

## TITLE 2 GENERAL PROVISIONS

### CHAPTER 1. USE OF TRIBAL CUSTOM AND TRADITIONAL LAW

The Tribal Council of the Smith River Rancheria, empowered by the Tribal Constitution to enact ordinances, hereby ordains the following:

#### **§1. Definitions**

For the purposes of this ordinance, the following words shall have the following meanings:

- (a) The term "Tribal Council" means the Tribal Council of the Smith River Rancheria.
- (b) The term "person" means any individual, corporation, firm, partnership, joint venture, association, social club, estate, trust, federal, tribal, state, county, city, or district government, or other political subdivision thereof, or any other group or combination acting as a unit whether incorporated or not, including a person acting in fiduciary or representative capacity.
- (c) The term "Rancheria" means all land, air, and water located within the exterior boundaries of the Smith River Rancheria.
- (d) The term "Tribal Environmental Programs Office" means the Tribal Environmental Programs Office of the Smith River Rancheria.
- (e) The term "Tribe" means the Smith River Rancheria, a federally recognized tribe.

#### **§2. Choice of Law**

In carrying out judicial functions, the Tribal Environmental Programs Office and the Tribal Council shall apply the laws, ordinances, customs and traditions of the Tribe. In the absence of tribal laws in civil matters, the Tribal Environmental Programs Office and the Tribal Council may apply the laws and regulations of the United States.

#### **§3. Tribal Custom and Tradition**

- (a) Tribal custom and tradition shall supersede any conflicting evidentiary or procedural rule, when specifically presented by the Tribal Council, or any person in a civil action before the Tribal Council.
- (b) Tribal custom and tradition shall be established by testimony or affidavit of an expert or by the Tribal Council. An expert is an elder or other person recognized by the community as knowledgeable in tribal custom and tradition.

**§4. Effect of Ordinance on Other Tribal Ordinances**

This Ordinance supercedes any conflicting or contrary superceding ordinances passed by the Tribe.

**§5. Severability**

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, its invalidity does not affect other provisions or applications of this Ordinance, and to this end the provisions of this Ordinance are severable.

**§6. Sovereign Immunity**

The sovereign immunity of the Tribe is in no manner waived by this Ordinance or by any action by the Tribal Council or staff of the Tribe acting pursuant to this Ordinance.

**§7. Amendments**

This Ordinance may be amended at any time by the Tribal Council.

**§8. Effective Date**

This ordinance shall take effect immediately upon passage.

**§ 9. Legislative History**

This Chapter was originally adopted on September 30, 2002 as the Smith River Rancheria Use of Tribal Custom and Traditional Law Ordinance (Ordinance 02-07).