

Shoalwater Bay Indian Tribe

Title 23

Environmental Infractions Ordinance



Reviewed at Public Hearing:

04/26/2001

Adopted:

10/25/2001

Rec'd from S. S.
10/18/11

**TITLE 23
SHOALWATER BAY INDIAN TRIBE
ENVIRONMENTAL INFRACTIONS ORDINANCE**

TABLE OF CONTENTS

SECTIONS PAGES	SECTION DESCRIPTIONS	
23.01	General Provisions	6
23.01.010	Findings (a-e)	6
23.01.020	Goals (a-d)	7
23.01.030	Purpose	7
23.01.040	Jurisdiction	8
23.01.050	Severability	8
23.01.060	Sovereign Immunity	8
23.02	Definitions	8
23.03	Permitting Procedures	12
23.03.010	Permit Required for Certain Activities (a-j)	12
23.03.020	Tribal General Permits (a-d)	13
23.03.030	Exception to Permit Requirement (a-d)	14
23.03.040	Pre-Existing Conditions and Activities	15
23.03.050	<i>Permit Application, Environmental Checklist</i>	15
23.03.060	Filing, Application and Checklist	15
23.03.070	Review, Application and Checklist (a-e)	15
23.03.080	Initial Notice to Applicant (a-f)	18
23.03.090	Decision of SBEPD - Notice to Community	18
23.03.100	Environmental Review - Generally	19
23.03.110	Significantly Affecting the Environ. (a&b)	19
23.03.120	<i>Determination of Non-Significance (DNS)</i>	19
23.03.130	Environmental Policy Committee (EPC)	19
23.03.140	EPC Decision on DNS	20
23.03.150	Comment Period for DNS and Decision	20
23.03.160	Conditional Permits	20
23.03.170	<i>Environmental Impact Statement, Required</i>	20
23.03.180	EIS Format (a-h)	21
23.03.190	Cooperation With Other Agencies, EIS Prep.	22
23.03.200	Sufficiency of EIS.	23
23.03.210	Recommendation of SBEPD Based on EIS	23
23.03.220	Public Hearing	23
23.03.230	Notice of Public Hearing	23
23.03.240	EPC Decision	24
23.03.250	Basis for Decision to Approve/Deny/Condition a Permit	24

23.03	Permitting Procedure, Continued	
23.03.260	Appeal, Request for Rehearing	24
23.03.270	Notice of Appeal or Request for Rehearing- <u>Timing</u>	25
23.03.280	Notice of Appeal or Request for Rehearing- <u>Content</u>	25
23.03.290	Stay Pending Appeal or Rehearing	25
23.03.300	Scheduling of Hearing - <u>Notice</u>	25
23.03.310	Hearing	25
23.03.320	Decision of EPC on Appeal or Rehearing	26
23.03.330	Appeal to Tribal Court (a&b)	26
23.03.340	General Standards of this Ordinance (a-i)	26
23.03.350	Failure to Obtain and Comply with Permit	28
23.03.360	Notice of Violation	28
23.03.370	Civil Penalty	28
23.03.380	Appeal from Penalty	29
23.03.390	Enforcement of Penalty in Court	29
23.03.400	Money Damages for Violation	29
23.04	Power of the Court	29
23.04.010	Power of the Court, Generally	29
23.04.020	Classification of Penalties (Class A, B, & C)	30
23.04.030	Community Service (1-3)	30
23.04.040	Guidelines for Assessing Penalties (1-7)	30
23.04.050	Continuing Violations	31
23.04.060	Restraining Orders and Injunctions (1-3)	31
23.04.070	Penalties for Failure to Comply	32
23.04.080	Cost of Clean-up/Actual Damage (1-3)	32
23.04.090	Joint and Several Liability	32
23.40.100	Attorney's Fees and Costs	33
23.05	Cultural Resources	33
23.05.010	Purpose	33
23.05.020	Policies Regarding Arch. and Historic Sites (a-e)	33
23.05.030	Notification of Tribal Council	34
23.05.040	Failure to Halt Construction - <u>Class B Infraction</u>	34
23.05.050	Digging/Excavating/Removal - <u>Class A Infraction</u>	34
23.05.060	Destruction - <u>Class A Infraction</u>	35
23.06	Excavation/ Dredging/Filling	35
23.06.010	Waters - <u>Class A Infraction</u>	35
23.06.020	Lands of the Tribe - <u>Class A Infraction</u>	35
23.06.030	Unstable Soils/Steep Slopes - <u>Class A Infraction</u>	35
23.06.040	Use of Fill Material - <u>Class A Infraction</u>	35
23.06.050	Earth or Construction Debris - <u>Class B Infraction</u>	36

23.07	Fires	36
23.07.010	Burning Prohibited Substances - <u>Class B Infraction</u>	36
23.07.020	Burning Without a Permit (1-4) - <u>Class B Infraction</u>	36
23.07.030	Burning on Tidelands - <u>Class B Infraction</u>	37
23.07.040	Leaving a Fire Unattended - <u>Class C Infraction</u>	37
23.07.050	Burning During Air Poll. Episode - <u>Class B Infraction</u>	37
23.07.060	Burning Within Fire Hazard Area - <u>Class B Infraction</u>	38
23.07.070	Failure to Control or Report - <u>Class B Infraction</u>	38
23.08	Pesticides	38
23.08.010	Pesticide Application	38
23.08.020	Application Within Buffer Zone - <u>Class B Infraction</u>	39
23.09	Septic Systems	39
23.09.010	Failure to Pump Septic System - <u>Class C Infraction</u>	39
23.09.020	Failure to Repair Septic System - <u>Class B Infraction</u>	39
23.09.030	Failure to Comply with Tribal Standards - <u>Class B Infraction</u>	39
23.09.040	Construction of Septic System within Buffer Zone - <u>Class A Infraction</u>	39
23.10	Spills	40
23.10.010	Spill of Hazardous Substance or Toxic Pollutant - <u>Class A Infraction</u>	40
23.10.020	Spill of Pollutant - <u>Class B Infraction</u>	40
23.10.030	Failure to Notify - <u>Class B Infraction</u>	40
23.10.040	Reparation-Best Available Technology - <u>Class B Infraction</u>	40
23.10.050	Reparation-Timelines - <u>Class B Infraction</u>	40
23.10.060	Negligence - <u>Class B Infraction</u>	41
23.10.070	Willful Misconduct/Reckless Disregard - <u>Class A Infraction</u>	41
23.11	Tribal Resources	41
23.11.010	Destruction of Lands - <u>Class B Infraction</u>	41
23.11.020	Unauthorized Use of Lands - <u>Class C Infraction</u>	41
23.11.030	Unauthorized Hunting/Fishing - <u>Class C Infraction</u>	42
23.11.040	Unauthorized Removal of Tribal Resources - <u>Class C Infraction</u>	42
23.11.050	Waste of Fish or Game - <u>Class C Infraction</u>	42
23.11.060	Unauthorized Use of Motor Vehicles - <u>Class B Infraction</u>	42
23.11.070	Unauthorized Placement of Signs - <u>Class C Infraction</u>	43
23.11.080	Unauthorized Access to Water - <u>Class C Infraction</u>	43
23.11.090	Depletion of Tribal Water Resources - <u>Class A Infraction</u>	43

23.11	Tribal Resources, Continued	
23.11.100	Introduction of Fish or Aquatic Organisms - <u>Class B Infraction</u>	43
23.11.110	Forfeiture of Illegally Possessed Resources	44
23.12	Waste Disposal/Dumping	44
23.12.010	Toxic or Hazardous Substances - <u>Class A Infraction</u>	44
23.12.020	Pollutants - <u>Class B Infraction</u>	44
23.12.030	Littering - <u>Class C Infraction</u>	44
23.13	Woodcutting	44
23.13.010	Woodcutting Without a Permit - <u>Class B Infraction</u>	44
23.13.020	Removing Wood Without a Permit - <u>Class B Infraction</u>	45
23.13.030	Selling Wood Without a Permit - <u>Class C Infraction</u>	45
23.13.040	Felling Timber into Stream or River - <u>Class B Infraction</u>	45
23.13.050	Forfeiture of Illegally Possessed Wood	45
23.14	Zoning	45
23.14.010	Violation of Zoning Ordinance - <u>Class B Infraction</u>	45
23.15	Enforcement Procedures	46
23.15.010	Who May Enforce	46
23.15.020	Power of Enforcement (1&2)	46
23.15.030	Notice of Violation (1-5)	46
23.15.040	Persons Receiving Notice - Identification and Detention (1&2)	47
23.15.050	Service of Notice (1-4)	47
23.15.060	Searchers With or Without a Warrant (a&b)	48
23.15.070	Impoundment and Forfeiture (Titles 17&18)	48
23.15.080	Cease and Desist Orders (1-3)	49
23.15.090	Clean-up Orders (1-3)	49
23.15.100	Request for Court Order	49
23.16	Court Procedures	50
23.16.010	Rights of Parties (1-5)	50
23.16.020	No Right to Jury Trial	50
23.16.030	Hearing	50
23.16.040	Appeals	50

TITLE 23
SHOALWATER BAY INDIAN TRIBE
ENVIRONMENTAL INFRACTIONS ORDINANCE

23.01 GENERAL PROVISIONS

23.01.010 Findings The Shoalwater Bay Tribal Council makes the following findings with regard to the Shoalwater Bay Environmental Infractions Ordinance, hereinafter referred to as the "Ordinance":

- a) The Shoalwater Bay Reservation was established for the exclusive use and permanent use of the Shoalwater Bay Indian Tribe. The land was reserved from a larger area to which the Tribe held aboriginal title.
- b) The Shoalwater Bay Indian Tribe, through its governing body, the Shoalwater Bay Tribal Council, has the jurisdiction and the duty to protect the quality of all natural resources over which the Tribe has inherent, or Congressionally delegated authority, including all natural resources within the exterior boundaries of the Shoalwater Bay Indian Reservation.
- c) The Shoalwater Bay Reservation is a small land base that must provide for the economic, residential, cultural, recreational, aesthetic, and sovereign governmental needs of the Shoalwater tribal community for the current generation and generations to come.
- d) The Shoalwater Bay Reservation contains: ecologically sensitive tidelands and wetlands; culturally and archaeologically important sites; forested ecosystems; and, habitat for several important species to the Tribe. Any action that impacts these and other resources within the Shoalwater Reservation also impacts the Shoalwater Bay Tribe.
- e) The Shoalwater Bay Tribal Council concurs with federal statutes and regulations that stress environmental protection, such as the National Environmental Protection Act (NEPA), the Clean Water

Act, and the Clean Air Act. To the extent possible, the Shoalwater Bay Indian Tribe will work cooperatively with other jurisdictions within the Willapa Bay watershed to accomplish environmental protection objectives.

23.01.020 Goals The Tribal Council intends to further the following goals in adopting this Ordinance:

- a) To protect the natural resources of the Shoalwater Reservation from contamination, pollution, and other degradation;
- b) To protect and enhance the habitat of fish, shellfish, and wildlife resources, particularly the Reservation tidelands and associated wetlands that are critically important components of the ecosystem;
- c) To minimize the adverse impacts that would result from locating developments in environmentally sensitive areas through proper siting, mitigation, and public involvement; and,
- d) To allow sufficient development within this natural environment to enable all Shoalwater families who desire housing, economic development, and public services to obtain them.

23.01.030 Purpose

The Shoalwater Bay Tribal Council adopts this Environmental Infractions Ordinance to provide a mechanism for handling environmental infractions that occur within the jurisdiction of the Shoalwater Bay Indian Tribe. The infractions enumerated in this Ordinance are wrongful acts that negatively affect the habitat, safety, health, welfare and integrity of the Tribe. This ordinance provides a mechanism for the Tribe to regulate behavior within its jurisdiction and allows the Tribe to impose penalties for wrongful acts. This Ordinance is adopted to protect the environment under the jurisdiction of the Shoalwater Bay Indian Tribal Council for the enjoyment and use of present and future generations of Shoalwater Bay tribal community members.

23.01.040 Jurisdiction

Jurisdiction shall extend over all lands and waters of the Shoalwater Bay Tribe as defined herein and over all persons whether Indian or non-Indian.

23.01.050 Severability

If any provision or application of this ordinance is determined by review to be invalid, such determination does not render such provision inapplicable to other persons or circumstances nor invalidate any other provision of this ordinance.

23.01.060 Sovereign Immunity

The sovereign immunity of the Shoalwater Bay Indian Tribe shall in no manner be waived by this ordinance.

23.02 DEFINITIONS

23.02.010 Construction means any on-site activity that is directly related to building or modifying a structure, or earth-moving activities that may impact the natural resources of the Tribe. It does not include minor repairs to or painting of existing structures.

23.02.020 Court means the Shoalwater Bay Tribal Court.

23.02.030 Cultural Resource means any material remains of human life or activities that are of cultural or archeological interest. This shall include all sites, objects, structures, artifacts, implements, plants, animals, and locations of cultural or archeological interest, whether previously recorded or still unrecognized, including, but not limited to, those pertaining to historic or prehistoric American Indian or aboriginal burials, campsites, dwellings, and their habitations sites, including, but not limited to, rocks shelters and caves, their artifacts and implements of culture such as projectile points, arrowheads, skeletal remains, grave goods, basketry, pestles, mauls, and grinding stones, knives, scrapers,

rock carvings and paintings, and other implements and artifacts of any material.

23.02.040 Day means a twenty-four (24) hour period that shall be from 12:00 a.m. to 11:59:59 p.m. in the Pacific Time zone of the United States.

23.02.050 EIS means environmental impact statement.

23.02.060 Environmental Policy Committee (EPC) means the three (3) member Environmental Policy Committee (2 members from the Tribal Council, one tribal member from the community) that the Tribal Council shall establish, that shall be the tribunal responsible for hearing certain appeals from decisions made by the Shoalwater Bay Environmental Program Director.

23.02.070 Hazardous Substance means any pollutant, or combination of pollutants, which because of its quantity, concentration, or physical, chemical or infectious characteristics, may, when released into the environment, present substantial danger to the public health or welfare or the environment. "Hazardous Substance" includes, but is not limited to, any substance which would be considered a hazardous substance under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9601(14) including oil as it is defined at § 1001(23) of the Oil Pollution Act, 33 U.S.C. § 2701 et seq.

23.02.080 Lands of the Tribe means:

(1) All lands, wetlands, or tidelands within the exterior boundaries of the Shoalwater Bay Indian Reservation;

(2) All lands, wetlands, or tidelands outside the exterior boundaries of the Shoalwater Bay Indian Reservation, held in fee by the Shoalwater Bay Tribe, or held in trust by the United States government for the benefit of the Shoalwater Bay Tribe or its individual members; and,

(3) All lands, wetlands, or tidelands deemed Shoalwater Bay "Indian Country" as defined in 18 U.S.C. § 1151.

23.02.090 Motor Vehicle includes, but is not limited to, any automobile, truck, farm machinery, boat, motorcycle, snowmobile or other off-road vehicle.

23.02.100 Normal Public Use means fishing, shellfishing, boating, swimming, and general recreation, by persons with a legal right to engage in those activities.

23.02.110 Person means an individual, corporation, partnership, association, state, or political subdivision thereof, the U.S. government, or political subdivision thereof, municipality, commission or interstate body.

23.02.120 Pollutant includes, but is not limited to, dredged spoil, dirt, slurry, solid waste, incinerator residue, sewage, sewage sludge, garbage, trash, dead animals, chemical waste, hazardous substance, pesticide, biological nutrient, biological material, radioactive material, heat, wrecked or discarded equipment, oil, battery acid, gasoline, paint, solvents, rock, sand, sediment or any industrial, municipal, or agricultural waste, and any other substance which causes pollution as defined in section 23.02.130, and/or any "solid waste" as that term is defined in the Solid Waste Disposal Act at 42 U.S.C. § 6903 (27).

23.02.130 Pollution means artificially made, artificially induced, or natural alteration of the physical, chemical, and biological integrity of any air, waters, wetlands, tidelands, or other lands.

23.02.140 Possess shall mean and include both actual and constructive possession. Actual possession means that the item was found on the person of the violator. Constructive possession means that the person had dominion and control over the item or the location where the item was found. Dominion and control need not have been exclusive to the violator.

23.02.150 "Proposed activity" and "activity" mean a development, project, construction, or other action for which an environmental permit or environmental checklist is being prepared, or is required.

23.02.160 Shoalwater Bay Environmental Program Director (SBEPD) means the person employed or appointed by the Shoalwater Bay Tribe who is authorized by the Tribe to perform the duties set forth in this Ordinance.

23.02.170 Shoalwater Tribal Community means all persons residing within the boundaries of the Shoalwater Bay Reservation and all enrolled members of the Shoalwater tribe regardless of residence.

23.02.180 Structure means a permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water. The term structure includes roads.

23.02.190 Tidelands includes, but is not limited to, any lands, including beaches, seaward of the line of natural vegetation or the meander line, whichever be more landward, extending out to -4.5 feet below sea level among all saltwater bordering lands, with consideration given to seasonal variations, of the Shoalwater Bay Tribe.

23.02.200 Toxic Pollutant includes, but is not limited to, any pollutant, or combination of pollutants, including disease-causing agents, which after discharge, spill, or release and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available to EPA and/or the Shoalwater Bay Environmental Program, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring.

23.02.210 Tribal Council means the governing body of the Shoalwater Bay Indian Tribe as constituted and

empowered under the Constitution of the Shoalwater Bay Indian Tribe.

23.02.220 Tribe means the Shoalwater Bay Indian Tribe.

23.02.230 Waters of the Tribe means all streams, lakes, ponds, marshes, wetlands, salt water, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon:

(1) The lands, wetlands and tidelands within the exterior boundaries of the Shoalwater Bay Indian Reservation;

(2) Any lands, wetlands or tidelands outside the exterior boundaries of the reservation which are held in fee by the Shoalwater Bay Tribe or held in trust by the United States government for the benefit of the Shoalwater Bay Tribe or its individual members; or,

(3) Any lands, wetlands or tidelands deemed Shoalwater Bay "Indian Country" as defined in 18 U.S.C. § 1151.

23.02.240 Wetlands means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include tidelands, swamps, marshes, bogs, and similar areas. Wetlands shall be defined using definitions and criteria currently used by the Army Corps of Engineers in their Wetland Manual.

23.02.250 Wood Cutting is defined as the cutting of standing or downed timber or driftwood for any purpose.

23.03 PERMITTING PROCEDURES

23.03.010 Permit Required for Certain Activities All persons conducting any of the following activities

within the boundaries of the Shoalwater Bay Indian Reservation shall be required to obtain a permit, and fill out an environmental checklist, from the Shoalwater Tribe for the purposes of:

- a) Site preparation for the construction of a building in an area for the purpose of human habitation, business use, or public area;
- b) Timber harvesting;
- c) Road construction or repair and right of way maintenance;
- d) Construction or repair of culverts and drainage ditches;
- e) Construction of any water or flood related project, including any project within the tidelands of the Shoalwater Bay Reservation;
- f) Any project of a permanent or temporary nature which interferes with the normal public use of the surface waters within the exterior boundaries of the Shoalwater Bay Reservation;
- g) Dredging, drilling, dumping, filling, removal of sand, gravel, soil, or other minerals, bulkheading, diking, riprapping, or pile driving.
- h) Spraying or other application of pesticides and herbicides, except for use by single family residences so long as used in compliance with the label requirements and so long as such use does not directly impact other members of the Shoalwater Bay Tribal Community;
- i) Clearing and grading activities; and,
- j) All other activities determined by the SBEPD to likely have an adverse impact on the tribal natural environment.

23.03.020 Tribal General Permits (TGPs) The SBEPD shall develop Tribal General Permits (TGPs) for use for certain activities. The TGP shall establish the conditions under which certain activities may be

conducted on the lands and waters of the Shoalwater Bay Tribe without the requirement that the person carrying out those activities obtain a specific permit under section 23.03.010 of this ordinance (refer to 23.03.020(a)(b)(c)(d). It shall be sufficient that the person wishing to conduct these activities provide the SBEPD with notice of the intent to engage in these activities, and that the SBEPD discuss with the person the contents of the TGP and the conditions under which the activity can go forward without a specific permit and environmental checklist requirement. Should the SBEPD determine that the TGP is not being complied with, the SBEPD may require the person engaging in the activity to cease until a permit application and environmental checklist have been completed pursuant to 23.03.010, and the permit has been approved. The following list of activities are those for which the SBEPD shall prepare a TGP:

- a) Firewood cutting;
- b) Burning of natural vegetation;
- c) Shellfish, wildlife, or fish harvest within the Reservation; and,
- d) All other activities determined by the SBEPD to be common activities not likely to have a significantly adverse impact on the tribal environment for which a TGP can effectively be developed and implemented.

23.03.030 Exceptions to Permit Requirement The following activities are categorically exempt from requiring a permit under this Ordinance, provided that no significant environmental impact will occur as deemed by SBEPD:

- a) Interior residential home improvements;
- b) Construction of garages, sheds, carports, or smokehouses which are attached to existing residence;
- c) Temporary fireworks stands licensed by the Shoalwater Bay Tribe; and,

- d) All other activities that are subsequently determined by the SBEPD to be categorically exempt from the permit requirements of this Ordinance because of the minimal nature of the impact on the environment in relation to the relative burden of requiring a permit application and approval.

23.03.040 Pre-Existing Conditions and Activities

Structures in existence prior to the adoption of this Ordinance are exempt from the permit requirements of this Ordinance. Modifications to such structures made after the date of adoption of this Ordinance and which fall under 23.03.010 are subject to the permit requirements of the Ordinance.

23.03.050 Permit Application, Environmental Checklist

Any person requiring a permit under 23.03.010 shall obtain a Shoalwater permit application and an environmental checklist form from the SBEPD.

23.03.060 Filing The completed permit application and environmental checklist shall be filed with the SBEPD. The permit application shall be accompanied by a \$25.00 processing fee that may be waived in the case of hardship, as authorized by the Tribal Administrator or Tribal Council. There is no fee for Tribal General Permits.

23.03.070 Review of Permit Application and Checklist

The permit application and environmental checklist shall be reviewed by the SBEPD. Tribal activities requiring a permit shall be reviewed and decided upon by SBEPD. The SBEPD may request assistance from appropriate technical personnel in conducting the review. The review process shall consist of the following determinations:

- a) **Is there sufficient information in the application?**
The permit application/environmental checklist must contain adequate information upon which a decision to approve or deny the permit can be made. If there is not enough information, a personal conference with the applicant shall be required by the SBEPD;
- b) **Are the goals and purpose of the Ordinance being met?** The proposed activity must conform to the

goals (23.01.020) and purpose (23.01.030) of this Ordinance;

c) **Have the environmental review criteria been met?**

The proposed activity must meet the environmental review criteria set forth in this Ordinance;

d) **Are there any cultural resource issues that must be addressed?** The proposed activity must sufficiently address the following policies set forth by the Tribe—

1) If after initial determination by the SBEPD, a professional archeologist or Tribal Cultural Specialist shall be present, at the applicant's expense, at all times during activities in which significant ground disturbance is taking place in an area likely to contain cultural resources; and,

2) If evidence of cultural resources is unearthed during construction, work must cease immediately, and a cultural resource investigation will commence at the applicant's expense.

e) **Are the standards of the Ordinance being met?** The proposed activity must conform to the standards set forth in this Ordinance, including, but not limited to:

1) The natural character of the reservation shall be preserved to the greatest extent possible, with impacts minimized in all cases;

2) Minimum natural buffers shall be maintained adjacent to wetlands, the reservation tidelands, streams, forested areas, and other waters within the reservation; Type I wetland shall be not less than 100', Type II wetland shall be no less than 75', Type III wetland shall be no less than 50', and Type IV wetland buffers shall be no less than 25'.

3) Minimum shoreline setback shall be determined by the SBEPD and maintained by the project with structures prohibited in the setback area;

- 4) Flood proofing, in compliance with any applicable federal flood insurance standards, is required for all construction within the 100 year floodplain;
- 5) An erosion control plan must be approved prior to construction activities commencing that have a high likelihood of causing significant erosion;
- 6) No activities will be permitted that will likely have an adverse impact upon water quality within the reservation (either surface or ground water);
- 7) Filling activities in areas identified as wetland, through field investigation, by elevation, or as identified on National Wetland Inventory maps, shall first require a wetland study by a qualified wetland ecologist identifying the wetland area, the impacts, and mitigation;
- 8) Sewage disposal and septic system construction shall be approved only after specific plans have been reviewed by the SBEPD and IHS officials, as necessary. The Tribe may require the applicant to submit a report of a licensed engineer to prove the absence of all adverse environmental impacts;
- 9) Clearing and grading activities must meet the standards set forth in Chapter 70 of the Uniform Building Ordinance;
- 10) Herbicide and pesticide applications may only be utilized when no other alternative is available and must, at a minimum, follow the label requirements; and,
- 11) To the extent that the Shoalwater Bay Environmental Program has developed more specific management plans for the natural resources of the Shoalwater Bay Tribe (i.e. well-head protection plan, tidelands management plan, etc.), the requirements of those management plans shall govern, when inconsistent with this ordinance.

23.03.080 Initial Notice to Applicant Within 10 business days from the date a completed application/environmental checklist are received, the SBEPD shall notify the applicant of one or more of the following:

- a) The applicant must attend a personal conference with the SBEPD to clarify or complete information required by the permit application/environmental checklist;
- b) An EIS will be required;
- c) Cultural resource issues need to be resolved prior to any further action on the project;
- d) The application/checklist is sufficient and a permit will be issued. This determination would be based upon a determination of non-significance (DNS). Pursuant to 23.03.120, this determination may be over-turned if the EPC determines an EIS is required.
- e) The application has been approved subject to conditions and a conditional permit will be issued. This determination would be based upon a DNS. Pursuant to 23.03.120, this determination may be over-turned if the EPC determines an EIS is required; or,
- f) The permit/checklist is denied for reasons listed in the notice.

If additional time is needed by the SBEPD to make the required determinations, the applicant shall be so notified.

23.03.090 Decision of SBEPD-Notice to Community The SBEPD shall base the decision to approve, deny, or condition a permit on the criteria set forth in 23.03.240 of this Ordinance. The SBEPD shall post a notice to the Shoalwater community of this decision on the same day that the notice is given to the applicant. This notice shall be posted on the bulletin board by the receptionist office in the Tribal Center, and at the Environmental Program Offices for a period of 15 days.

23.03.100 Environmental Review-Generally The SBEPD shall review the applicant's environmental checklist for the purpose of determining whether the proposed activity will significantly affect the environment. If so, the applicant will be required to prepare an EIS conforming to the standards in this Ordinance. The SBEPD may use any technical assistance deemed necessary in making this review.

23.03.110 "Significantly Affecting the Environment" The determination of whether an activity will significantly affect the environment shall be made in the context of Shoalwater Bay culture and values. Factors to be taken into consideration in making this determination include:

- a) The degree to which the proposed activity will adversely impact--
 - 1) Water quality or quantity;
 - 2) Threatened or endangered species habitat;
 - 3) The health and safety of the Shoalwater Bay people;
 - 4) The tidelands and/or wetlands of the Reservation; and,

- b) The extent to which the proposed activity:
 - 1) Is considered controversial or risky by the community;
 - 2) Is a potential, or actual, violation of federal environmental statutes or regulations, or Tribal law; and
 - 3) Has the potential to impact cultural resources, known or unknown.

23.03.120 Determination of Non-Significance (DNS) If the SBEPD determines that this proposed project will not have a significant effect on the environment, based on a review of the environmental checklist, a site visit, any applicant conference, and the recommendations of any technical persons consulted, he or she shall prepare a DNS.

23.03.130 Environmental Policy Committee (EPC) The Tribal Council shall establish, a three (3) member

Environmental Policy Committee (2 members from the Council and one tribal member from the Shoalwater Bay community) that shall be delegated certain environmental decision-making responsibility from the Tribal Council pursuant to this ordinance. The primary role of the EPC is to hear appeals of decisions made by the SBEPD.

23.03.140 EPC Decision on DNS The SBEPD shall forward the DNS and any comments received from interested persons to the EPC. The EPC shall review these materials at the next regularly scheduled meeting. The EPC may approve the DNS, order a conditional permit be issued, or the EPC may decide that an EIS is required to address the potential impacts.

23.03.150 Comment Period for DNS and Decision If a DNS has been found to be applicable, the SBEPD shall prepare a notice that the project has been found to have no significant impact on the environment. The notice shall be posted as delineated above in 23.03.090. The SBEPD may also give the notice to off-reservation agencies for comment, and tribal community members will have an opportunity to comment in writing for 15 days from the date of the notice.

23.03.160 Conditional Permits A conditional permit may be issued when a proposed activity substantially, but not entirely, meets the requirements set forth in 23.03.070 and the activity could be conducted in harmony with the Tribe's purpose and goals under this Ordinance if certain acts or omissions are performed by the applicant. The permit is issued subject to those conditions and is revocable if those conditions are not met by the applicant. Approval of conditional permits is discretionary. The SBEPD may grant a conditional permit after a DNS. The conditional permit must go through the same notice, comment and review process used for the DNS (under 23.03.140 and .150). An additional way that a conditional permit may be issued is by the EPC, after the EIS process as described below.

23.03.170 Environmental Impact Statement Required If the SBEPD determines that the proposed project will have, or is likely to have, a significant effect on the environment, the applicant shall be required to

prepare an environmental impact statement (EIS) at his/her own cost and carry out any mitigation required at his/her own cost as well.

23.03.180 EIS Format The EIS shall be written in plain language so that it is understandable to all readers. Supplemental materials that are of a technical nature (i.e. wetland delineations, permit applications, etc.) may be included for review by the Tribe's environmental staff and/or reviewing consultants. The applicant shall provide the Tribe with an original and five (5) copies of the EIS. The EIS shall substantially follow the format set forth below:

- a) *Cover Sheet.* A one page cover sheet that gives the title of the proposed activity or project, the name, address, and telephone number of the preparer(s), identified as such. The same information is required for the applicant. A one paragraph abstract of the proposed activity is also required.
- b) *Summary.* A summary, not to exceed fifteen (15) pages, adequately and accurately summarizing the major conclusions, areas of controversy, and issues to be resolved, including alternatives.
- c) *Purpose and Need Statement.* A statement briefly specifying the underlying need in the Community for the proposed activity.
- d) *The Proposed Activity and Alternatives.* This section is the most important part of the EIS. It shall present the environmental impacts of the proposal and the alternatives in comparative form to make a clear basis for choice among options. It shall rigorously explore and objectively evaluate all reasonable alternatives. This alternatives analysis will include a description of the consequences of a "No Action Alternative." It shall also include analysis of appropriate mitigation measures designed to minimize the impacts on the environment, even if such mitigative measures are not currently a part of the proposed activity.
- e) *Affected Environment.* The EIS shall succinctly describe the environment of the area(s) to be

affected or developed through the alternatives under consideration.

- f) *Environmental Consequences.* This section shall include the actual and potential environmental impacts of the alternatives including the proposed activity, any adverse environmental effects that cannot be avoided should the proposal be implemented, the relationship between short-term uses of the environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources which would be involved in the proposal should it be implemented. It shall include direct, and indirect, effects and their consequences to the Community. This section should address possible conflicts between federal, state, regional, local and tribal plans, policies, and regulations pertinent to the area concerned. Specific impacts on tribal water quality, wetlands, and habitat, shall be addressed in detail. Natural or depletable resource requirements (including energy use and conservation) and conservation potential and mitigation measures for the proposed activity and alternatives shall be addressed. Impacts on the quality of Shoalwater Bay tribal life and compatibility with cultural values shall be addressed. Means to mitigate adverse environmental impacts not already covered shall be included.
- g) *List of Preparers.* The EIS shall list the names, together with the qualifications (expertise, experience, professional disciplines), of the persons who were primarily responsible for preparing the EIS. Persons responsible for a particular analysis shall be identified.
- h) *Appendix.* Materials prepared in connection with the EIS that substantiate any analyses or are otherwise relevant to the decision to be made may be placed in an appendix.

23.03.190 Cooperation With Other Agencies in EIS

Preparation If a proposed activity will be subject to environmental compliance, assessment or preparation of an EIS by another governmental authority, the SBEPD may work with the applicant to coordinate the sharing

of information and possible incorporation by reference of materials prepared by or for the other agency. The applicant is responsible for providing the Tribe with copies of all materials incorporated by reference.

23.03.200 Sufficiency of EIS The SBEPD shall have the authority to determine whether an EIS is sufficient in scope, detail, and overall quality. The SBEPD may require supplemental or revised materials to be presented if necessary to aid in making decisions based on the EIS.

23.03.210 Recommendation of SBEPD Based on EIS The SBEPD shall prepare a written recommendation, addressed to the EPC, of whether the proposed activity can be conducted without significant adverse effects on the environment. If the proposed activity can be conducted without significant adverse environmental impacts only if certain mitigating factors are present, the SBEPD may recommend that a conditional permit be issued and/or considered. A copy of the SBEPD's recommendation shall be provided to the applicant.

23.03.220 Public Hearing If a proposed activity requires an EIS, a public hearing shall be scheduled by the SBEPD to take place within 30 days of receipt of the EIS from the applicant. The EPC shall be present at the hearing. The applicant shall be given an opportunity to give a presentation on the proposed activity, not to exceed one hour. The SBEPD shall present the recommendation he or she prepared under 23.03.210. The EPC shall preside over the hearing. Additional public hearings before or after that time may be scheduled if the SBEPD deems it to be in the interest of the Shoalwater tribal community.

23.03.230 Notice of Public Hearings Notice of public hearings under this Ordinance shall be given to the applicant, the Shoalwater Bay Tribal Council, and the Shoalwater Community. The notice shall state the time and place of the hearing and state the subject matter (i.e. the proposal). The notice shall either be published in a tribal newsletter at least five (5) days before the hearing or shall be posted in at least two prominent locations on the Reservation five (5) days before the hearing. The notice shall be mailed

or served on the applicant at least ten (10) days before the hearing. The SBEPD shall verify that the notices have been made as required.

23.03.240 EPC Decision The EPC shall decide whether to grant or deny the issuance of the permit or to issue a conditional permit. If the EPC decision is related to a finding of DNS by the SBEPD or the EPC, that decision shall be made immediately. For decisions based on an EIS finding by the SBEPD or the EPC, the EPC shall give notice of its decision to the applicant within 30 days of the public hearing unless an additional hearing is scheduled, in which case notice of the decision shall be given to the applicant within 30 days of the final public hearing. The EPC shall post a notice to the Shoalwater Bay Tribal Community of its decision to approve, deny, or conditionally approve an EIS, on the same day notice is given to the applicant. The notice shall be posted at the Shoalwater Tribal Center and the Shoalwater Bay Environmental Department for a period of fifteen (15) days. The notice shall have the date of posting written on it.

23.03.250 Basis for Decisions to Approve, Deny, or Condition a Permit The decision to grant a permit, whether made by the SBEPD or the EPC, shall be based on whether the proposed activity would be conducted in a way which would result in each of the factors in 23.03.070 being answered affirmatively, and compliance with the standards set forth below in 23.03.340 of this Ordinance. Conditional permits shall be granted at the discretion of the SBEPD or EPC as set forth under section 23.03.160.

23.03.260 Appeal, Request for Rehearing An applicant may appeal the decision of the SBEPD to deny a permit. Such appeal shall be heard by the EPC. An applicant may request a rehearing before the EPC of the SBEPD's decision to deny a permit. The EPC may grant review of an appeal from a decision regarding a conditional permit, in its discretion. Requests for such review shall be made in the same manner as a request for rehearing or notice of appeal. Any member of the Shoalwater Bay Tribal Community may appeal a decision to grant a permit, including a conditional permit, in the same manner as set forth above.

23.03.270 Notice of Appeal or Request for Rehearing-

Timing Any notice of appeal or request for rehearing under 23.03.260 must be filed no later than fifteen (15) days from the date the applicant received notice that his or her permit was denied. The appeal or request for rehearing shall be made in writing and shall be served by certified mail, return receipt requested, on the Secretary of the Shoalwater Bay Tribal Council and on the SBEPD. A member of the Shoalwater Bay tribal community must file any appeal no later than fifteen (15) calendar days from the date the notice was first posted under sections 23.03.090 and 23.03.240.

23.03.280 Notice of Appeal or Request for Rehearing-

Content The notice of appeal or request for a rehearing shall contain a brief description of the proposed project, who made the decision appealed from and on what date, the specific reasons for the appeal or request for rehearing, and what outcome the person is asking for. The notice shall list the names and addresses of any person who may be called as witnesses in the hearing. The person shall include a telephone number and address where he or she can be reached for notices.

23.03.290 Stay Pending Appeal or Rehearing No activity may proceed until all review under this chapter, including judicial review, is concluded.

23.03.300 Scheduling of Hearing-Notice The EPC shall schedule a hearing no fewer and no more than 45 calendar days from the date it receives the notice of appeal or request for rehearing, unless the person requesting the hearing and the EPC agree otherwise. The EPC shall cause a notice of hearing to be mailed or delivered to the person and shall post a notice to the Shoalwater Bay Tribal Community in the places specified under 23.03.240.

23.03.310 Hearing The person requesting the rehearing or appeal shall appear personally before the EPC and state why and how the decision should be changed. The EPC may hear the testimony of witnesses on both sides of the issue who have information

relevant to the appeal or rehearing. The hearing shall be tape recorded where practicable.

23.03.320 Decision of EPC on Appeal or Rehearing The EPC may affirm, reverse or modify the decision being considered.

23.03.330 Appeal to Tribal Court Any person who claims, in good faith, that the EPC made a mistake in interpreting this Ordinance or made a procedural mistake under this Ordinance that effected the person's rights, shall have a right to appeal from the EPC's decision under 23.03.320. The appeal shall be heard by the Shoalwater Bay Tribal Court under the Rules of the Court. The Tribal Court may reverse the EPC decision only if:

- a) the decision was clearly erroneous in view of the entire record as submitted and in light of the policies and goals of the Ordinance; or
- b) the decision violated the Constitution of the Shoalwater Bay Indian Tribe.

23.03.340 General Standards The following general standards apply to proposed activities under this Ordinance:

- a) *Natural character preserved.* All developments shall be consistent with the natural characteristics and ecological systems of the Reservation. Developments in sensitive areas, such as tidelands, wetlands, steeply sloped areas, floodplains, or forested areas shall have only a minimal level of impact upon the functioning of the natural systems.
- b) *Natural buffers.* There shall be undisturbed, natural, vegetated buffers adjacent to tidelands, streams and wetlands (as defined in 23.03.070 (e) 2)). No construction, accessory uses, septic tanks, or agriculture is allowed in the buffer. No timber harvesting is permitted within the buffer, except that trees that have naturally fallen into a buffer area may be removed, provided that prior written authorization is obtained from the SBEPD. A minimum buffer to be established by the SBEPD shall remain

adjacent to Newnonshish Creek. A minimum buffer to be established by the SBEPD shall remain adjacent to the mean high water mark of the Willapa Bay shoreline, when practicable. All other buffers, including wetland buffers, shall be determined by the SBEPD. The Tribe may require a wider buffer for a particular activity in order to meet other goals, purposes, and standards of this Ordinance. Buffers shall be measured landward from the line of mean high water.

- c) *Water quality.* Activities shall be located, designed, constructed, and operated in a manner that minimizes adverse effects on fish, shellfish, wildlife, water quality, and existing hydrologic shore, stream, wetland, and aquifer processes. This may require a detailed stormwater management plan to limit the damaging impacts of runoff from the developed area.
- d) *Flood proofing.* No activity shall be located in areas subject to flooding or tidal inundation unless complete flood-proofing measures have been provided and then only when the location of the structure will not aggravate flooding potentials of the nearby properties. Structures in the 100-year floodplain must comply with federal flood-proof standards necessary to obtain federal flood insurance, whether flood insurance is obtained or not.
- e) *Erosion control.* An erosion control plan must be approved prior to issuance of a permit under this Ordinance for any activity which would pose a risk of erosion during construction or afterward. No earth or debris resulting from the proposed activity shall be allowed to enter streams, wetlands, or estuarine waters. No activity shall contribute to erosion, landslides, or debris flow of any kind.
- f) *Use of fill.* No activity shall use fill material to accommodate the activity unless an environmental professional states in writing that such fill will not violate relevant portions of the Clean Water Act (§404), nor will it alter or interfere with the natural flow of surface or ground water. There shall be no excavation or filling of stream channels or alteration of tidelands unless required for a

project that would enhance the biological productivity of the aquatic environments, in which case it will be a conditional use.

- g) *Clearing and grading.* All clearing and grading activities must meet the standards found in Chapter 70 of the Uniform Building Code, as it may be amended.
- h) *Sewage disposal/drinking water.* Any activity, which requires sewage disposal or extraction of drinking water, shall not result in erosion, mass movement of soil, contamination of groundwater, saltwater intrusion, or any other adverse impacts to the environment. The Tribe may require the applicant to submit a report of a licensed engineer to prove the absence of all adverse environmental impacts.
- i) *Herbicides, Pesticides.* Application of herbicides and pesticides is prohibited except for conditional permits that may be given for noxious vegetation control and residential application. These conditional permits may be issued when no reasonable alternative to control pests or plant growth is available.

23.03.350 Failure to Obtain and Comply with Permit

Any person who fails to obtain a permit required under this Ordinance, or who fails to comply with the terms of a permit under this Ordinance shall be issued a written warning to comply by the SBEPD or his/her designee. If the activity continues after issuance of the warning, the SBEPD shall cause a written notice of violation to be served on the person.

23.03.360 Notice of Violation The notice of violation shall describe the specific violation, the amount of the monetary penalty and shall order the violation to cease and desist or, in appropriate cases, require corrective action to be taken within a specific and reasonable time. The notice shall be given to the person directly or by certified mail with return receipt requested.

23.03.370 Civil Penalty The civil penalty for failure to conform to the terms of a permit or for proceeding with an activity without a permit, as required under

this Ordinance, is a fine not to exceed five thousand dollars (\$5,000) for each violation. Each permit violation or each day of continued activity without a required permit, or in violation of a permit, shall constitute a separate violation. All such civil penalties shall be levied through Tribal Court action taken by the SBEPD to enforce this ordinance.

23.03.380 Appeal from Penalty Within thirty (30) days after the notice is received, the person incurring the penalty may apply in writing to the SBEPD to request that the penalty be reduced. The person must show good faith in complying with the Ordinance since the time the notice was received in order to have his or her request to reduce the penalty considered. The person may appeal the SBEPD's decision to the EPC.

23.03.390 Enforcement of Penalty in Court The Tribe may enforce its notice to cease and desist and its assessment of a penalty, in the Tribal Court. The Tribe may request the Court to enter an injunction against the continued activity, to order payment of the fine, and, where appropriate, to order exclusion of the violator from the Shoalwater Bay Indian Reservation. Failure of any person to abide by the lawful order of the Shoalwater Bay Tribal Court is punishable by civil and criminal contempt of court proceedings.

23.03.400 Money Damages for Violation Any person subject to this Ordinance who violates any provision of this Ordinance or environmental permit issued under this Ordinance shall be liable for all damage to property located within the Shoalwater Bay Reservation resulting from such violation. Individual members of the Shoalwater Bay Tribal Community and Tribe may bring suit in Tribal Court to enforce the provisions of this Ordinance and seek money damages for any harm suffered as a result of any violation of this Ordinance.

23.04 POWER OF THE COURT

23.04.010 Power of the Court - Generally

If the Court finds by a preponderance of the evidence that a violation of this ordinance has been committed,

it may require the violator to pay a civil penalty in an amount not to exceed the maximum penalty allowed for the infraction. It may also order any other remedies provided for by this ordinance.

23.04.020 Classification of Penalties

Infractions under this Ordinance shall carry the penalties set forth in this section:

Class A: A fine not less than \$500 but not to exceed \$5,000.

Class B: A fine not to exceed \$5,000

Class C: A fine not to exceed \$1,000

All fines collected pursuant to this Ordinance shall be deposited in a Natural Resources Special Revenue Fund to be established by the Tribe, the proceeds of which are to be utilized to mitigate natural resources damages and enhancement of the Shoalwater Bay natural environment.

23.04.030 Community Service

The Court has the discretion to order community service, in lieu of or in conjunction with any fine imposed by this Ordinance, provided:

- (1) Permission is obtained from the Tribal Law Enforcement Office;
- (2) The Law Enforcement Office indicated to the Court that tribal supervision is available; and
- (3) The violator signs a liability waiver and community service agreement approved by the Tribe.

23.04.040 Guidelines for Assessing Penalties

Factors the Court should take into consideration when determining the appropriate civil penalty for a violator of this ordinance are:

- (1) Whether the violator has previously appeared before the Court because of a violation of this ordinance;
- (2) Whether the violator has established a natural pattern of repeated violations of this ordinance;
- (3) Whether the violator has committed similar violations in other jurisdictions;
- (4) Whether the violator has attempted to repair the damage caused by the violation;
- (5) The extent of the violator's resources and the needs of his or her dependants, if any;
- (6) The extent to which the violation has damaged the environmental or cultural resources of the Tribe and the extent to which such damage may be repaired;
- (7) Whether natural or cultural resources damaged by the violator are irreplaceable.

23.04.050 Continuing Violations

Any violation, which continues for more than one day, will be considered a continuing violation. A separate violation is deemed to have occurred and a separate penalty may be assessed for each day in which the violation continues. (For example, a three day violation resulting in a Class A penalty of \$500 per violation would result in a total \$1,500 penalty).

23.04.060 Restraining Orders and Injunctions

- (1) In addition to any civil penalties imposed, the Court may also issue a temporary restraining order, preliminary injunction, or permanent injunction to prevent any further or continued violation of this ordinance.
- (2) In the event any person fails to comply with a cease and desist order or clean-up order that has not been temporarily suspended pending administrative or judicial review, the Tribe may request the tribal prosecutor to bring, and if so requested it shall be his or her duty to bring a suit in tribal court for a

temporary restraining order, or a preliminary injunction to prevent any further or continued violation of such order.

(3) Any violation of a restraining order or injunction shall be in addition to the penalties specified in section 23.04.020 and subject to punishment for failure to comply.

23.04.070 Penalties for Failure to Comply

Any person who violates any provision of any permit issued by the Tribe or fails to comply with any temporary restraining order, preliminary injunction, or permanent injunction issued by the Court or any final cease and desist order or clean-up order issued by the Tribe shall be subject to a civil penalty of not more than five thousand dollars (\$5,000) per day for each day during which such violation occurs.

23.04.080 Cost of Clean-up/Actual Damages

In addition to the civil penalties imposed in this ordinance, any person who commits an environmental infraction must:

- (1) Pay the cost of any necessary clean-up, restoration or reclamation caused by the violation, as ordered by the Court or by any administrative body with jurisdiction;
- (2) Pay any actual damages for injury to property, life or resources of any person, corporation, public body or tribal entity; and
- (3) Pay for costs incurred by the Tribe in assessing damage and overseeing restoration efforts.

23.04.090 Joint and Several Liability

If more than one person is found by the Court to have contributed to a violation of this ordinance which has resulted in damages or which requires clean-up, restoration or reclamation, such persons shall be jointly and severally liable for such damages, clean-up, restoration or reclamation and shall have a cause of action for contribution from the other responsible

parties. Clean-up and restoration efforts shall be completed using the best available technology (BAT) as defined by the SBEPD.

23.04.100 Attorney's Fees and Costs

In addition to the civil penalties imposed in this ordinance, the Court may order any person who violates the ordinance to pay the attorney's fees and costs incurred by the Tribe in enforcing this ordinance.

23.05 CULTURAL RESOURCES

23.05.010 Purpose This section establishes specific policies and procedures to protect archaeological and historic sites on the Shoalwater Reservation. Given the long occupation of the Reservation, and the relatively small areas conducive to dwelling construction, the Shoalwater Reservation has many areas, no longer discernible to the untrained eye, that were once sites of ceremonies, dwellings, fishing camps, cemeteries, and other cultural uses. Therefore, the following policies and procedures are hereby adopted.

23.05.020 Policies Regarding Archaeological and Historic Sites In addition to all federal statutes and regulations that govern the treatment of cultural and archaeological resources, the Shoalwater Bay Indian Tribe adopts the following policies governing archaeological and historic sites:

- a) Any application for a permit under this Ordinance may be required to be reviewed by a professional archaeologist, or tribal cultural resource specialist, to determine whether the proposed activity poses any danger to known or suspected archaeological sites. A literature search shall be required in addition to a check of known or registered sites. The expense of such review shall be borne by the applicant.
- b) If evidence of an archaeological site is unearthed during the construction of a project for which a permit has been issued, the project developer and/or

the persons involved in construction must cease work immediately and notify the SBEPD and Tribal Council.

- c) The Shoalwater Bay Tribe reserves the right to conduct its own archaeological inspection of any construction, earthmoving, or excavation work on the Reservation.
- d) The Tribe hereby reserves the right to halt construction of a project if it deems that an archaeological site of importance to the Tribe may have been unearthed. During the construction halt, the Tribe must begin professional examination of the site to determine the significance. Extensions of the construction halt will be allowed if needed to complete this professional examination. The Tribe may condition the permit for the project after the discovery of the site and require a professional archaeological excavation or require modification of the activity to preserve the site. The expense of such examination and any excavation or modification of the activity shall be borne by the applicant.
- e) Applicants may be required to post a deposit with the Tribe of up to \$5,000 to insure that notification of any archaeological evidence is made to the Tribe. The deposit is fully refundable if no archaeological site is unearthed, but will be forfeited if violation of these policies occurs.

23.05.030 Notification of Tribal Council

Any person who fails to notify the Tribal Council when a cultural resource has been located or unearthed has committed a Class C infraction.

23.05.040 Failure to Halt Construction

Any person who fails to halt construction on any site where a cultural resource has been located or unearthed has committed a Class B infraction.

23.05.050 Digging/Excavation/Removal

Any person who digs, excavates, fills or removes or allows any digging excavation, filling or removal of artifacts or any other materials, including soil, sand

and gravel from a cultural resource without the express written approval of the Tribal Council has committed a Class A infraction.

23.05.060 Destruction

Any person who injures, defaces, or destroys any cultural resource has committed a Class A infraction.

23.06 EXCAVATION/DREDGING/FILLING

23.06.010 Waters

Any person who excavates, dredges, fills, or alters the watercourse of any waters of the Tribe, or any waters of the United States, including wetlands and tidelands, without a permit, or in violation of the terms of a permit from the Tribe has committed a Class A infraction.

23.06.020 Lands of the Tribe

Any person who excavates, mines, drains, road builds or engages in any other earth removal or disposition project on any wetlands, tidelands, or other lands of the Tribe without a permit, or in violation of the terms of a permit, from the Tribe has committed a Class A infraction.

23.06.030 Unstable Soils/Steep Slopes

Unstable soils/steep slopes are those, as defined by the SBEPD, that are susceptible to erosion based on the type of geology, soil types, and slope. Any person who develops, excavates, or removes trees on any unstable soils or slope exceeding 15% without a permit, or in violation of the terms of a permit, from the Tribe and/or without certification in writing from a licensed professional engineer that all reasonable precautions have been taken to ensure foundation stability and the prevention of mass soil movement or soil erosion has committed a Class A infraction.

23.06.040 Use of Fill Material

Any person who uses fill material to accommodate any development activity without a tribal permit insuring

that such fill will not alter or prohibit the natural flow of surface or ground water has committed a Class A infraction.

23.06.050 Earth or Construction Debris

Any person who allows earth or construction debris to enter any waters, wetlands or tidelands of the Tribe, or any waters of the United States, has committed a Class B infraction.

23.07 FIRES

23.07.010 Burning Prohibited Substances

Any person who sets on fire, or willfully, or as the result of negligence, allows to be burned, any garbage, dead animals, asphalt, petroleum products, paints, rubber products, plastics or any substance other than natural vegetation on any lands of the Tribe has committed a Class B infraction. For purposes of this section, "natural vegetation" means yard debris such as leaves, small twigs, and dead grass. It does not however mean that field burning, burning of living wetland plants, or burning of other living vegetation is allowed.

23.07.020 Burning Without a Permit

Any person who sets, or willfully, or as the result of negligence, allows to be burned, any fire, without a permit, or in violation of the terms of a burning permit, from the Tribe has committed a Class B infraction.

The following activities are exempted from this provision provided that only one fire is burned at a time and that the burning does not take place on the tidelands:

(1) Fires consisting solely of charcoal, petroleum, natural gas or wood used solely for the preparation of food;

(2) Fires for religious or cultural ceremonies;

(3) Fires no larger than four feet in diameter and three feet in height for campfires in designated campgrounds or recreation areas; and

(4) Fires containing only leaves, clippings, prunings and other gardening refuse which:

(a) Are no larger than four feet in diameter and three feet in height;

(b) Are burned during daylight hours, during periods of calm to very light winds;

(c) Are burned on bare soil, green grass or other similar areas free of combustible material;

(d) Originate in areas designated for such fires by the SBEPD; and

(e) In the event that fires burned at a certain dwelling are determined to impact off-site residents' health or well-being, burning of such yard debris shall be conducted elsewhere on the reservation to be determined by the SBEPD.

23.07.030 Burning on Tidelands

Any person who sets, or willfully, or as the result of negligence, allows to be burned, any fire upon the tidelands has committed a Class B infraction.

Fires used for tribal member fishing may be exempted from this provision with prior approval by the SBEPD.

Small fires used for cooking are exempted from this provision, provided, they are burned in the area ten feet seaward of the driftwood line to sea level, provided further, that they are attended at all times.

23.07.040 Leaving a Fire Unattended

Any person who sets, or allows to be set, any fire and then leaves the fire unattended by a person capable of extinguishing the fire, has committed a Class C infraction.

23.07.050 Burning During Air Pollution Episode

Any person who sets, or willfully, or as the result of negligence, allows to be burned, any fire, during any time period established by the Tribe as an air pollution episode or at any time a reasonable person would consider a period of impaired air quality has committed a Class B infraction.

Fires set for religious or cultural purposes are exempt from this section.

23.07.060 Burning on Location Designated a Fire Hazard

Any person who sets, or willfully, or as a result of negligence, allows to be burned, any fire, at any location the Tribal fire department, in consultation with the SBEPD, has designated as a fire hazard area has committed a Class B infraction.

Fires set for religious or cultural purposes are exempt from this section.

23.07.070 Failure to Control or Report

Any person who knows that a fire is endangering life or property and fails to give prompt fire alarm to the tribal fire department, police, or environmental program staff or fails to take reasonable measure to put out or control the fire if he knows he is under an official, contractual, or other legal duty to prevent or combat the fire, or if the fire was started, lawfully or unlawfully, by him/her or his/her agent, or on property in his/her custody or control, has committed a Class B infraction.

23.08 PESTICIDES

23.08.010 Pesticide Application

Any person who applies, or allows to be applied to any lands or waters of the Tribe any rodenticide, insecticide, herbicide, fungicide, algacide, or any other pesticides, no matter the application procedure, without a permit from the Tribe has committed a Class B infraction.

The reasonable use of household pesticides is exempted from this section provided that they are applied according to label restrictions.

23.08.020 Application within Buffer Zone

Any person who applies, or allows to be applied any rodenticide, insecticide, herbicide, fungicide, algaecide, or any other pesticides no matter the application procedure, on or within any buffer zone established by the SBEPD for any tideland, stream, wetland, or marsh, has committed a Class B infraction.

23.09 SEPTIC SYSTEMS

23.09.010 Failure to Pump Septic System

Any person who owns or is responsible for the maintenance of a septic system who fails to pump the septic system at reasonable intervals as determined by the SBEPD has committed a Class C infraction.

23.09.020 Failure to Repair Septic System

Any person who owns or is responsible for the maintenance of a septic system, who knows, or, in the exercise of due diligence, should have known that the septic system is failing to function properly and fails to promptly repair any leak, breakage or damage to the septic system has committed a Class B infraction.

23.09.030 Failure to Comply with Tribal Standards

Any person who constructs, or allows to be constructed, a septic system which does not comply with the minimum standards for construction adopted by the Tribe or with any applicable federal standards has committed a Class B infraction.

23.09.040 Construction of Septic System within Buffer Zone

Any person who, without the explicit approval of the Tribe, constructs, or allows to be constructed, any septic system on or within any buffer zone established

by the SBEPD for any tideland, drinking water source, stream, wetland, or marsh has committed a Class A infraction.

23.10 SPILLS

23.10.010 Spill of Hazardous Substance or Toxic Pollutant

Any person engaged in any operation or activity which results in a spill, discharge, or release of any hazardous substance or toxic pollutant onto the lands or waters of the Tribe, or the waters of the United States, has committed a Class A infraction.

23.10.020 Spill of Pollutant

Any person engaged in any operation or activity which results in a spill, discharge, or release of any pollutant onto the lands or waters of the Tribe, or the waters of the United States, has committed a Class B infraction.

23.10.030 Failure to Notify

Any person engaged in any operation or activity which results in a spill, discharge, or release of any substance which may cause pollution of the lands or waters of the Tribe, or of the waters of the United States, who fails to notify the Shoalwater Bay Environmental Program as soon as reasonably possible has committed a Class B infraction.

23.10.040 Reparation-Best Available Technology

Any person engaged in any operation or activity which results in a spill, discharge, or release of any substance which may cause pollution of the lands or waters of the Tribe, or the waters of the United States, who fails to use the best available technology, as defined by the SBEPD, to clean up the spilled substance and/or repair the damage caused by the spill has committed a Class B infraction.

23.10.050 Reparation-Timelines

Any person engaged in any operation or activity which results in a spill, discharge, or release of any substance which may cause pollution of the lands or waters of the Tribe, or the waters of the United States who fails to clean up the spilled substance and/or repair the damage caused by the spill as quickly as possible, using the best available technology, has committed a Class B infraction.

23.10.060 Negligence

Any person who negligently conducts any operation or activity which results in a spill, discharge, or release of any substance which may cause pollution of the lands and waters of the Tribe, or the waters of the United States, has committed a Class B infraction.

23.10.070 Willful Misconduct/Reckless Disregard

Any person who, through willful misconduct, or as a result of reckless disregard, conducts any operation or activity which results in a spill, discharge, or release of any substance which may cause pollution of the lands and waters of the Tribe, or the waters of the United States, has committed a Class A infraction.

23.11 TRIBAL RESOURCES

23.11.010 Destruction of Lands

Any person who defaces or destroys the natural beauty of the rocks, cliffs, vegetation, or other objects of nature upon or within the lands of the Tribe has committed a Class B infraction.

23.11.020 Unauthorized Use of Lands

Any person who, without the written permission of the Tribe, goes upon the lands of the Tribe for the purpose of collecting artifacts, driftwood, plant life, souvenirs, sand, gravel, or to excavate, injure or destroy historic or prehistoric ruins or monuments, or any object of antiquity situated on such lands has committed a Class C infraction.

Such person shall also be deemed guilty of trespass and will be prosecuted under the appropriate federal statute. Refer to 43CFR9230.

23.11.030 Unauthorized Hunting/Fishing

Any person who, without a permit issued by the Tribe, or in violation of the terms of a permit issued by the Tribe, goes upon the lands of the Tribe for the purpose of hunting, trapping, fishing or shellfishing, or for the removal of wildlife, fish or shellfish has committed a Class C infraction. Permit approval must be acquired through both Tribal Council and the SBEPD.

Such person shall also be deemed guilty of trespass and will be prosecuted under the appropriate federal statute. Refer to 43CFR9230.

23.11.040 Unauthorized Removal of Tribal Resources

Any person who takes from the lands of the Tribe any sands, rock, mineral, plant life, marine growth, driftwood, wildlife, fish, shellfish, or souvenirs or other product of the land without a permit, or in violation of the terms of a permit, from the Tribe has committed a Class C infraction. Only Tribal members and their spouses may acquire permits for the above activities. Tribal elders are entitled to a lifetime permit for the above activities. All harvest quantities must be reported to the SBEPD.

23.11.050 Waste of Fish or Game

Any person responsible for the death of any game animals on the lands of the Tribe who detaches or removes from the carcass only the head, hide, antlers, tusks, or teeth, or any or all of the aforementioned parts or wastes any part of the game animal, game bird, or game fish or shellfish suitable for food or abandons the carcass of any game animal in the field has committed a Class C infraction.

23.11.060 Unauthorized Use of Motor Vehicles

Any person who operates, parks or allows the operation or parking of any motor vehicle upon the tidelands,

waters, or any other lands of the Tribe except upon roads, trails, or parking areas specifically designated by the Tribe as allowing such operation or parking has committed a Class B infraction.

23.11.070 Unauthorized Placement of Signs

All placement of signs or billboards must be in accordance with the Shoalwater Bay Zoning ordinance (Title 7). Any person(s) wishing to place a sign or billboard on Tribal lands must provide the SBEPD with notice of intent so that a determination can be made if an environmental permit is required as per 23.03.010. Approval of sign placement shall be made by Tribal Council.

Any person who, without the written permission of the Tribe, posts or erects any sign or billboard on the lands of the Tribe has committed a Class C infraction.

23.11.080 Unauthorized Access to Water

Anyone not a member of the Shoalwater Bay Indian Tribe or an employee of the Tribe in the course of performing assigned duties who, without the written permission of the Tribe, goes upon the lands of the Tribe for the purpose of tying boats or rafts, building boat ramps, or other structures, or to use the tidelands for access to the water, or for any other reason has committed a Class C infraction.

Such person shall also be deemed guilty of trespass and prosecuted under the appropriate federal statute.

23.11.090 Depletion of Tribal Water Resources

Any person who willfully, or as a result of negligence, allows to be depleted an aquifer, wetland, or stream without explicit permission from the Tribe has committed a Class A infraction.

23.11.100 Introduction of Fish or Aquatic Organisms

Any person who introduces, or willfully, or as the result of the negligence, allows to be introduced any fish or other aquatic organisms into the waters, wetlands, or marshes of the Tribe, or into the waters

of the United States without a permit, or in violation of the terms of a permit from the Tribe has committed a Class B infraction.

23.11.110 Forfeiture of Illegally Possessed Resources

Any sands, rock, mineral, marine growth, driftwood, wildlife, game, fish, shellfish, or souvenirs or other product of the land, which has been obtained in violation of this ordinance, shall be forfeited to the Tribe and may be seized by the tribal law enforcement authorities. No property rights shall exist in any resource that is possessed in violation of this ordinance.

23.12 WASTE DISPOSAL/DUMPING

23.12.010 Toxic or Hazardous Substances

Any person who disposes of, or causes to be released, any toxic pollutant, radioactive waste or other hazardous substance on or within any lands or waters of the Tribe, or the waters of the United States, has committed a Class A infraction.

23.12.020 Pollutants

Any person who disposes of, or causes to be released, any pollutant on or within any lands or waters of the Tribe, or the waters of the United States, without a permit, or in violation of the terms of a permit, from the Tribe has committed a Class B infraction.

23.12.030 Littering

Any person who places, throws, deposits or otherwise disposes of any rubbish, trash or garbage, including, but not limited to, paper and fireworks debris anywhere other than in containers or areas designated for the deposit of litter, within any lands or waters of the Tribe, or the waters of the United States has committed a Class C infraction.

23.13 WOOD CUTTING

23.13.010 Wood Cutting Without a Permit

Any person who cuts any standing or downed timber or driftwood, on any lands or waters of the Tribe, unless such timber or driftwood poses a danger or is blocking walkways or roadways, without a permit, or in violation of the terms of a permit from the Tribe has committed a Class B infraction. No permit is required to cut wood for purpose of cemetery cleanup.

23.13.020 Removing Wood Without a Permit

Any person who removes any standing or downed timber or driftwood from any lands or waters of the Tribe unless such timber or driftwood poses a danger or is blocking walkways or roadways, without a permit, or in violation of the terms of a permit from the Tribe has committed a Class B infraction.

23.13.030 Selling Wood Without a Permit

Any person who sells any standing or downed timber or driftwood which has been cut on any lands or waters of the Tribe unless such timber or driftwood poses a danger or is blocking walkways or roadways, without a permit, or in violation of the terms of a permit from the Tribe has committed a Class C infraction.

23.13.040 Felling Timber into Stream or River

Any person who allows timber to be felled into streams or rivers without a permit, or in violation of the terms of a permit from the Tribe has committed a Class B infraction.

23.13.050 Forfeiture of Illegally Possessed Wood

Any standing or downed timber or driftwood which has been cut, sold, or removed from any lands of the Tribe without a permit, or in violation of the terms of a permit, from the Tribe shall be forfeited to the Tribe and may be seized by the tribal law enforcement authorities. No property rights shall exist in any wood that is possessed in violation of this ordinance.

23.14 ZONING

23.14.010 Violation of Zoning Ordinance

Any person who fails to abide by any of the requirements of the Shoalwater Bay Zoning Ordinance (Title 7) or Zoning Map, as interpreted by the Tribal SBEPD, has committed a Class B infraction.

23.15 ENFORCEMENT PROCEDURES

23.15.010 Who May Enforce

The provisions of this ordinance shall be enforced by the SBEPD, tribal law enforcement officers, other authorized law enforcement officers or by other persons or groups designated by the Tribe.

Off-duty tribal law enforcement officers are authorized to enforce any provisions of this ordinance.

23.15.020 Power of Enforcement

Any person authorized to enforce this ordinance shall issue a notice of violation:

- (1) When it occurs in the enforcement authorities presence; or
- (2) When the enforcement authority investigating a report of an infraction finds reasonable cause to believe that a violation of this ordinance has been committed.

23.15.030 Notice of Violation

The Tribe through its enforcement authorities shall be give a written notice to any violators of this ordinance. The notice of violation shall:

- (1) Specify the nature of the violation, the location of the violation, and the section of this ordinance being violated;
- (2) Set a date for hearing before the tribal court that shall be no sooner than fourteen (14) days after service of the notice;

(3) Specify the amount of the fine (if any) which may be paid by the violator if the violator wishes to avoid a court hearing;

(4) Advise the violator that full payment of the fine must be received by the court clerk no later than three (3) days prior to the date of the scheduled hearing in order to avoid a court hearing;

(5) Notify the violator that if the violator does not appear before the tribal court on the date set for hearing, the court may declare the defendant to be in default and award any appropriate relief to the complainant as provided by this ordinance.

23.15.040 Person Receiving Notice - Identification and Detention

(1) A person who is to receive a notice of violation under section 23.15.030 is required to identify himself or herself to the enforcement authority by giving his or her name, address and date of birth. Upon the request of the officer, the person shall produce reasonable identification, including a driver's license or identicard.

(2) A person who is unable or unwilling to reasonably identify himself or herself to an enforcement authority may be detained for a period of time no longer than is reasonably necessary to identify the person for purposes of issuing a notice of violation.

23.15.050 Service of Notice

The notice of violation shall be served upon the defendant in the following manner:

(1) By delivering a copy personally to the defendant or the defendant's authorized representative, or to any member of the defendant's family residing with the defendant who is eighteen (18) years of age or older;
or

(2) By delivering a copy of the defendant's place of business and leaving it with a secretary or other person authorized to accept service.

(3) If, after reasonable effort is made, the defendant cannot be personally served, service may be made by sending a copy of the notice to the defendant's last known address by certified mail, return receipt requested, and sending an additional copy by regular mail.

(4) If, after reasonable effort is made, the defendant cannot be located and no address can be found for the defendant, service may be made by publication in a newspaper of regular circulation in the area twice during two consecutive weeks.

An affidavit of service or publication filed with the tribal court shall constitute proof of service of the notice of violation. If service is made in the manner described in subsection (3) or (4), the affidavit must describe the efforts that were made to personally serve the defendant.

23.15.060 Searches With or Without a Warrant

(a) Tribal law enforcement may search without a warrant any container, vehicle, boat, tent, camper, or any place or premises, which he/she has probable cause to believe, contains evidence of a violation of this Ordinance.

(b) The tribal court may issue a warrant and direct a search to be made in any place wherein it is alleged that any items taken contrary to this Environmental Infractions Ordinance are concealed or kept.

23.15.070 Impoundment and Forfeiture

In addition to any fine or restitution imposed against any person found to have committed a civil or environmental infraction, all objects or vehicles used in connection with the commission of the infraction are subject to impoundment and/or unconditional forfeiture, pursuant to the provisions of the General Impoundment Code (Title 17) and the Vehicle Impoundment Code (Title 18).

23.15.080 Cease and Desist Orders

(1) If the Tribe or its authorized representative determines, with or without a hearing, that there exists a violation of any provision of this ordinance, the Tribe may issue a cease and desist order. Such order shall set forth the provision alleged to be violated, the facts alleged to constitute the violation, and the time by which acts or practices complained of must be terminated.

(2) The order shall be served in the manner provided in section 23.15.050.

(3) A cease and desist order does not preclude the Tribe from seeking civil penalties and/or damages.

23.15.090 Clean-up Orders

(1) The Tribe or its authorized representative may issue orders to any person to clean up any material which he, or his employee, or his agent has accidentally or purposely dumped, spilled, or otherwise deposited in on or within any lands, wetlands, tidelands, or waters within the jurisdiction of the Tribe which may pollute them.

(2) The order shall be served in the manner provided in section 23.15.040.

(3) A clean-up order does not preclude the Tribe from seeking civil penalties and/or damages.

23.15.100 Request for Court Order

In the event any person fails to comply with a cease and desist order or clean up order that has not been temporarily suspended pending administrative or judicial review, the Tribe may request the tribal prosecutor to bring, and if so requested it shall be his duty to bring a suit in tribal court for a temporary restraining order, or a preliminary or permanent injunction to prevent any further or continued violation of such order.

23.16 COURT PROCEDURES

23.16.010 Rights of Parties

Any party to a hearing held pursuant to this ordinance has the following rights:

- (1) The right to be represented by counsel, but at his or her own expense;
- (2) The opportunity to subpoena witnesses;
- (3) The opportunity to introduce, examine and cross-examine witnesses;
- (4) The opportunity to discover, offer and inspect evidence; and
- (5) The opportunity to explain any mitigating circumstances surrounding the violation.

23.16.020 No Right to Jury Trial

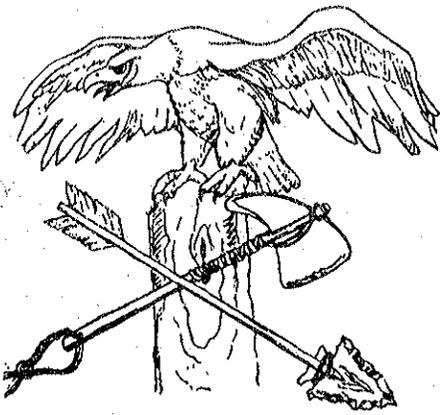
There is no right to a jury trial in proceedings held pursuant to this ordinance. Such proceedings shall be heard by the court without a jury.

23.16.030 Hearing

After consideration of the evidence and arguments presented, the court shall determine whether or not a violation of this ordinance has been committed. If the court has established, by a preponderance of the evidence, that a violation has been committed the court shall enter an order accordingly.

23.16.040 Appeals

Any party may appeal any final order made by the court pursuant to this ordinance. All appeals shall be governed by the rules for appeal in other civil cases.



SHOALWATER BAY INDIAN TRIBE

P.O. Box 130 • Tokeland, Washington 98590
Telephone (206) 267-6766 • FAX (206) 267-6778

SHOALWATER BAY INDIAN TRIBE

RESOLUTION #06-28-95-51

WHEREAS, The Shoalwater Bay Indian Tribe is a Federally Recognized Tribe headquartered on the Shoalwater Bay Indian Reservation in the State of Washington; and

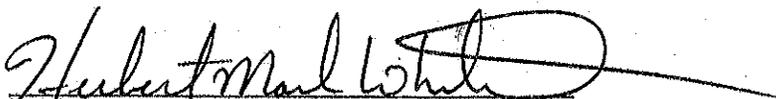
WHEREAS, The Shoalwater Bay Tribal Council is the governing body of the Shoalwater Bay Indian Tribe and acts in accordance with their Constitution and By-Laws; and

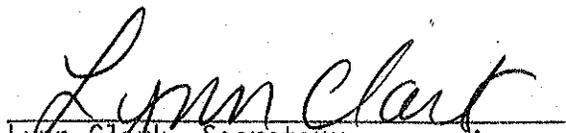
WHEREAS, The Shoalwater Bay Tribal Council has the power and responsibility to enact ordinances and laws governing the conduct of all persons for protection of the environment; now

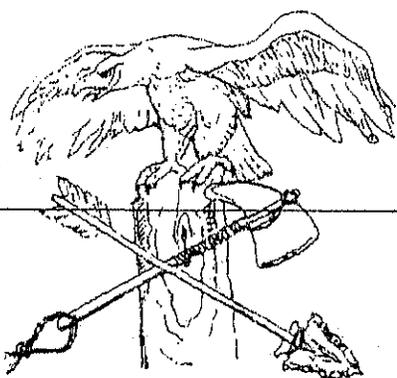
THEREFORE BE IT RESOLVED, That the Shoalwater Bay Tribal Council does hereby adopt TITLE 23: ENVIRONMENTAL INFRACTIONS CODE in which a Public Hearing was held June 15, 1995.

C E R T I F I C A T I O N

The above Resolution was enacted at a Regular Meeting of the Shoalwater Bay Tribal Council at which a quorum was present on the 28th day of June, 1995 by a vote of: 3 FOR 0 AGAINST AND 0 ABSTENTION.


Herbert Mark Whitish, Chairman
Shoalwater Bay Tribal Council


Lynn Clark, Secretary
Shoalwater Bay Tribal Council



SHOALWATER BAY INDIAN TRIBE

P.O. Box 130 • Tokeland, Washington 98590
Telephone (360) 267-6766 • FAX (360) 267-6778

SHOALWATER BAY INDIAN TRIBE RESOLUTION #10-25-01-53

WHEREAS, The Shoalwater Bay Indian Tribe a federally recognized tribe headquartered on the Shoalwater Bay Indian Reservation in the State of Washington; and

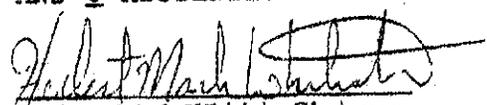
WHEREAS, The Shoalwater Bay Tribal Council is the governing body of the Shoalwater Bay Indian Tribe and acts in accordance with their constitution and by-laws; and

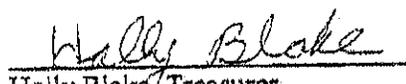
WHEREAS, The Shoalwater Bay Indian Tribal Council has the power and responsibility to enact ordinances and laws governing the conduct of all persons for protection of the environment; now

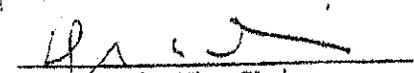
THEREFORE BE IT RESOLVED, that the Shoalwater Bay Tribal Council does hereby adopt TITLE 23: ENVIRONMENTAL INFRACTIONS ORDINANCE in which a public hearing was held on April 26, 2001.

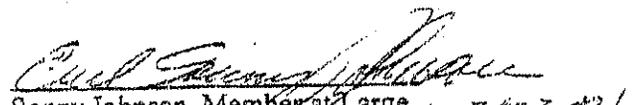
CERTIFICATION

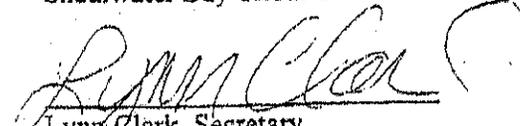
The above resolution was enacted at a regular meeting of the Shoalwater Bay Tribal Council at which a quorum was present on the 25 day of October, 2001 by a vote of: 4 FOR 0 AGAINST AND 0 ABSTENTION.


Herbert Mark Whitish, Chairman
Shoalwater Bay Tribal Council


Holly Blake, Treasurer
Shoalwater Bay Tribal Council


Doug Davis, Vice Chairman
Shoalwater Bay Tribal Council


Sonny Johnson, Member at Large
Shoalwater Bay Tribal Council


Lynx Clark, Secretary
Shoalwater Bay Tribal Council