

**ORDINANCE NO. 2002-01**

**AN ORDINANCE OF THE TRIBAL COUNCIL OF THE CALIFORNIA VALLEY MIWOK TRIBE ESTABLISHING REGULATIONS AND PROCEDURES GOVERNING ENROLLMENT AND DISENROLLMENT OF MEMBERS.**

The Tribal Council of the California Valley Miwok Tribe does hereby ordain as follows:

Section 1. Declaration of Findings. The Tribal Council of the California Valley Miwok Tribe hereby finds as follows:

1. Under Article III, Section 2 of the Constitution of the California Valley Miwok Tribe ("Constitution"), the Tribal Council is charged with the responsibility of enacting an ordinance establishing procedures for the enrollment and disenrollment of Tribal members.
2. The enactment of a tribal ordinance governing the enrollment and disenrollment of tribal members is necessary in order to maintain a current list of persons who are members of the Tribe eligible to participate in Tribal programs and elections and to ensure that applications for enrollment or disenrollment are processed in an orderly and timely manner.

Section 2. Adoption of Enrollment Ordinance. A new ordinance entitled "An Ordinance Establishing Regulations and Procedures Governing Enrollment and Disenrollment of Members", is hereby adopted which shall provide as follows:

**AN ORDINANCE ESTABLISHING REGULATIONS AND PROCEDURES GOVERNING ENROLLMENT OF MEMBERS OF THE CALIFORNIA VALLEY MIWOK TRIBE**

Chapters:

- 02 General Provisions
- 03 Definitions
- 04 Enrollment Committee
- 05 Persons Eligible for Enrollment
- 06 Application for Enrollment
- 07 Approval or Disapproval of Application
- 08 Disenrollment
- 09 Hearings
- 10 Certification of Tribal Roll

11 Maintaining a Current Membership Roll

12 Use of Membership Roll

## **Chapter 02**

### **GENERAL PROVISIONS**

#### **Sections:**

02.010 Short title

02.020 Purpose

02.030 Sovereign immunity preserved

02.040 Interpretation and findings

02.050 Conflicting provisions

**02.010 Short title.** This ordinance shall be known and cited as the "California Valley Miwok Tribe Enrollment Ordinance."

**02.020 Purpose.** To provide uniform procedures for the application, enrollment and disenrollment of members of the California Valley Miwok Tribe.

**02.030 Sovereign immunity preserved.** Nothing in this ordinance is intended or shall be construed as a waiver of the sovereign immunity of the California Valley Miwok Tribe. No officer or employee of the California Valley Miwok Tribe is authorized, nor shall he attempt to waive the immunity of the Tribe under the provisions of this Ordinance.

**02.040 Interpretation and findings.** The Tribal Council in the first instance may interpret any ambiguities contained in this Ordinance, and its interpretation shall be conclusive as to the meaning of this Ordinance.

**02.050 Conflicting provisions.** Whenever any conflict occurs between the provisions of this Ordinance and the provisions of any other tribal ordinance, the provisions of this Ordinance shall take precedence.

## **Chapter 03**

### **DEFINITIONS**

#### **Sections:**

03.010 Interpretation

03.020 Applicant

03.030 Base Roll.

03.040 Census roll

03.050 Committee

03.060 Council

03.070 Dependant Member

03.080 Descendants

03.090 Distributee

03.100 Distribution Plan

03.110 Enroll

03.120 Gender

03.130 Non-voting Member

03.140 Parent

03.150 Preponderance of Evidence

03.160 Tribe

03.170 Voting Member

03.010 Interpretation. In construing the provisions of this Ordinance, the following words or phrases shall have the following meanings, unless a different meaning is expressly provided or the context clearly indicates otherwise.

03.020 Applicant. "Applicant" shall mean a person seeking to enroll in the Tribe upon their own behalf.

03.030 Base roll. "Base roll" shall mean Silvia F. Burley, Rashel K. Reznor, Anjelica J. Paulk, Yakima K. Dixie, and Tristian S. Wallace as established in Article III, Section 1(a) of the Tribe's Constitution.

03.040 Committee. "Committee" shall mean the Enrollment Committee established under Section 4 of this Ordinance.

03.050 Council. "Council" shall mean the Tribal Council established under Article V, Section 3 of the Constitution for the California Valley Miwok Tribe as approved and amended, September 2001 ("Constitution").

03.060 Descendants. "Descendant" means a person who is the direct lineal decedent of an ancestor through whom enrollment rights are claimed, namely, the children, grandchildren, great-grandchildren, or vis-a-versa, etc. of that ancestor. "Descendant" does not include adopted children. This term also does not include collateral relatives such as brothers, sisters, nieces, nephews, aunts, uncles, cousins or half or step-siblings.

03.070 Enroll. "Enroll" or "enrolled" means the lawful placement of a person's name upon the tribal roll in accordance with this Ordinance.

03.080 Gender. The terms "he," "him," "his," and the like shall be deemed to include "she," "her," "hers," etc.

03.090 Non-voting Member. "Non-voting member" means any person who is adopted into the Tribe and enrolled into the Tribe in accordance with this Ordinance. Non-voting members shall be ineligible to vote in any tribal election or other vote of the voting members of the Tribe.

03.100 Parent. "Parent" means the natural, biological parent.

03.110 Preponderance of Evidence. "Preponderance of the evidence" means evidence that is superior in weight, importance, or strength, and which is more credible and convincing to the mind than the opposing evidence.

03.120 Tribe. "Tribe" means the California Valley Miwok Tribe.

03.130 Voting Member. "Voting member means any of the five persons listed in the base roll of the Tribe, and all their future descendants, and (direct lineal forbearers) who may become enrolled in the Tribe.

## **Chapter 04**

### **ENROLLMENT COMMITTEE**

#### **Sections:**

04.010 Establishment of Enrollment Committee

04.020 Terms of Office

04.030 Powers

04.040 Conduct of Business

04.050 Records

04.060 Confidentiality

04.010 Establishment of Enrollment Committee. An Enrollment Committee, consisting of three (3) appointees/members, shall be appointed by the Tribal Council immediately after the adoption

of this Ordinance, and may be the Tribal Council. One member of the Enrollment Committee shall be designated to serve as the Chairperson and shall be the Tribal Chairperson.

04.020 Terms of office. The Enrollment Committee will appoint a new member to fulfill the term of any Committee member who cannot fulfill his term. The appointment shall be for the duration of the term of the individual replaced. All Committee members shall be enrolled Tribal members of 18 years of age or older. Members serve at the pleasure of the Council who, by majority vote at a duly called meeting at which a quorum is present, may remove any Committee member before his term expires with or without cause.

04.030 Powers. The Committee shall exercise the powers and perform the duties assigned to it by this Ordinance, and such other duties as may be assigned it by the Council.

04.040 Conduct of business. The Committee may adopt rules of procedure to govern the conduct of its meetings and business as long as the rules do not conflict with any provision of this Ordinance or the Constitution of the Tribe. The Committee shall draft such forms as may be necessary to implement this Ordinance. All rules of procedure and forms must be submitted to and approved by the Council before they become effective, unless the Council is serving as the Committee.

04.050 Records. The Committee shall maintain and safeguard the tribal roll and the records and files of the Tribe relating to enrollment. No change shall be made in the tribal roll except pursuant to a written resolution of the Council or pursuant to this Ordinance. Minutes shall be taken of Committee meetings and a written record shall be kept of all actions taken, and all recommendations to the Council. Transcripts or recordings shall be made of all hearings conducted by the Committee, and these shall be maintained for a period of three years following a final decision after hearing. The Committee may adopt rules pertaining to the maintenance and preservation of records. All such rules must be submitted to and approved by the Council before they become effective.

04.060 Confidentiality. All records, documents, and information submitted by any person pursuant to this Ordinance shall be treated as confidential and maintained in confidential files at the tribal office. Confidential information shall not be disclosed to any person except as is necessary to comply with the provisions of this Ordinance. The Committee may adopt rules pertaining to the maintenance and disclosure of confidential information. The rules shall contain a requirement that each Committee member as a condition of assuming his or her office sign a confidentiality agreement approved by the Committee. The rules must not conflict with the provisions of this Ordinance or the Constitution. All such rules must be submitted to and approved by the Council before they become effective.

## **Chapter 05**

### **PERSONS ELIGIBLE FOR ENROLLMENT**

#### **Sections:**

05.010 Criteria for Enrollment

05.020 Initial or base membership roll

05.010 Criteria for enrollment. The following persons are eligible for enrollment in the Tribe:

(a) Voting members.

1. Base enrollees: Silvia F. Burley(D.O.B.7/15/60) Rashel K. Reznor(D.O.B.4/20/79)  
Anjelica J. Paulk(6/09/83) Yakima K. Dixie(D.O.B.2/01/40) Tristian S. Wallace(2/27/96)

1. All lineal descendants of the persons identified in Section 05.010(1) (Whom are enrolled in the tribe)

1. All lineal forbearers such as parents, grandparents, etc., of the persons identified in section 05.010(1) (Whom are enrolled in the tribe)

1. Any children born after enactment of this ordinance whom are of direct lineal descent to the five base enrollees

1. Any non voting member enrolled pursuant to 05.010 (b) who meet the following criteria  
a. Has completed three continuous years as a non voting member in good standing;  
b. Has not been convicted of any criminal offense enumerated in 8 U.S.C. 1227(a)(2).”

(b) Non-voting members.

1. The Council/Committee shall determine whether or not to adopt a person as a non-voting tribal member, using the following criteria or any other criteria the Council may adopt by resolution:

1. Applicant verifies to the tribe through BIA certification that he/she possess ‘s a quarter quantum or more of Miwok blood (and)

1. Further verifies to the Tribe through BIA certification that the before mentioned amount is from direct lineal descentcy to any voting participant/s of the Sheep Ranch Rancheria June 12<sup>th</sup> 1935 IRA vote

1. Does the person have family or ties to enrolled members of the Tribe?

1. Has the person demonstrated a positive commitment to the tribal community over a substantial period of time? \*

1. Will the person contribute to the cultural, social, political or economic life of the Tribe? In a positive way? \*

1. Will adopting the person as a tribal member be in the best interests of the Tribe and its members? \*

1.\* All interpretations of above listed statements shall be solely left to the discretion of the tribal enrollment committee/council

(c) Disqualification for membership. Any person who is an enrolled member of another federally recognized tribe, and who has not relinquished membership in the other tribe in accordance with the laws of that tribe is not eligible for membership in the Tribe.

05.020 Initial or base membership roll. The Committee shall prepare the Base Roll by including the base enrollees.

## **Chapter 6**

### **APPLICATION FOR ENROLLMENT**

#### **Sections:**

#### **06.010 Application for membership.**

06.010 Application for membership. Any person who seeks enrollment shall file a written application with the Committee. Forms adopted by the Committee for this purpose will be furnished by the Committee, Upon their development. And during periods in which enrollment is open.

(a) Application content. Each application shall contain the full name and address of the applicant. The Committee shall send all notices permitted or required by this Ordinance to the address contained on the application form or to a different address contained in a subsequent written notice of address change submitted by the applicant. The application shall contain a statement that the applicant has supplied all relevant data that the applicant intends to submit in support of his enrollment. He must certify that the information contained in the application, including any evidence submitted in support thereof, is true and complete to the best of the knowledge and belief of the applicant and that the applicant has not omitted any information known to the applicant that could have a material affect on the decisions of the Committee or Council.

(b) Evidence in support of application. The burden of proof and producing evidence shall be upon the applicant. He must provide evidence to support every element of his claimed entitlement to enrollment. Any matter to be proven in support of the application must be proven to the satisfaction of the Committee and the Council by a preponderance of the evidence. In proving identity or lineal descent, the applicant may use:

1. Certified copies of birth certificates. If birth certificates are not produced the applicant must affirmatively establish that they are not available by stating what he did to obtain certified copies of relevant birth certificates;

(2) Baptismal records;

(3) BIA records;

(4) Indian Health Service records;

(5) Adoption records;

(6) Court records establishing paternity;

(7) Declarations under penalty of perjury or affidavits based on the personal knowledge of the declarant;

(8) School records;

(9) Military records;

(10) Any other evidence the Committee reasonably accepts as relevant to and probative of the facts it is submitted to support.

(c) Time for submitting and acting on applications. The Committee will accept applications for enrollment at any time. The Committee will make a recommendation to the Council, unless the Council is acting as the Committee, on each application received.

Within ninety (90) days after the application has been submitted, the Committee must notify the applicant, if the application is incomplete. If it fails to so notify the applicant, the application shall be deemed complete.

Unless the Committee notifies the applicant within ninety (90) days of the Committee's receipt of any additional information submitted by the applicant that further information is required, the application shall be deemed complete.

Any time the Committee notifies the applicant that the application is incomplete, the applicant shall have thirty (30) days to submit additional information. If he fails to submit additional information within that time, the application shall be denied.

Any time an application is denied, the applicant shall have the right to notice and hearing as provided in Chapter 9.

## **Chapter 7**

### **APPROVAL OR DISAPPROVAL OF APPLICATION**

#### **Sections:**

07.010 Action by Committee.

07.020 Action by Council.

07.010 Action by Committee. The Committee shall review and act upon a completed application within ninety days of its receipt. Based on its review of the evidence submitted by the applicant and any other information of a reliable character available to it, the Committee shall recommend approval or disapproval of the application to the Tribal Council, or approve or disapprove it within 10 days of completing its review, if the Council is the Committee.

07.020 Action by Council. If the Council is not the Committee, the recommendations of the Committee shall be immediately forwarded to the Council Secretary who shall place the application on the agenda for the next meeting of the Council. The Council shall vote to either approve or disapprove the application at the meeting. The person shall be considered a member of



the Tribe upon the approval of his application within the proceeding ninety days by the Council and his name added to the Tribal Membership Roll as soon as practical thereafter. If an application is denied by the Council, the appellant shall have the right to a hearing on the decision according to the procedure contained in Chapter 9, if he requests a hearing within thirty (30) days of the Council decision. Alternatively, a rejected applicant may reapply in accordance with this Chapter.

## **Chapter 8**

### **DISENROLLMENT**

#### **Sections:**

08.010 Grounds for disenrollment

08.020 Disenrollment procedure

08.030 Voluntary Disenrollment

08.040 Removal of deceased member

**08.010 Grounds for Disenrollment.** All proceedings for disenrollment shall be pursuant to this section. No person shall be disenrolled except on the following grounds:

- (a) Any untrue statement, false or fraudulent evidence or intentional or negligent omission of material facts or evidence in connection with any application;
- (b) The violation of any Tribal law that specifically provides for disenrollment as a penalty for violation of that law; Or as would have been implemented under custom and tradition, in which the enrollment committee/council shall be the only interpreter.
- (c) Any error in determining eligibility; provided the true facts establish that the person is not eligible for membership in the Tribe;
- (d) Enrollment in any other federally recognized Indian Tribe, band, community or group; provided that a member so enrolled shall have ninety (90) days, from the date the Committee so notifies the member in writing, to effectively relinquish membership in the other Tribe, band, community or group in accordance with the laws of that other tribe. If the Committee fails to receive official notification from the other tribe of the member's disenrollment within said ninety (90) days, it shall proceed to disenroll the member as an involuntary disenrollment; or
- (e) Receipt of a notarized request from the member, or the parent or legal guardian of a minor or incompetent member, voluntarily relinquishing membership in the Tribe.

**08.020 Disenrollment Procedure.** An involuntary disenrollment proceeding may be initiated by the Committee by serving the member with a written notice of its intent to disenroll the member. The notice shall set forth the grounds for disenrollment and the evidence supporting the proposed disenrollment. It shall inform the member that he has fifteen (15) days to request a hearing on the proposed disenrollment as provided in Chapter 9. If there is no timely appeal or the disenrollment

is upheld on appeal, the Committee shall strike the member's name from the roll. It shall provide the former member and the Council with notice of this action.

08.050 Voluntary Disenrollment. Voluntary disenrollment becomes effective upon receipt of the certified request as provided in Section 08.010(e). The Committee shall send notice of disenrollment to the former member within five (5) working days following receipt, and remove the member's name from the roll.

08.040 Removal of Deceased. When the Committee learns that a member has died, the name of the deceased member shall be removed from the roll. Information on the deceased shall be maintained in a list of formerly enrolled members.

08.050 Effect of disenrollment. Involuntary disenrollment on grounds contained in Section 9.010 (a), (b) or (c) shall be final. No persons disenrolled on these grounds shall be eligible for enrollment in the future. Persons voluntarily disenrolled or involuntarily disenrolled for reasons contained in Section 8.010 (d) shall be eligible to seek enrollment in the future under Chapter 7.

## **Chapter 09**

### **HEARINGS**

#### Sections:

#### 09.010 Notice

#### 09.020 Hearing procedure

09.010 Notice. When an applicant for enrollment or any other person entitled to a hearing under the terms of this ordinance requests a hearing or the Committee or Council sets a matter for hearing under this Ordinance, the applicant or other person shall be given written notice of the hearing by regular first class mail not less than ten (10) days before the hearing. The notice shall state the time, date and place of the hearing. It shall be deemed given 48 hours after it is deposited in the United States mail with proper address and postage affixed thereto. It shall state the reason for the hearing, describe any evidence supporting the decision and advise the applicant or other person of his right to present witnesses or other evidence orally or in writing at the hearing.

09.020 Hearing procedure. At the time scheduled, the Council shall consider the evidence submitted in support of the decision. The Council may continue the hearing from time to time for good cause shown on the application of any party to the hearing or on its own motion. The applicant or other person may present witnesses and other evidence. The chairman or vice-chairman shall preside over the hearing. The hearing shall be electronically recorded on video or audio tape or reported by a certified short hand reporter. Formal rules of evidence shall not apply, but the burden of proof and producing evidence remains with the applicant, except in disenrollment proceedings. The Council shall base its decision on the kind of substantial and reliable evidence relied upon in the conduct of serious affairs. The Council may deliberate in public, in closed session or at a subsequent meeting. The applicant or other person shall receive written notice of the decision within ninety (90) days after the Council makes its decision.

## **Chapter 10**

## **CERTIFICATION OF TRIBAL ROLL**

### **Sections:**

#### **10.010 Committee's Certification of Roll.**

#### **10.020 Council Certification of Roll.**

**10.010 Enrollment Committee's Certification of Roll.** The Committee shall affix a certification to the membership roll, certifying that the roll, to the best of its knowledge and belief, contains only the names of those individuals who were determined to meet the requirements of enrollment prescribed by these regulations. The roll shall then be submitted to the Council for its certification, unless the Council is the Committee..

**10.020 Council Certification of Roll.** Unless the Council is the Committee, the Council, at a duly called meeting, shall review the roll certified by the Committee and certify adoption of the official roll by resolution.

**10.030 Copy of Roll to BIA.** A copy of the roll shall be sent to the Bureau of Indian Affairs for its records. The official roll shall be maintained at the Tribal Office.

## **Chapter 11**

## **USE OF MEMBERSHIP ROLL**

### **Sections:**

#### **11.010 Use of Membership Roll.**

**11.010 Use of Membership Roll.** Unless otherwise directed by the Council, the certified membership roll shall determine tribal membership for all purposes.

**Section 3 Effective Date.** This Ordinance shall take effect immediately upon its passage.

## **CERTIFICATION**

We, the undersigned duly elected officials of the California Valley Miwok Tribe, do hereby certify that on January 7, 2002, the foregoing Ordinance was adopted at a duly called meeting of the Tribal Council of the California Valley Miwok Tribe with a quorum present by a vote of 3 for, 0 against, 0 abstaining and 0 absent.

\_\_\_\_\_ DATED: 01/07/2002

CHAIRPERSON, California Valley Miwok Tribe

\_\_\_\_\_ DATED: 01/07/2002

SECRETARY, California Valley Miwok Tribe