



SHINGLE SPRINGS BAND OF MIWOK INDIANS
P.O. BOX 1340; SHINGLE SPRINGS, CA 95682
(530) 676-8010; FAX (530) 676-3582

TITLE 1. TRIBAL COURT ORDINANCE

ARTICLE I. GENERAL PROVISIONS

CHAPTER 1. DEFINITIONS AND CONSTRUCTION

SECTION 1. Definitions

Unless the context requires otherwise or a different definition is provided for a particular Article or Chapter, as used in this Title:

- (a) "Attorney" means a licensed law practitioner representing a party.
- (b) "Chief Judge" means the Chief Judge of the Tribal Court.
- (c) "Judge" means a judge of the Tribal Court duly appointed pursuant to Article III of this Title.
- (d) "Tribal Court" means the Shingle Springs Band of Miwok Indians Tribal Court established by Article III of this Title.
- (e) "Tribe" means the Shingle Springs Band of Miwok Indians and its Tribal Council, commissions, boards, committees, agencies, departments, divisions, instrumentalities, economic enterprises, Tribal Council members, commissioners, board members, officials, agents, officers and employees.

SECTION 2. Construction of Title

Nothing in this Title shall be construed as a waiver or diminution of or limitation upon the inherent sovereign authority of the Tribe or the jurisdiction of the Tribe.

ARTICLE II. JURISDICTION AND PROCEDURE

CHAPTER 1. GENERAL PROCEDURE

SECTION 1. Proceedings Before the Tribal Court

- (a) Unless otherwise provided or permitted by the laws of the Tribe, all proceedings before the Tribal Court shall be brought by the person actually injured or aggrieved and seeking or in need of relief. Unless otherwise provided or permitted by the laws of the Tribe, if applicable, all

proceedings shall be brought against the person who caused the injury or aggravation or is responsible for the injury or aggravation.

(b) Except where expressly permitted by the laws of the Tribe, the Tribal Court shall not issue any writ, decree, judgment or other order in any proceeding without providing all persons party to the proceeding a proper opportunity to be heard.

(c) The Tribal Court shall memorialize all writs, decrees, judgments and other orders of any kind in writing and serve copies of all orders issued in a proceeding to all parties to the proceeding.

(d) All pleadings, writs, decrees, judgments, orders, and other documents filed with or issued by the Tribal Court shall contain the title of the Court with which it is filed or from where it is issued. In the case of the Tribal Court, the title shall be "Shingle Springs Band of Miwok Indians Tribal Court," immediately below the title of the Court shall appear the name or style of the case and such other information as may be required by the rules of the Tribal Court.

(e) In accordance with the provisions of this Title, the Chief Judge shall establish and promulgate such rules of procedure necessary for the conduct of its proceedings not inconsistent with this Title or other law of the Tribe.

SECTION 2. Law Applicable in Civil Actions

(a) In all civil cases, the Tribal Court shall apply the laws of the Tribe, including the common law of the Tribe. The Tribal Court may request the advice and assistance of the Tribal Elders to determine the customs and traditions of the Tribe as part of the common law of the Tribe.

(b) In the absence of law of the Tribe specific to an issue before it, the Tribal Court may be guided, in order of priority, by the law of another Indian tribe subject to Public Law 280, the law of any Indian Tribe, the laws of the United States, or the laws of the State of California, provided that the use of such law as guidance shall not in any manner be construed or interpreted as an adoption, in whole or in part, of the law of any other jurisdiction or authority or consent to the exercise of regulatory, legislative, or adjudicatory authority of any such jurisdiction.

SECTION 3. Assistance to the Tribal Court

The Tribal Court may request and obtain advice, recommendations, and opinions on questions of law from the Tribe's General Counsel or his or her designee, except in relation to a proceeding before the Tribal Court in which the Tribe is a party. Any such advice, recommendation, or opinion obtained specifically to aid in the disposition of a pending trial, case, or proceeding thereto shall be written, and copies shall be made available to all parties thereto prior to any decision on the subject by the Tribal Court. The General Counsel reserves the right to deny the request for advice, recommendation, and opinion if it so desires, without cause.

SECTION 4. Representation

(a) Any person who is a party in any proceeding before the Tribal Court may be represented, at

his own arrangement and expense, by:

- (1) Himself or, in the case of an entity, a duly appointed officer of the entity; or
- (2) An advocate or professional attorney who is licensed by the Tribal Court to practice law before the Tribal Court.

SECTION 5. WELLNESS BOARD (“WB”)

(a). Purpose. When an individual is found to engage in behavior that violates Tribal laws, the Judge may appoint the Wellness Board (“WB”) to assist in evaluating the health and wellness of the individual and his or her family. Once appointed, the WB shall help the individual identify and resolve detrimental behaviors or circumstances by designing an action plan to achieve overall health and wellness.

(b). WB Membership.

1. Composition of the WB. The WB shall be composed of one representative from each of the following organizations:
 - a. Tribal Administration
 - b. Social Services Department
 - c. Behavioral Health Department
 - d. Education Department
 - e. Tribal Council
2. Designation of WB Membership. Members of the WB shall be nominated by each of the above-named organizations and confirmed by the Tribal Council. Each organization shall also designate an alternate member who will attend WB meetings when the designated WB member is unable to attend.
3. Designation of WB Chairperson and Vice Chairperson. Once appointed, the members of the WB shall elect a chairperson from its membership to run all WB meetings. WB members shall also elect a Vice Chairperson.
4. WB Clerk. The Tribal Court Clerk shall serve as clerk to the WB, but will not participate in the WB’s decision-making or Action Plan development process. The Tribal Court Clerk shall keep the WB files confidential, and shall keep and house the WB files in the same manner as the Tribal Court’s files.

(c). Process. Upon the Tribal Court’s discretion or an individual’s request, he/she shall be referred to the WB. The process is as follows:

1. Scheduling Meeting. The WB Chairperson, in coordination with the WB Clerk shall schedule a meeting between the individual, the WB Chairperson and the WB. The WB

Chairperson and/or WB Clerk shall notify the individual of this meeting through written notice by certified mail to or by personal service on the Tribal member.

2. Individual/Home Assessments and Reports. Prior to the meeting, the WB Chairperson shall schedule assessments of the individual and his/her home by both the Behavioral Health and Social Services Department. Once each of these departments has completed an assessment of the individual and his/her home, it will write a confidential report of its findings that will be submitted to the WB prior to meeting with the individual and his/her guardian.
3. Meeting. The purpose of the meeting shall be to identify and resolve behaviors and/or circumstances that are in violation of the provisions of Tribal laws, or contributing to such violations, through an appropriate plan of action, which shall be agreed to and signed by all parties involved. This shall be accomplished through the WB's review of the individual's behavioral record, the assessments submitted by the Behavioral Health and Social Services Departments, and discussion with the individual and necessary family.
4. Action Plan. Once the WB and individual have agreed upon an appropriate Action Plan, it shall be documented in writing and signed by the individual and an appropriate Tribal authority, i.e., a member of the WB. Copies of the Action Plan shall be given to the WB, the WB Chairperson, and the individual. Included in the Action Plan shall be a schedule for consistent, timely review to evaluate and monitor the effectiveness of said plan.
5. Follow-up Meetings. Follow-up meetings between the individual and the WB shall be conducted in accordance with the schedule set forth in each individual's Action Plan. The WB has the authority to determine an individual's compliance with his/her Action Plan and to revise the Action Plan accordingly.
6. Non-Compliance. If an individual fails to fully comply with his/her Action Plan, the WB may issue a finding of non-compliance and issue a citation sending him or her directly to the Tribal Court. If the WB issues a citation sending an individual to Tribal Court, the WB shall also provide the Tribal Court with recommended penalties to address the non-compliance and disciplinary problems.

CHAPTER 2. TIME FOR COMMENCEMENT OF ACTIONS

SECTION 1. Contracts and Agreements

(a) An action shall be brought within one year after the cause of action accrues and not afterward, unless another provision of the law of the Tribe provides a different time.

SECTION 2. Presumption of Death

A person who is absent from the place of his last domicile for five successive years shall be presumed dead in any action wherein his death comes in question, unless proof is made that he is alive within that time.

CHAPTER 3. TOLLING OF LIMITATIONS

SECTION 1. Effect of Absence from the Jurisdiction

When a person against whom there is a cause of action is absent from the jurisdiction at the time the cause of action accrues or at any time during which the action might have been maintained, such action may be brought against such person after his return to the Jurisdiction. The time during which a person against whom there is a cause of action is absent shall not be counted or taken as a part of the time limited against the absent person's opposing party or parties by the provisions of this Article or any other time limitation against the opposing party or parties under the laws of the Tribe.

SECTION 2. Effect of Incarceration

If a person entitled to bring an action is imprisoned at the time the cause of action accrues, the period of such incarceration shall exist only until such time as the imprisoned person discovers the right to bring the action or with the exercise of reasonable diligence should have discovered the right to bring the action, whichever occurs first, and such person shall have the same time after the incarceration ceases to exist which is allowed all others.

SECTION 3. Saving of Action Timely Commenced

(a) If an action is timely commenced within the period of limitations prescribed for the action and the action is terminated in any manner other than by abatement, voluntary dismissal, dismissal for lack of prosecution, or a final judgment on the merits, the plaintiff, or a successor or personal representative, may bring a new action for the same cause of action within six months after the expiration of the time so limited.

SECTION 4. Tacking of Disabilities Prohibited

The period of limitation shall not be extended by the connection of one disability to another. When the law of limitation begins to run, it shall continue to run notwithstanding a supervening disability of the party entitled to sue or liable to be sued.

CHAPTER 4. DISPUTES INVOLVING THE TRIBE

SECTION 1. Sovereign Immunity

(a) The Shingle Springs Band of Miwok Indians Tribe hereby declares that, in exercising self-determination and its sovereign powers to the fullest extent, the Tribe is immune from suit except

to the extent that the Tribal Council expressly waives sovereign immunity, or as provided by this code.

(b) The Tribe expressly waives sovereign immunity for specific purposes, including but not limited to;

- 1) Tribal Labor Relations;
- 2) Casino Employment Discrimination;
- 3) Casino Tort Claims;
- 4) Casino Patron Disputes;
- 5) Workers' Compensation;
- 6) Tribal Enrollment disputes; and
- 7) Tribal Election disputes.

(c) No tribal employee or Tribal Council member acting within the scope of his duties or authority is subject to suit.

SECTION 2. Service of Process Upon the Tribe

(a) Notwithstanding any other provision of law, service of process upon the Tribe shall be affected only by personal delivery of a copy of the summons and of the complaint to the Chairman of the Tribal Council, with a subsequent copy mailed to the Tribal Administrator of the Tribe. Service made in any other manner on the Tribe shall be invalid and ineffective.

(b) Notwithstanding any other provision of law, service of process upon an agency, department, division, instrumentality, economic enterprise, official, agent, officer, or employee of the Tribe shall be effected only by serving the Tribe in the manner prescribed by subsection (a) of this Section and by also sending a copy of the summons and of the complaint by registered or certified mail to the agency, department, division, instrumentality, economic enterprise, official, agent, officer, or employee of the Tribe.

SECTION 3. Savings and Limitations

Nothing in this Chapter shall be construed as:

(a) A consent to the exercise of jurisdiction over the Tribe by the Tribal Court except where authorized by the laws of the Tribe;

(b) A consent to service of process under or pursuant to the authority of any sovereign or jurisdiction other than the Tribe;

- (c) A consent to service of process in an action initiated in any court or other tribunal except the Tribal Court of the Tribe;
- (d) A consent to the exercise of jurisdiction, personal or otherwise, over the Tribe, its members, or the Jurisdiction by any sovereign, jurisdiction or authority or by a court or other tribunal of any sovereign, jurisdiction or authority other than the Tribe; or
- (e) A waiver or limitation upon the sovereign immunity of the Tribe.

ARTICLE III. ESTABLISHMENT AND ORGANIZATION OF COURTS

CHAPTER 1. GENERAL

SECTION 1. Establishment of Tribal Court

Pursuant to Article VI of the Shingle Springs Rancheria Articles of Association, there is hereby established an integrated judicial department to be known as the Shingle Springs Band of the Miwok Indians Tribal Court and consisting of a Tribal Court and any other courts as the Tribal Council deems necessary which shall resolve disputes as provided by the laws of the Tribe.

SECTION 2. Authority of Tribal Court

Except as otherwise provided by the laws of the Tribe, the Tribal Court shall exercise all judicial and dispute resolution powers of the Tribe, subject only to the limitations provided in the laws of the Tribe.

SECTION 3. Objective of Tribal Court

(a) Except where limited by the laws of the Tribe, it shall be the objective of the Tribal Court and the duty of all Judges of the Tribal Court in resolving all matters before the Tribal Court to discover and determine the truth and, to the extent possible, seek a resolution which restores balance to the community in accordance with the customs and traditions of the Tribe, repairs relationships, results in fairness, and avoids principles of retribution and punishment.

SECTION 4. Appeals

The decision of the Tribal Court shall be final and no appeals available.

SECTION 5. Seal

- (a) The Tribal Court shall have a seal as devised and adopted by the Chief Judge.
- (b) The seal of the Tribal Court shall be kept by the clerk of the Tribal Court.

(c) The seal of the Tribal Court need not be affixed to any proceedings in the Tribal Court except a summons or writ or authentication of a copy of a record or proceeding of the Tribal Court or its officers for the purpose of evidence in another court or place.

SECTION 6. Appropriations, Accounting, and Fines

(a) The Tribal Council shall appropriate and authorize the expenditure of Tribal funds for the operation of the Tribal Court consistent with the needs of the Tribal Court for proper administration of justice within the jurisdiction, and for the Tribe.

(b) The Tribal Council may prescribe a system of accounting for funds received from any source by the Tribal Court. All funds received by the Tribal Court will be earmarked to apply directly to administration of the Tribal Court, unless as specifically stated by Tribal Ordinance.

(c) If a judgment is issued by the Tribal Court against a Tribal employee, including Casino employees, or Tribal member, and he or she fails to pay the judgment or set up and pay according to a payment plan, the Tribal Council authorizes automatic garnishments of fines and penalties to be taken out of an individual's wages and/or per capita distributions if the fine or penalty is unpaid for at least 30 days.

CHAPTER 2. JURISDICTION

SECTION 1. Subject Matter Jurisdiction of Tribal Court

(a) Except for limitations, restrictions, or exceptions imposed by or under the authority of the Constitution or laws of the United States, or by the Articles of Association, or by this Title, or by express provision elsewhere in the laws of the Tribe, the Tribal Court shall have original jurisdiction over all civil causes of action and over all controversies between any persons, and over all criminal offenses.

(b) The Tribal Court shall also have:

(1) Jurisdiction to issue injunctions, writs and other orders necessary and proper to the complete exercise of its jurisdiction;

(2) Jurisdiction to certify questions of Tribal law to any federal court or questions of Tribal law to any state court which has a procedure for certifying questions of law;

(3) Jurisdiction to recognize, but not enforce, valid judgments and orders issued by courts and tribunals of other jurisdictions where the matters subject of the judgment are not otherwise within the jurisdiction of the Tribal Court and recognition is proper to assist the Tribal Court in a matter otherwise properly within its jurisdiction; and

(4) Such other jurisdiction as may be provided by the laws of the Tribe.

(c) The Tribal Court's jurisdiction over any cause of action related to the management, ownership, interest in, or right to possession of Tribal lands shall be limited to the extent granted by the Land Assignment Ordinance.

(d) The Tribal Court shall not have jurisdiction over any cause of action brought against the Tribe or any of its agencies, departments or enterprises, including the officers, agents and employees of the Tribe in their capacity as such, unless such jurisdiction is unequivocally and expressly granted by the laws of the Tribe, and the grant of jurisdiction provided in this Title shall not be construed to include a waiver of the Tribe's sovereign immunity from suit.

(e) Notwithstanding any other provision of the laws of the Tribe, the Tribal Court shall have jurisdiction over all civil causes of actions and over all controversies commenced by the Tribe and nothing in this Section or elsewhere in this Title shall be construed as limiting the jurisdiction of the Tribal Court to hear and determine matters commenced by the Tribe, provided that nothing herein shall be construed as granting jurisdiction to the Tribal Court to hear or determine any cross-claim or counterclaim against the Tribe or to award any monetary relief, including costs and attorney's fees, against the Tribe in an action commenced by the Tribe.

SECTION 2. Personal Jurisdiction of Tribal Court

(a) Except for limitations, restrictions, or exceptions imposed by or under the authority of the Constitution or laws of the United States, or by the Articles of Association, or by the ordinances or laws of the Tribe, or by express provision elsewhere in the laws of the Tribe, the Tribal Court shall have personal jurisdiction over:

(1) Any person who consensually transacts, conducts or performs any business or activity with the Tribe within the jurisdiction, either in person or by an agent or representative, for any civil cause of action arising from such business or activity, including the lease of property within the jurisdiction;

(2) Any person who commits an act or omission which occurs, wholly or in substantial part, within the jurisdiction, by his own conduct or the conduct of another for which he is legally accountable, for any civil cause of action related to such act or omission;

(3) Any person who commits an act or omission outside the jurisdiction, but has or intended to have a substantial effect on the political integrity, economic security, health, or welfare of the Tribe;

(4) Any licensee or permittee of the Tribe for any civil cause of action arising from such person's activities as a licensee or permittee of the Tribe.

(b) None of the foregoing bases of jurisdiction is exclusive, and jurisdiction over a person may be established upon anyone or more of them as applicable or upon any independent basis existing at law but not set forth herein.

(c) The Tribal Court shall not have jurisdiction over the Tribe or any of its agencies, departments

or enterprises, including the officers, agents and employees of the Tribe in their capacity as such, without the unequivocal and express consent of the Tribe or an unequivocal and express provision in the laws of the Tribe.

SECTION 3. Immunity of the Tribe

(a) The Tribal Court's jurisdiction remains limited to the extent the Tribe expressly waives its sovereign immunity. Nothing in this Chapter shall be deemed to constitute a waiver or renunciation of the sovereign immunity of the Tribe for any purpose.

SECTION 4. Concurrent Jurisdiction

The jurisdiction invoked by this Title or any other law of the Tribe over any person, cause, or subject shall be concurrent with any valid jurisdiction over the same of the courts of the United States, the state of California, or any political subdivision thereof, provided that the laws of the Tribe, including this Title, do not recognize, grant, or cede jurisdiction to any other political or governmental entity which jurisdiction does not otherwise exist in law.

SECTION 5. Reduction of Jurisdiction

Notwithstanding any other provision of Tribal law, ordinance, resolution, order, or act of the Tribal Council or any other law of the Tribe which operates to reduce or limit the existing jurisdiction of the Tribal Court shall have prospective effect only and shall not have any effect on the jurisdiction of the Tribal Court over causes of action or controversies pending before the Tribal Court at the time of effectiveness of such ordinance, resolution, order, act, or law.

CHAPTER 2. JUDGES

SECTION 1. Composition of Tribal Court

(a) The Tribal Court shall be comprised of at least one judge who shall be designated by the Tribal Council as Chief Judge of the Tribal Court, all appointed by the Tribal Council to serve at the pleasure of the Tribal Council.

(b) The Tribal Council may appoint additional Judges as it deems necessary or appropriate in accordance with this Article.

(c) The Tribal Court provided for in this article shall constitute a single court, composed of all the duly appointed Judges of the Tribal Court. The judgments, decrees, orders, and proceedings of any session of the Tribal Court held by one or more Judges shall have the same force and effect as if all the Judges of the Tribal Court had presided.

(d) In the event a permanent vacancy occurs in the Tribal Court which results in an insufficient number of Judges to handle the duties of the Tribal Court, the Tribal Council shall appoint another Judge in accordance with this Article to ensure the minimum number of required Judges under this Section. Such appointment shall not be amenable to change, and succeeding Tribal

Councils shall be bound by such selection absent formal proceedings for resignation, removal or recusal as set forth in this Code.

SECTION 2. Qualifications of Judges

(a) In addition to any other qualifications the Tribal Council may set, a Judge shall be:

- (1) At least 35 years of age;
- (2) A person of honor;
- (3) Law abiding as demonstrated in subsection (b);
- (4) A person of good character;
- (5) Have no less than three years (full-time) of experience as a tribal court judge, whether as a tribal judge, family court judge, or an appellate judge; or have at least five years' experience as an attorney, lay advocate, or judge coupled with a demonstrable knowledge of laws related to Indian tribes.

(b) A Judge shall not:

- (1) Have pled guilty, nolo contendere, no contest, or been convicted of any felony or other crime of moral turpitude;
- (2) Have pled guilty, nolo contendere, no contest, or been convicted of any misdemeanor, except minor traffic violations, within one year immediately preceding his appointment;
- (3) Had the right to practice law before any court or other tribunal revoked or otherwise been disciplined by any court or other tribunal before which he or she has appeared; or
- (4) Also be the Clerk of Court or assistant thereto, a member of the staff of the Tribal Court, or a member of the Tribal Council during his or her term as Judge.

(c) Every Judge shall swear or affirm the following oath before the Tribal Council or its designee:

"I, _____, do solemnly swear [or affirm] that I will administer justice without respect to persons; that I will faithfully and impartially discharge and perform all the duties incumbent upon me as _____ under the Articles of Association and tribal laws of the Shingle Springs Band of Miwok Indians and the Constitution of the United States, to the end that justice may be fully served."

SECTION 3. Compensation of Judges

The compensation of Judges shall be set forth in the annual budget and shall be sufficient to attract and retain quality judges. Judges shall be reimbursed for actual expenses related to their duties as Judges, including necessary travel expenses. The compensation rate of a Judge shall not be decreased during the term of that Judge.

SECTION 4. Resignation and Removal of Judges

(a) Any Judge may resign by delivering a written resignation to the Tribal Council. Such resignation shall be effective upon receipt, unless otherwise provided by the terms thereof.

(b) Except for an action to compel a Judge to forfeit office brought in accordance with the laws of the Tribe, a Judge may only be removed by an affirmative two-thirds vote by the Tribal Council. A Judge may only be removed for one or more of the following reasons:

- (1) Any act or other occurrence which, if it had occurred prior to the Judge's appointment, would make the Judge ineligible to serve;
- (2) Excessive use of intoxicants which impairs the performance of the Judge's duties;
- (3) Any conduct which by standards generally applicable to judges could be deemed to be unbecoming of a judge or which might foster disrepute of or disrespect for the Tribal Court or otherwise adversely affect the integrity of the Tribal Court.
- (4) Use of the office of Judge for personal gain, including bribery and kickbacks;
- (5) Committing an offense which would require the Judge to forfeit his or her office under the law of the Tribe; or
- (6) Nonfeasance, misfeasance, or malfeasance with regard to official duties.

(c) In the event of an affirmative vote at a meeting of the Tribal Council held pursuant to this Section, the removal of the Judge shall be effective immediately.

SECTION 5. Recusal of Judges

(a) A Judge shall recuse himself or herself from sitting on any Tribal Court in any proceeding in which the Judge's impartiality might reasonably be questioned, including but not limited to the following instances:

- (1) Where the Judge has a personal bias or prejudice concerning a party or a party's representative;
- (2) Where the Judge has personal knowledge of the dispute or the facts involved in the proceeding;

(3) Where the Judge is a witness concerning the dispute or facts involved in the proceeding;

(4) Where the Judge or the Judge's immediate family:

(i) Has more than an insignificant interest in the outcome of the dispute;

(ii) Is a party to the proceeding or representing a party to the proceeding; or

(iii) Is likely to be a material witness in the proceeding.

(b) A Judge may voluntarily recuse himself or herself from sitting on any Tribal Court in any proceeding when the Judge, in his or her own discretion, believes that:

(1) He or she cannot act fairly or without bias; or

(2) There would be an appearance that he or she could not act fairly or without bias.

(c) Nothing in this Section shall preclude a Judge from participating in any dispute, proceeding or decision by the Court solely because the dispute:

(1) Generally affects members of the Tribe or a class of members of the Tribe; or

(2) Affects an agency, department or enterprise of the Tribe; insurer of the Tribe or an agency, department or enterprise of the Tribe; or a person or entity in a contractual relationship with an agency, department or enterprise of the Tribe.

(d) For purposes of this Section, "immediate family" means brother, sister, son, daughter, mother, father, grandparent, grandchild, husband, wife, step-brother, step-sister, half-brother or half-sister; or brother, sister, son, daughter, mother, father, first or second cousin, grandparent or grandchild by adoption.

SECTION 6. Powers and Duties of Judges

(a) Judges shall have the following authority:

(1) To administer oaths and affirmations; and

(2) To discharge the duties and exercise the authority conferred by law.

(b) All Judges shall:

(1) Support the Articles of Association and laws of the Tribe;

(2) Faithfully and impartially discharge the duties of his office;

- (3) Observe and maintain high standards of conduct so that the integrity of the Tribal Court will be preserved;
- (4) Be patient, dignified and courteous to those appearing before him or those the Judge deals with in his capacity as a Judge and shall require similar conduct of court officials subject to the Judge's direction and control;
- (5) Accord every person in a proceeding the right to be heard in accordance with the law; and
- (6) Dispose of all judicial matters promptly, efficiently and fairly.

SECTION 7. Powers and Duties of Chief Judge

The Chief Judge shall have the following powers and duties:

- (a) To regulate, by rule, the qualifications and standards of conduct of persons representing parties to disputes and other proceedings before the Tribal Court;
- (b) To, from time to time, promulgate rules regulating pleading, practice and procedure in judicial proceedings before all Courts of the Tribal Court provided such rules shall not abridge, enlarge or modify substantive rights of persons appearing before the Tribal Court;
- (c) To, from time to time, develop standard forms for use in judicial proceedings before all Courts of the Tribal Court;
- (d) To, from time to time, promulgate rules and policies regulating the internal and administrative operations of the Tribal Court and its clerks and staff;
- (e) To adopt, by rule, a schedule of reasonable filing fees and other charges for services rendered relating to transcripts and the furnishing or certifying of copies of proceedings, files and records;
- (f) To apply fees and charges received to defray the administrative costs of the Tribal Court; and
- (g) To exercise all other authority delegated to it by law or as may be reasonably necessary in the implementation of any provisions of this Title.
- (h) The Chief Judge shall exercise administrative supervision over the Tribal Court and Judges.

SECTION 8. Judges Pro Tempore

- (a) The Chief Judge, in consultation with the Tribal Council, may appoint as many Judges pro tempore as he deems necessary or desired, within the constraints of the Tribal Court budget, who shall serve as Judges on the Tribal Court as necessary, subject to the approval or disapproval of

the Tribal Council which must be made within 60 days of appointment or the appointment will automatically become ratified upon the 61st day.

(c) A Judge pro tempore may be requested by the Chief Judge to serve as a Tribal Court Judge under any of the following circumstances:

(1) When necessary to fill the role of a Judge due to recusal or other unavailability of a particular Judge to hear a particular matter before the Tribal Court;

(2) When necessary to fill the role of a Judge who is unavailable for a duration of time due to vacation, illness, or other similar reason;

(3) For the purpose of performing specific duties as may be assigned by the Chief Judge, as the case may be;

(4) When required to comprise, from time to time, one or more temporary additional Tribal Courts to hear a particular matter or matters properly before the Tribal Court; or

(5) When necessary to fill a vacancy in the Tribal Court pending appointment of a Judge by the Tribal Council pursuant to Chapter 3, Section 1.

(d) A Judge pro tempore has all the authority of a Chief Judge when presiding in Tribal Court.

(e) The Chief Judge may at any time terminate the term of a Judge pro tempore, except that a Judge pro tempore shall not be removed from a case, matter, dispute, or proceeding to which he is assigned until the termination or resolution of such case, matter, dispute or proceeding unless the Judge pro tempore is removed from office for cause related to or reflecting upon the office of Judge pro tempore.

ARTICLE IV. OFFICERS AND EMPLOYEES OF COURTS

CHAPTER 1. CLERKS AND STAFF

SECTION 1. Appointment and Discharge of Clerks and Staff

(a) The Tribe shall appoint a clerk of the Tribal Court and may also appoint assistants thereto, all of whom shall serve at the pleasure of the Chief Judge, within the constraints of the Tribal Court budget.

(b) The clerk and any assistants thereto shall, before entering on the duties of the office, take an oath of office to be administered by the Chief Judge as follows:

“I, _____, do solemnly swear [or affirm] that I will administer justice without respect to persons; that I will faithfully and impartially discharge and perform all the duties incumbent upon me as _____ under the Articles of Association and tribal laws of the

Shingle Springs Band of Miwok Indians and the Constitution of the United States, to the end that justice may be fully served.”

(c) The Tribe may also appoint other administrative staff, subject to appropriations, as it deems necessary to assist the Tribal Court and its Judges in performing their administrative functions.

SECTION 2. Duties of Clerks and Staff

(a) The clerk of the Tribal Court shall have the following duties and responsibilities:

- (1) Attend sessions of the Tribal Court;
- (2) Issue writs and processes of the Tribal Court;
- (3) Enter, under the direction of the Tribal Court, all orders, judgments and decrees required to be entered, the title of each proceeding or action, the date of filing such proceeding or action with the Tribal Court, and a memorandum of all subsequent proceedings, with the date and the fees charged;
- (4) Keep a schedule of fees charged in proceedings and actions;
- (5) Collect fines, fees and other monies imposed or charged by the Tribal Court, deposit such monies into the proper account of the Tribal Court, and account for the receipt and deposit of such monies;
- (6) Provide forms, rules and provide referrals to self-help. Answering specific questions about process, form complaints, petitions, answers, motions and other pleadings and documents for proceedings before the Tribal Court, subject to the prohibitions of this Chapter, including prohibitions on giving advice on question of law;
- (7) Administer oaths and witness execution of documents;
- (8) Keep and maintain such other books of record required by law or rule of the Tribal Court;
- (9) Perform such other duties related to the operation of the Tribal Court, other than those specifically performed by a Judge; and
- (10) Perform such other administrative and ministerial duties as may be prescribed by the laws of the Tribe or assigned to him by the Chief Judge.
- (11) Demonstrate understanding of difference between legal advice and legal information.

(b) Any assistant clerks and staff of the Tribal Court shall have such duties as the Chief Judge may, from time to time, designate.

SECTION 3. Legal Advice Prohibited

All employees, including unpaid volunteers and interns shall not:

(a) Give advice on questions of law; or

(b) Appear or act on behalf of any person in any proceeding or action before the Tribal Court or any other court while they are employed by the Tribal Court. Exceptions will be made for Judges, other than the Chief judge, to appear in other courts so long as no actual conflict exists.

Any violation of this Section, including giving advice on questions of law, shall result in immediate discipline with the potential for employment termination.

SECTION 4. Compensation of Clerks and Staff

The clerk and any assistants thereto as well as administrative staff of the Tribal Court shall be compensated at a rate set by the Tribe.

CHAPTER 3. BAILIFFS

SECTION 1. Appointment of Bailiffs

(a) Tribal Police Dept. will serve as bailiff as needed to insure the orderly transaction of the business of the Tribal Court and shall prescribe the duties of such bailiffs in consultation with the Chief Judge. The Tribal Policy Department may contract its duties in order to provide necessary coverage and/or avoid conflicts of interest as approved by the Tribal Administrator.

ARTICLE V. LIMITATIONS OF ACTIONS

CHAPTER 1. GENERAL PROVISIONS

SECTION 1. Applicability

(a) This Article shall apply to any and all causes of action which accrue on or after the date of enactment of this Article.

(b) For causes of action which accrued prior to the date of enactment of this Article, the time limit for bringing such action shall begin to run from the date of enactment of this Article.

SECTION 2. Accrual of Actions Defined

For purposes of this Article, a cause of action accrues when the damaged or injured party knows or reasonably should know he or she has been damaged or injured, and knows or reasonably should know the cause, source, act, event, instrumentality or condition which caused or contributed to the alleged damage or injury.

SECTION 3. Foreign Judgments and Causes of Action

(a) No action which arises outside of the Jurisdiction shall be maintained against a person if such action is barred by the laws of the Tribe or limitations of such other jurisdiction.

(b) An action upon a judgment or decree rendered in another jurisdiction outside the jurisdiction shall be barred if by the laws of such other jurisdiction such action would be barred there and the judgment or decree is incapable of being otherwise enforced there.

(c) Full Faith and Credit recognition shall be given by the Tribal Court to the final judgment, decree, or order of a federal, state, or other tribal court located within the boundaries of the United States, provided that the jurisdiction in question has, by statute, court rule, or case law from its highest court, established a reciprocal provision or standard for the recognition of the judgments, decrees, and orders of the Shingle Springs Tribal Court.

(d) Where a federal, state, tribal court or other Nation has not established a standard described in subsection (c), the Tribal Court may provide comity recognition of the foreign judgment, decree, or order where the interests of justice so require.

(e) A foreign judgment, recognized under this section has a similar effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a judgment of the Shingle Springs Tribal Court, and may be enforced or satisfied in a like manner.

SECTION 4. Exemption of Tribe from Limitations

Except as otherwise provided by the laws of the Tribe, the Tribe shall not be barred by the limitations of actions prescribed in this Article or any other time limitation under the laws of the Tribe, except where such time limitation is made expressly applicable to the Tribe.

ARTICLE VI. MISCELLANEOUS

SECTION 1. Sovereign Immunity

Nothing in this Title shall be construed as limiting, waiving or abrogating the sovereignty or the sovereign immunity of the Shingle Springs Band of Miwok Indians or any of its agencies, departments, officials, or employees.

SECTION 2. Severability

If any article, chapter, section, or provision of this Title or amendment made by this Title is held invalid, the remaining articles, chapters, sections, or provisions of this Title and amendments made by this Title shall continue in full force and effect.

SECTION 3. Amendments

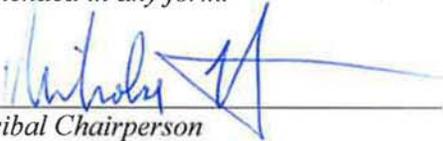
This Ordinance may only be amended or repealed by a majority vote of the Tribal Council memorialized in a written and signed Tribal Council resolution.

SECTION 4. Effective Date

This Ordinance shall become effective upon adoption by the Tribal Council and shall replace all existing Tribal Court Ordinances.

CERTIFICATION

As a duly-elected official of the Shingle Springs Rancheria, I do hereby certify that, at a meeting duly called, noticed, and convened on the 22nd day of August, 2013 at which time a quorum of 6 existed and voted 6 FOR, 0 AGAINST, 0 ABSTAINED, and said Ordinance has not been rescinded or amended in any form.


Tribal Chairperson

August 22, 2013
Date

ATTEST:


Tribal Secretary

August 22, 2013
Date



SHINGLE SPRINGS BAND OF MIWOK INDIANS

Shingle Springs Rancheria, (Verona) Tract, California
5281 Honpie Road, Placerville CA 95667
P.O. Box 1340, Shingle Springs CA 95682
(530) 676-8010 Office; (530) 676-8033 Fax

RESOLUTION 2013-46

SUBJECT: APPROVAL OF AMENDMENTS TO THE TRIBAL COURT ORDINANCE.

WHEREAS, the Shingle Springs Band of Miwok Indians (the “Tribe”) is a federally recognized Indian tribe eligible for the special programs and services provided by the United States to Indians because of their status as Indians and is recognized as possessing powers of self-government; and

WHEREAS, the Shingle Springs Tribal Council is the duly-elected governing body of the Tribe and is authorized to act on behalf of the Tribe; and

WHEREAS, the Tribe, as a federally-recognized Indian tribe, may establish a fair and unbiased forum in which disputes within the jurisdiction of the Shingle Springs Band of Miwok Indians may be heard; and

WHEREAS, The Tribal Council approved Resolution 2009-03-16, adopting the Tribal Court Ordinance outlining the jurisdiction of the Tribal Court, the basic process of the Tribal Court, and the qualifications and appointments of judges; and

WHEREAS, the Tribe now desires to update the Tribal Court Ordinance;

WHEREAS, the Ordinance was amended to change certain processes and procedures of the Tribal Court and to modernize and streamline the process; and

WHEREAS, the Tribal Council has reviewed the amendments to the Tribal Court Ordinance, a copy of which is attached, and has found adoption consistent with the Tribe’s preferences for the administration of justice.

NOW THEREFORE, BE IT RESOLVED that the Tribal Council hereby enacts and adopts the attached amended “Tribal Court Ordinance,” as an Ordinance of the Tribe, and authorizes the Chairman or his designee to execute any and all documents and agreements necessary as may be required to give effect to the transactions, herein contemplated, and to take such other actions as may hereby be necessary and appropriate to carry out the obligations there under; and

BE IT FURTHER RESOLVED, that by adopting Amendments to the Tribal Court Ordinance, the Tribe does not in any way waive its sovereign immunity with respect to the application of any state or federal laws or regulations that otherwise would not apply; and

BE IT FURTHER RESOLVED, that this Tribal Court Ordinance supersedes and replaces all previous ordinances or resolutions in conflict with this one; and

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately.

CERTIFICATION

As a duly-elected official of the Shingle Springs Band of Miwok Indians, I do hereby certify that, at a meeting duly called, noticed, and convened on the 22nd day of August, 2013 at which time a quorum of 6 was present, this resolution was duly adopted by a vote of 6 FOR, 0 AGAINST, 0 ABSTAINED, and said resolution has not been rescinded or amended in any form.



Chairperson

8-22-13

Date

ATTEST:



Secretary

8-22-13

Date