

## *Constitution*

### **OF THE JAMESTOWN S'KLALLAM TRIBE**

#### **PREAMBLE**

We, the Indians of the Jamestown S'Klallam Tribe ("Tribe"), create and adopt this constitution for the Tribe for the purpose of forming a better tribal government, establishing a tribal community organization, promoting the social and economic well-being of our people, securing our aboriginal land and any and all natural resources therein, preserving our culture and institutions, fostering justice and freedom, and advancing our mutual welfare.

## **ARTICLE I - NAME AND TERRITORY**

### **Section 1. Name.**

The legal name of the tribal organization shall be the Jamestown S'Klallam Tribe.

### **Section 2. Territory.**

The territory and jurisdiction of the Tribe shall extend over the following to the fullest extent possible under Federal Law:

(a) All lands, waters, property, airspace, other natural resources and any interest therein, either now, or in the future, owned by the Tribe or individual tribal citizens held in trust status or located within the boundaries of a reservation which may be proclaimed for the Tribe, notwithstanding the issuance of any patent or right-of-way;

(b) All rights secured to the Tribe in the Land Consolidation Plan of 1985, as approved by the Department of the Interior;

(c) All persons, property and activities located or found within the Tribe's Indian country, as defined in 18 U.S.C. §1151; and

(d) All citizens exercising or purporting to exercise any rights reserved by the Tribe under the Treaty of Point No Point concluded January 16, 1855 (12 Stat. 933) and all property or activity to the extent necessary to implement and protect all rights and powers reserved or granted to the Tribe by the Treaty of Point No Point, the United States Constitution or other Federal Law.

### **Section 3. Hunting, Fishing and Gathering Rights.**

Nothing in this Article shall restrict the exercise of hunting, fishing and gathering rights reserved by the Tribe under the Treaty of Point No Point including, but not limited to, the right to hunt and gather on all open and unclaimed lands, and to fish at all of the Tribe's usual and accustomed grounds and stations.

## **ARTICLE II - CITIZENSHIP**

### **Section 1. Citizenship.**

Citizenship in the Tribe shall consist of the following:

(a) All persons whose names appear on the list of citizens submitted by the Tribe in 1978 in its petition for federal acknowledgment as an Indian tribe pursuant to 25 CFR Part 54, who met the citizenship criteria specified in the petition. The Tribal Council may correct the list in accordance with Section 4 of this Article; and

(b) All lineal descendants of persons who qualify for citizenship under subsection (a), above; provided that such descendants possess at least one-eighth (1/8) degree Jamestown S'Klallam blood.

### **Section 2. Limitation.**

No person shall qualify for citizenship in the Tribe who is a member or citizen of any other organized tribe, band, or Indian community officially recognized by the Secretary of the Interior, unless they have relinquished in writing their citizenship or membership in such tribe, band or community.

### **Section 3. Adoption.**

The Tribal Council shall have the power to enact laws governing the adoption of persons as citizens who have a significant community relationship with the Tribe.

### **Section 4. Regulation of Citizenship.**

The Tribal Council shall have the power to enact laws regulating citizenship as to admission to and loss of citizenship; provided, that any person who may lose their tribal citizenship is entitled to a hearing before the Tribal Council and to adequate notice of such hearing.

## **ARTICLE III - TRIBAL COUNCIL**

### **Section 1. Governing Body.**

The representative governing body of the Tribe shall be known as the Jamestown S'Klallam Tribal Council.

### **Section 2. Membership; Terms.**

The Tribal Council shall consist of five (5) members each duly elected to serve in one (1) of the specific positions as set out in Section 3 of this Article. Commencing with the election for officer positions to the Tribal Council in calendar year 2011, the terms for each position will transition from two (2) year to four (4) year terms with those terms staggered as provided in Section 3. Tribal Council members shall remain in office until their successors are duly elected and installed.

### **Section 3. Tribal Officers; Staggering of Terms.**

The Tribal Council officer positions shall consist of 1) a Chairperson, 2) a Vice Chairperson, 3) a Secretary, 4) a Treasurer, and 5) a Councilperson. All terms of office for Tribal Council elected members shall begin at noon on December 1st of the year of their election, or at such time as they shall be deemed duly elected under tribal law, whichever shall occur last, and the term of their predecessor shall end at that same time as provided herein and in tribal law consistent with this Constitution. The Tribal Council may appoint such other officials and committees as are considered necessary; however, those appointees shall have no vote in the deliberations of the Tribal Council.

The Chairperson and the Secretary shall be elected every four (4) years, commencing with the election in 2011. The Vice-Chairperson and Treasurer shall be elected every four (4) years, commencing with the election in 2012. The Councilperson, who was elected to a four (4) year term in the election of 2012, shall be elected to a one-time five (5) year term in the election of 2016 and commencing with the election in 2021, to four (4) year terms thereafter.

### **Section 4. Quorum.**

Three (3) members of the Tribal Council shall constitute a quorum.

### **Section 5. Bylaws**

The Tribal Council may adopt bylaws governing the internal operations of the Council, as it deems appropriate, provided such bylaws are not in conflict with the provisions of this Constitution.

## **ARTICLE IV - GENERAL COUNCIL**

### **Section 1. Composition.**

The General Council shall be composed of all Tribal citizens who are qualified voters pursuant to the provisions of this Constitution and the Tribal Code.

### **Section 2. Powers.**

The powers of the General Council shall be as follows:

- (a) Electing Tribal Council members in accordance with Article V;
- (b) Deciding on initiatives, recalls and referendums in accordance with Article V;
- (c) Adopting or rejecting proposed constitutional amendments, whether by petition or referendum, and approving restatements of the Constitution, in accordance with Article X; and
- (d) Dealing with those matters not expressly delegated to the Tribal Council by Section 1 of Article VII.

### **Section 3. Regular Annual Meeting.**

The Tribal Council shall determine the exact date of the regular annual meeting of the General Council, which shall be held within forty-five (45) days before the date of a regular election, as provided for in Section 3 of Article V. Advance notice of the meeting shall be given as directed by the Tribal Council or as set out in the Tribal Code.

### **Section 4. Special Meetings.**

Special meetings of the General Council may be called by the Tribal Chairperson with at least fifteen (15) days advance notice with such notice either posted in public places where Tribal citizens frequent or by other appropriate means, as may be required by the Tribal Council or the Tribal Code. Special meetings shall be called by the Tribal Chairperson upon their receipt of a written request signed by at least three (3) of the five (5) members of the Tribal Council. If the Chairperson fails to call the requested meeting, one (1) of the three (3) requesters shall be empowered to call and conduct that session.

### **Section 5. Quorum.**

Twenty-five (25) members of the General Council shall constitute a quorum for purposes of conducting business, provided, that a quorum shall not be required for the election of Tribal officials.

Previously amended and restated on November 17, 1983, April 12, 1997, March 7, 2000, October 5, 2002, June 30, 2011, October 6, 2012, and October 11, 2014.

## **ARTICLE V - TRIBAL ELECTIONS**

### **Section 1. Voter Qualifications.**

Duly enrolled Tribal citizens shall be qualified to vote only if they meet both of the following two conditions:

- (a) They must be at least eighteen (18) years of age on the date of the election, which makes them an eligible voter; and
- (b) They must be duly registered pursuant to the Tribe's voter registration system, as provided for in Section 5 of this Article, and as more fully set out in the Tribal Code, which makes them a qualified voter.

### **Section 2. Qualifications for Candidates.**

(a) Qualified voters of the Tribe are eligible to become candidates for either elective or appointive office, provided that if they have been convicted of a Class A through E felony, as defined in 18 U.S.C. §3559(a), at least five (5) years must have passed since completion of the penalty for such offense (the penalty shall include any period of restriction on civil rights) before they become eligible.

(b) If newly elected or re-elected after the date this subsection (b) becomes effective, will legally and physically reside within the Jamestown S'Klallam Tribe's IHS Contract Health Service Delivery Area, as set out in the Federal Register of October 25, 1996 (61 FR 208), within ninety (90) calendar days of their election and maintain such legal and physical residency, on a continuing basis, throughout their elected term. Failure to comply with this subsection, on a continuing basis, shall be grounds for removal from office under Section 1, Article VI of the Constitution.

### **Section 3. Election Dates.**

Regular elections for the Tribal Council, and for other matters, shall be held on the Tuesday after the first Monday in November, unless no election is required.

### **Section 4. Election Board.**

The Tribal Council shall appoint an Election Board whose three (3) members shall serve for three (3) year staggered terms of office. The Tribal Council shall also appoint an Alternate Board Member who shall serve up to a three (3) year term. An Alternate Board Member shall not have voting privileges unless serving in the absence of a regularly appointed Election Board Member. Election Board members shall be subject to removal from office only for cause in the manner set forth in Article VI. The Election Board shall be responsible for impartially carrying out the provisions of the election law described in Section 5 of this Article and in the Tribal Code. No person who holds any elective or appointive Tribal office, or is a candidate for such office, shall serve on the Election Board.

Previously amended and restated on November 17, 1983, April 12, 1997, March 7, 2000, October 5, 2002, June 30, 2011, October 6, 2012, and October 11, 2014.

## **Section 5. Election Procedures.**

The Tribal Council shall enact an election law, consistent with this Constitution, which shall be set forth in the Tribal Code, detailing the procedures to be followed in conducting each of the various types of Tribal elections called for in this Constitution. The law shall include mandatory provisions for secret balloting, voter registration, maintaining a current list of qualified voters, mail-in voting, screening of prospective candidates, settling election disputes and related matters. Further, the law shall spell out the procedure and format to be used whenever it is necessary to submit petitions and describe how such petitions are to be determined valid.

## **Section 6. Initiative.**

The qualified voters may propose legislation by submitting to the Tribal Council a petition signed by at least one-third (1/3) of the registered voters. Each page of the petition shall contain a description of the proposed enactment. Within thirty (30) days from the Tribal Council's receipt of a valid petition, the Chairperson shall call an election to be held in conjunction with a special meeting of the General Council, making provision for absentee balloting, provided that if an initiative petition is received within ninety (90) days before the annual meeting of the General Council, the initiative election shall be delayed until that time. A majority of those who vote shall decide on the issue, provided that at least one-third (1/3) of the registered voters cast ballots on the proposed legislation. The decision of the voters shall be binding on the Tribal Council and the Tribe and such legislation shall remain in full force and effect until amended or rescinded by subsequent action by the voters, or it expires by its own terms.

## **Section 7. Call for Referendum Election by Tribal Council.**

The Tribal Council, by an affirmative vote of at least three (3) of its members, shall call an election to be conducted within forty-five (45) days of such Tribal Council decision, for the purpose of deciding, by referendum, issues or questions that are either within the authority of the General Council or relate to those powers vested in the Tribal Council, including proposed amendments to this Constitution. An affirmative vote by at least a majority of the qualified voters of the Tribe shall be necessary to decide the issue or question; provided, that no less than one-third (1/3) of the qualified voters shall have cast ballots in that election. The decision of the voters shall be binding in the same manner as provided in Section 6 of this Article.

## **Section 8. Recall.**

Upon receipt of a valid petition signed by at least one-third (1/3) of the registered voters requesting the recall of an individual official holding an elective office, it shall be the duty of the Tribal Council to call a special election to vote on the recall of that official. Such election shall be held within forty-five (45) days of receipt of the valid petition; provided that if the petition is submitted within six (6) months of the next annual election, the Tribal Council may direct that the matter be placed on the ballot for that election. If a majority of those actually voting favor the recall of the official, the office shall be declared vacant and filled in accordance with Section 2 of Article VI. No individual shall be subjected to recall more than once during their term of office.



## **ARTICLE VI - REMOVAL FROM OFFICE AND FILLING VACANCIES**

### **Section 1. Removal by Tribal Council.**

(a) Should any of the following circumstances occur involving a Tribal Council member, the remaining members of the Tribal Council may by resolution remove such person from office:

1. Failure to satisfy, on a continuing basis, the requirements for holding office in Article V, Section 2;
2. Absence from three (3) successive Tribal Council meetings without good reason;
3. Gross misconduct in office, neglect of duty or conviction of a Class A through E felony, as defined in 18 U.S.C. §3559(a), after their election to office; or
4. Becoming physically or mentally incapable of performing their duties, as determined by a qualified medical doctor, in consultation with the Tribal Council; and

(b) Any Tribal Council member subject to removal shall, before a vote is taken, be provided with reasonable and detailed written notice of the charges against them and with a fair opportunity to reply to such charges and present evidence on their behalf at an open hearing called for that purpose. At least three (3) of the remaining members of the Council must vote in favor of removal to make it valid. The Chairperson shall be permitted to vote if they are not the object of the removal proceedings.

### **Section 2. Filling of Vacancies.**

If any vacancies occur due to removal, recall, resignation or death, the Tribal Council shall appoint a new member, who qualifies pursuant to Section 2 of Article V, to serve until the next regular election when a successor shall be elected to fill the remainder of the term so as to preserve the system of staggered terms of office.

## **ARTICLE VII - POWERS OF THE TRIBAL COUNCIL**

### **Section 1. Enumerated Powers.**

The Tribal Council of the Tribe shall be authorized to exercise the following powers, subject to any limitations imposed by Federal Law or the Constitution of the United States, and subject further to all express restrictions upon such powers contained in this Constitution:

- (a) To negotiate with the Federal, state and local governments on behalf of the Tribe and to advise and consult with representatives of those governments on all of their activities that may affect the Tribe;
- (b) To employ legal counsel;
- (c) To approve or veto any sale, disposition, lease, or encumbrance of Tribal lands, interest in lands, or other Tribal assets; provided, that Tribal trust and reservation lands shall neither be encumbered nor sold unless such sale or encumbrance is authorized by Federal Law, nor shall any Tribal trust or reservation lands be leased for a period exceeding the time authorized by Federal Law;
- (d) To advise the federal government with regard to all appropriation estimates for federal projects for the benefit of the Tribe prior to the submission of such estimates to the Office of Management and Budget and to Congress;
- (e) To oversee all economic affairs and enterprises of the Tribe;
- (f) To appropriate any available Tribal funds for Tribal purposes;
- (g) To levy taxes and fees on all persons, property and activities within the Tribe's jurisdiction;
- (h) To prescribe conditions upon which non-citizens may remain within the territory of the Tribe. Such conditions shall be enforced by order of the Tribal Court;
- (i) To enact laws and regulations governing the conduct of all persons and defining offenses against the Tribe; to maintain order and protect the safety, health and welfare of all persons within the Tribe's jurisdiction; and to enact any laws and regulations necessary to govern the administration of justice, and the enforcement of all laws or regulations;
- (j) To charter and regulate corporations, limited liability companies, partnerships, joint ventures, cooperatives, associations, special districts, educational and charitable institutions, political subdivisions and any other organizations;
- (k) To regulate the domestic relations of Tribal citizens within the Tribe's jurisdiction;
- (l) To provide for the Tribal Court to appoint guardians for minors and mental incompetents;

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- (m) To regulate and define the duties and procedures of the Tribal Council, of all Tribal Council members and/or subordinate Tribal committees, boards and organizations and otherwise establish policies and procedures for Tribal governmental personnel;
- (n) To delegate to committees, advisory or subordinate boards or to cooperative associations which are open to all citizens of the Tribe regarding any of the enumerated powers of the Tribal Council; provided, that any actions taken by such subordinate groups shall be effective only when approved by the Tribal Council;
- (o) To purchase, or accept any land or other property for the Jamestown S'Klallam Indian Tribe;
- (p) To request the Secretary of the Interior to confer trust or reservation status on lands granted to, donated to, or purchased by the Tribe or a Tribal entity;
- (q) To accept gifts on behalf of the Tribe;
- (r) To assert as a defense to lawsuits against the Tribe, and to waive only by express written agreement, the sovereign immunity of the Tribe, including limited waivers of sovereign immunity;
- (s) To develop, manage, protect and regulate the use of air, light, water, fish, animals, wildlife, minerals, timber and all other natural resources within the Tribe's jurisdiction;
- (t) 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;
- (u) To exercise any power or duty which may now or in the future be delegated to the Tribal Council by the federal, state or local government; and
- (v) To take any and all action necessary and proper for the exercise of the foregoing powers and duties and all other powers and duties now or hereafter delegated to or vested in the Tribal Council, not otherwise reserved to the General Council.

## **Section 2. Inherent Powers.**

Notwithstanding the above, the Tribal Council may exercise all other inherent Tribal powers not expressly listed in this Constitution. Also, such powers may be exercised by the Tribe's qualified voters at a validly called meeting of the General Council under this Constitution.

## **ARTICLE VIII - TRIBAL COURT**

A Tribal Court shall be established to provide prosecutorial and judicial services to the Tribe, its citizens and other parties. At the option of the Tribal Council, such services may be secured under an agreement with a suitable entity that has the capacity to provide such services on a fee-for-services basis, or 2) it may set up a stand-alone Tribal Court.

The authority of the Tribal Court, however it is constituted, shall include, but is not limited to, the power to review and overturn Tribal legislative and executive actions for violations of this Constitution or other applicable federal laws, as well as to perform all other judicial and court functions, provided that, nothing herein shall act to waive the sovereign immunity of the Tribe unless an express and unequivocal waiver is approved by the Tribal Council, as provided for in the Tribal Code.

If the Tribal Council elects to establish a stand-alone Tribal Court, then the following conditions shall apply to such court, its judges and staff:

- (a) The Tribal Court shall consist of one (1) Chief Judge, such Associate Judges and such specially appointed judges and staff as are deemed necessary by the Tribal Council. The Tribal Court is empowered to exercise all judicial authority of the Tribe; and
- (b) The Tribal Council shall set forth qualifications for the Tribal Court Chief Judge, Associate Judges, and other judges and staff positions by law, and may appoint persons to fill said positions for a term of not less than four (4) years for Chief Judge, not less than two (2) years for Associate Judges. During the tenure of their appointment, the Chief Judge, or an Associate Judge may be suspended or dismissed by the General Council only for criminal activity, misconduct, negligence, or absence from duty upon due notice and an opportunity for an open hearing.

## **ARTICLE IX - BILL OF RIGHTS**

The Jamestown S'Klallam Indian Tribe, in exercising powers of self-government under this Constitution, agrees to abide by the terms of the Indian Civil Rights Act, as amended from time-to-time (25 U.S.C. Secs. 1301 et seq.).

Previously amended and restated on November 17, 1983, April 12, 1997, March 7, 2000, October 5, 2002, June 30, 2011, October 6, 2012, and October 11, 2014.

## **ARTICLE X - AMENDMENTS AND RESTATEMENT**

This Constitution may be amended by an election as provided for in Article V.

Once amendments to this Constitution are approved pursuant to this Article and Article V, the Tribe, at its option and in its sole discretion, may elect to restate this Constitution, as amended from time to time, by incorporating amendments into the body of the Constitution in lieu of maintaining the pre-amendment version and appending amendments thereto.

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## **ARTICLE XI - SAVINGS CLAUSE**

All enactments of the Tribe adopted before the effective date of this Constitution shall continue in effect to the extent that they are consistent with this Constitution.

## **ARTICLE XII - CERTIFICATE OF APPROVAL OF AMENDMENTS**

This Constitution, as amended and restated, was approved and ratified on October 11, 2014, by a vote of the qualified voters, in an election in which at least thirty percent (30%) of those qualified to vote voted.

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