

TRIBAL CIVIL ORDINANCE

CLARKS POINT VILLAGE COUNCIL
TITLE II. TRIBAL CIVIL LAW AND ORDER ORDINANCE
Clarks Point, Alaska
Code/Ordinance No. 2023-2
Adopted: 7/27/2023

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CHAPTER 1: CIVIL LAW AND ORDER

01.10. Preamble

- (a) Clarks Point Village Council is a federally recognized Indian Tribe and a traditional Alaska Native village located within Bristol Bay, Alaska. Clarks Point exercises all sovereign powers of an Indian Tribe consistent with federal Indian Law.
- (b) This ordinance is adopted by the elected representatives of the Council under Clarks Point's sovereign powers to organize its internal affairs. The purpose of this ordinance is to ensure the health, safety, welfare, and dignity of village members. This ordinance defines behaviors and actions deemed unacceptable under tribal law and customs and available methods of enforcement.
- (c) Clarks Point exercises authority over all village lands and property owned by the village. Clarks Point exercises jurisdiction over individuals currently residing on, employed on, entering into, or passing through its territories. The provisions of this Ordinance shall apply to all Persons and property within the Tribe's Jurisdiction, as expressed above, to the fullest extent possible.
- (d) If any section of this ordinance is found invalid, the remainder of the ordinance and its application shall still be in effect.

01.20. Definitions

"Abuse" means to treat with cruelty or violence.

"Banishment" means sending a person out of the territorial jurisdiction of the village for a period of time or permanently.

"Contagion" means the communication of disease from one person to another by close contact.

"Defacement" means the action or process of spoiling the surface or appearance of something.

"Embezzlement" means the theft or misappropriation of funds placed in one's trust.

"Extortion" means the practice of obtaining something, especially money, through force or threats.

"Felonies", under federal law, means a crime whose punishment calls for either 1) one year or more in jail, or 2) for capital punishment.

"Fraud" means the wrongful or criminal deception intended to result in financial or personal gain.

"Harass" means to target someone with behavior meant to alarm, annoy, torment, or terrorize, *and* creating reasonable fear in the victim for their safety or the safety of their family or property.

"Intoxicating" means causing drunkenness, leading to any or all of the following: impaired senses, impaired locomotion, impaired judgement, altered states of consciousness.

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“Joyriding” means the unlawful taking of a motor vehicle without the consent of the owner, without intent to deprive owner permanently of the vehicle.

“Minor” means someone under 18 years of age; someone not legally an adult.

“Motor Vehicle” means any machinery used primarily for transportation. This includes automobiles, trucks, motorcycles, snowmachines, boats, and jet skis, All Terrain Vehicles (ATVs), and scooters.

“Narcotics”, commonly referred to as “drugs.” Clarks Point adopts the definition of illegal narcotics as defined under federal and state law. In the event of a conflict between federal and state law, federal law prevails.

“Psychoactive” means chemical substances that change a person's mental state by affecting the way the brain and nervous system work, leading to any or all of the following: impaired senses, impaired locomotion, impaired judgement, altered states of consciousness.

“Public” means any area where there is no reasonable expectation of privacy, especially areas commonly used by large groups of people for daily activities and transportation. This includes municipal buildings, streets and thoroughfares, places of assembly, and businesses.

“Trespass” means the physical occupation of another’s land without permission or legal privilege.

01.30. Narcotics

(a) It shall be unlawful for an individual to consume, sell, distribute, solicit, or possess illegal narcotics.

01.40. Alcohol

(a) It shall be illegal for individuals under 21 years of age to consume alcohol.

(b) It shall be illegal to sell, offer, or distribute alcoholic beverages to any individual under 21 years of age.

(c) It shall be illegal to sell or distribute alcohol without an appropriate license.

(d) It shall be illegal to sell, distribute, or offer alcohol to any individual visibly intoxicated.

01.50. Weapons

(a) Any weapon that is illegal to possess under federal or state law is likewise illegal within Clarks Point. In the event of a conflict between federal and state law, federal law prevails.

(b) It is illegal to sell, buy, or possess any weapon without a lawful license if a lawful license is so required for sale, purchase, or possession.

(c) It is illegal to operate or carry a weapon while visibly under the influence of an intoxicating or psychoactive substance.

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01.60. Sexual Offenses

- (a) It is illegal to have sexual relations with a minor.
- (b) It is illegal to have forced, non-consensual sexual relations with another individual.
- (c) It is illegal to sell, buy, or solicit sexual relations for monetary gain or commercial profit.
- (d) It shall be illegal to have sexual relations in public where such activities can be seen or heard by passers-by.
- (e) It shall be illegal to expose one's genitals in public.

01.70. Disorderly Conduct

- (a) It is illegal to appear in public while visibly under the influence of an intoxicating or psychoactive substance.
- (b) It is illegal to urinate or defecate in public.
- (c) It is illegal to engage in overly loud or raucous behavior which disturbs the peace.

01.80. Children and Domestic Violence

- (a) It shall be illegal to abuse any child physically, sexually, or mentally within Clarks Point.
- (b) All parents residing within Clarks Point have a legal obligation to provide nourishment, housing, education, and necessary medical care for their children.
- (c) It shall be unlawful for any person within Clarks Point to physically harm or cause apprehension of immediate physical harm to a person's spouse, children, or other extended family member.

01.90. Public Health and Sanitation

- (a) All residents and businesses within Clarks Point must dispose of trash as called for under local ordinances.
- (b) It shall be illegal for anyone to litter in public places.
- (c) It shall be illegal to dump or store toxic materials within Clarks Point except as provided for by law.
- (d) It shall be illegal to knowingly violate social distancing protocols and other pertinent orders and practices as defined by village health officials in a time of contagion.

01.110. Traffic and Motor Vehicles

- (a) All motor vehicles will obey posted speed limits and traffic signs.
- (b) It is unlawful to operate a motor vehicle without the requisite license.
- (c) It is unlawful to operate a motor vehicle recklessly or while under the influence of an intoxicating or psychoactive substance.
- (d) It shall be illegal to engage in joyriding.

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01.120. Financial and Business

- (a) It is illegal to engage in fraud, embezzlement, extortion, unfair or unsavory business practices as defined by federal law or the law of the State of Alaska.
- (b) All contracts signed within Clarks Point shall be given the full effect of contract law.

01.130. Crimes Against People

- (a) It is illegal to cause bodily harm to another except in the cause of self-defense.
- (b) It is illegal to engage in behavior whose sole objective is to harass another, whether the interaction is in-person, via mail or publication, or via radio, internet, or telephone.
- (c) It is illegal to threaten violence or harm, whether the interaction is in-person, via mail or publication, or via radio, internet, or telephone.
- (d) It is illegal to use a weapon in a threatening manner whether or not the weapon actually caused harm or destruction.
- (e) It is illegal to trespass on another's property.
- (f) It is illegal to cause destruction, damage, defacement, or theft of personal property.

01.140. Crimes Against the Village

- (a) It is illegal to violate any curfew established by Clarks Point Village Council.
- (b) It is illegal to engage in hunting, fishing, or trapping within Clarks Point without lawful authority or permission.
- (c) It is illegal to cause destruction, damage, defacement, or theft of village property or natural resources.
- (d) It is illegal to enter or attempt to enter village lands without lawful permission to do so; or to remain on village lands after having been given notice that lawful permission was rescinded.
- (e) It is illegal to engage in the harassment, upbraiding, verbal abuse, and egregious disrespect directed to village members, village officers, members of the Council, or to the village's customs or culture.

01.150. Enforcement

- (a) As a sovereign power, Clarks Point may enforce violations of any of the above. However, no enforcement shall violate the provisions of the 1968 Indian Civil Rights Act, 25 U.S.C. § 1301 *et seq.*
- (b) Every violation of the civil code shall be considered a separate offense.
- (c) The penalties for violations shall apply as follows:
 - (1) A first-time violation may incur a fine of up to \$500, or other equal sanction.
 - (2) A second-time violation may incur a fine of up to \$1000, or other equal sanction.
 - (3) A third-time violation may incur a violation of up to \$5000, an equal sanction, or temporary banishment as defined in the Banishment Code.

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- (4) For any crime that would be considered a felony under federal law, Clarks Point may resort to permanent banishment as defined in the Banishment Code.
- (5) Other penalties may include traditional sanction such as:
- a. **Confiscating Personal Property:** The Tribal Court may seize a person's personal property if that person is found in Contempt of Court by the CLARKS Point Tribal Court, for not doing what the Court has ordered. The property shall remain confiscated until the person complies with the Court Order to the satisfaction of the CLARKS Point Tribal Court. If the person does not comply with the Court Order within six months, the CLARKS Point Tribal Court may sell the confiscated property after providing notice and a hearing regarding the proposed sale.
 - b. **Community Work:** Work sentences can include, but are not limited to, cutting wood, hauling water, hauling and pumping fuel, hauling honey buckets, picking and dumping trash, maintenance, and repair work. The work sentences shall benefit the needy, the village residents as a whole, the elders, the victim of an offense, or the youth. Tribal Court Judges shall not pass work sentences that only benefit themselves personally or other tribal government officials. Work sentences shall be completed within thirty (30) days unless otherwise directed by the Court. Community work shall contribute \$15.00 per hour towards fines ordered by the CLARKS Point Tribal Court.
 - c. **Drug and Alcohol Treatment and Other Counseling:** The Tribal Court may order drug and alcohol treatment, and other personal counseling as a sentence or as a part of a sentence. The Tribal Court shall consider the cost to the person and possible waiting periods for getting into treatment in ordering such treatment.
 - d. **Restitution:** The Tribal Court has the authority to order the defendant to pay restitution to his or her victims.
 - e. **Counseling by Judges:** In a helpful spirit, the Judges of the CLARKS Point Tribal Court may counsel people brought before it.
 - f. **Other forms of Restorative Justice:** The Tribal Court may also consider other restorative justice alternatives including: circle and peacemaking sentencing, youth court, and any other remedy that the Tribal Court determines to be culturally relevant.

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CHAPTER 2: BANISHMENT

02.10. Preamble

- (a) Clarks Point is a traditional Alaska Native fishing located within the Bristol Bay Region, Alaska. Clarks Point is a federally recognized indigenous tribe. Clarks Point exercises all powers consistent with a sovereign tribe under federal Indian law. Fundamental to the power of sovereignty is the power to exclude persons from the territory of the tribe.
- (b) Clarks Point Village Council (“Council”) finds it necessary to ensure the health, safety, welfare, and dignity of village members, and to protect village property and assets. This ordinance is adopted by the elected representatives of the Council under Clarks Point’s sovereign powers to organize its internal affairs. The purpose of this ordinance is to articulate criteria for the substance and process of banishing persons from the territories of the village.
- (c) The tribe enjoy Sovereign Immunity and is immune from suit. All Council members and tribal officers, whether civil or law enforcement, enjoy immunity from suit for any claim of injury, loss, or damage when enforcing this ordinance.
- (d) If any section of this ordinance is found invalid, the remainder of the ordinance and its application shall still be in effect.

02.20. Jurisdiction

- (a) Clarks Point exercises authority over all village lands and property owned by the village.
- (b) Clarks Point exercises jurisdiction over individuals currently residing on, employed on, entering into, or passing through its territories.
- (c) The provisions of this Ordinance shall apply to all Persons and property within the Tribe’s Jurisdiction, as expressed above, to the fullest extent possible.

02.30. Banishment in General

- (a) Banishment shall be considered a remedy of last resort.
- (b) *Temporary banishment* shall be defined as a period lasting not less than a year but not exceeding ten years.
- (c) *Permanent banishment* shall be defined as a period lasting for the duration of the lifetime of the offender, unless the Council subsequently rescinds the banishment order.
- (d) Clarks Point may banish an offender only from village lands and village owned property. Clarks Point may not seek to interfere with an individual’s right to travel outside of Clarks Point’s jurisdiction.

02.40. Grounds for Temporary Banishment

- (a) The following offenses constitute grounds for *temporary banishment*:
 - 1) repeated public drunkenness or driving while under the influence.
 - 2) destruction, damage, defacement, or theft of village property or natural resources.

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- 3) hunting, fishing, or trapping without lawful authority or permission or in violation of village ordinance or federal law.
- 4) the unlawful dumping of trash, refuse, waste, or toxic waste on village lands.
- 5) harassment, upbraiding, verbal abuse, and egregious disrespect directed to village members, village officers, members of the Council, or to the village's customs or culture.
- 6) Sexual or physical assault.
- 7) Trespass; entry or attempt to enter village lands without lawful permission to do so; or remaining on village lands after having been given notice that lawful permission was rescinded.
- 8) fraud, embezzlement, extortion, unfair or unsavory business practices as defined by federal law or the law of the State of Alaska.
- 9) when, in time of contagion, the person is not complying with social distancing protocols and other pertinent orders and practices as defined by village health officials.

02.50. Grounds for Permanent Banishment

- (a) The following offenses constitute grounds for *permanent banishment*:
- 1) violent crimes that would be considered felonies under the laws of the federal government or the State of Alaska.
 - 2) sexually based offenses that would be considered felonies under the laws of the federal government or the State of Alaska.
 - 3) narcotic-related offenses that would be considered felonies under the laws of the federal government or the State of Alaska.
 - 4) threatening members of the village with a firearm or other weapon.

02.60. Complaint for Banishment

The initiation of a complaint for banishment shall proceed as specified in CPV Judicial Ordinance 02.30(a)-(b).

02.70. Decision to Proceed with Banishment Process

The decision to proceed with the banishment process shall be governed by CPV Judicial Ordinance 02.30(d)-(e).

02.80. Notice

The Village Public Safety Officer (VPSO), Tribal Police Officer (TPO), or other tribal designee shall serve notice to Defendant in accordance with CPV Judicial Ordinance §02.40.

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02.90. Hearing

Hearings on banishments shall be conducted in accordance with CVP Judicial Ordinance §§ 02.50-02.120.

02.110. Banishment Order

- (a) The provisions of this section, 02.110 “Banishment Order,” are controlling for this provision and override any rules or procedures otherwise specified in the CPV Judicial Ordinance.
- (b) If Council votes for banishing Defendant, the Council shall file a Banishment Order with the Village Secretary.
- (c) The Village Secretary shall direct the VPSO, TPO, or authorized official to deliver the Banishment Order to Defendant, either through personal service, by leaving at a confirmed residence, or by first class mail.
- (d) The Banishment Order shall be effective upon deliverance.
- (e) The Banishment order shall include the following:
 - 1) the name and address of the Defendant.
 - 2) the date the Banishment Order was issued.
 - 3) whether the Banishment order is temporary or permanent; and if temporary, then the effective time period of Banishment.
 - 4) a written summary of the Council’s findings at hearing.
 - 5) whether Council determines defendants to be an immediate danger.
 - 6) the time for Defendant to vacate.
- (f) Upon delivery of the Banishment Order to Defendant, the time for Defendant to vacate shall be as follows:
 - 1) If the Council has indicated on the Banishment Order that Defendant is an immediate threat, Defendant will be escorted off village territory posthaste.
 - 2) Individual defendants not classified as immediate threats will be given 48 hours to voluntarily vacate, after which time Defendant must be escorted off village territory.
- (g) If Defendant leaves behind property, such property may be seized pursuant to CVP Civil Ordinance 01.150(5)(a).
- (h) Any individual attempting to enter village territory in violation of a Banishment order will be considered a trespasser and can be prosecuted under applicable law and custom.

02.120. Petitioning State Courts

- (a) The Council may petition the state courts of Alaska for a writ to have an Alaskan State Trooper enforce the order if the Council cannot find a member of the village to enforce the banishment order safely or effectively.

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02.130. Rescinding Banishment Orders

- (a) The Council may, of its own initiative, rescind a banishment order by majority vote. If banishment is rescinded, notice must be sent to the party at their last known address or mailing information.
- (b) A banished person may petition the council once a year, beginning a year after the effective banishment date, to rescind the banishment. When receiving a petition, the Secretary shall file it and place it on the next Council meeting. The council shall decide by majority vote. After voting, the Council must send a written notification of its decisions and reasons supporting those decisions to the petitioner. A copy of the written notification will remain on file with the Council's records.

CERTIFICATE OF ADOPTION

This Judicial Code replaces any previously adopted judicial codes or ordinances adopted by the Native Village of Clarks Point. The Clarks Point Judicial Code was submitted to a vote of the Clarks Point Tribal Council on July 27, 2023, and was duly adopted by a vote of 4 for and 0 against, during a regularly scheduled meeting of the Clarks Point Tribal Council for which notice was posted and tribal members had an opportunity to attend and voice their opinions and concerns about this Code.

PRESIDENT

Betty Gardner

VICE-PRESIDENT

Judy A. George

SECRETARY

[Signature]

MEMBER

Joseph Wandy

MEMBER

Felicia Lynch