

Kenaitze Indian Tribe
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**ORDINANCE 2012-1
WAIVERS OF SOVEREIGN IMMUNITY**

**APPROVED BY THE GENERAL BODY
AT
SPECIAL TRIBAL MEMBERSHIP MEETING
MAY 12, 2012**

Purpose: The purpose of this ordinance is to authorize the Kenaitze Tribal Council to waive sovereign immunity in order to receive funds for the purpose of administering Tribal programs, or to enter into other Agreements that the Council deems to be in the best interest of the Tribe, to the extent specified in resolutions adopted by the Council and as permitted by the Tribe's Constitution and this Ordinance.

Tribal Sovereign Immunity: Tribal sovereign immunity refers to the legal privilege developed by courts under which Alaska Native Tribes cannot be sued in most circumstances. This legal privilege derives from the inherent status of tribes as sovereign Nations.

Why Waiver is Necessary: Waiving sovereign immunity signifies that the Tribe is a sovereign, and does not undermine the Tribe's status as a sovereign. Both the State and Federal governments also waive sovereign immunity by Statute. When the Tribe is entering into a contract or other legal arrangement many times the other party or parties to the agreement will request that the Tribe waive sovereign immunity, so that the contract may be enforced. The other party to an agreement wants to be assured that if the Tribe does not perform its obligations under the agreement it can pursue a legal remedy in a court of law. The other party would not be able to do so unless the Tribe has waived its sovereign immunity. For example, the State will not give the Tribe grant funds unless the State knows that it will have a legally enforceable right to require that the grant funds be expended properly. A legally enforceable right does not exist unless the Tribe waives sovereign immunity.

Membership Vote: Upon adoption of this Ordinance by a majority vote of the Tribal membership present at a duly called meeting that conforms to the quorum requirements established by Article VI, Section 2 of the Tribal Constitution, the Tribal Council shall have the authority to waive sovereign immunity as specified in this Ordinance and in accordance with the Tribe's Constitution Article X, Section 5. An affirmative vote on this Ordinance shall

constitute *the* affirmative vote required by the Tribe's Constitution Article X, Section 5.

Authorization: In accordance with the Kenaitze's Constitution Article X, Section 5 the Kenaitze Tribal membership authorizes the Tribal Council to waive sovereign immunity in order to receive funds for the purpose of administering Tribal programs, or to enter into other agreements that the Council deems to be in the best interest of the Tribe, to the extent specified in such resolutions and as permitted by the Tribe's Constitution and this Ordinance.

Requirements: All waivers of sovereign immunity approved by resolution of the Council must meet the following requirements:

1. Waivers of sovereign immunity shall not be general but must be specific and limited as to duration, grantee, transaction, property or funds, if any, of the Tribe subject thereto, and to the court having jurisdiction and applicable law.
2. Waivers of the sovereign immunity of the Tribe shall not be deemed a general consent to the levy of any judgment, lien or attachment upon property of the Tribe other than property specifically pledged, assigned or otherwise explicitly subject to levy in the waiver resolution.
3. Waivers of sovereign immunity must be done on a case-by-case basis for each specific agreement the Tribe enters into.
4. Waivers of sovereign immunity shall not be construed as an waiver of any insurance or Federal Tort Claims Act coverage to which the Tribe is entitled.
5. Waivers issued by the Council will be listed and presented to the Tribal membership annually.

No Implied Waivers: Where the Tribe enters into an agreements where sovereign immunity has not been waived by Council resolution no implied waiver shall exist.

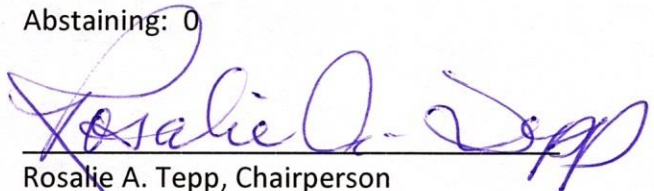
Certification

General Membership Vote: 46

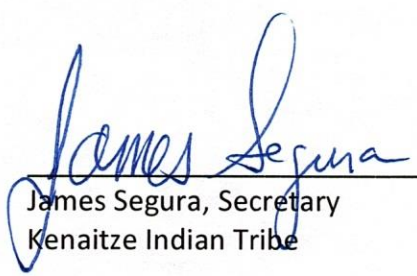
Voting in Favor: 30

Voting Against: 16

Abstaining: 0



Rosalie A. Tepp, Chairperson
Kenaitze Indian Tribe



James Segura, Secretary
Kenaitze Indian Tribe