

ROUND VALLEY INDIAN TRIBES
A Sovereign Nation of Confederated Tribes

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LOCATION: ON STATE HWY 162
ONE MILE NORTH OF COVELO
IN ROUND VALLEY
TRIBAL TERRITORY SINCE TIME BEGAN

ROUND VALLEY RESERVATION ESTABLISHED 1856

TRIBAL BUSINESS LICENSE

AND

STANDARDS ORDINANCE

OF THE

ROUND VALLEY INDIAN TRIBES

Adopted: June 27, 2006

ROUND VALLEY INDIAN TRIBES
COMPREHENSIVE BUSINESS CODE
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ROUND VALLEY TRIBES COMPREHENSIVE BUSINESS CODE BUSINESS LICENSE AND STANDARDS ORDINANCE

CHAPTER 3: BUSINESS LICENSING AND STANDARDS

TITLE 125: LEGISLATIVE FINDINGS AND PURPOSE:

125.03.01 Sovereign Power to Regulate Business, Impose Tax and License Fee

(1) The power and authority to regulate business conducted within the contiguous Reservation boundaries by all persons, Indian and non-Indian, is an inherent and an essential part of the authority of Tribal government. Business regulatory power is an aspect of the retained sovereignty of the Tribe except where it has been limited or withdrawn by applicable laws of the United States. This Title is enacted pursuant to the inherent sovereign tribal powers expressly delegated to the Round Valley Indian Tribes' Tribal Council in the Round Valley Indian Tribes Constitution. The primary responsibility to determine the meaning of the Tribal Constitution and by-laws, in the absence of a Tribal Court, lies with the Tribal Council to regulate the conduct of trade on the Reservation by both members and non-members alike.

125.03.02 Purpose

(1) The Round Valley Tribal Council finds that the regulation of persons engaged in trade and business on the Reservation is necessary to safeguard and promote the peace, safety, morals, and general welfare of the Tribe, accordingly, the privilege of doing business within the Reservation, except where such authority is limited or withdrawn from the Tribe by the applicable laws of the United States.

125.03.03 Pre-Existing Business, Special Purpose Projects, Benefits:

- (1) Any business that is pre-existing as of the date of enactment of this Tribal ordinance is still effected by this and other ordinances of the Round Valley Tribes Comprehensive Business Code, if the business activities:
 - (a) Are located within the contiguous boundaries of the Round Valley Indian Reservation; or,
 - (b) Are conducted within the contiguous boundaries of the reservation.
- (2) Any Business that elects not to utilize the Tribal Comprehensive Business Codes shall not be entitled to any of its protections and benefits, except as may be directed by the Tribal Council on a cases-by-case, except as prescribed in 125.03.03(3) below.
 - a. The business license requirements contained in this title shall not apply to special purpose fund raising projects, such as educational field trip or recreational projects.

- b. The normal scope of activities of Round Valley Tribal programs and departments shall not require licensing.
 - c. The normal scope of activities of the Covelo Sewage District, and other services provided by the County of Mendocino, shall not require licensing.
- (3) Nothing in this section may be construed as a waiver of sovereign authority over any business activities within the Tribe's jurisdiction, when the exercise of Tribal powers is necessary to safeguard and promote the peace, safety, morals, and general welfare of the Tribe and Reservation as prescribed by law.

125.03.04 Definitions:

The following terms, whenever used or referred to in this Title, shall have the following meanings, unless a different meaning clearly appears from the context:

- (1) "Agent" means the individual or individuals designated by any: licensee" to receive and accept "service of process".
- (2) "Applicant" means any "person(s) who submits an application to the Tribe for a business license and who has not yet received such license.
- (3) "Business" means any regular or 'Temporary business' activity engaged in by any "person" for the purpose of conducting a trade, profession or commercial activity involving the "sale" of any "property" or "services"; provided, however, that an isolated sale of property or services shall not be considered to be "business" under this Title. Business does not include special projects as defined in 103(3).
- (4) "Title" means the Business Licensing Title as enacted and amended by the Tribal Council".
- (5) "Company" means any "person" or group of people engaged in "Business".
- (6) "Council" means the Round Valley Tribal Council
- (7) "Director" means the Tribal Department of Economic Development Director acting in his or her official capacity.
- (8) "Governmental Entity" means the United States, the "Tribe." a state or any political subdivision, agency, or any regulatory agency
- (9) "Licensee" means any "person" who is granted a business license by the Tribe.
- (10) "Notice" means actual notice by hand delivery or by certified mail. For time computations as provided for this Title, which are to begin upon "notice", such notice shall be at delivery except that where delivery is not possible after three consecutive postal days due to the inaction of the "agent" notice shall be at the time of the first attempted delivery. Upon return of the forms of notice to the Director, the forms shall be mailed by regular mail.
- (11) "Person" means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, partnership, joint venture, public utility, club, business trust, nonprofit corporation, corporation, association, society, or any group of individuals action as a unit whether mutual cooperative fraternal, nonprofit, or otherwise and includes any instrumentality thereof. The term includes

members and nonmembers of the “Tribe,” but excludes any “governmental entity”.

- (12) “Property” means any existing and identified real or personal property, including, but not limited to “goods” as that term is defined by Section 105 of the Sales Title.
- (13) “Sale” means the transfer, exchange or barter, conditional or otherwise, of the ownership of title to, or possession of real or personal property for consideration. The term shall also include leases, conditional sales contracts, leases, with the option to purchase, and any other contract under which possession of the property is given to the purchaser but title is retained by the seller as security. It shall also include the furnishing of good food, drinks, or meals for compensation, whether or not consumed on the premises. It shall also include any conditional or unconditional provision of services for consideration.
- (14) “Services of Process” includes the delivery of show-cause orders, cease and desist orders, summonses, complaints and other documents of the “Director”, the Tribal Court, or the “Tribal Council”.
- (15) “Services” means the performance of labor for the benefit of another for consideration. It excludes labor performed by an employee for the benefit of his or her employer.
- (16) “Tribal member” or “member of the Tribe” means an enrolled member of the Tribe. A corporation, partnership or other entity shall be considered a Tribal member for purposes of this Chapter, only if 51% or more of the entity is owned by Tribal members.

125.03.05 Administration of Title:

(1) The Round Valley Indian Tribe’s Department of Economic Development is hereby delegated the responsibility to administer the provisions of this Chapter. The Department of Economic Development is hereby delegated all powers of which are specifically provided for in the Chapter, or impliedly necessary to implement its provisions, subject to the Tribal Council review of any action taken by virtue of such delegated powers.

125.03.06 Administrative Actions:

(1) The Department of Economic Development Director or Tribal Business Administrator shall promulgate regulations pursuant to this Chapter, formulating recommendations to submit to the Tribal Council for revisions of this Chapter or amendments to this Chapter; and, will take other action necessary for the administration of the provisions of this Chapter, and the Tribe’s comprehensive business code.

125.03.07 Agreements with Federal, State and Local Governments:

(1) In the event it is deemed appropriate to effectuate the provisions of this Chapter, the Tribal Council may negotiate Memoranda of Agreement or other instruments concerning this Chapter with federal, state and local governments.

TITLE 126: BUSINESS LICENSES

126.03.01 Applicability:

(1) This Title and Chapter shall be applicable to all persons engaged in business within the contiguous boundaries, and non-contiguous parcels of this Reservation. No person shall engage in business upon the Reservation without a valid business license issued by the Tribe, except as provided in Section 126.03.04.

126.03.02: Application and Issuance:

(1) An application for a business license shall be submitted in writing to the Tribal Administration Office, using forms which the Tribe shall provide. Any person engaged in business at the time this ordinance Chapter is enacted shall have 30 day in which to obtain and submit to the Tribe an application for license. All applications shall include:

- a. A description of the type of business;
- b. The name and address of the owner or owners of the business;
- c. The trade name, if any, to be used by the company;
- d. The locations on the Reservation at which the business will be conducted;
- e. A sworn statement that the applicant consents to the applicant's business;
- f. A statement that applicant consents to Tribal Court jurisdiction and service of process on behalf of the company.

(2) The Director or program staff shall notify the applicant by regular mail within 14 days after receipt of the application whether a license shall be issued. If a license is issued; the licensee shall post the license in conspicuous manner at its primary business location.

126.03.03: Denials of License and Appeal:

(1) If it is determined that:

- a. the applicant has materially misrepresented facts contained in the application; and/or,
- b. the applicant presently is in non-compliance with tribal law; and/or,
- c. the business will threaten the peace, safety, morals or general welfare of the tribe; then,

the Director of Economic Development shall issue an order of denial to the applicant by certified mail. Return receipt requested, within 14 day after receipt of the application. The order of denial shall set forth the reasons for such denial and shall state that the applicant has three days from receipt of the order of denial to file a notice of appeal with the Tribal Department of Economic Development for an expedited administrative hearing under 127.03.05(1), or 30 days from receipt of the order of denial to file a notice of appeal with the Tribal Council under 127.03.05(2) of this Chapter.

126.03.04: Exemptions:

(1) The following shall not be required to obtain a license under this Chapter:

- (a) governmental entities; and
- (b) tribal members engaged in the creation of traditional Indian art or handicrafts in their home; and
- (c) tribal members engaged in the traditional practice of medicine and/or traditional healing; and
- (d) employees of a person, business, or organization; and
- (e) any church engaged in raising fund for religious or charitable purposes; and
- (f) any school, club or athletic organization engaged in staging athletic events for which an admission fee is charged, provided such admission fees do not accrue to the personal benefit of any individual; and
- (g) any accredited school, no part of the income of which accrues to the personal benefit of any individual.

126.03.05: Classes of Licenses:

- (1) Temporary Business License: All person engaged in business on the Reservation for a period of seven days or less shall have a temporary business license, The fee for a temporary business license is \$ 10.00.
- (2) Seasonal Business License: All persons engaged in business on the Reservation for a period of three months or less out of the year, shall be

required to have a seasonal business license. The annual fee for the seasonal license is \$ 20.00.

- (3) Regular Business License: All persons engaged in business for a period exceeding three months shall have a regular business license. The fee for a regular business license is \$35.00, annually. A licensee holding a regular business license need not apply for renewal each year, but the licensee must notify the Tribal Department of Economic Development of any change in the previously provided information, to the Tribal Department of Economic Development under 126.03.02 of this Chapter. The Department shall bill regular Tribal business license holders on an annual basis.

126.03.06: Condition of License:

- (1) Each license holder shall comply with all applicable tribal laws, including but not limited to: Indian preference employment and hiring laws, health and sanitation laws, and consumer protection laws. The Tribe may, but need not, notify each license holder, by regular mail, of any additional tribal laws with which the licensee must comply, as such laws are enacted by the Council.
- (2) Each license holder consents to the jurisdiction of the Round Valley Tribal Court; or, in the absence of a Tribal Court, the Round Valley Tribal Council as the jurisdictional authority over any cause of action arising in connection with the transaction of any business within the Reservation.
- (3) Each license holder consents to the service of process by the Tribal Court, the Tribal Council, or its designee, with respect to all actions over which the Tribal Council has subject matter jurisdiction, in accordance with the Procedural Process of the Tribal Council.
- (4) Each license holder shall respond in a timely manner to requests by the Tribal Department of Economic Development for information about the licensee's business for the purpose of establishing whether the licensee is in compliance with the terms of this Chapter.

TITLE 127: SANCTIONS

127.03.01: Revocation of License; Failure to Obtain License; Show Cause Hearing

- (1) Whenever it is brought to the attention of the Tribal Department of Economic Development that a person or business is in noncompliance with any condition of their license or has failed to obtain a license within the time requirements referenced in this Chapter, the Director may serve upon

such person or any agent of such person or business, an order to show-cause why his or her license should not be revoked or why he should not be enjoined from doing business on the Round Valley Indian Reservation. After receiving a notice the person or business, or its agents shall have an opportunity to present to the Tribal Court or the Tribal Council, in the absence of a tribal court, such testimony, cross examination, witnesses, and/or to present any other evidence which he or she shall deem appropriate as to why a revocation order or an injunction should not be issued. The hearing shall be set for a time not exceeding 14 days and not less than 10 days from the date of the notice. The hearing shall be governed in all respects in accordance with the Rules of Procedure of the Tribal Court.

- (2) In the event it is determined that any business or person's non-compliance with this Chapter is a direct and immediate threat to the peace, safety, morals, or general welfare of the residents of the Round Valley Indian Reservation, such business or persons may be ordered by the Director to cease and desist all business operations within the contiguous Reservation boundaries. The business or person shall cease and desist business immediately upon service of the order and may file a notice of appeal with the Tribal Court or the Tribal Council, in the absence of a tribal court, within three days for an expedited appeal under 127.03.05(3) of this Chapter, or within 30 days for regular appeal to Tribal Council under 127.03.05(2) of this Chapter.

127.03.02: Civil Penalties and Restitution:

- (1) If it is determined that any person, business, or agent failed to comply with the conditions of the issued license or failed to secure a license within the time requirements of this Chapter, the Director may bring an action before the Tribal Council for an order requiring the person to appear and show cause why a monetary penalty should not be imposed and restitution should not be ordered; provided, the amount-of the penalty shall not exceed \$1,000.00 for each violation.
- (2) The Director may submit a recommendation to the Tribal Council regarding any restitution which the person should pay to any person to persons injured by his or her failure to comply with the condition of his/her license or his/her failure to secure a license within the time requirements.
- (3) The Director may submit a recommendation to the Tribal Council regarding the amount of any civil penalty which the person should pay for failure to comply with the conditions of his or her license or failure to secure a license within the time requirements of the Title.
- (4) If the Director submits a suggested penalty amount the Director shall expressly address in writing each and all of the following criteria:
 - (a) the good or bad faith of the violator;
 - (b) the injury to the public resulting from the violation;

- (c) the benefits derived by the violator from the violation;
- (d) the violator's ability to pay;
- (e) the administrative cost of prosecution; and
- (f) the need to deter similar behavior by the violator and others; and the need to vindicate the Tribe's authority and the integrity of the Director's orders.

The purpose of the civil penalty provided for herein shall be primarily to defray the costs of administration and enforcement of this Chapter, and secondarily, to deter continued violations of this Chapter by the violator or others; provided, however, that all funds collected by the Tribal Council under this section shall be subject to disposition by the Tribal Council.

127.03.03: Removal and Exclusion of Non-Tribal Members:

- (1) If any non-Indian or non-tribal member, except any person authorized by the federal government or appropriate federal law, who is present on tribal land or any person who owns real property on the Reservation, fails to comply with any order of the Director without appealing the order; or fails to appear for any hearing, the Director may petition the Tribal Council for an order directing the Tribal police to remove the non-Tribal member physically from the Reservation in accordance with Tribal law; and,
- (2) The Director may also petition the Tribal Council for:
 - (a) an order permanently excluding the non-Tribal member, except any person authorized by federal law to be present on tribal land; or
 - (b) in the case of any person who owns real property on the Reservation, for restitution and civil penalties imposed under this Chapter.

127.03.04: Other Remedies:

- (1) The director may petition the Tribal Council for other remedies provided for in this Code which are necessary to enforce the provisions of this Title, including but not limited to temporary restraining orders and preliminary and permanent injunction. The Director may also petition a court of competent jurisdiction for a writ of execution to enforce an order, judgment or decree of Tribal Court off- Reservation, The order, judgment or decree must include findings showing:
 - (a) the basis for the Tribal Council's Jurisdiction over the subject matter and the parties;
 - (b) the order, judgment or decree was not obtained fraudulently; and
 - (c) the defendant was afforded due process.

127.03.05: Appeals:

(1) Expedited Administrative Appeal:

- (a) If an applicant for a business license seeks an administrative hearing, the Tribal Department of Economic Development, upon receipt of the notice of a appeal, shall notify the applicant in person or by telephone, telegram or other electronic means, of the time set for the expedited hearing which shall be not less than three nor more than five working days thereafter.
- (b) At the hearing the applicant shall be entitled to present testimony and cross examine opposing witness, and present any other evidence which the applicant shall deem appropriate. All oral testimony shall be recorded and retained until expiration of the time within which the applicant could appeal to Tribal Council. In the event of such an appeal, the Director shall immediately certify the record and deliver the recordings and all other evidence, except recordings, submitted by the applicant shall be returned.
- (c) The Director shall rule upon the appeal within three working days after the hearing, and shall set forth in writing the factual findings and the reasons for his or her decision. If the appeal is denied, the ruling shall state that the applicant has 30 days from receipt thereof to file a notice of appeal with the Tribal Council under this an expedited appeal pursuant to this subsection.
- (d) Upon Receipt of a notice of appeal from an expedited administrative hearing, the Tribal Council shall notify the applicant in person or by telephone, telegraph or other electronic means, of the time set for the expedited hearing which shall be not less than three nor more than five working days thereafter.
- (e) The appeal shall be decided by the Tribal Council sitting without a jury, and shall be heard solely on the record established at the hearing as certified by the Director. No new or additional evidence may be introduced during the appeal
- (f) The Tribal Council shall uphold all factual findings of the Director unless the Council determines that such findings are not supported by substantial evidence in the record established before the Director. In reviewing reasons for denial of the license by the Director, the Council shall give proper weight to Director's interpretation of this Chapter and any regulations promulgated hereunder.

(2) Direct Appeal to the Tribal Council:

If any person entitled to an appeal pursuant to this Chapter seeks a direct appeal to the Round Valley Indian Tribes Tribal Council, the appellant shall be deemed to have waived any right he may otherwise have to an expedited administrative hearing or an expedited appeal to the Tribal Court, and the appeal shall be governed in all respects in accordance with the Rules of Procedure of the Tribal Court, and the normal agenda policies and procedures of the Round Valley Indian Tribes Tribal Council.

(3) Expedited Direct Appeal to the Tribal Council:

- (a) Any person seeking an expedited appeal pursuant to 126.03.05 (1) of this

Chapter shall file a notice of appeal which states in a conspicuous manner that the appeal sought is an expedited appeal pursuant to this subsection. Upon receipt of the notice of appeal the Tribal Council shall notify the appellant in person or by telephone, telegram or other electronic means, of the time set for the expedited hearing which shall be held no later than five working days after receipt by the Tribal Council of the notice of appeal.

- (b) The expedited appeal hearing by the Tribal Council shall be governed in all respects in accordance with the rules procedures of the Tribal Council, except that the Tribal Council shall rule upon the expedited appeal within three working days after completion of the hearing.

Title 128: BUSINESS STANDARDS

128.03.01 In-Home Sales:

- (1) Every door-to-door salesperson is obligated to inform each prospective consumer of the following information at the beginning of any sales visit:
 - (a) The salesperson's name;
 - (b) The name of the company that the salesperson represents;
 - (c) The salesperson's business address and the address of the company that the salesperson represents;
 - (d) The salesperson's business license number;
 - (e) An address or phone number where a consumer may inform the salesperson of a decision to reconsider a sale, address questions and concerns regarding sale products, and other information that is of interest to the consumer and salesperson.
- (2) Consumers of merchandise purchased at their residence from salesperson are entitled to reconsideration of any purchase within 3 workdays from the date of purchase. Reconsideration of sales will be fully credited or reimbursed to the consumer by the salesperson within 5 working days after such salesperson is informed of such reconsideration of the purchase.
- (3) No door-to-door sales person may misrepresent any product to prospective consumer in any manner that and ordinary person of reasonable aptitude, capability and instruction will not be able to perform the product in a like manner.

128.03.02 Non-Consumer Property Damage Protections:

- (1) Any business, whether or not licensed by the Tribe, that causes damages to private property of any individual is responsible for replacement or repair of such property at the actual cost of repair and or replacement of such property.

(2) Any business, whether or not licensed by the Tribe, shall make prompt payment or repair of damaged property within 30 days from the date that the damage occurred unless another agreement is made between the business and the property owner.

(3) A property owner may file an appeal, in accordance with 127.03.05 of this Chapter for failure of the business to repair or replace damaged property within 30 days, as prescribed in this Title and Chapter.

128.03.03 Informal Complaint Procedures:

- (1) A person may file a written complaint with the Department of Economic Development regarding alleged violations of Business License and/or Standards.
- (2) Upon receipt of a complaint, the Director of Economic Development shall conduct an investigation of the alleged violation within 5 days. The Director of Economic Development shall report any findings to the person filing the complaint no later than 10 days from the date the complaint was filed.
- (3) Based in information received as a result of the complaint, subsequent investigation, and from other sources, the Director of Economic Development may take whatever action that he or she deems appropriate to address the situation.
- (4) The action or the decision not to take any action by the Tribal Department of Economic Development with respect to any formal complaints filed against a business or an individual conducting business activities according to the definitions of this Chapter may be subject to review by the Tribal Court or the Tribal Council.

Title 129: SAVINGS CLAUSE

129.03.01 Saving Clause:

- (1) In event that any provision of the Title Shall be found or declared to be invalid, the remaining provisions of the Title shall be unaffected thereby, and shall remain in full force and effect.

ROUND VALLEY INDIAN TRIBES

A Sovereign Nation of Confederated Tribes

TRIBAL COUNCIL OFFICE
POST OFFICE BOX 448
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LOCATION: ON STATE HWY 162
ONE MILE NORTH OF COVELO
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TRIBAL TERRITORY SINCE TIME BEGAN

ROUND VALLEY RESERVATION ESTABLISHED 1856

RESOLUTION NO. RV-2006-031

A RESOLUTION APPROVING THE ROUND VALLEY INDIAN TRIBES BUSINESS LICENSE AND STANDARDS ORDINANCE

WHEREAS, the Round Valley Indian Tribes are the sovereign Tribal Nation of the Indian Tribes of the Round Valley Indian Reservation, and

WHEREAS, the Round Valley Tribal Council is recognized by the Federal Government of the United States of America as the governing body for the Indians of the Reservation, and

WHEREAS, the Round Valley Indian Tribes did on August 3, 1994 adopted a Constitution which was approved by the Secretary of the Interior on September 14, 1994. The sovereign authority of the Round Valley Indian Tribes over the matter described herein is delegated to the Round Valley Tribal Council, acting by law, and

WHEREAS, Article V, Section (1) (n) of the Constitution authorizes the Round Valley Tribal Council to promulgate and enforce ordinances to regulate the conduct of commerce within the Tribes jurisdiction, and

WHEREAS, the Round Valley Tribal Council has identified business development and job creation as major goals of the Tribe, and that said goals are consistent with the Tribe's priorities of maintaining a strong, self-governing and stable society.

NOW THEREFORE BE IT RESOLVED, that the Round Valley Tribal Council hereby approves and enacts the Round Valley Indian Tribes Business License and Standards Ordinance, a part of the Tribe's Comprehensive Business Code, as attached which is to become a part of said resolution.

BE IT FURTHER RESOLVED, that the President of the Round Valley Tribal Council, and/or the Vice-President in the absence of the President is hereby authorized by the governing body to execute said resolution and any other documents approving the Round Valley Indian Tribes Business License and Standards Ordinance.

RESOLUTION NO. RV-2006-031

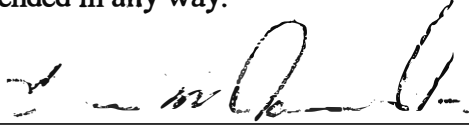
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CERTIFICATION

I, the undersigned as President of the Round Valley Indian Tribes do hereby certify that this resolution was adopted at a duly called and duly noticed special meeting of the Round Valley Tribal Council at which six (6) members were present, constituting a quorum, held on the 27th day of June 2006 and that this resolution was adopted by a vote of:


For	<u>Six (6)</u>
Against	<u>None (0)</u>
Abstentions	<u>None (0)</u>

And that said resolution has not been rescinded or amended in any way.



President, Round Valley Tribal Council

ATTEST:



Executive Secretary, Round Valley
Tribal Council