiality and Oath of Office as set forth in Sections 12 and 13 of this Code. The Appellate Court shall also have available to it the consultants and advisors set forth in Sections 8 and 9 of this Code.

SECTION 11: OTHER COURT PERSONNEL

A. COURT ADMINISTRATOR

The Council may, funding permitted, appoint a person to serve as Tribal Court Administrator. The purpose of the administrator is to oversee the daily functions of the Court. Nothing shall prohibit the Council from appointing the same person to serve as the Court Administrator and the Court Clerk. The Chief Judge may be appointed to act as the Court Administrator.

B. COURT CLERK

The Council may, funding permitted, appoint a Tribal Court Clerk. Training of the Court Clerk shall be provided by the Tribe. Personnel issue relating to the Court Clerk shall be handled by the Tribal Administrator. For all other issues relating to Court business, the Court Clerk shall be supervised by the Tribal Court Judges. Nothing shall prohibit the Council from appointing the same person to serve as the Court Administrator and the Court Clerk.

SECTION 12: OATH OF CONFIDENTIALITY

The Kenaitze Indian Tribe Tribal Court Judges, Clerk, Tribal Council, and all others called upon by the Court or Council shall take the following oath of confidentiality:

“I _____ do solemnly swear and affirm that I will not discuss any confidential matters outside the Tribal Court unless I am otherwise permitted by the Tribal Court.”

SECTION 13. OATH OF OFFICE

Every Judge, prior to taking office or acting in such office, shall take the following oath of affirmation:

“I, _____do solemnly affirm that I will support, defend and uphold the Constitution and By-Laws of the Kenaitze Indian Tribe and support and defend the best interests of the Kenaitze Indian Tribe; that I will support, uphold, and enforce the Law and Order of the Tribe, Resolutions and Ordinances duly passed by the Kenaitze Indian Tribe; and that I will faithfully and impartially discharge the duties of my office to the best of my ability”

SECTION 14. FULL FAITH AND CREDIT AND COMITY

The Kenaitze Indian Tribe, Tribal Court may give full faith and credit, comity, or other reciprocal recognition to the Laws and Judicial acts of other Tribes, the United States, individual states and local governments which equally extend the same full faith and

credit, comity, and other recognition to the Laws and Judicial acts of the Kenaitze Indian Tribe and Tribal Court.

SECTION 15. SUPREME LAW: THE DENA'INA PRINCIPLES OF REGULATION

In the event of an otherwise unresolvable dispute, the Dena'ina Principles of Regulation, which includes written and unwritten tribal traditions, will take precedence over all other laws, codes and regulations.

Before a court issues a decision on the basis of the Dena'ina Principles of Regulation, it will give the people involved an opportunity to be heard about any question over what those principles are or how they should be applied.

SECTION 16. AMENDMENTS

Amendments to this Code may be made only if 1) the amendments are proposed by a Tribal Member or a Council Member and 2) a majority of the Tribal Council votes in favor of the amendments.

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SECTION 1. PURPOSE

The purpose of the Kenaitze Tribal Court Procedures Ordinance is to provide a fair and equitable process for the operation of the Kenaitze Tribal Court that is consistent with the Kenaitze Tribal Constitution and Ordinances, the requirements of the Indian Civil Rights Act and compatible with the unwritten values and practices of the Kenaitze Tribe. The procedures provided in this Ordinance shall be the guidelines and policies of the Kenaitze Tribal Court unless otherwise specifically provided for by the Kenaitze Constitution or tribal ordinance.

SECTION 2. DEFINITIONS

The following words and phrases, whenever used in this Chapter, shall have the following meanings:

Banishment means sending a person out of the Dena'ina Territory of the Kenaitze Indian Tribe for a period of time or permanently.

Emergency circumstances mean circumstances in which it reasonably appears that there is imminent danger of harm to a person or property.

Parties means person or persons that the Kenaitze Tribal Court considers to be involved in an issue that has been brought before the Court. A person who is a Petitioner may choose not to be a party to a case if it is specifically permitted by tribal ordinance or if the Kenaitze Tribal Court permits it.

Petitioner is the party filing a Petition to Use the Tribal Court.

Proof of Service means written or otherwise documented evidence that parties have been notified of an action of the court, such as notification about a hearing.

Restitution means compensating a person who has been damaged or injured, by paying money or performing services to compensate for damage or injury. Restitution includes apologizing, payment of medical bills or other bills, repair of property, or replacement of property. The Kenaitze Tribal Court may also order people to do other things to provide restitution.

Civil violation means failing to comply with tribal laws and involves conduct inappropriate to an orderly society, but it is not a criminal offense. A person charged with a civil violation is not entitled to a trial by jury or a right to a public defender.

SECTION 3. RIGHTS OF PARTIES

Parties appearing before the Kenaitze Tribal Court have rights as specified by the Indian Civil Rights Act of 1968, as amended. Parties appearing before the Court shall have the following rights, which include and exceed those of the Indian Civil Rights Act:

- The right to be notified of the time, date and place of court hearings, except in cases of emergency when a party is not reasonably available to be notified;
- The right to be notified of the date by which a written response is required to be filed with the Court;
- The opportunity to be heard including the chance to talk, the chance to present evidence and witnesses, the chance to ask questions of the other party and the other party's witnesses;
- The right to be heard by a fair and impartial judge or judges;
- The right to copies of documents submitted to the court and court generated documents (at their own expense);
- The right to request a Change of Order if new evidence or circumstances change in the case;
- The right to appeal the final decision to the Kenaitze Appellate Court;

SECTION 4. CONFIDENTIALITY

All children's cases and hearings shall be confidential. Hearings involving adults may be open to the public if the parties and the Judges agree. Only the parties, Judges, and Court Clerk may have access to court records, unless the Court or Tribal Law specifies otherwise. The Kenaitze Appellate Court shall have access to all records involving cases that are appealed to it.

SECTION 5. RECORDING HEARINGS

The Court shall keep a record of all cases consisting of a tape recording and/or written notes of all panel style hearings, all original documents filed with the Court, and all Orders entered by the Court.

SECTION 6. FAILURE TO APPEAR FOR A HEARING

If parties have been given reasonable notice of a hearing but fail to appear for the hearing, the Court may proceed with the hearing as scheduled and make a decision in the absence of the party, or reschedule it.

SECTION 7. RECESSES DURING HEARINGS

The court may recess during any type of court hearing.

SECTION 8. TESTIMONY AND ASSOCIATED COSTS

Witnesses may testify in person, or, with the Court's permission, by telephone. The Kenaitze Tribal Court may summon witnesses to testify at the hearings by issuing a Summons to Testify.

SECTION 9. EVIDENCE AND AFFIDAVITS

The Kenaitze Tribal Court shall hear all evidence it finds proper. The Kenaitze Tribal Court may Order evidence to be brought before the Court by issuing a subpoena. The Kenaitze Tribal Court may accept sworn Affidavits as evidence in cases if the witness is not available to testify.

SECTION 10. EMERGENCY HEARINGS

Emergency hearings shall involve matters where harm or damage to a person or property may likely occur if the Court had to wait. In cases of emergencies, the Court may hold a hearing as soon as reasonable proof of imminent harm is provided to the Court. Notice of emergency hearings shall be given to parties who are reasonably available to receive Notice, but the Court may proceed without Notice if parties are not available to receive it. Orders issued during emergency hearings shall be written and of limited duration of up to 30 days unless otherwise stated in the tribal code, or, shall stand only until a regular hearing with reasonable Notice is held.

SECTION 11. SEARCH WARRANTS

The Kenaitze Tribal Court shall comply with the Indian Civil Rights Act in requiring tribal search warrants when necessary to search for evidence under circumstances that would lead a reasonable person to believe that a civil violation was or is being committed. Suspicion unsupported by any facts is not sufficient. Search warrants shall specifically state where the search may be done, what items are to be looked for, when the warrant expires, and whether or not the search may take place at night.

- A.** Application for Search Warrants: In order to do searches of people, houses, cars, or other private property, a person designated by the Tribal Council to conduct searches shall fill out an Application for Search Warrant. The application shall state why he or she believes a search warrant is needed. The application shall state the name of the person who saw or has knowledge of an illegal activity or item if it is the basis for reason to believe that a search is needed. The person applying for the search warrant shall swear that the statements in the application are true to the best of their knowledge.

- B.** Issuing a Search Warrant: The approval of two Kenaitze Tribal Court Judges shall be necessary to issue a search warrant. The Judge must be convinced that the person applying for the Search Warrant has “probable cause,”

meaning evidence of circumstances that would lead a reasonable person to believe that an offense was or is being committed.

SECTION 12. JUVENILES

- A. Application of tribal laws to juveniles: The civil laws of the Tribe and tribal court procedures generally apply to juveniles the same as they do to adults, provided that specific ordinances may apply solely to juveniles and that a Kenaitze Tribal Youth Court may be established and operated under its own written procedures.
- B. Parents or guardians attending hearings: In cases involving civil violations by minor children, written notification shall be given to the child of an upcoming hearing and written notification also given to parents or guardians. The Kenaitze Tribal Court may request a parent or guardian to be present at their child's hearing, or, the Court may request parents or guardians to leave a hearing if the judges believe that it is in the best interest of the child. The Court may appoint a spokesperson for a minor child.
- C. Sealing of juvenile court records: All juvenile court records will be sealed and nothing in such records can be used against the juvenile in any criminal or other action or proceeding except in subsequent tribal court proceedings brought under tribal law.

SECTION 13. TRIBAL COURT FINANCES

- A. Accounting: The Tribal Council shall establish a separate line item account for the finances of Kenaitze Tribal Court.
- B. Fees: The Kenaitze Tribal Court may charge fees to use the Court. Such fees shall be equal for equal types of cases and matters, and shall be made known to any person who wants to use, or files a Petition with, the Kenaitze Tribal Court.
- C. Payment of fines or fees: Fines or fees shall be paid in cash, check, money order, or credit card. Checks or money orders shall be made out to the Kenaitze Tribal Court Clerk, and the Clerk shall issue a receipt.

SECTION 14. BEGINNING A TRIBAL COURT CASE

Cases generally begin by filing a Petition to use the Tribal Court with the Kenaitze Tribal Court Clerk. The Petitioner shall write sufficient information about the circumstances and reasons why the Court should take the case. Cases may also come to the court through referrals or transfer of jurisdiction from another court. Upon receipt of a Petition, referral, or option to transfer a case, the Clerk shall schedule a meeting with the tribal court judges to decide whether to take the case. If the judges decide to take a case, they will decide whether the case is appropriate for a panel style hearing or the Tribe's Traditional Conflict Resolution Program. A minimum of two judges at the meeting is necessary to make this decision. After this meeting, the judges or court clerk shall contact the parties regarding future hearings and proceedings.

A. Decision to not take a case: If the decision is made to not take the case, the Clerk shall write a letter of denial to the Petitioner, or referring entity, as soon as possible after the decision is made.

B. Referral to the Traditional Conflict Resolution Program (TCRP) during a Case: At any time during a case, the Court may refer the case to the TCRP if the Judges feel that the program is appropriate for the case. The parties may request a referral to the TCRP. If such request is made, the Judges that are presiding over the case will make a decision as to whether the program is appropriate.

SECTION 15. NOTICE

A. Notice for hearings: Parties shall be given reasonable notice for all scheduled Kenaitze Tribal Court hearings. The Clerk, or designee, shall personally serve or mail notice to all parties before hearings. In the case of non-emergency

hearings, the Court shall make every effort to provide the parties with seven days notice, unless otherwise specified by Tribal Law. If, at a hearing of the Tribal Court, the Court gives a party oral notice of an upcoming hearing date and time, the Court shall not be required to send written notice to the parties regarding that hearing.

- B. Notice when hearings are rescheduled:** If the Court changes the time of a hearing for any reason, the involved parties shall be given reasonable notice of the rescheduled hearing. If a hearing is rescheduled, notification may be made telephonically.
- C. Notice for emergency hearings:** Notice of emergency hearings shall be given to parties who are reasonably available to receive notice. If parties are not reasonably available to receive notice, the Court may hold a hearing without notice being given.
- D. Notice for witnesses:** Each party shall be responsible for serving notice to their own witnesses. Each party is also responsible for giving the other parties and the Kenaitze Tribal Court Clerk reasonable notice that they have asked witnesses to attend a hearing.

SECTION 16. PROCEDURES FOR PANEL OF JUDGES STYLE HEARINGS

- A. Opening a hearing:** The presiding judge shall open the court hearing and may ask that a prayer or words from an Elder be given. The Presiding Judge shall then:
- Ask the Clerk to begin the recording and/or taking notes;
 - State the case number and the date, time, and place of the hearing;
 - Ask all persons in the courtroom or at any teleconference sites to state their name and relationship to the case for the record;

- Ask if the parties were notified of the hearing;
- Determine if there are any parties who were notified but are not at the hearing. If a party was notified but is not at the hearing, the Court may either proceed with the hearing or reschedule;
- Determine if there are any parties who should have been notified but were not notified. If it is determined that there is a party that was not notified, the hearing shall be rescheduled to allow reasonable notification;
- Inquire as to whether the parties have been advised of their rights and, if they have not been advised, so advise them;
- In cases that are closed to the public, all present at the hearing shall be instructed to maintain confidentiality outside the Kenaitze Courtroom proceedings;
- Civil violations: In cases of civil violations, the Respondent shall be asked how he or she pleads: guilty, not guilty, or no contest and the Presiding Judge shall make sure the Respondent understands the pleas. The Respondent shall say what his or her plea is. If the Respondent pleads guilty or no contest, the judges may question the Respondent and any participants in the courtroom to gain information that will help them create an appropriate sentence during their deliberations. They may also counsel the Respondent at that time. If the Respondent pleads not guilty, the hearing shall be held at this time unless the Court finds it appropriate to delay in order for parties to gather witnesses and evidence. If the Respondent is present but will not say anything, the Court shall enter a plea of not guilty.

B. Hearing process: The Judges shall generally maintain order in the courtroom and direct the order of speaking. If anyone is connected to the hearing by teleconference, all hearing participants shall state their name prior to speaking, and any visual evidence presented to the court shall be described. The parties may present witness and evidence in the order chosen by the Judges. Each party shall be permitted to question each other and all witnesses. Judges may

question anyone in the Courtroom. When the judges determine that all parties have had sufficient opportunity to speak and present everything they feel is relevant to the case, they shall ask everyone to leave the courtroom while they deliberate. The Judges may chose to issue an Order immediately or they may deliberate over several days or weeks. After reaching a decision, the Court will issue either a written or oral order.

SECTION 17. PROCEDURES FOR TRANSFERRING CASES TO THE TRIBAL TRADITIONAL CONFLICT RESOLUTION PROGRAM

A. Referral: Once the Kenaitze Tribal Court Judges have decided that they want to use the Traditional Conflict Resolution Program for a particular case, they shall decide who the Leader will be. The Tribal Court and/or Court Clerk shall provide the parties with further contact information regarding the Leader and the next step in the proceeding.

B. Decisions of the TCRP: Decisions of TCRP shall be immediately reported to the Court and shall be written as Orders of the Kenaitze Tribal Court. If the TCRP is not able to reach a resolution, the case shall be immediately referred back to a hearing panel of Kenaitze Tribal Court Judges. In all cases, the TCRP shall report back to the Tribal Court at the completion of the case or upon the last meeting with the parties. The Court can request status reports from the TCRP Leader at anytime during the pendency of the case.

SECTION 18. OPTIONS FOR ORDERS AND SENTENCES

The Court may issue Orders concerning child custody arrangements, domestic relations issues, and any other type of case where an Order is appropriate. Unless the Kenaitze Tribal Code sets a specific penalty for a particular civil violation, the Kenaitze Tribal Court Judges, either by themselves or through the Traditional Conflict Resolution Program, shall

determine the specific Orders for a particular case. The Judges may choose from the following options:

- A. Fines: Fines for violation of a Tribal ordinance shall not exceed \$5,000 or equivalent work sentence. Fines may increase for successive violations of the same ordinance. The Court may garnish wages, permanent fund or dividend checks, village or regional Native corporation dividends, general assistance, or confiscate property in the case of unpaid fines.

- B. Community Service: The Tribal Court Judges may order various types of community service work to be completed by the offender. The goal of the community service sentence shall be to provide a benefit to the Tribal community including, but not limited to, the needy, the Elders, the youth, and the victim of the offense. Work sentences shall be completed in 30 days unless otherwise directed by the Court.

Persons have the option of work sentences instead of paying a fine only if the Court specifically permits it. Community work shall contribute the standard minimum wage per hour towards fines ordered by the Kenaitze Tribal Court.

- C. Banishment: An Order of temporary or permanent banishment shall only be used to protect the Tribal territory or residents from harm. The length of time a person is banished shall be determined by the severity of the case or upon the completion of treatment that is ordered.

- D. Drug and Alcohol Treatment and Other Counseling: The Tribal Court may order an assessment for drug and alcohol treatment and may require that the recommendations of the assessment be met. The Tribal Court may also order other personal counseling. It shall be the responsibility of the party ordered to do such treatment to pay for any and all cost of the treatment.

- E. Counseling by Judges and Elders: The Judges of the Kenaitze Tribal Court may counsel persons brought before them in a helpful spirit. The Kenaitze Tribal Court may bring Kenaitze Elders into the Kenaitze Courtroom to counsel people.
- F. Restitution: The Tribal Court may order an offender to make restitution to his or her victims. Restitution is defined to include payment of money, repairing property, and apologies. Restitution payment shall go through the Kenaitze Tribal Court Clerk. Non-monetary restitution shall be supervised by a person designated by the Kenaitze Tribal Court.
- G. Traditional Activities: The Kenaitze Tribal Court may order a person to participate in seasonally appropriate traditional activities such as fish camps, trapping, hunting, culture camps, and other tribally sponsored or approved traditional activities.

SECTION 19. WRITTEN ORDERS, TIMEFRAME FOR COMPLYING WITH ORDERS

- A. Written Orders: All final orders made by the Kenaitze Tribal Court shall be written unless otherwise specified by ordinance. In ongoing cases, the Court shall be permitted to issue oral or written orders as it sees fit. All written Orders and notations shall be filed in the case records. The Clerk or other designated person shall personally give or mail a copy of the Order to all parties to the case and file a proof of service.
- B. Time frame for Complying with Orders: For cases involving civil violations all sentences shall be accomplished within 30 days after the Respondent has been notified of the Order, unless the Court provides otherwise. For other cases, the Order shall specify timeframes for compliance.

SECTION 20. REQUEST TO CHANGE ORDER

Parties may request the Court for a hearing to consider changing an Order. To make such a request, a Party shall file a Request to Change Order form with the Kenaitze Tribal Court Clerk. The request shall state the reason the person believes a change should be made. The requesting person shall present new evidence or information to the Court to support the request. The request must be made within a reasonable time after the change in circumstances has occurred and if the Court finds that too much time has elapsed, it may deny the request for that reason. Upon receipt of a Request to Change Order, the Clerk shall schedule a meeting with the tribal court judges to decide whether the Court will hear the Request. A minimum of two judges is necessary to make this decision. The Court may deny the request, or set a hearing date to consider it and notify all Parties.

SECTION 21. PROOF OF COMPLIANCE WITH ORDERS

Records of proof of compliance with Orders of the Tribal Court shall be kept by the Tribal Court Clerk in the Court files. Parties shall have 30 days to complete the requirements of an Order unless otherwise specified in the Order. Proof that the action has been completed shall be given to the Court Clerk within 14 days of completion of the act unless otherwise specified by Court Order. The Clerk shall certify the proof of compliance. Payment of a fine to the Tribal Court Clerk and a recording of the payment shall be proof in itself of payment. Financial restitution ordered to another party shall be made through the Clerk of the Tribal Court. The Clerk shall report any failures to comply with Tribal Court Orders to the Court. Failure to comply with an Order of the Court in civil violation cases shall be considered contempt of court as described in Section 22 of this Chapter.

SECTION 22. CONTEMPT OF COURT

A. Reasons Persons may be found in Contempt of Court: The Court may find a person in contempt of court if he or she:

1. Violates the Oath of Confidentiality;
2. Fails to fully comply with an Order of the Tribal Court;
3. Lies to the Court; and/or
4. Disrupts Court proceedings.

B. Judges: If a Judge is alleged to have violated any of the provisions set forth above in Section A, the grievance procedures set forth in Section 7 (D) (Judicial Disciplinary Proceedings) shall be followed.

C. Confiscating Personal Property: The Tribal Court may seize a person's personal property if that person is found in contempt of court by the Kenaitze Tribal Court, for not doing what the Kenaitze Court has ordered. The property shall remain confiscated and under the care of the Tribal Council until the person complies with the Court Order to the satisfaction of the Kenaitze Tribal Court. If the person does not comply with the Court Order within the time limits set by the Kenaitze Tribal Court, Kenaitze Tribal Court may sell the confiscated property after providing at least 30 days notice of the proposed sale to the person.

SECTION 23. ELDERS AND OTHER TRADITIONAL ADVISORS

Parties to the case shall be permitted to bring Elders and other traditional advisors with them to a hearing.

SECTION 24. ATTORNEYS AND OTHER COUNSEL

Parties to a case shall be permitted to bring attorneys or other counsel with them to a hearing. The hiring and payment of counsel shall be the sole responsibility of the party wishing to retain counsel. Pursuant to the customary practices and traditional law of the Kenaitze Indian Tribe, it shall be the preference of the Court to hear directly from a party

and not his/her representative. Attorneys or other counsel may not speak directly to the Tribal Court or other parties unless the Court specifically invites him/her to speak.

Unless otherwise requested by a party or his/her representative, copies of notices and other case documents will continue to be sent directly to the party. If a person is requesting that documents be sent to his/her representative, both the party and the representative shall submit a signed writing which includes the representative's name, phone number, address, and the name of the person that he or she is representing.