



KENAITZE
INDIAN
TRIBE

October 30, 2024

Dear Tribal Member,

This letter is inform you that proposed revisions have been made to the Kenaitze Indian Tribe's Tribal Court Ordinance 99-01, which was originally adopted on May 12, 1999. The proposed revisions have been requested by Kenaitze's Court Code Committee, then finalized by the Policies, Ordinances and Procedures Tribal Council Workgroup.

Pursuant to Ordinance 2017-02, Administrative Procedures Ordinance Regulating the Enactment of Tribal Ordinances, a 30 day Tribal Member commentary period must be provided before an ordinance may be amended and restated by Tribal Council. This notification of commentary period is being provided in accordance with this ordinance, along with a redlined copy of Tribal Court Ordinance 99-01 for you to review the proposed revisions. An electronic copy of the revised ordinance may be viewed on the KIT website at www.kenaitze.org.

The Tribal Council is pleased to provide this opportunity for Tribal Member input, and we ask that you do so by December 1, 2024.

Please direct all questions and commentary by the deadline provided to Sasha Jackson, Tribal Council Office Manager, at SJackson@kenaitze.org. You may also direct your questions via phone at (907)335-7200.

Duk'idli (Respectfully),

Bernadine Atchison
Tribal Council Chair
Kenaitze Indian Tribe

www.kenaitze.org

Phone: 907-335-7200 • FAX: 855-335-8865

P.O. Box 988 • Kenai, AK 99611

**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 (“Tribal 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 (“Tribal Council”), has the authority to operate the Kenaitze Tribal Court pursuant to its inherent sovereignty authority consisted 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 Tribal Court is to honor and acknowledge our prior Customs, History and Traditions, and Experience for the purpose of preserving, strengthening and continuing the Tribal Court into the future. The Tribal 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 Tribal 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 Tribal 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, as a minimum:

1. Be enrolled as a Kenaitze 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

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

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

C. **Terms**

~~{RepealedDate}~~

~~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 (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. Immediate family members shall not sit on same cases together.

E. Removal of Judges

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

F. Filling Judicial Vacancies

1. The Tribal Council Office Manager shall publish public notice of any judicial vacancies to the Tribal Membership as they occur
2. Letters of Intent shall be sent to the Tribal Council Office Manager by the respective deadline
3. Once the deadline has passed, the Tribal Council Office Manager shall forward all letters of intent for Tribal Court Judge to the Tribal Chief Judge
4. The Chief Judge will create a panel of up to three (3) Tribal Judges to review Letters of Intent. Immediate family members shall not sit on the same review panel
5. Once the review panel makes the selection(s) for the Judge vacancy, they will forward their recommendations to the Tribal Council Office Manager for Tribal Council review, and the Tribal Council Office Manager shall include all letters of intent for Tribal Council review submitted by the deadline

- ~~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 a 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 Tribal Council shall serve as the Appellate Court or may appoint Judges from another Tribe when necessary.

Section 8. LEGAL AND PROFESSIONAL CONSULTATION

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

Section 9. ELDERS AND ADVISORS

The Tribal 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 Tribal Court Judges, Tribal 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 Tribal Court unless I am otherwise permitted by the Tribal 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 Tribal 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 Tribal 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, Tribal 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.

Section 14. Definitions

Just Cause: means a Tribal Judge's misconduct or other relevant, willful event justifying the immediate dismissal, suspension or removal of a Tribal Judge- ~~judge~~.

Substantial Evidence: means that degree of relevant evidence which a reasonable person, considering the entire record, might accept as adequate to support a decision, even though other reasonable persons might disagree. ~~This is a lower standard of proof than preponderance of the evidence. (51/49)~~

Effective Date: This Ordinance adopted by the Tribal Council on _____ shall become effective on _____.

Yea _____
Nay _____
Abstain _____

Chairperson
Kenaitze Tribal Council

Secretary
Kenaitze Tribal Council

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Abstain _____

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