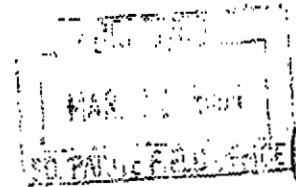


**BYLAWS OF THE  
SHIWITS BAND OF SOUTHERN PAIUTES**



**PREAMBLE**

The Shivwits Band of Southern Paiutes has lived along the Santa Clara River and on the southern uplands including the Shivwits Plateau and the north rim of the Grand Canyon since time immemorial. Throughout American history, the Shivwits Band has been recognized as an independent self-governing Indian Tribe by the United States and its predecessors. The U.S. terminated its recognition for the Shivwits Band in 1954. The Band continued to govern its members and its territory. The United States restored its official recognition of the Band, and the government-to-government relationship, in 1980. See Public Law 96-227 (25 U.S.C. § 761 et seq.). In the same Act, the United States Congress created an umbrella entity called the "Paiute Indian Tribe of Utah," of which the Shivwits Band is designated as a constituent band. The Constitution of the Paiute Indian Tribe of Utah (enacted July 15, 1991), provides that "each constituent band shall establish by the adoption of by-laws its own rules of procedure and organizational structure." See Article VIII, Section 1. We the native Paiute people of the Shivwits Band of Southern Paiutes, in order to sustain and perfect our historic form of government, do proclaim and establish these Bylaws for the Shivwits Band.

**ARTICLE I: GOVERNING PRINCIPLES**

Our government shall be dedicated to the conservation and careful development of the Shivwits Band's lands and other resources; to promoting the health and economic well-being of all Band members; to providing educational opportunities for ourselves and our posterity, and to promoting and preserving the social and cultural well-being of our people.

**ARTICLE II: SHIWITS BAND COUNCIL**

**Section 1.            Governing Body**

The Governing Body of the Shivwits Band shall be known as the Shivwits Band Council

**Section 2.            Members of the Council**

The Shivwits Band Council shall consist of five (5) members: Chairperson, Vice Chairperson, and three (3) at-large council members. The Shivwits Treasurer and Shivwits Secretary will be two of the three at-large Council Members if they are not elected from outside of the Council.

**Section 3.            Quorum**

Three Band Council members shall constitute a quorum. Official Council action may be taken

only if all five members were notified of the meeting and given a reasonable opportunity to participate.

Section 4.            Term of Office

Each Shivwits Band Council member's term of office shall be for a period of four (4) years. However, if a Band Council Member is filling in a position that has become vacant, his or her term will end at the next Band Council elections.

Section 5.            Felony Convictions

No one who has been convicted of a felony in the previous fifteen (15) years may run for office. If convicted of a felony while in office, a Band Council Member or officer automatically forfeits his or her position and /or office and will not be allowed to run for office until the fifteen years has expired.

Section 6.            Age Requirement

The Shivwits Band Chairperson must be at least twenty-one (21) years of age. The other four Council members must be eighteen (18) years of age.

**ARTICLE III: STAGE ONE ELECTIONS  
BAND CHAIRPERSON AND VICE CHAIRPERSON**

Section 1.            Nominations

Nominations for Band Chairperson are taken in a duly-called meeting in the community building on the Reservation in February or March of every fourth year, where the last such election was held in 2001 and the next will be 2005. The current Chairman or his or her delegate shall call the date of the nomination meeting and preside over the nomination process. Within a reasonable time and at least ten days before the nomination meeting, the Band Secretary shall post signs and mail notices of the date of the nomination meeting to all enrolled members of voting age. After a motion to open the meeting, nominations are made verbally. The nominations will be closed when a Band member of voting age makes a motion to cease nominations and the motion carries.

Section 2.            Notice of Elections.

Approximately 15 days after the nominations, elections shall be held. At least ten days before the elections, the Band Secretary shall post signs and mail notices of the date of the elections to all enrolled members of voting age.

### Section 3. Elections.

Ballots will be accepted from 11 AM to 7 PM on election day, in the manner described in Article VI below. The ballot will list all nominees for Band Chair. The person receiving the highest number of votes becomes the Band Chair. The person receiving the second highest number of votes becomes the Vice Chair. Twenty (20) percent of enrolled members of voting age must cast a vote for the election to be valid.

## **ARTICLE IV: STAGE TWO ELECTIONS THREE COUNCIL MEMBERS-AT-LARGE AND OPTIONAL ADDITIONAL OFFICERS**

### Section 1. Overview

The Chairperson of the Band has the opportunity to run for Chair of the Paiute Indian Tribe of Utah. If he or she wins, then the Band's Vice Chair will move up to Chair, and the position of Vice Chair will be re-elected along with the other three members in the second stage of election.

In the second stage of the election, the remaining members of the Band Council are selected, and the Band members have the choice of nominating and electing a separate Secretary and /or a separate Treasurer. The Chairman may also call for volunteers or elections at this time for the housing, education, activities, and other representatives to the Band Council.

### Section 2. Nominations.

Within 30 days after the new Chairperson has been inaugurated, he or she will hold the second *nomination meeting*. At least ten days before the nomination meeting, the Band Secretary shall post signs and mail notices of the date of the nomination meeting to all enrolled members of voting age. Prior to taking nominations, the Chair will explain to members that if they chose *not* to nominate anyone from outside the Council for Secretary or Treasurer, the Council will select *these officers from its members-at-large*. After a *motion to open the meeting*, nominations are made orally. Anyone nominated must be present at the nominations meeting, and will be asked to consent to the nomination before the nomination is accepted. The nominations will be closed when someone makes a motion to cease nominations and the motion carries.

### Section 3. Notice of Elections.

Within 30 days after nominations are taken, and at least ten days before the elections, the Secretary shall post and mail a notice of the date of the elections to all enrolled members of voting age. Stage Two Elections must be within 100 days of the date nominations were taken for Chairperson.

### Section 4. Elections for Council Members at Large and

### Optional Extra-Council Officers.

Ballots will be accepted from 11 AM to 7 PM on election day in the manner described in Article V below. The ballots will list all nominees for Band Council. The three persons who receive the most votes for Band Council will become members 3 through 5 of the Band Council.

If anyone was nominated for Secretary and/or Treasurer, the ballot will list the nominees for each of those offices separately. The person receiving the most votes for Secretary, and at least 25% of the votes cast, will become Secretary. The person receiving the most votes for Treasurer, and at least 25% of the votes cast, will become Treasurer. If no one receives at least 25% of the votes cast for Secretary or Treasurer, or if no one was nominated for Secretary or Treasurer, the Band Council will select these officers from its three at-large members.

## **ARTICLE V: VOTING RULES IN GENERAL**

### Section 1. Eligible Voters.

All duly enrolled members of the Band who are eighteen (18) years of age or older shall have the right to vote in all Band Council elections. Twenty (20) percent of enrolled members of voting age must cast a vote for the election to be valid.

### Section 2. Manner of Voting.

All elections shall be by written secret ballot. The Chairman and the Secretary will present the ballot box and the printed ballots. Ballots shall be reasonably easy to understand. Votes are placed by putting any mark next to the name. The BIA Superintendent shall keep the Ballots during the election process and will be responsible for the counting of the ballots. The Band Secretary shall be present when the ballots are counted, and generally be responsible for the anonymity and accuracy of the process. The Band Secretary will not count the ballots.

### Section 3. Absentee Voting.

Absentee ballots shall be made available in advance of any election to any Band members who will be absent on the day of election. Absentee ballots may be mailed or hand-delivered, but must be received by the BIA Superintendent by (including on ) the scheduled date of the election before 7:00 pm. Absentee ballots received before the election date shall be counted along, with those ballots cast in person at the polls. All ballots will be placed in the locked ballot box until counted.

## **ARTICLE VI: OATH OF OFFICE.**

Each member of the Shiwits Band Council and it's officers elected or appointed under these by-laws shall take the following oath of office prior to assuming the duties thereof:

"I, \_\_\_\_\_, do solemnly swear that I will support and defend the Bylaws of the Shivwits Band; that I will carry out faithfully and impartially the duties of my office to the best of my ability; that I will cooperate, promote and protect the best interests of the Shivwits Band in accordance with these bylaws; that I am in office to serve the whole Band, not individual interests, and will act for betterment of the Band and not myself."

## ARTICLE VII: DUTIES OF SHIVWITS BAND COUNCIL MEMBERS

### Section 1. Professionalism.

Band Council Members and other officers shall act professionally at all times that they are conducting Band business or otherwise representing the Band. Band Council Members may not attend meetings or elections if under the influence of alcohol or other intoxicant.

### Section 2. Duties of Members at Large.

#### (a) Duty to Attend Meeting.

All five Council members shall attend all duly-called Band Council meetings when able and shall participate meaningfully and creatively in the Band's affairs.

#### (b) Consult Band Membership.

All five Council members shall consult frequently with Band members to ensure that their needs are considered by the Band Council.

#### (c) Other.

Council members-at-large shall perform such other duties as they can, or as may from time to time be required by the Chairperson or the Band Council, so that the work of the Band Council is distributed fairly among all five members.

### Section 3. Vice Chairperson.

#### (a) Duty to Substitute.

The Vice-Chairperson shall act as Chairperson in the absence or inability of the Chairperson to perform his or her duties.

#### (b) Other Duties as Delegated.

The Vice-Chairperson shall perform such other duties as may from time to time be required by the Chairperson or the Band Council.

Section 4. Chairperson.

(a) Duty to Preside.

The Chairperson shall preside over all meetings of the Shivwits Band Council and the monthly general Band membership meetings.

(b) Duty to Notify.

The Chairperson shall ensure that someone gives notice of all meetings to the general membership or, for special meetings, to the specific persons who are invited to attend. The Chairperson is also responsible for ensuring that all Band Council members have advance notice of all Band Council meetings, so the official action may be taken.

(c) Public Relations.

The Chairperson is the Band's spokesperson on all public relations matters, and will be the only public contact unless and until he or she delegates the duty to someone else as to a particular and specific topic. Any Band member or employee who is contacted by the media concerning an issue involving the Shivwits Band must refer the media to the Chairperson, or must get the authorization of the Chairperson before responding to any media request.

(d) Duty to Report.

The Chairperson shall report in the monthly general membership meetings as to the affairs of the Shivwits Band. The Chairperson shall include in this report all matters within his or her knowledge that may interest or require the attention of the Band members.

(e) Duty to Implement Council Policy.

The Chairperson shall implement and carry out all directives and policies of the Shivwits Band Council. The Chairperson's actions are not legally binding on the Band until the Band Council has deliberated and enacted an appropriate resolution authorizing the action.

(f) Duty to Inform the Council.

The Chairperson shall ensure that the Shivwits Band Council is fully informed as to all aspects of Band business and programs.

(g) Duty to Seek Guidance.

The Chairperson shall seek and follow guidance from the Band Council as to the present and future Band policy and conduct of Band business.

(b) Voting.

The Chairperson shall not vote in either the Band Council meeting or general membership meeting except in a tie.

**ARTICLE VIII: DUTIES OF SECRETARY AND TREASURER**

**Section 1. Mechanics of Deciding Whether the Secretary and/or Treasurer will be Elected from Outside the Band Council.**

The nominations and elections for these non-Council officer positions will take place simultaneously with the Stage Two Band Council nominations and elections every four years (see Article IV). At the Stage Two nominations meeting, the membership will be given the option of nominating persons for these two non-Council officer positions. If no one is nominated, or if none of the nominees later receives at least 25% of the votes cast on the Stage Two ballot, then the five member Band Council will select one of the three at large council members to fill that office within 30 days after the Band Council is elected.

**Section 2. Limited Power if Not on the Council.**

In the event a Secretary or Treasurer is selected from outside the Council, that officer will have no power to vote in the Shivwits Band Council proceedings, but is expected to attend Band Council meetings when requested by the Council and to actively share information and participate in the talks leading to a decision.

**Section 3. Duties of Secretary (Whether or Not Also a Band Council Member).**

(a) Duties to Keep Records.

The Secretary shall be responsible for the preparation and preservation of an accurate record (i.e., minutes) of all regular and special meetings of the Shivwits Band Council. The Secretary shall not release any information without the specific request or authorization of the Band Council.

(b) Filing System.

The Secretary shall maintain a formalized filing system of all documents sent to and from the Band pertaining to Band business, and of all minutes of Band meetings. The Secretary shall not release any information without the specific request or authorization of the Band Council.

(c) Duty to Rule on Signatures.

The Secretary shall be responsible for ruling upon the validity of signatures on petitions for recall and referendums.

(d) Membership Rolls.

The Secretary shall keep an updated list of the name, address of record and age of each Band member.

(e) Duty to Notify.

The Secretary shall ensure that all official notices are mailed to the addresses of record as required by these by-laws.

(f) Others Duties.

The Secretary shall perform such other duties as may from time to time be required by the Shivwits Band Chairperson or Council.

Section 4. Duties of Treasurer (Whether or Not Also a Band Council Member).

(a) Duty to Comply with Financial Procedures Ordinance.

The Treasurer shall comply with all financial procedures set forth by Band Council Ordinance.

(b) Fraud or Embezzlement.

The Treasurer will automatically forfeit his or her office if he or she commits fraud or embezzlement, and shall be prosecuted promptly by the Band, the Tribe, and the Federal government for misuse of Band funds, including any violation of 18 U.S.C. § 1163- embezzlement and theft from Indian Tribal Organizations.

(c) Other Duties.

The Treasurer shall perform such other duties as may from time to time be required by the Band Council.

**ARTICLE IX: COMPENSATION OF COUNCIL  
AND OTHER OFFICERS**

Section 1. Reimbursement of Expenses.

Band Council members may be reimbursed any reasonable expenses from conducting official Band business, if supported by receipts. A per diem for food cost for out-of-town trips is allowed



if authorized in the annual budget, but not in addition to reimbursement for food purchases supported by receipt.

Section 2. Hourly Wage.

- (a) Band Council members and a Secretary or Treasurer who is elected from outside of the Band Council may receive an hourly wage or per diem as set by the Band Council for the time spent on official Band business, conditioned on submission and approval of a signed monthly report of the hours of work performed, with a description of each task and the time spent in 1/4 hour increments.
- (b) No payment will be made unless supported by a monthly report or trip report certified by the employee as true and correct and approved by the Band Chairperson or his delegate. The monthly report shall include a written statement describing each task performed in quarter hour (15 minute) increments.
- (c) The hourly wage will be set in the Annual Budget, but shall be at least the St. George minimum wage and not more than five (5) times the St. George minimum wage.
- (d) A Band Council member who serves as Secretary or Treasurer may not be paid hourly if he or she already receives a salary for the Band Council position under Section 2 below.

Section 2. Optional Salary for Band Council Members after Certain Conditions are Met.

(a) The Band Council may pass an ordinance authorizing salaries for full time Band employees and Band Council members who work full time for the Band on the Reservation and do not have another job. The salaries of the Band Council may be paid out of the available funds of the Band in accordance with the Annual Budget passed by the Band Council.

(b) However the authority to pay salaries will not come into effect unless and until the Shiwits Band's income (excluding any federal trust funds) has reached a stable and predictable minimum of \$500,000 per year for at least 12 months. The ordinance shall include procedures terminating the salaries in the event the Band's annual income goes below this amount.

(c) The total salaries and expenses of Band Council members and officers shall be reasonable, shall never exceed 1.5 times the HUD figure for the average income for Washington County, and shall never exceed 25% of the income of the Shiwits Band for that calendar year.

**ARTICLE X: MEETINGS**

### Section 1. Monthly Meeting.

A Band Council meeting will be held five (5) days after the PITU Council has had their meeting, in the community building on the Reservation. The monthly meeting shall be open to all Band members and other Indians living on the Reservation, except when the Council goes into Closed Session.

### Section 2. Notice of Meetings.

The time and date of each monthly meeting will be announce at the previous monthly meeting. The Chairperson will also ensure that flyers are posted on the Reservation announcing the meeting date.

### Section 3. Motions.

Band members present at the meeting may suggest action by making a motion, which will carry only if it is seconded and approved by a majority of members present.

### Section 4. Order of Business.

- (a) Call to order by the Chairperson
- (b) Reading of the minutes from the last meeting
- (c) Reports: Monthly meeting reports have traditionally been given orally by the members in charge of the following activities. These are unpaid positions which are usually filled by a vote of the general membership during the Council elections every four years, but they also may be appointed or replaced at the pleasure of the Band Council. These position may also be reimburse mileage and a per diem. These reports include, but are not limited to:
  - 1. Activities
  - 2. Health
  - 3. Education
  - 4. Housing
  - 5. Budget report
  - 6. Other
- (d) Tribal Council report
- (e) Chairperson report
- (f) Unfinished business
- (g) Adjourn

### Section 5. Closed Session.

Upon motion by any Band Council member that is seconded and approved, the Band Council may go into closed session. At such session, all persons except members of the Band Council shall be excluded from the meeting chamber, except any person whose presence shall be required by the Council. During the discussion there shall be no recording and the doors shall remain closed. Anyone attending a closed session shall keep the discussion confidential.

Section 6. Special Band Council Meetings.

Special meetings may be called by the Chairperson or a majority of the Band Council. Notice can be made by phone or any other personal communication, but the meeting cannot be held unless and until the Chairperson or Vice Chairperson has ensured that each Band Council member has been notified and given a reasonable opportunity to attend. The Council shall have the same power to transact business in a special meeting as in a regular meeting (see Article XII below).

**ARTICLE XI: ANNUAL EVENTS**

Section 1. Funerals.

The Shivwits Band Council shall approve the use of Band funds to assist with the funeral of any Shivwits Band member.

Section 2. Holidays.

To the extent provided for in the Annual Budget, the Band Council shall organize and fund events for the Shivwits Band members every Halloween, Thanksgiving, and Christmas, and once in the Spring and Summer.

**ARTICLE XII: ACTIONS OF THE BAND COUNCIL**

Section 1. Band Council Notice of Meetings and Opportunity to Participate.

The Band Council can take official action only by Resolution and Ordinance at a duly-called monthly meeting (Art. X, Sec. 1) or special meeting (Art. X, Sec. 6) at which a quorum is present. A duly-called meeting is one in which all five Council members were give notice of the meeting and given a reasonable opportunity to participate.

Section 2. Action by Resolution.

For business arrangements, contracts, and similar matters, a written Band Council resolution will be necessary to serve as evidence that the Band Council made a decision on the matter which can be binding on the Band.

A resolution shall be written on Shivwits Band letterhead and certified by the signatures of two Council members. The certification shall state that the resolution was passed by a majority vote, with a quorum present, at a duly-called Band Council meeting, and indicate the date and how many members voted yes, no, or abstained.

Section 3. Action by Ordinance.

An ordinance is similar to a state or federal statute, passed by the legislature. The Band Council shall develop ordinances for long-term self-governance matters. An ordinance should be reviewed by legal counsel, and adopted via a Band Council Resolution. All ordinances shall be collected together to form the Shivwits Band Code.

**ARTICLE XIII: REFERENDUM AND INITIATIVE BY  
THE GENERAL MEMBERSHIP**

Section 1. In General.

Most self-governance of the Shivwits Band will be undertaken by its duly-enacted governing body, the Shivwits Band Council, by resolution or ordinance. If it is dissatisfied with Band Council act or failure to act, the General Membership can take official action by forcing a referendum or proposing an initiative, in the following manner.

Section 2. Referendum.

Upon receipt of a petition signed by one-third (1/3) of the eligible voters, the Band Council shall submit any enacted or proposed Band Council resolution or ordinance to a referendum of the eligible voters. The decision of the majority of the voters voting in the referendum shall be binding on the Band Council. The Band Council shall call the referendum within thirty (30) days from the date of the receipt of a valid petition and shall prescribe the manner in which it is to be conducted.

Section 3. Initiative.

The enrolled members of the Shivwits Band who are eighteen (18) years of age reserve the power to independently propose Band legislation. Any proposed initiative measure shall be presented to the Band Council accompanied by a petition signed by not less than one-third (1/3) of the eligible voters of the Band. Upon receipt of such a petition, the Band Council shall call a special election for the purpose of allowing the members of the Band to vote on the initiative measure. The election shall be held within thirty (30) days from the date a valid petition is presented to the Band Council. The decision of a majority of the voters voting in such an election shall be binding on the Council.

**ARTICLE XIV: REMOVAL AND REPLACEMENT OF**

## BAND COUNCIL MEMBERS

### Section 1. Recall.

- (a) Upon receipt of a petition signed by at least one-third (1/3) of the eligible Band voters demanding a recall of any Band Council member or other elected Band officer, it shall be the duty of the Band Chairperson to call a special election on the question of the recall within thirty (30) days from the date of the filing of a valid petition. The Secretary shall have 3 days from filing of a petition to rule on the validity of the signatures.
- (b) The election shall be held in the manner prescribed by the Band Council, but no Council member shall be recalled unless a majority of the voters voting in the election vote in favor of the recall.
- (c) The Band Council may enact such ordinances as are necessary to implement recall elections consistent with this Article.

### Section 2. Removal From Office by Band Council Resolution.

- (a) The Band Council may, by three (3) affirmative votes, remove from office any Band Council member (including Chairperson and Vice Chairperson) or Secretary or Treasurer or other officer convicted of a misdemeanor involving moral turpitude or dishonesty, or who commits gross neglect of duty, malfeasance in office, misconduct reflecting on the dignity and integrity of the Band government, or failure to attend any three (3) consecutive Band Council meetings without permission of the Band Council.
- (b) Before any vote for removal from office is taken, the Band Council member or other officer shall be given a written notice of the specific charges against him or her at least ten (10) days prior to a hearing. At such hearing the member shall have the opportunity to be heard in person or by counsel and to present witnesses on his or her behalf. If the member refuses to appear before the Band Council, the Band Council shall proceed with the vote as scheduled.
- (c) All Band Council members shall have the right to vote in all removal proceedings except his or her own. In the event of a removal of any officer or Council member, a record of the proceedings, together with the charges and findings thereon, shall be filed with the Band Secretary.

### Section 3. Resignation.

An officer or Council member who resigns from office shall give the Band Council a thirty (30) day notice of his or her intent to resign prior to his/her resignation date. The officer or Council

member shall turn over to the Chairperson or his/her designee all documents concerning the Band or other Band property that he or she collected while in office.

#### Section 4. Replacement.

Whenever a Band Council position or other officer position is vacated, the Chairperson will ask the Band members present at the next monthly meeting whether they want to fill the vacancy with the person who received the next highest number of votes for that position at the last Band election, i.e. the runner up, or call a Special Election to fill the position. The choice will be made by motion, which must be seconded and receive a majority vote of those in attendance to pass. If the Band members choose to appoint the runner-up from the previous election, and that person consents, he or she will be sworn in within the month. If they choose to hold a special election, the Chairperson will call the election date and the procedures from Article IV will apply.

### **ARTICLE XV: ENROLLMENT IN THE SHIWITS BAND**

Enrollment shall be governed by the rules described in the Paiute Indian Tribe of Utah's Constitution as of the date these Bylaws are enacted. Each enrolled Band member is responsible for giving his or her current address to the Band Secretary, and the Secretary will mail notices to the most recent address of record of each member. The enrollment list of Band members and their contact information will be kept private and used only for official Band Council purpose; the Secretary may not release this list to anyone without a Band Council resolution.

### **ARTICLE XVI: ADOPTION AND AMENDMENT OF THESE BYLAWS**

#### Section 1. Adoption.

These Bylaws may be enacted by two-thirds vote of the enrolled members of voting age voting in a special election call for that purpose after the Bylaws have been circulated and made available to all members of voting age for at least 30 days. Twenty (20) percent of enrolled members of voting age must cast a vote in order for the election to be valid.

#### Section 2. Amendment.

These Bylaws may be amended by two-thirds vote of the enrolled members of voting age voting in a special election called for that purpose, after the proposed amendment has been circulated and made available to all members of voting age for at least 30 days. Twenty (20) percent of enrolled members of voting age must cast a vote for the election to be valid.