

ROUND VALLEY INDIAN TRIBES
TRIBAL COURT CODE
ENACTED AUGUST 16, 2013

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CHAPTER 1. GENERAL PROVISIONS

Section 1.01 Establishment of Tribal Court

The Round Valley Indian Tribes establishes a department within the Judiciary to be known as the Tribal Court. In addition to a Tribal Court, the Tribal Council may establish a Court of Appeals by resolution.

Section 1.02 Purpose

This Ordinance is enacted to establish and provide the processes and procedures for the Tribal Court to exercise the Tribe's inherent judicial power: to preserve and protect both Tribal and individual resources; to preserve and protect Tribal culture and traditions; and to protect the health and safety of Tribal members and individuals within the jurisdiction of the Tribe.

In resolving matters before the Tribal Court the objective of the Tribal Court shall be to discover and determine facts and, to the extent possible, seek a resolution that repairs relationships, results in fairness, and uses retribution and punishment only when necessary.

Section 1.03 Application and Scope

The provisions of this Ordinance are to be uniformly applied and enforced and govern the rules, procedures, methods, and protocols for the adjudication and enforcement of Tribal law.

Section 1.04 Jurisdiction

In accordance with Article VI, Section 2 of the Constitution, the Judiciary shall exercise jurisdiction over all cases and controversies within the jurisdiction of the Tribe, in law and equity, whether civil or criminal in nature, that arise under the Tribe's constitution, the laws and customs of the Tribe, by virtue of the Tribe's inherent sovereignty, or by authority vested in the Tribal Courts by Federal law.

The jurisdiction of the Court includes:

(A) Territory:

- (1) In accordance with Article I of the Constitution, all lands within the original boundaries of the Reservation;
- (2) Off-Reservation lands owned by, held in trust for, leased, or used by the Tribe, its members, or any other entity established by the Tribe;
- (3) Off-Reservation lands as provided for in other applicable Tribal law; and
- (4) The Tribe's Indian Country as defined in 18 U.S.C. 1151.

(B) Persons and Entities:

- (1) The Tribe and Tribal entities;
- (2) Persons or entities employed by the Tribe;

- (3) Persons or entities who have entered into contracts with the Tribe or a Tribal entity;
- (4) Persons or entities doing business within the territorial jurisdiction of the Tribal Court;
- (5) Tribal members;
- (6) Other Indians;
- (7) Any person who is considered an Indian by the Tribe;
- (8) All persons or other entities that have consented to the jurisdiction of the Tribe or Tribal Court;
- (9) Persons or entities that engage in any conduct that affects the ability of the Tribe to govern itself or threatens the health, safety or welfare of the Tribe, Tribal members, or the residents of the Reservation; and
- (10) Persons or entities that engage in any conduct that threatens or has some direct effect on the political integrity or economic security of the Tribe.

(C) Subject Matter:

The Tribal Court has subject matter jurisdiction over all actions, cases, or controversies arising under: the Tribe's Constitution; laws and ordinances of the Tribe which contain express grants of jurisdiction to the Tribal Court; customs of the Tribe; the Indian Child Welfare Act; and any other federal statutes that grant jurisdiction to tribal courts. Decisions of any committee, commission, board or authority of the Tribe are appealable if specified by Tribal law or policy. The Tribal Court may decline to exercise its jurisdiction if it finds:

- (1) Another court has the jurisdiction to hear the case and would be more convenient for the parties than the Tribal Court;
- (2) One of the parties is not a person or entity over which the Tribal Court can exercise its authority; or
- (3) The case is of such a nature that the Tribal Court should not hear it.

(D) Full Faith and Credit.

The Tribal Court shall give full faith and credit to the orders and judgments of the courts of other tribes, states, countries, and the federal government unless:

- (1) The court in question does not recognize the orders and judgments of the Tribal Court;
- (2) The court in question did not have jurisdiction over the case or a party or parties to it;
- (3) The order or judgment was based on fraud;
- (4) To do so would violate the public policy of the Tribe; or
- (5) The order or judgment is not final.

Section 1.05 Immunity of the Tribe

- (A) Nothing in this Ordinance constitutes a waiver of the Tribe's sovereign immunity.
- (B) In all actions before the Tribal Court, the Court shall uphold the Tribe's sovereign immunity to the maximum extent permitted by the Tribe's Constitution, Tribal law, and federal law and any waiver shall be strictly construed in favor of the Tribe.
- (C) In accordance with Article XIII, Section 3 of the Constitution, the Tribe, tribal officials and employees shall be subject to suit for declaratory and injunctive relief in the Tribal Court by persons subject to tribal jurisdiction for the purposes of enforcing the rights and duties established by this Constitution or other applicable laws.
- (D) The Tribal Court shall constitute the court of first instance for any and all determinations of a Tribal waiver of sovereign immunity except where the waiver explicitly states otherwise.

Section 1.06 Judicial Power of the Court

- (A) In accordance with Article VI, Section 3 of the Constitution, the Judiciary shall have the power to:
 - (1) Interpret, construe and apply the law of, or applicable to, the Tribe;
 - (2) Declare the laws of the Tribe void if such laws are not in agreement with the Tribe's Constitution;
 - (3) Issue injunctions, attachments [preliminary seizure of property], writs of mandamus [orders to a governmental body to perform a legally required act], quo warranto [order to challenge person's right to office or legality of an entity], review, certiorari [higher court order to review lower court decision and proceedings] and prohibition [higher court order to lower court and parties not to exercise jurisdiction], and to issue writs of habeas corpus [order to law enforcement to appear with a person in custody to determine the legality of that person's confinement] to any part of the Tribe upon petition by, or on behalf of, any person held in actual custody;
 - (4) Establish court procedures for the tribal judiciary, except that the Tribal Council may by ordinance alter such procedures consistent with this Constitution.

Section 1.07 Liberal Construction

This Ordinance will be liberally construed to give full effect to the purposes for which it was enacted.

Section 1.08 Interpretation of Law

The Tribal Court shall liberally construe this Ordinance and Tribal law to provide for a fair hearing and fair enforcement of Tribal law, except for Tribal waivers of sovereign immunity, which shall be strictly construed. If there is no applicable Tribal law, the court may look to other tribal, federal or state law for guidance as long as it does not conflict with

Tribal law.

Section 1.09 Conflicts With Other Laws

- (A) Tribal Laws. All provisions of any previously enacted ordinances of the Tribe that conflict in any way with the provisions of this Ordinance are hereby repealed.
- (B) Federal Laws. Unless otherwise prohibited by federal law, this Ordinance will apply in all cases where federal law is in conflict with this Ordinance or permits a choice of Tribal or federal law.
- (C) State Laws. To the extent that the laws of any state may be applicable to the subject matter of these provisions, such laws may be considered as advisory and not directly binding.

Section 1.10 Amendment of Tribal Court Code

Amendments to this Ordinance become part of the Ordinance for all purposes and will be codified and incorporated herein in a manner consistent with the numbering and organization of this Ordinance.

The Tribal Council by resolution may establish and appoint members to a Tribal Judiciary Committee with responsibility for recommending amendments to this Ordinance.

Any Tribal member may submit recommended amendments to the Tribal Council or Committee. The Tribal Council or Committee may review the proposed amendment for the purposes of determining its fairness and to verify that the proposed amendment does not conflict with the Tribe's constitution or any other section in this Ordinance.

The Tribal Council and Tribal Judiciary Committee may consult with the Tribal attorney and any other appropriate Tribal entity during the review process. The Committee, after reviewing the proposed amendment and all comments, will provide the proposed amendment to the Tribal Council for review and comment and Committee's recommendation whether to amend the Ordinance.

Section 1.11 Adoption of Court Rules

- (A) In accordance with Article VI, Section 13 of the Constitution, court rules that detail the duties and procedures of the Judiciary, shall be established by the Tribal Court of Appeals consistent with the terms of the Tribe's Constitution. If no Tribal Court of Appeals has been established, the Tribal Court shall establish the court rules.
- (B) In accordance with Article VI, Section 3 of the Constitution, the Tribal Council maintains authority to alter court procedures consistent with the Constitution.
- (C) If any court rule enacted by the Tribal Court of Appeals conflicts with or is inconsistent with a specific Tribal law or provision, that Tribal law or provision shall govern.

CHAPTER 2. DEFINITIONS

For the purposes of this Ordinance, the following words have the definitions attached to them in this Ordinance, unless a definition is otherwise apparent from the context of this Ordinance.

“Action” means a court proceeding to address a dispute or violation of the law.

“Constitution” means the Constitution of the Round Valley Indian Tribes that was duly adopted by qualified voters on August 3, 1994.

“Entity” means a corporation, partnership, firm, business, group, team, organization, subdivision, association, municipality, foreign government or other organizational structure or corporate form with a legal and separately identifiable existence, but excluding natural persons and the Tribe, any of its enterprises or subdivisions or any of its officers, agents or employees while acting in their official capacity..

“Immediate Family Member” means a person’s spouse, parent, sibling, or child, either by birth, adoption, marriage, or co-habitation.

“Judiciary” means that division of the Tribe detailed in Article VI of the Tribe’s Constitution and includes the Tribal Court.

“Judge” means a Chief Judge or Associate Judge of the Tribal Court.

“Justice” means a Chief Justice or Associate Justice of the Court of Appeals.

“Party” means a person who is officially designated as a litigant (plaintiff or defendant) in a proceeding which is encompassed within any procedure under this Ordinance.

“Person” or **“Natural Person”** means a human being.

“Representative” means all persons admitted to practice before the courts of the Tribe as authorized by Tribal law, order of the Tribal Court or order of the Tribal Council.

“Reservation” all land, air and waters within the exterior boundaries of the Round Valley Indian Reservation and all lands claimed by the Tribe to which the Tribe may establish title.

A **“Seizure”** occurs when a law enforcement officer has taken possession of real or personal property on behalf of the Tribe and pursuant to Tribal law.

“Tribe” means the Round Valley Indian Tribes of the Round Valley Reservation.

“Tribal Law” includes the Constitution, ordinances, resolutions, common law, customary law, and other legislative enactments adopted by the Tribe.

“Tribal Court” or **“Court”** means that department within the Judiciary established by this Ordinance and which is the Tribal court of first instance.

“Tribal Entity” means an entity owned by or subject to the control of the Tribe, including Tribal corporations, subdivisions, and governmental units, but excluding natural

persons.

“**Tribal Judiciary Committee**” or “**Committee**” is a committee of Tribal members who may be appointed by the Tribal Council to offer and review proposed amendments to the Ordinance and oversee the administration of the Tribal Court.

“**Tribal Member**” means an enrolled member of the Round Valley Indian Tribes.

CHAPTER 3. ORGANIZATION OF THE COURT

Section 3.01 Composition of the Court

(A) Tribal Court

In accordance with Article VI, Section 4 of the Constitution, the Tribal Court shall be composed of one Chief Judge and may include Associate Judges if the Tribal Council determines they are necessary

(B) Tribal Court of Appeals

In accordance with Article VI, Section 5 of the Constitution, the Appellate Court shall consist of one Chief Justice and two Associate Justices.

Section 3.02 Funding of the Court

The Tribal Court will be funded by general appropriations from the Tribe; from filing fees, penalties, and assessments for costs to persons before the Judiciary; from federal appropriations or grants; and from such other sources of revenue as the Tribal Council deems appropriate.

Section 3.03 Tribal Court Administration

The Tribal Council may establish the administrative structures of the Judiciary by resolution.

Section 3.04 Court Records

Court records are subject to the following rules:

- (A) Records of the courts of the Tribe will be kept in the Office of the Tribal Court Clerk on the Reservation and may only be removed with the consent of the Tribal Court Clerk for the purpose of court hearings.
- (B) All testimony and arguments given in open court will be electronically recorded by the Tribal Court Clerk and will be a part of the record for the case and be kept with the other records of the case.
- (C) All records of the courts of the Tribe are confidential, except as otherwise provided in this Tribal Court Code or as directed by the Tribal Court.

- (D) A party may be permitted to make or receive copies of the public records of the courts of the Tribe by ordinance, Rules of the Court, or the Tribal Court Judge.

Section 3.05 Personnel Policies for Court Staff

Tribal Court support staff will be subject to the Tribe's personnel policies and procedures unless otherwise stated by Tribal policy, resolution, or ordinance. The Tribal Court Judge may be required to complete performance reviews of staff and judicial personnel assigned to the Tribal Court.

CHAPTER 4. JUDGES

Section 4.01 Appointment of Judges

In accordance with Article VI, Section 6 of the Constitution:

- (A) The Tribal Council shall appoint one Chief Judge to the Tribal Court. The Tribal Council may appoint Associate Judges to the Tribal Court.
- (B) The Tribal Council shall appoint one Chief Justice and two Associate Justices to the Tribal Court of Appeals.
- (C) Should a vacancy occur through death, resignation or otherwise, for any of the judicial positions, the Tribal Council shall appoint a person or persons to fill such vacancy or vacancies for the remainder of the term. All Judges shall be eligible for reappointment.

Section 4.02 Qualifications of Judges

In accordance with Article VI, Section 8 of the Constitution, the Chief Justice of the Tribal Court of Appeals and at least one other Associate Justice of the Tribal Court of Appeals shall be graduates of an accredited law school.

All Individuals recommended by the Tribal Judiciary Committee for appointment and confirmation as a Tribal Court Judge must:

- (A) Have a law degree (juris doctor);
- (B) Have a minimum of 7 years of experience practicing law, which may include service on a tribal, federal or state court bench;
- (C) Have a demonstrable knowledge of Indian, federal and California law.
- (D) Be knowledgeable of the Constitution and laws of the Tribe;
- (E) Be a person of honor, integrity and good moral character. This may be

supported by letters or statements of recommendation to the Tribal Council or Tribal Judicial Committee, if established, from people who are not immediate family members of the person nominated for office;

- (F) Agree to be subject to a background investigation conducted by the Tribe; and
- (G) Not have been convicted by a federal, state, or tribal court of an act involving dishonesty, corruption, a violent felony, elder abuse, or child abuse.

In accordance with Article VI, Section 8 of the Constitution, no additional requirements may be added during the tenure of and of the Judges or Justices already in office.

Section 4.03 Ongoing Eligibility of a Judge.

A Judge:

- (A) May not serve in any capacity or hold any office that may affect the individual's actual or perceived judicial impartiality;
- (B) May not concurrently serve as a member of an administrative board or panel empowered by the Tribe to issue decisions on the basis of Tribal law; and
- (C) Must adhere to judicial ethics as established by the Tribe.

Section 4.04 Judicial Terms of Office

- (A) Tribal Court. In accordance with Article VI, Section 6(a) of the Constitution, the Chief Judge shall serve for three years. Associate Judges shall serve for two years.
- (B) Court of Appeals. In accordance with Article VI, Section 6(b) of the Constitution, the Chief Justice shall serve for four years. Associate Justices shall serve for three years.

Section 4.05 Oath of Office

Prior to taking office, and in the presence of the Tribal Chairperson, all Judges must take the following oath of office:

I, _____, do solemnly promise that I will respect and uphold the Constitution and laws of the Round Valley Indian Tribes; that I will discharge the duties of the Tribal Court Judge faithfully, honestly, and impartially to the best of my ability; and that I will maintain a professional and respectful manner and demeanor at all times.

Section 4.06 Judicial Salaries

In accordance with Article VI, Section 9 of the Constitution:

- (A) All Judges and Justices shall receive reasonable compensation for their services.
- (B) Once established, a Judge's salary may not be reduced by the Tribal Council during his or her term of office.

Section 4.07 Judicial Duties

A Tribal Court Judge must:

- (A) Every September 1, provide an annual written report to the Tribal Council detailing current and anticipated case loads, general business conditions existing in the Court, funding needs, and recommendations for improving ongoing operations.
- (B) Ensure that all orders, opinions, and decisions of the Tribal Court are documented and maintained in accordance with recordkeeping policies established by the Court.

Section 4.08 Judicial Code of Conduct

- (A) In accordance with Article VI, Section 10 of the Constitution, a Judge must recuse him or herself from hearing a matter or taking part in any deliberation that involves immediate family members, in which he or she has any direct financial interest, where there is any reason the Judge cannot be impartial, or where the Judge finds that a reasonable person would believe that the Judge could not be impartial.
- (B) A Judge must make good faith efforts to review Court Calendars prior to scheduled hearing dates for the purpose of considering whether he or she should recuse him or herself from any matters.

Section 4.09 Removal or Discipline of Justices

In accordance with Article VI, Section 11 of the Constitution:

- (A) The Tribal Council may suspend, dismiss or remove any Judge or Justice for any of the following reasons:
 - (1) Conviction of a felony;
 - (2) Failure to disqualify himself or herself in accordance with this Ordinance or the Tribe's Constitution;
 - (3) Unnecessary and repeated lengthy delays in hearing and adjudicating matters filed in Tribal Court;
 - (4) Gross neglect of duty or other good cause.
- (B) The Tribal Council may suspend, dismiss or remove a Judge or Justice only by a majority, roll call vote, with at least six (6) members of the Tribal Council

present and voting (not abstaining);

- (C) A Judge or Justice shall be given full due process rights including a full and fair opportunity to reply to any and all charges for which he or she may be suspended, dismissed or removed from judicial office.

For purposes of this section, good cause includes, but is not limited to, failure to adhere to judicial ethics or a conviction by a federal, state, or tribal court of an act involving dishonesty, corruption, a violent felony, elder abuse, or child abuse.

CHAPTER 5. LEGAL REPRESENTATION

Section 5.01 Legal Representatives

Any person who is a party in any civil trial or proceedings before the Tribal Court may represent themselves or be represented by any other person who is licensed to appear before the Court. The Clerk of the Court, a Judge or Justice, or a member of the Tribal Council may not act as a representative for any person or party.

Section 5.02 Licensing of Lay Representatives

Lay persons may become licensed to practice in the Tribal Court by:

- (A) Filing an affidavit with the Tribal Court Clerk which states that the applicant has studied and is familiar with the Tribe's Constitution, this Ordinance and all other Tribal laws;
- (B) Paying an annual license fee of \$50.00 to the Tribal Court; and
- (C) Taking the oath, as established by the Court Rules, before the Tribal Court Clerk, either in person or by affidavit.

Section 5.03 Licensing of Attorneys

Licensed attorneys may appear on behalf of any party in any trial or appellate proceeding before the Tribal Court, provided they are licensed to practice law before the Tribal Court. Such license will be issued upon compliance with the following:

- (A) Filing with the Tribal Court Clerk an affidavit which states the following:
 - (1) That the applicant is licensed to practice law in a state or has graduated from an accredited law school; and
 - (2) That the applicant has studied and is familiar with the Tribe's Constitution, this Ordinance and all other Tribal laws;
- (B) Paying an annual license fee of \$100.00 to the Tribal Court; and

- (C) Taking the an oath, as established by the Court Rules, before the Tribal Court Clerk, either in person or by affidavit.

Section 5.04 Revocation of License

Any license issued pursuant to this section may be revoked or suspended by the Tribal Court. Such action may be taken on its own motion or upon a sworn complaint by any person. Revocation or suspension will be ordered only after written notice to the licensee of the motion or complaint and after a hearing before the Tribal Court unless a conflict of interest prohibits such participation. Following a hearing, the Tribal Court may revoke or suspend the license upon a finding that the licensee has: been disbarred or suspended from the practice of law by any federal, state or tribal court; filed a false affidavit with the Tribal Court Clerk to obtain his or her license; violated his or her oath made before the Tribal Court Clerk; engaged in misconduct or unethical conduct in the performance of his or her duties as an attorney; or has been found in contempt of court by the Tribal Court.

Legislative History:

Adopted by the Tribal Council on August 16, 2013.