



SUSANVILLE INDIAN RANCHERIA

ORDINANCE NO. 2011-001

**AN ORDINANCE OF THE TRIBAL BUSINESS COUNCIL OF
THE SUSANVILLE INDIAN RANCHERIA OF CALIFORNIA
ENACTING A TRIBAL ORDINANCE ENTITLED "TRIBAL
CLAIMS ORDINANCE"**

The Tribal Business Council of the Susanville Indian Rancheria of California ("Tribe") hereby ordains as follows:

Section 1. Findings and Declarations. The Tribal Business Council finds and declares that:

1. The Tribe has limited financial resources to pay claims made against it for money or damages.
2. To ensure a timely and effective means of resolving claims against the Tribe without the necessity of litigation, an administrative claims procedure needs to be established by the Tribe.
3. This administrative claims procedure requires the presentation of a claim to the Tribal Business Council prior to filing suit against the Tribe, provides an adequate substitute for litigation against the Tribe, protects the Tribe's assets, and expedites the payment of legitimate claims and money damages due members of the public arising from breaches of contract or the intentionally wrongful or negligent acts or omissions of the Tribe's employees.
4. The purpose of this Ordinance is to establish an administrative procedure by which any person who believes the Tribe owes him or her money as a result of a breach of contract or damage to person or property will be required to submit an administrative claim to the Tribal Business Council. Such a procedure will allow the Tribal Business Council to consider the merits of any claim and either approve or reject the claim and, in appropriate cases, refer the claim to the Tribe's insurance carrier.
5. The enactment of this Ordinance promotes the health, safety, and welfare of the Tribe, its members, and the public and is in the public interest.

Section 2. Adoption of New Ordinance Entitled: "Tribal Claims Ordinance". A new Ordinance entitled "Tribal Claims Ordinance" is hereby adopted by the Susanville Indian Rancheria of California and shall provide as follows:

TRIBAL CLAIMS ORDINANCE

Sections:

- 2.010 Presentation of Claims.
- 2.020 Claims Subject to Filing Requirements.
- 2.030 Contents of Claim.
- 2.040 Signature of Claimant.
- 2.050 Forms.
- 2.060 Amendment of Claim.
- 2.070 Notice of Insufficiency of Claim.
- 2.080 Effect of Failure or Refusal to Amend
- 2.090 Failure to Give Notice of Insufficiency; Waiver of Defense Based on Defect or Omission.
- 2.100 Time Limits for Presentation of Claims.
- 2.110 Grant or Denial of Claim by Tribal Business Council.
- 2.120 Notice of Denial of Claim.
- 2.130 Mailing or Service of Notice.
- 2.140 Re-examination of Rejected Claim.
- 2.150 Sovereign Immunity.

2.010 Presentation of Claims as Prerequisite to Filing Suit. Except for claims for injury or damage arising out of the Tribe's Gaming Enterprise aka Diamond Mountain Casino and Hotel which are subject to the Susanville Indian Rancheria of California Tort Claims Ordinance, all other claims against the Tribe or any of its business enterprises, including the Susanville Indian Rancheria Company ("SIRCO"), and its subsidiaries, political subdivisions or other tribally created entities (collectively, "Tribal Entities"), for money or damages shall be presented to the Tribal Business Council and acted upon as further provided in this Ordinance. All such claims shall be presented as required by this Ordinance and within the time periods specified herein.

2.020 Claims Subject to Filing Requirements. The claims subject to the filing requirements under this Section shall include, but not be limited to, any and all claims for money or damages; any and all claims by tribal employees for fees, salaries, wages, mileage, or other expenses and allowances, and any and all claims by any federal, state, or local public entity. The provisions of this Section shall apply to any and all claims whether they relate to events, transactions, or occurrences that took place prior to or after the effective date of this Ordinance. Claims subject to the Susanville Indian Rancheria Tort Claims Ordinance, governing the presentation and adjudication of tort claims arising out of the operation of the Tribe's Gaming Enterprise, are not subject to the filing requirements of this Ordinance, but must be presented and adjudicated in accordance with the provisions of that ordinance as it now reads or as it may be amended or replaced.

2.030 Contents of Claim. A claim shall be presented by the claimant or by a person acting on the claimant's behalf and shall include the following: (1) the name and address of the claimant; (2) the address to which the claimant desires notices to be sent; (3) the date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted; (4) a general description of the indebtedness, obligation, injury, damage, or loss incurred so far as it may be known at the time of presentation of the claim; (5) the name or names of the tribal employee or employees causing the injury, damage, or loss, if known; and (6) the amount claimed as of the date of presentation of the claim, including the estimated amount of any prospective injury, damage, or loss, insofar as it may be known at the time of the presentation of the claim, together with the basis of computation of the amount claimed.

2.040 Signature of Claimant. The claim shall be signed by the claimant or a person on the claimant's behalf. Claims against the Tribe or any of its business entities for supplies, materials, equipment, or services need not be signed by the claimant or on the claimant's behalf if presented on a bill-head or invoice regularly used in the conduct of business of the claimant.

2.050 Forms. The Tribal Business Council may provide forms specifying the information to be contained in claims against the Tribe or any of its business enterprises. If the Tribal Business Council provides forms pursuant to this Section, the claimant need not use such form if he/she presents his/her claim in conformity with Sections 2.030 and 2.040. A claim presented on a form provided pursuant to this Section shall be deemed to be in conformity with Sections 2.030 and 2.040, if the claim complies substantially with the requirements of the form or with the requirements of said Sections.

2.060 Amendment of Claim. A claim may be amended at any time before the expiration of the period designated in Section 2.100 or before final action thereon is taken by the Tribal Business Council, whichever is later, if the claim, as amended, relates to the same transaction or occurrence which gave rise to the original claim. The amendment shall be considered a part of the original claim for all purposes.

2.070 Notice of Insufficiency of Claim. If, in the sole discretion of the Tribal Business Council or a person designated by the Tribal Business Council to evaluate the claim, a claim as presented fails to comply substantially with the requirements of this Ordinance or the requirements of the form provided under this Ordinance, the Tribal Business Council or such designated person may, at any time within twenty (20) days after the claim is presented, give written notice of its insufficiency, stating with particularity the defects or omissions therein. Such notice shall be given in the manner prescribed by this Ordinance. Where such notice is given, the claimant shall have 15 days to amend the claim. The Tribal Business Council may not take action on the claim during that time.

2.080 Effect of Failure or Refusal to Amend. If, within 15 days of the giving of notice of the insufficiency of his or her claim, the claimant fails or refuses to amend his or her claim, the claim shall be deemed denied.

2.090 Failure to Give Notice of Insufficiency; Waiver of Defense Based on Defect or Omission. Any defense based on the insufficiency of a claim resulting from a defect or omission in the claim as presented is waived by the failure on the part of the Tribe to give notice of the insufficiency as provided in Section 2.070, except that, no notice need be given and no waiver shall result when the claim, as presented, fails to state either an address to which the claimant desires notice to be sent or an address of the claimant.

2.100 Time Limits for Presentation of Claims. A claim relating to a cause of action for death or for injury to a person or to personal property shall be presented as provided for in this Ordinance not later than the ninetieth (90th) day after the accrual of the cause of action. A claim relating to any other cause of action shall be presented, as provided in this Ordinance not later than one hundred eighty (180) days after the accrual of the cause of action.

2.110 Grant or Denial of Claim by Tribal Business Council.

- (a) The Tribal Business Council shall grant or deny any claim within sixty (60) days after the claim is presented to the Tribal Business Council. The claimant and the Tribal Business Council may extend the period within which the Tribal Business Council is required to act on the claim by written agreement entered into before the expiration of such period.
- (b) If the Tribal Business Council fails or refuses to act on the claim within the time prescribed by this Section, the claim shall be deemed to have been denied on the sixtieth (60th) day or, if the period within which the Tribal Business Council is required to act is extended by agreement pursuant to this Section, on the last day of the period specified in such agreement.

2.120 Notice of Denial of Claim.

- (a) Written notice of the rejection of the claim or the Tribal Business Council's inaction on the claim, which is deemed a rejection of the claim by operation of law under this Ordinance, shall be given in the manner provided in Section 2.130. Such notice shall be in substantially the following form:

"Notice is hereby given that the claim which you presented to the Tribal Business Council of the Susanville Indian Rancheria of California on [indicate date] was [indicate whether rejected, allowed, allowed in the amount of \$ _____ and rejected as to the balance, rejected by operation of law, or other appropriate language, whichever is applicable] on [indicate date of action or rejection by operation of law]."

- (b) If the claim is allowed in whole or in part or suit is otherwise expressly authorized by the Tribal Business Council in writing, and is within the scope of coverage and the policy limits of an insurance policy carried by the Tribe or any Tribal Entity other than the Tribe's Gaming Enterprise, and the insurance company fails or refuses to pay the claim to the extent allowed by the Tribal Business Council, the allowance shall be deemed a waiver of the Tribe's sovereign immunity to the extent of such insurance coverage as further provided below, and the notice required by Subdivision (a) above shall include a warning in substantially the following form:

"WARNING"

If your claim was based upon death or injury to a person or personal property, you have ninety (90) days from the date this notice was personally delivered or deposited in the mail to file a court action on this claim, otherwise, you have one hundred eighty (180) days from the date this notice was personally delivered or deposited in the mail to file a court action on this claim. You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately."

The waiver of sovereign immunity provided in this Section 2.120(b) does not extend to any income or assets of the Tribe, Tribal Entities, or their officers, agents or employees or in any action or proceeding, including, but not limited to, levy or attachment, to enforce a judgment against such income or assets, and is only granted to the extent the claim is covered by an insurance policy and may only be satisfied from the income or assets of the insurance company providing such coverage.

2.130 Mailing or Service of Notice. The notice required by Section 2.110 shall be deemed given when it is either: (1) personally delivered to the claimant or the claimant's representative as specified in the claim or (2) when deposited in the United States mail addressed to the claimant or the claimant's representative as specified in the claim, first class postage prepaid.

2.140 Re-examination of Rejected Claim. The Tribal Business Council may, in its discretion, within the time described by Section 2.120 for commencing a court action on the claim, re-examine a previously presented claim in order to consider a settlement of the claim.

2.150 Sovereign Immunity. Except as provided in Section 2.120, nothing in this Ordinance shall be deemed to waive the sovereign immunity of the Susanville Indian Rancheria of California or any of its enterprises, officers, agents, or employees.

Section 3. Effective Date, Publication. This Ordinance shall take effect immediately after its adoption.

CERTIFICATION

We, hereby certify that the Susanville Indian Rancheria Exclusion Ordinance was adopted by the Susanville Indian Rancheria Tribal Business Council at a duly called meeting held January 4, 2011 with a vote of 6 for, 0 against, 0 abstain.

ATTEST;



Aaron Dixon Sr.
Secretary/Treasurer



Mr. Stacy Dixon
Tribal Chairman