

CONSTITUTIONAL REVISION DRAFT

Article by Article Ballot

SHOALWATER BAY INDIAN RESERVATION TOKELAND, WASHINGTON

This document contains both the current constitution and the proposed changes to the current constitution. It is important to read through each article of the current constitution and then each article of the proposed constitution to have a clear understanding of the changes that are being offered. Most of the proposed constitutional changes are about clarity of language and are not substantive. In some Articles, the language may not be changed at all but they are still shown here to illustrate the entire constitution. The most significant change is the term of office for Council Members from the current two (2) year term to the proposed three (3) year term.

Each Article can be voted on separately. So, if you want a proposed Article to replace a current Article, check the Yes box. If you want the current Article to remain in force and not be changed, check the No box. The Articles that are adopted will be incorporated into the current constitution and the Articles rejected will not be.

PREAMBLE - CURRENT

We, the members of the Shoalwater Bay Indian Tribe of the Shoalwater Bay Indian Reservation, in order to improve the Tribal Organization established by the Constitution ratified on March 10, 1971, and amended in 1975 and 1978, to secure the rights and powers inherent in our sovereign status and guaranteed to us by the laws of the United States, develop and protect the Shoalwater Bay Indian Reservation, and all other Tribal resources, preserve peace and order in our community, promote the general welfare of our people and our descendants, protect the rights of the Tribe and of its members, and preserve our land base, culture and identity, do hereby establish this Constitution.

PREAMBLE - PROPOSED

We, the members of the Shoalwater Bay Indian Tribe of the Shoalwater Bay Indian Reservation, (hereinafter the Tribe) in order to improve our Tribal Organization, to secure the rights and powers inherent in our sovereign status and guaranteed to us by the laws of the United States, develop and protect the Shoalwater Bay Indian Reservation, and all other Tribal resources, preserve peace and order in our community, promote the general welfare of our people and our descendants, protect the rights of the Tribe and of its members, and preserve our land base, culture and identity, do hereby establish this Constitution.

YES NO

ARTICLE I – SOVEREIGNTY AND JURISDICTION - CURRENT

Section 1. The jurisdiction and governmental power of the Shoalwater Bay Indian Tribe shall extend over the following, to the fullest extent permitted by Federal Law:

- (a) All lands, waters, property, airspace, other resources and any interest therein, within the boundaries of the Shoalwater Bay Indian Reservation as established by the Executive Order of September 22, 1866, or as hereafter constituted, notwithstanding the issuance of any patent or right-of-way;
- (b) All persons, property and activities located or found within the Tribe’s jurisdiction;
- (c) All persons exercising or purporting to exercise any rights reserved by the Tribe by treaty or authority granted to the Tribe by Federal Law.

Section 2. Nothing in this Article shall be construed to limit the ability of the Shoalwater Bay Indian Tribe to exercise its jurisdiction to the fullest extent permitted by Federal Law.

ARTICLE I — SOVEREIGNTY AND JURISDICTION- PROPOSED

Section 1. The jurisdiction and governmental power of the Tribe shall extend over the following, to the fullest extent permitted by Federal Law:

- a) All lands, waters, property, airspace, other resources and any interest therein, within the boundaries of the Shoalwater Bay Indian Reservation as established by the Executive Order of September 22, 1866, and all additional lands currently owned or acquired now or in the future, whether within the boundaries of the reservation or not, regardless of the issuance of any patents or right-of-way;
- b) All persons, property and activities located or found within the Tribe's jurisdiction;
- c) All persons exercising any rights reserved by the Tribe and/or granted to the Tribe by Federal Law.

Section 2. Nothing in this Article shall be construed to limit the ability of the Tribe to exercise its jurisdiction to the fullest extent permitted by Federal Law.

YES NO

ARTICLE II – MEMBERSHIP- CURRENT

Section 1. Members. The membership of the Shoalwater Bay Indian Tribe shall consist of:

- (a) All persons whose names appear on the Membership Roll of the Tribe to be prepared as of the effective date of this Constitution. The Roll shall be approved by the Secretary of the Interior or his authorized representative;
- (b) The following persons who have applied for and established membership in accordance with those procedures and requirements set forth pursuant to Section 2 of this Article:
 - (1) All children born to, or legally adopted by, any Tribal member on or before the effective date of this Constitution who are not on the officially approved Membership Roll of the Tribe;
 - (2) Any child born to a Tribal member after the effective date of this Constitution, provided however, that a child whose parent has been enrolled under Section 1 (b)(3) shall not be entitled to enrollment under this Constitution after the effective date of this Amendment to this Section. Nothing herein shall prevent each child of these Tribal members from independently applying for membership and establishing membership in accordance with the procedures and requirements of this Constitution if they are entitled to enrollment.
 - (3) All other persons of one-quarter (1/4) degree or more Indian blood enrolled into the Tribe by, and at the sole discretion of, the General Council.
 - (4) All persons whose names appear on the Official Voters List which was prepared for the purpose of voting in the election in which the residents of the Shoalwater Bay Reservation rejected the provisions of the *Indian Reorganization Act* of June 18, 1934 (48 Stat. 984 *et. seq.*) and their direct descendants; and the brothers and sisters of those persons whose names appear on the official voters list and their direct descendants.

Section 2. Enrollment. The Tribal Council shall have the power:

- (a) To enact ordinances governing enrollment, disenrollment, and maintenance and correction of the Tribal Roll; provided, however, that no ordinance herein shall be effective until approved by the General Council, and that no person shall be enrolled as a member of the Tribe under Section 1 (b)(3) of this Article until the General Council has approved such enrollment by a majority vote, and provided, further, that the ordinance setting forth procedures for disenrollment shall be subject to the approval of the Secretary of the Interior or his authorized representative;
- (b) To correct the original or current Tribal Roll at any time by adding the names of persons who should have been included or by deleting the names of persons who have relinquished their Tribal Membership or who were incorrectly included on

the Roll; provided, that disenrollment shall be in line with the provisions of the ordinance governing that action, enacted pursuant to Section 2 (a) of this Article.

Section 3. Dual Enrollment Prohibited. No person who is an enrolled member of another Tribe or band of Indians or Alaskan Natives shall, at the same time, be a member of the Shoalwater Bay Indian Tribe.

ARTICLE II— MEMBERSHIP- PROPOSED

Section 1. Membership. The membership of the Tribe shall consist of:

- a) **Base Roll:** All persons whose names appear on the Official Voters List of the Tribe prepared by the Secretary of the Interior for the purpose of voting in an IRA election on June 18, 1934 (48 Stat. 984 et seq.). Base Roll membership does not necessarily constitute current membership in the Shoalwater Tribe.
- b) **Current Membership:** The lineal descendants of any person listed on the Base Roll, and the lineal descendants of blood siblings of those listed on the Base Roll.
- c) **Adoptions:** All persons of at least one-quarter (1/4) degree Indian blood, who have been active in the Shoalwater Bay Tribal Community for at least three (3) years, may apply for membership. A ballot listing all applicants for adoption shall be mailed to the voting membership in conjunction with the Ballot for the general election of Tribal Council members. Adoptions must be approved by a majority vote of the General Council.
- d) **Dual Enrollment:** Dual Enrollment in any tribe, band, pueblo or Indian Nation of any kind is prohibited.

Yes No

ARTICLE III – THE GENERAL COUNCIL - CURRENT

Section 1. Membership. All Tribal members shall be members of the General Council. Members of the General Council who are eighteen (18) years of age or older shall be entitled to vote in all Tribal elections and to participate in all open meetings.

Section 2. Regular Meetings. The General Council shall meet annually during the month of January and at such other times as may be designated by the Tribal Council or upon petition by members of the General Council. Notice of all meetings of the General Council—other than recall meetings—shall be provided by the Secretary of the Tribal Council to all members of the General Council who are entitled to vote, at least fourteen (14) days prior to such meeting, and shall be posted at conspicuous places on the Reservation. Procedures for recall meetings shall be determined by Article V, Section 3.

Section 3. Meetings By Petition. Upon receipt of a valid petition requesting a meeting of the General Council, signed by at least twenty-five percent (25%) of the eligible voters, the Tribal Secretary shall schedule the meeting to be held not later than twenty (20) days from receipt of such petition, unless otherwise agreed upon by the Tribal Council and the spokesperson for the petitioners. Notice of the meeting shall be provided by the Tribal Council Secretary to all members of the General Council who are entitled to vote, and shall be posted at conspicuous places on the Reservation.

Section 4. Quorum. A quorum for conducting business at any General Council meeting shall be twenty-five percent (25%) of the eligible voters.

Section 5. Agenda. The agenda for each meeting of the General Council shall be posted by the Secretary of the Tribal Council in advance of such meeting. Members of the General Council may submit to the Secretary, items to be placed on the agenda. Items on the agenda shall be considered before issues are raised from the floor.

Section 6. Powers of the General Council.

- (a) The General Council shall have the powers enumerated in this subsection, subject to any limitations imposed by Federal Law or provisions of this Constitution. The Tribal Council, all Tribal officers and agents, and all subordinate Tribal organizations shall be required to obtain the approval of the General Council prior to taking any action with regard to these powers. Any action taken with regard to these powers without first obtaining the approval of the General Council shall be void.
 - (1) To relinquish any area of Tribal jurisdiction to any government, person, organization, or agency, whether public or private; provided, however, that cooperative law enforcement agreements shall not be considered a relinquishment of Tribal jurisdiction;
 - (2) To deal with questions concerning the termination of all or any part of the Shoalwater Bay Indian Reservation;
 - (3) To enroll persons into membership in the Shoalwater Bay Indian Tribe under Article II, Section 1 (b)(3) and (4) and to approve all ordinances and

resolutions adopted by the Tribal Council affecting membership and enrollment in the Tribe as provided in Article II, Section 2 (a);

- (4) To take final Tribal action concerning the alienation or encumbrance of Tribal real property, waters, natural resources, or interests therein, as outlined in Article VI, Section 1 (p), whether owned by the Shoalwater Bay Indian Tribe or held by the United States in trust for the Tribe;
 - (5) To condemn property or any interests therein which is within the jurisdiction of the Tribe;
 - (6) To delegate such powers to the Tribal Council, Tribal officers, and agents or subordinate Tribal organizations as it deems appropriate.
- (b) All other inherent Tribal powers not expressly delegated by the General Council in this Constitution or in the future to the Tribal Council or to any officer or agency of the Tribe are reserved to the General Council and may be exercised without amendment to this Constitution, subject to the limitations set forth in subsection (a) of this Section.
- (c) In addition to, and furtherance and implementation of, all powers currently held by the General Council or Tribal Council, the General Council shall have the power to exclude any Tribal Member from the Shoalwater Bay Indian Reservation and other Tribal lands, and to enact ordinances and procedures allowing and governing the exclusion of Tribal Members from the Shoalwater Bay Indian Reservation and other Tribal lands, under such terms and conditions as it may deem to be appropriate.

ARTICLE III — THE GENERAL COUNCIL - PROPOSED

Section 1. Membership. All Tribal members eighteen years (18) and older shall be members of the General Council and entitled to vote and participate in all General Council meetings.

Section 2. Regular Meetings. The General Council shall meet annually at a time to be determined by the Tribal Council. Notice of the General Council Meeting shall be mailed to all General Council members a minimum of sixty (60) days prior to the Meeting.

Section 3: Special Meetings. Special General Council Meetings may be called by the Tribal Council or upon petition of the General Council. Notice of all Special meetings of the General Council—other than recall meetings—shall be provided to all members of the General Council at least fourteen (14) days prior to such meeting, and shall be posted at conspicuous places on the Reservation and posted digitally.

Section 4. Meetings By Petition. Upon receipt of a valid petition requesting a meeting of the General Council, signed by at least thirty (30%) of the General Council, the Tribal Secretary shall schedule a Special General Council Meeting to be held not later than twenty (20) days from receipt of such petition, unless otherwise agreed on by the Tribal Council and the spokesperson for the petitioners. Notice

of the meeting shall be provided by the Tribal Council Secretary to all members of the General Council and

shall be posted at conspicuous places on the Reservation and posted digitally.

Section 5. Quorum. A quorum for conducting business at any General Council meeting shall be twenty-five percent (25%) of the General Council.

Section 6. Agenda. The agenda for each Regular meeting of the General Council shall be sent along with the notice of the Regular Meeting sixty (60) days in advance of such meeting. General Council Members may propose items to be placed on the agenda. Proposed items require a majority vote of the General Council to be placed on the agenda.

Section 7. Powers of the General Council.

- a) To relinquish any area of Tribal jurisdiction to any government, person, organization, or agency, whether public or private, provided that cooperative law enforcement agreements shall not be considered a relinquishment of Tribal jurisdiction;
- b) To approve all ordinances affecting membership and enrollment in the Tribe.
- c) To take action concerning the alienation or encumbrance of Tribal real property, waters, airspace and natural resources;
- d) To condemn/reassign property or any interests which is within the jurisdiction of the Tribe;
- e) To reassign for public purposes, real property or interests in real property within the jurisdiction of the Tribe, provided that owners of property to be reassigned shall be provided with a hearing before the General Council. Upon reassignment, the owners shall be fairly compensated for their home and improvements, subject to General Council approval.
- f) To delegate such powers to the Tribal Council, Tribal officers, and agents or subordinate Tribal organizations as it deems appropriate;
- g) The General Council shall have the power to exclude any Tribal Member from the Shoalwater Bay Indian Reservation and other Tribal lands, and to enact ordinances and procedures allowing and governing the exclusion of Tribal Members from the Shoalwater Bay Indian Reservation and other Tribal lands, under such terms and conditions as it may deem appropriate;
- h) All other inherent Tribal powers not expressly delegated by the General Council in this Constitution to the Tribal Council or to any officer or agency of the Tribe are reserved to the General Council;

Yes

No

ARTICLE IV – THE TRIBAL COUNCIL – CURRENT

Section 1. Composition of the Tribal Council. The Shoalwater Bay Tribal Council shall consist of five (5) members duly elected to serve staggered terms of two (2) years each as provided in Article V, Section 1 (g). The Tribal Council shall include a Chairperson, a Vice-Chairperson, a Secretary, a Treasurer, and a Member-at-Large.

Section 2. Regular Meetings. The Tribal Council shall meet at least once a month at a designated regularly scheduled time. The Council may set additional meetings as necessary. Such additional meetings may be called by either the Chairperson or by any three (3) Council members; provided, however, that persons calling such meeting shall post the schedule of those additional meetings. Any meeting additional to the designated regular monthly meeting shall be preceded by actual notice to all persons on the Council. A quorum of the Tribal Council shall be three (3) members.

Section 3. Emergency Meetings. Emergency meetings of the Tribal Council may be called by either the Chairperson or by any three (3) Council members. The persons calling such meetings shall make reasonable efforts to provide notice of the meetings to every Council member and to the Tribal Membership.

ARTICLE IV — THE TRIBAL COUNCIL - PROPOSED

Section 1. Composition of the Tribal Council. The Shoalwater Bay Tribal Council shall consist of five (5) members elected to serve staggered terms of three (3) years.

Section 2. Regular Meetings. The Tribal Council shall meet at least once a month at a time and place to be determined by the Tribal Council.

Section 3. Special Meetings. The Council may hold special meetings as necessary. Special Meetings may be called by either the Chair or by any three (3) Council members, provided that the Council Member(s) calling the meeting shall post the schedule and agenda of the Special Meetings. All Tribal Council members must be notified of all Special Meetings.

Section 4. Quorum. A quorum of the Tribal Council shall be three (3) members.

Yes No

**ARTICLE V – ELECTIONS, REMOVAL, RECALL,
AND FILLING VACANCIES - CURRENT**

Section 1. Tribal Elections.

- (a) Voter Qualifications. Any duly enrolled member of the Tribe who is at least eighteen (18) years of age on the date of the election shall be considered an eligible voter and is entitled to cast a ballot in that Tribal election.
- (b) Qualifications of Candidates. Any duly enrolled member of the Tribe who is at least twenty-one (21) years of age on the election date shall be eligible to become a candidate for election to membership on the Tribal Council and serve in that capacity if such person meets the following conditions, provided that, no person shall be a candidate for more than one (1) position in any election:
- (1) Has physically resided within Pacific or Grays Harbor Counties of Washington for a period of at least six (6) months immediately preceding the date of the election in which he or she seeks office; provided, however, that any Tribal member shall be eligible to run for the Member-at-Large position if he or she physically resides for a period of six months immediately preceding the election at a location no more than 200 miles from the Reservation as measured by travel by motor vehicle on public highways.
 - (2) Has not been convicted of a crime punishable by imprisonment for more than one (1) year, excepting State fishing or hunting convictions, or, within the year immediately preceding the election, of a crime punishable by imprisonment of less than one (1) year;
 - (3) Is not employed in a salaried policy-making position with any agency of the State or Federal Government engaged in community service on the Reservation.
- (c) Election Date. General elections shall be held annually on the second Saturday of January. In case the date of the regular election shall conflict with a holiday or if circumstances require that the regular election be postponed, the election shall be held within thirty (30) days thereafter.
- (d) Election Board. There shall be an Election Board appointed by the Tribal Council whose duties shall be to supervise and administer all Tribal elections to insure that they are objectively and fairly conducted. The Election Board shall certify the election of Tribal Council members within five (5) days after the election. No member of the Election Board shall at the same time be a member of the Tribal Council a candidate for Tribal office.
- (e) Election Ordinance. The Tribal Council shall enact an Election Ordinance, consistent with this Constitution, setting forth the procedures to be followed in conducting each of the various types of Tribal elections called for in this Constitution. The ordinance shall include provisions for conducting all Tribal elections by secret ballot, absentee voting, maintenance of a current list of eligible

voters, screening of prospective candidates, and settling election disputes. Further, the ordinance shall spell out the procedures and format to be used whenever it is necessary to submit petitions for any purpose, to the Tribal Council or any office of the Tribe and set forth a procedure for determining the validity of such petitions.

- (f) Inaugurations. Every person elected to the Tribal Council shall, after certification of the election, assume office when he or she takes an oath or swears to uphold the Constitution and laws of the Shoalwater Bay Indian Tribe. Those appointed to office shall also take such oath. Tribal Council members shall hold office after expiration of their terms of office until their successors are duly elected and take the oath of office.
- (g) First Election.
- (1) Incumbent members of the Tribal Council on the effective date of this Constitution shall continue to serve on the Council until replaced in accordance with this Section.
 - (2) Within sixty (60) days following the effective date of this Constitution, or as soon thereafter as is practicable, a special election shall be called to elect a Treasurer and Member-at-Large; provided, however, that if the effective date of this Constitution is within ninety (90) days before the next regularly scheduled election under the preceding Constitution, the Tribal Council shall appoint the two (2) new Council members to serve until the next regular election. Following the special election or appointment of the two (2) new Council members, the incumbent Secretary-Treasurer shall become the Secretary of the Tribal Council.
 - (3) The Council members elected or appointed under subsection (2) of this Section shall, with the three (3) incumbent Council members, serve until the first regular election scheduled under this Constitution. At the first regular election, a Chairperson, a Treasurer, and a Secretary shall be elected for a two (2) year period and a Vice-Chairperson and a Member-at-Large shall be elected for a one (1) year period. In January of the year following the first regularly scheduled election provided for under this Constitution, a Vice-Chairperson and a Member-at-Large shall each be elected to serve a period of two (2) years.

Section 2. Removal. Should any of the following circumstances occur involving a Tribal Council Member, the remaining members of the Tribal Council shall, by Resolution, remove such person from office:

- (a) Failure to continue to satisfy any of the requirements to hold office in Article V, Section 1 (b);
- (b) Absence from three (3) successive meetings without being excused;
- (c) Gross misconduct in office or neglect of duty;
- (d) Becoming physically or mentally incapable of performing his or her duties.

Any Tribal Council member who is the object of a removal resolution shall, before a vote is taken, be provided with reasonable and detailed written notice of the charges against him or her and with a fair opportunity to reply to such charges and present evidence on his or her behalf. A Council member may appeal to the General Council from a decision by the Tribal Council to remove him or her from office under this Section. The decision of the General Council shall be final. A General Council meeting shall be called for appeal of the removal of a Tribal Council member according to the same procedures for a recall meeting.

Section 3. Recall.

- (a) Tribal members shall have the power to recall any member of the Tribal Council. The recall process shall be initiated by filing with the Secretary of the Tribal Council, a valid petition asking for such recall, signed by at least twenty-five percent (25%) of the eligible voters, setting forth reasons for the petition. If the Secretary of the Tribal Council is the object of a recall petition, the petition shall be filed with the Vice-Chairperson of the Tribal Council. A copy of the petition shall be provided to the Tribal Council member who is the object of that petition.
- (b) Within forty (40) days after receipt of a valid recall petition, the Secretary of the Tribal Council, or if he or she is the object of a recall petition, the Vice-Chairperson, shall call a General Council meeting to be held within sixty (60) days, unless the annual meeting is scheduled within that period. The Tribal Council member who is being considered for recall shall be provided with written notice of the meeting, and be provided with a fair opportunity to reply to such charges and present evidence on his or her behalf at the General Council meeting. A majority vote by secret ballot shall determine whether such Council member is recalled from office.
- (c) Notice of all recall meetings shall be provided to the eligible voters of the General Council at least thirty (30) days prior to such meeting, and shall be posted at conspicuous places on the Reservation.
- (d) No Tribal Council member, validly elected, shall be subject to recall under this Section during the first six (6) months of his or her term of office.

Section 4. Filling of Vacancies.

- (a) In the event that the position of Chairperson becomes vacant, the Vice-Chairperson shall automatically succeed to the Chairpersonship. The Vice-Chairperson shall serve as Chairperson until the next regularly scheduled election for Chairperson.
- (b) If any vacancies, other than that of Chairperson, occur in the membership of the Tribal Council, due to resignation, removal, recall, succession to another office, or death, the remaining Tribal Council members shall appoint someone to fill the position until the next regularly scheduled election for that position; provided, that such appointee shall meet the same qualifications as a candidate for election to that office.

**ARTICLE V — ELECTIONS, REMOVAL, RECALL
AND FILLING VACANCIES - PROPOSED**

Section 1. Tribal Elections.

- a) Voter Qualifications. Any enrolled member of the Tribe who is a General Council member on the date of the election shall be considered an eligible voter and is entitled to cast a ballot in Tribal elections.
- b) Qualifications of Candidates.
1. Tribal members who are at least twenty-one (21) years of age are eligible to be a candidate for election to the Tribal Council;
 2. Must physically reside within Pacific or Grays Harbor Counties of Washington for a period of at least one (1) year immediately preceding the date of the election in which he /she seeks;
 3. Member at large: A maximum of one Tribal member is eligible to be a candidate if he or she physically resides at a location no more than 200 miles from the Reservation as measured by travel by motor vehicle on public highways. The person filling this position is a full voting member of the Tribal Council but is not eligible to be the Chair, the Vice-Chair or the treasurer;
 4. Must not have a felony conviction within five (5) years of declaring his or her candidacy;
 5. Must not have been released from federal, state or county incarceration within five (5) years of declaring his or her candidacy;
 6. Tribal members who have been convicted of a felony directly or indirectly related to the Shoalwater Tribal Government, to any Shoalwater Tribal Enterprise, or on any Shoalwater trust or fee lands are barred for life from seeking tribal office of any kind;
 7. Is not employed in a salaried policy-making position with any agency of the state or federal government that conflicts with the duties of the Tribal Council.
- c) Election Date: General elections shall be held annually on the last Saturday of March. In the event the election cannot be held for any reason, the election may be postponed for a maximum of thirty (30) days.
- d) Election Board. An Election Board shall be appointed by the Tribal Council and its duties shall include supervising and administering all Tribal elections and to insure that they are conducted objectively and fairly. The Election Board shall certify the election of Tribal Council members within five (5) working days after every election. No member of the Election Board may be a candidate for or serve on the Tribal Council.
- e) Election Ordinance. The Tribal Council shall enact an Election Ordinance, consistent with this Constitution, setting forth procedures to conduct elections. The ordinance

shall include provisions for conducting all Tribal elections by secret ballot, absentee voting when voting is conducted at polling stations, maintenance of a current list of eligible voters, screening of prospective candidates, and settling of election disputes. Further, the ordinance shall detail the procedures and format to be used to submit petitions and set forth procedures for determining the validity of such petitions.

- f) Every person elected shall, after taking the oath of office, assume office immediately. Sitting Council members shall hold office until their successors are elected and take the oath of office.

Section 2. Removal.

- a) Tribal Council members may be removed from office for any of the following reasons:
 1. Gross negligence of duty;
 2. Failure to attend three consecutive meetings without just cause;
 3. Sentenced to prison/jail for more than one year,;
 4. Being physically or mentally incapable of performing the duties of office;
 5. Failure to comply with the Tribal Constitution and all laws and ordinances;
 6. Failing a drug test.
 7. Violating the oath of office.
- b) Tribal Council member(s) subject to removal shall be given written notice of the charges with an opportunity to reply and present evidence on his/her behalf. Removal requires an affirmative vote of three (3) Tribal Council members. The decision of the Tribal Council is final.

Section 3. Recall.

- a) Tribal members shall have the power to recall any member of the Tribal Council. In order to initiate a recall, a recall petition must be filed with the Secretary of the Tribal Council, signed and dated by at least twenty-five percent (25%) of the eligible voters of the tribe, setting forth the reasons for the petition. If the Secretary of the Tribal Council is the object of a recall petition, the petition shall be filed with the Vice-Chair of the Tribal Council. A copy of the petition shall be provided to the Tribal Council member named in the recall.
- b) Within forty (40) days after receipt of a valid recall petition, the Secretary of the Tribal Council, or if he or she is the object of a recall petition, the Vice-Chair, shall call a General Council meeting to be held within sixty (60) days, unless the annual meeting is scheduled within that period. The Tribal Council member who is being considered for recall shall be provided with written notice of the meeting, and given an opportunity to reply to the charges and present evidence on his/her behalf at the General Council meeting. Voting shall be conducted by secret ballot. An affirmative majority vote is required for recall, provided a quorum is present.
- c) Notice of all recall meetings shall be provided to the eligible voters of the General Council at least thirty (30) days prior to such meeting, and shall be posted at conspicuous places on the Reservation and posted digitally.
- d) No Tribal Council member shall be subject to recall during the first six (6) months of his

or her term of office.

Section 4. Filling of Vacancies.

- a) Whenever a vacancy(s) occurs on the Tribal Council, the person who received the next number of votes in the last election shall be appointed to fill the vacancy, providing they qualify for office. In the event the person declines, the Tribal Council shall appoint a qualified tribal member to fill the position. The appointed Tribal Council member will remain in his/her position until the next regularly scheduled election subject to the same laws and obligations as elected Tribal Council members.

Yes No

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ARTICLE VI – POWERS OF THE TRIBAL COUNCIL - CURRENT

Section 1. General Powers. The following powers are hereby delegated by the General Council to the Tribal Council subject to any limitations contained in this Constitution or Federal Law:

- (a) To consult, negotiate, contract, and conclude agreements, on behalf of the Tribe, with Federal, State, local and Tribal governments and officers and agencies thereof, and with public and private persons and organizations;
- (b) To regulate and define the duties and procedures of the Tribal Council, of all Tribal Council members and of subordinate Tribal committees and organizations and otherwise establish policies and procedures for the employment of Tribal governmental personnel;
- (c) To enact ordinances and regulations consistent with this Constitution for the conduct and administration of all Tribal elections, the appointment of the Election Board and the regulation of its duties;
- (d) To impose taxes on all persons, property and activities within the Tribe's jurisdiction;
- (e) To license and regulate the conduct of business activities within the Tribe's jurisdiction;
- (f) To enact ordinances and laws governing the conduct of all persons and defining offenses against the Shoalwater Bay Indian Tribe; maintain order and protect the safety and welfare of all persons within the Shoalwater Bay Tribe's jurisdiction; and pass any ordinances or laws necessary to govern the administration of justice and the enforcement of all laws, ordinances or regulations;
- (g) To establish and maintain a Tribal Court or Courts;
- (h) To set aside and spend for Tribal purposes, any available Tribal funds;
- (i) To regulate the social and domestic relations of persons and provide for the guardianship of minors and incompetent persons within the Tribe's jurisdiction; and provide services for the health, education and welfare of all persons within the Tribe's jurisdiction;
- (j) To establish any business enterprise as an agency or department of the Tribal government and otherwise engage in any lawful business, program, or project that may further the economic well-being of the Tribe or its members;
- (k) To borrow money from the Federal Government or other source and use such funds for the benefit of the Tribe; and pledge, mortgage or assign Tribal assets or income due or to become due; provided, that any pledge or mortgage of Tribal real property shall be void without the approval of the General Council;

- (l) To prescribe and enforce the conditions upon which non-Tribal members may enter and remain on the Reservation, and establish procedures for the exclusion of non-Tribal members from the Reservation and for the extradition from areas within the jurisdiction of the Tribe of persons accused of crimes in other jurisdictions;
- (m) To employ legal counsel on behalf of the Tribe or on behalf of the Tribal members, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior, or his authorized representative, so long as such approval is required by Federal Law;
- (n) To regulate the inheritance of property within the jurisdiction of the Tribe and provide for escheat to the Tribe of property which is within the Tribal jurisdiction belonging to persons who die intestate and without ascertainable heirs;
- (o) To develop, manage, protect and regulate the use of water, fish, animals, wildlife, minerals, timber and all other natural resources within the Tribe's jurisdiction;
- (p) To deal with questions concerning the encumbrance, lease, use, management, assignment, zoning, exchange, mortgage, purchase, acquisition, sale, placement in trust and disposal of land and other assets owned by the Tribe or held in trust for the Tribe; and regulate land use and development in areas within the Tribe's jurisdiction provided, however, that any alienation, encumbrance, lease, assignments, sale, mortgage or pledge of Tribal real property shall be void unless approved by the General Council;
- (q) To approve or veto any sale, disposition, lease, or encumbrance of Tribal land or assets which may be proposed or executed by the Secretary of the Interior or other agency or official of the Federal Government; provided, that any approval shall be void unless approved by the General Council;
- (r) To condemn for public purposes, real property or interests in real property within the jurisdiction of the Shoalwater Bay Indian Tribe; provided, however, that owners of property proposed to be condemned shall be provided with a fair hearing and, if the property is condemned, shall be paid the fair market value of their land and all improvements on it; provided, further, that no condemnation shall be valid unless approved by the General Council;
- (s) To assert as a defense to lawsuits against the Tribe and to waive by express written agreement the sovereign immunity of the Shoalwater Bay Tribe;
- (t) To charter and regulate corporations, cooperatives, associations, special districts, educational, and charitable institutions, political subdivisions and other entities;
- (u) To delegate to subordinate Tribal boards, groups and committees, or qualified individuals, any of the foregoing powers, unless otherwise limited by this Constitution; provided, that subordinate entities or individuals shall be under the supervision of, and accountable to, the Tribal Council;

- (v) To exercise any power or duty which may now or in the future be delegated to it by the Federal or State governments;
- (w) To enact ordinances governing persons, property, lands, water, air space and resources within the Tribe's jurisdiction to the extent necessary to implement and protect those rights and powers reserved by the Tribe by treaty and the authority granted to the Tribe by the Constitution and laws of the United States;
- (x) To take any and all actions necessary and proper for the exercise of the foregoing powers and duties and all other powers and duties hereafter delegated to or vested in the Tribal Council.

Section 2. Public Hearings. Before enacting any ordinance or resolution that will apply generally to private persons or property, the Tribal Council shall hold a hearing at which interested adult members of the General Council shall have the opportunity to comment on the proposed legislation.

ARTICLE VI— POWERS OF THE TRIBAL COUNCIL - PROPOSED

Section 1. General Powers. The following powers are hereby delegated by the General Council to the Tribal Council subject to any limitations contained in this Constitution or Federal Law:

- a) To consult, negotiate and contract, on behalf of the Tribe, with the officers and agencies of Federal, State, local and Tribal governments, and with public and private persons and organizations;
- b) To regulate and define the duties and procedures of the Tribal Council, of all Tribal Council members and of subordinate Tribal committees and organizations and establish policies and procedures for the employment of Tribal governmental personnel;
- c) To enact ordinances and regulations consistent with this Constitution for the conduct and administration of all Tribal elections, the appointment of the Election Board and the regulation of its duties;
- d) To impose taxes on all persons, property, businesses and activities within the Tribe's jurisdiction;
- e) To license and regulate the conduct of business activities within the Tribe's jurisdiction;
- f) To enact ordinances and laws governing the conduct of all persons and defining offenses against the Shoalwater Bay Indian Tribe; maintain order and protect the safety and welfare of all persons within the Shoalwater Bay Tribe's jurisdiction, and pass any ordinances or laws necessary to govern the administration of justice and the enforcement of all laws, ordinances or regulations;
- g) To establish and maintain Tribal Court(s);
- h) To budget and disburse for Tribal purposes;
- i) To regulate the social and domestic relations of persons and provide for the guardianship of minors and incompetent persons within the Tribe's jurisdiction; and provide services for the

- health, education and welfare for all tribal members and for all persons within the Tribe's jurisdiction;
- j) To establish any business enterprise as an agency or department of the Tribal government and otherwise engage in any lawful business, program, or project that may further the economic well-being of the Tribe or its members;
 - k) To borrow money and use the funds for the benefit of the Tribe and its members;
 - l) Pledge, mortgage or assign Tribal assets or income due or to become due, subject to approval of the General Council.
 - m) To prescribe and enforce the conditions upon which non-Tribal members may enter and remain on the Reservation, and establish procedures for the exclusion of non-Tribal members from the Reservation and for the extradition from areas within the jurisdiction of the Tribe of persons legally accused of crimes in other jurisdictions;
 - n) To employ legal counsel on behalf of the Tribe and/or on behalf of the Tribal members.
 - o) To regulate the inheritance of property within the jurisdiction of the Tribe and provide for the return of property which is within the Tribal jurisdiction belonging to persons who die without a will and without ascertainable heirs;
 - p) To develop, manage, protect and regulate the use of water, airspace, fish, animals, wildlife, minerals, timber and all other natural resources within the Tribe's jurisdiction;
 - q) To deliberate on issues concerning the encumbrance, lease, use, management, assignment, zoning, exchange, mortgage, purchase, acquisition, sale, placement in trust and disposal of land and other assets owned by the Tribe or held in trust for the Tribe.
 - r) To regulate land use and development in areas within the Tribe's jurisdiction provided that any alienation, encumbrance, lease, assignments, sale, mortgage or pledge of Tribal real property shall be subject to approval of the General Council;
 - s) To approve or veto any sale, disposition, lease, or encumbrance of Tribal land or assets which may be proposed or executed by the Secretary of the Interior or other agency or official of the Federal Government, subject to General Council approval.
 - t) To defend lawsuits against the Tribe and to waive sovereign immunity when appropriate and only for the benefit of the tribe and its members.
 - u) To charter and regulate corporations, cooperatives, associations, special districts, educational, and charitable institutions, political subdivisions and other entities;
 - v) To delegate to subordinate Tribal boards, groups and committees, or qualified individuals, any of the foregoing powers, unless otherwise limited by this Constitution;
 - w) To exercise any power or duty which may now or in the future be delegated to the Tribal Council by the Federal or State governments;

- x) To enact ordinances governing persons, property, lands, water, air space and resources within the Tribe's jurisdiction.

Section 2. Public Hearings. Before enacting ordinances, the Tribal Council shall hold a hearing open to all General Council members for comments and suggestions.

Yes No

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ARTICLE VII – INITIATIVE AND REFERENDUM - CURRENT

Section 1. Initiative. The eligible voters shall have the right to propose legislation and vote by secret ballot to determine whether it will be adopted or rejected. Upon receipt of a valid petition signed by at least twenty-five percent (25%) of the eligible voters, the Secretary of the Tribal Council shall call an election to be conducted pursuant to the Tribal Election Ordinance no later than thirty (30) days after receipt of the petition. An affirmative vote by at least a majority of the eligible voters shall be required to determine such issues and/or questions contained in the petition.

Section 2. Referendum. The Tribal Council, by an affirmative vote of at least three (3) of its members, shall call an election, to be conducted pursuant to the Tribal Election Ordinance within thirty (30) days of such Tribal Council decision, for the purpose of deciding by secret ballot issues or questions that are either within the authority of the General Council or those powers vested in the Tribal Council. An affirmative vote by at least a majority of the eligible voters shall be required to determine the issues or questions submitted to the voters.

Section 3. The decisions of the voters in both initiative and referendum elections shall be binding on the Tribal Council and the Tribe and shall remain in force until amended or rescinded by subsequent action of the voters, or expire by its own terms.

ARTICLE VII— INITIATIVE AND REFERENDUM - PROPOSED

Section I. Initiative. Upon receipt of a valid petition signed by at least thirty (30%) of the eligible voters, the Secretary of the Tribal Council shall call an election pursuant to the Tribal Election Ordinance. An affirmative vote by a majority of the voters is required for passage of the initiative, providing at least thirty (30) percent of the General Council casts ballots.

Section 2. Referendum: Upon receipt of a resolution adopted by an affirmative vote of at least three (3) members of the Tribal Council, the Chairman shall call a special meeting of the General Council to consider any proposed resolution, ordinance or other proposed action by the Tribal Council. The tribal Election Committee pursuant to the election ordinance shall conduct an election on such proposal(s). A majority vote is required to adopt the proposed ordinance, resolution or other action, provided that at least thirty (30) percent of the General Council casts ballots.

Section 3. The decisions of the voters in both initiative and referendum elections shall be binding on the Tribal Council and the Tribe and shall remain in force until amended or rescinded by subsequent action of the voters, or expires by its own terms.

Yes No

ARTICLE VIII – RATIFICATION OF CONSTITUTION - CURRENT

This Constitution shall take effect after it has been approved by the Secretary of the Interior, or his authorized representative, and it has been duly ratified by a majority of the qualified voters in an election authorized by the Secretary of the Interior in which at least thirty percent (30%) of those entitled to vote, cast ballots.

ARTICLE VIII – RATIFICATION OF CONSTITUTION – [PROPOSED](#)

No longer required - Deleted

Yes No

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ARTICLE IX – AMENDMENTS - CURRENT

Proposals to amend this Constitution may be initiated by the Tribal Council or by a valid petition signed by at least twenty-five percent (25%), or a minimum of ten (10), of the eligible voters, whichever is greater. Upon determination that the petition is valid, or by its own initiative, the Tribal Council shall provide all eligible voters with a complete text of the proposed amendment(s) at least thirty (30) days prior to the General Council meeting at which an election shall be conducted on the proposed amendment(s). The Election Board shall supervise and administer the election in accordance with the Tribal Election Ordinance. Adoption of an amendment shall require a majority vote of the eligible voters who cast ballots in the election; provided that at least thirty percent (30%) of the eligible voters of the Tribe, cast ballots.

ARTICLE IX — AMENDMENTS - PROPOSED

Section 1. Proposals to amend this Constitution may be initiated by the Tribal Council or by a valid petition signed by at least twenty-five (25%) of the eligible voters of the tribe. Once the petition is validated, or by its own initiative, the Tribal Council shall provide all eligible voters with a complete text of the proposed amendment(s) at least thirty (30) days prior to a General Council meeting. The Election Board shall supervise and administer the election to amend this constitution in accordance with the Tribal Election Ordinance. Adoption of an amendment(s) shall require a majority vote of the eligible voters who cast ballots in the election; provided that at least thirty percent (30%) of the eligible voters of the Tribe, cast ballots.

Yes

No

ARTICLE X — SEVERABILITY- NEWLY PROPOSED

Section 1. In the event any sentence, paragraph or section of this constitution is held to be illegal or otherwise invalid, the remaining sentences, paragraphs or sections shall remain valid and be presumed consistent with all other applicable laws.

Yes No

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