

Kenaitze Indian Tribe
Tribal Court Ordinance 99-01
Replaced Ordinance 86-08
Adopted May 12, 1999
Restated October 27, 2017

Section 1. PURPOSE

The purpose of this Ordinance is to establish the Tribal Court which shall be referred to as the Kenaitze Tribal Court ("Court"), in accordance with the Article X, Section 3(p) of the Constitution of the Kenaitze Indian Tribe ("Constitution").

Section 2. AUTHORITY

The Kenaitze Indian Tribe, represented by the duly-elected governing body of the Kenaitze Tribal Council ("Council"), has the authority to operate the Kenaitze Tribal Court pursuant to its inherent sovereignty authority consistent with those powers set forth in our Tribe's Constitution, By-Laws, Ordinances, Resolutions and Codes.

Section 3. HISTORY

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

Section 4. MODERN PURPOSE

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

Section 5. JURISDICTION

A. Subject Matter Jurisdiction

The Court may hear and decide cases of a civil, criminal or juvenile nature governed by written Tribal Law and unwritten Customs and Laws.

B. Territorial Jurisdiction

The territory of the Kenaitze Indian Tribe shall extend to all lands, air and waters within Alaska as defined by Federal law, including, but not limited to, all lands, air and waters customarily and traditionally used by the Kenaitze people.

The Kenaitze Indian Tribe shall have jurisdiction to the fullest extent possible over all lands and people within its territory as well as over all of its members to the extent such jurisdiction does not violate federal or Tribal law. (Constitution, Article III.)

C. Personal Jurisdiction

The Court shall have jurisdiction over the following persons:

1. Members and persons eligible for membership with the Kenaitze Indian Tribe, regardless of where they live or do business;
2. Non-Member Natives who are members of any Tribe other than the Kenaitze Indian Tribe;
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; and
4. Any persons consenting to the jurisdiction of the Kenaitze Indian Tribe.

D. Concurrent Jurisdiction

In matters within the jurisdiction of Federal or State Courts, or Tribal Courts other than the Court, jurisdiction of the Kenaitze Indian Tribe shall be concurrent.

Section 6. JUDGES

A. Qualifications

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

1. Be enrolled as a Kenaitze Indian Tribal Member;
2. Be domiciled within the Tribe's customary and traditional Kenaitze Dena'ina Tribal territory;
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 Council; 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; and
9. Not be a current Tribal Council member.

B. Selection

The seven (7) judges, including Chief Judge and Second Chief Judge, for the Court shall be appointed by a majority vote of the Council as follows:

1. At least two of the judges must be Tribal Elders.
2. If a judge is disqualified after appointment, the Tribal Council shall resume the selection process.

C. Terms

All judges shall serve four (4) year staggered terms beginning January 1st of each year. Initially, two (2) judges shall serve four (4) year terms, two (2) judges shall serve three (3) year terms, two (2) judges shall serve two (2) year terms, and one (1) judge shall serve a one (1) year term.

D. Quorum

A quorum of no fewer than two (2) judges out of seven (7) judges shall be convened to hear and decide a case.

E. Removal of Judges

Any judge may be dismissed, suspended, or removed if there is substantial evidence in determining just cause by the Council, after hearing, and by a majority vote of the Council. (Judicial Code of Conduct.)

F. Filling Judicial Vacancies

1. Public notice of upcoming judicial vacancies shall be published to the Tribal Membership on or before November 1st each year.
2. A vacancy that may occur through death, resignation, removal or otherwise shall be publicly posted in a timely fashion. The vacant seat shall be filled by majority vote of the Council to serve for the remainder of the term.
3. Any Judge whose term has expired may re-apply at the end of the term or when vacancies occur.

G. Judicial Ethics

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

1. Has a direct personal, political, or financial interest, defined as the possibility of a Court transaction that may lead to personal gain, through favors, or financial or political gain;
2. Has any immediate family members that are a party to the case. Immediate family members are defined as whether by blood or legal means, a father, mother, brother, sister, spouse, son or daughter; as well as grandparent, grandchild, domestic partner, in-law, step, foster relationship, and legal guardianship; or
3. Does not think he or she can be fair or impartial.
4. The Judges shall adhere to the *Judicial Code of Conduct*.

Section 7. APPELLATE COURT

The Council shall serve as the Appellate Court.

Section 8. LEGAL AND PROFESSIONAL CONSULTATION

The Court may access attorneys and other professionals for consultation as it deems appropriate.

Section 9. ELDERS AND ADVISORS

The Court and any party appearing before it may confer with, or request oral or written advice and guidance from, Tribal Elders or other Tribal advisors.

Section 10. OATH OF OFFICE AND CONFIDENTIALITY

The Court Judges, Court Clerk, members of the Appellate Court, and all other staff involved in a case shall take the Oath of Office and Confidentiality as follows:

"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; that I will not discuss any confidential matters outside the Court unless I am otherwise permitted by the Court; and that I will faithfully and impartially discharge the duties of my office to the best of my ability."

Section 11. FULL, FAITH, CREDIT AND COMITY

The Court may give full faith, 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, credit, comity and other recognition to the Laws and Judicial acts of the Kenaitze Indian Tribe and the Court.

Section 12. AMENDMENTS

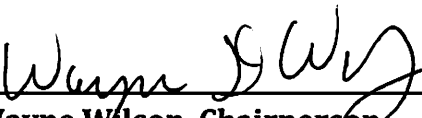
Amendments to this Ordinance may only be made in accordance with the Administrative Procedure Ordinance.

Section 13. SOVERIGN IMMUNITY

Nothing in this Ordinance shall waive the Sovereign Immunity of the Tribe, Council members, Tribal employees, or any other tribal entity responsible for implementation and enforcement of this Ordinance. Nothing in this Ordinance shall be construed as creating a private right of action.

Effective Date: This Ordinance, adopted by the Council on 27 Oct. 2017 shall become effective on 27 Oct. 2017.

Yea 5
Nay 1
Abstain 0



Wayne Wilson, Chairperson
Kenaitze Tribal Council



Diana Zirul, Secretary
Kenaitze Tribal Council