

## **Title 22**

### **Limited Waivers of Sovereign Immunity**

#### **Chapters:**

- 22.01 Purpose**
- 22.02 Codification**

## Chapter 22.01

### Purpose

#### Sections:

- 22.01.01 Purpose
- 22.01.02 Waiver of Sovereign Immunity

#### Section 22.01.01 Purpose

The Tribe, as an aspect of its sovereignty, is entitled to immunity from suit in all state and federal courts absent the clear, express and unequivocal consent of the Tribe or the clear, express and unequivocal consent of the United States Congress.

The Tribe desires to make clear to all persons having business or otherwise dealing with the Tribe, its subordinate economic and governmental units, its Tribal officials, employees and authorized agents that the Tribe does not, under any circumstances, intend to voluntarily waive its entitlement to immunity from suit in state and federal courts under the doctrine of Tribal sovereign immunity absent strict and complete compliance with the procedures set forth in section 22.01.02 of this chapter which shall be the exclusive method for effecting a voluntary Tribal waiver of sovereign immunity.

#### Section 22.01.02 Waiver of Sovereign Immunity

Consent of the Tribe to waive its immunity from suit in any state or federal court may only be accomplished through the clear, express and unequivocal consent of the Tribe *pursuant to a resolution duly enacted by the Tribal Council sitting in legal session*. Any such resolution purporting to waive sovereign immunity as to the Tribe, or any of its subordinate economic or governmental units or any of its Tribal officials, employees or authorized agents, shall specifically acknowledge that the Tribe is waiving its sovereign immunity on a limited basis and describe the purpose and extent to which such waiver applies. The failure of the Tribal Council resolution to contain such language shall render it ineffective to constitute a waiver of Tribal sovereign immunity.

A Tribal Council resolution shall not waive sovereign immunity to allow a court or decision-making body (including an arbitration panel) other than the Jamestown Tribal Court to hear a dispute unless the resolution expressly and unequivocally allows such other body to hear a dispute and specifically names such decision-making body. There shall not be a waiver so as to allow monetary relief unless the resolution expressly and unequivocally so provides. A Tribal official, employee or contractor shall lack all authority, whether actual or apparent, to waive sovereign immunity beyond the express terms in a Tribal Council resolution. Any contract or agreement purporting to grant a limited waiver of sovereign immunity, which is not supported by a Tribal Council Resolution meeting the requirements of this Title, shall be null and void.

## **Chapter 22.02**

### **Codification**

#### **Sections:**

#### **22.02.01      Date of Codification**

#### **Section 22.02.01      Date of Codification**

This title was codified at a Tribal Council Meeting held on November 8, 2005 with Resolution #38-05. This title was amended on June 22, 2007 Tribal Council meeting.