

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS



CONSTITUTION AND BYLAWS OF THE
MAKAH INDIAN TRIBE OF THE
MAKAH INDIAN RESERVATION
WASHINGTON



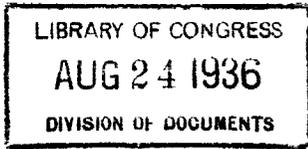
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SEC. 4. The present tribal council within 60 days after the ratification and approval of this constitution, shall call a general tribal meeting for the election of officers in accordance with this constitution. The two candidates receiving the highest number of votes shall hold office until December 1938. The two candidates receiving the next highest number of votes shall hold office until December 1937, and the next highest until December 1936. Thereafter, the term of office for councilmen elected under this constitution shall be 3 years. After the first election, elections for the tribal council shall be held on the last Monday in December.

ARTICLE IV.—ELECTIONS FOR THE TRIBAL COUNCIL

SECTION 1. Any member of the tribe 21 years of age or over who has maintained a legal residence on the reservation for 1 year immediately preceding any election shall be entitled to vote or be elected to office therein.

SEC. 2. Any legal voter shall be eligible to serve as a member of the council.

SEC. 3. All elections shall be by secret ballot and shall be held in accordance with rules and regulations prescribed by the tribal council, or by an election board appointed by the tribal council.

ARTICLE V.—VACANCIES AND REMOVAL FROM OFFICE

SECTION 1. If a council member shall die, resign, or permanently leave the reservation, or be removed from office for cause, the council shall declare the position vacant and appoint a successor to serve until the annual general tribal meeting in December, at which time the general tribal meeting shall elect a successor for the unexpired term.

SEC. 2. The tribal council may, by a four-fifths vote of its total membership, expel any member for neglect of duty or gross misconduct, provided such charges are in writing, subscribed by competent witnesses and formally served upon the accused at least 5 days prior to the hearing. The accused member shall be given a full and fair opportunity to reply to any and all such charges against himself, and also the opportunity to summon witnesses in his behalf.

SEC. 3. Upon a petition of at least one-third of the eligible voters of the Makah Indian Tribe it shall be the duty of the tribal council to call a special election to consider the recall of the member or members of the council named in such petition. In the event that a majority of those voting in such election favor such recall from office, the office shall be declared vacant and the tribal council shall proceed in the usual manner to hold an election to fill the said vacancy.

ARTICLE VI.—POWERS OF THE TRIBAL COUNCIL

SECTION 1. The tribal council shall exercise the following powers, subject to any limitations imposed by the Federal statutes, the Constitution of the United States, and subject further to all express restrictions upon such powers provided in this constitution and bylaws.

(a) To negotiate with the Federal, State, and local Governments on behalf of the tribe, and to advise and consult with the representatives of the Interior Department on all activities of the Department that may affect the tribe and its members.

(b) To employ legal counsel for the protection and advancement of the rights of the tribe and its members, the choice of such counsel and the fixing of fees to be subject to the approval of the Secretary of the Interior.

(c) To approve or veto any sale, disposition, lease, or incumbrance of tribal lands, interests in lands, or other tribal assets which may be authorized or executed by the Secretary of the Interior, the Commissioner of Indian Affairs, or any other official or agency of Government, provided that no tribal lands shall ever be sold or incumbered except for governmental purposes, or leased for a period exceeding 5 years, except that leases for mining purposes may be made for such longer periods as may be authorized by law.

(d) To advise with the Secretary of the Interior or his representatives on all appropriation estimates, or Federal projects for the benefit of the tribe prior to their submission to the Bureau of the Budget and to Congress.

(e) To manage all economic affairs and enterprises of the tribe, in accordance with the terms of a charter that may be issued to the tribe by the Secretary of the Interior.

(f) To levy and collect taxes upon members of the tribe, or to require the performance of community labor in lieu thereof, provided that no taxes may be levied, nor community labor required, except when approved at the annual December general tribal meeting, or at a special general tribal meeting called for that purpose.

(g) To levy and collect taxes or license fees upon nonmembers doing business on the reservation, to exclude from the territory of the tribe persons not legally entitled to reside thereon, or trespassers upon the reservation, under ordinances, all of which shall be subject to review by the Secretary of the Interior.

(h) To enact resolutions or ordinances not inconsistent with article II of this constitution, governing adoption and abandonment of membership, and to keep at all times a correct roll of the members of the Makah Indian Tribe.

(i) To promulgate and enforce ordinances, which shall be subject to review by the Secretary of the Interior, governing the conduct of members of the Makah Indian Tribe, and providing for the maintenance of law and order, and the administration of justice by establishing a reservation Indian court, and defining its duties, powers, and limitations.

(j) To safeguard and promote the peace, safety, morals, and general welfare of the Makah Indian Tribe by regulating the conduct of trade and the use and disposition of property upon the reservation: *Provided*, That any ordinances directly affecting nonmembers of the tribe shall be subject to review by the Secretary of the Interior.

(k) To charter subordinate organizations for economic purposes, and to regulate the activities of cooperative associations of members of the Makah Indian Tribe by ordinance: *Provided*, That any such ordinance shall be subject to review by the Secretary of the Interior.

(l) To appropriate for public purposes of the tribe any available tribal funds, provided that any such appropriation made prior to July 1, 1940, shall be subject to review by the Secretary of the Interior.

(m) To provide for the appointment of guardians for minors and mental incompetents by ordinance or resolution subject to review by the Secretary of the Interior.

(n) To adopt resolutions regulating the procedure of the council itself and other tribal agencies and tribal officials of the reservation.

(e) To delegate to subordinate boards, or to cooperative associations which are open to all members of the tribe, any of the foregoing powers, reserving the right to review any action taken by such body to whom such power has been delegated.

SEC. 2. Manner of review.—Any resolution or ordinance which by the terms of this constitution is subject to review by the Secretary of the Interior, shall be presented to the superintendent of the reservation who shall, within 10 days thereafter, approve or disapprove the same. If the superintendent shall approve said ordinance or resolution it shall thereupon become effective, but the superintendent shall transmit a copy of the same, bearing his endorsement, to the Secretary of the Interior, who may within 90 days from the date of enactment rescind the said ordinance or resolution for any cause by notifying the tribal council of such decision.

If the superintendent shall refuse to approve any resolution or ordinance submitted to him within 10 days after its enactment, he shall advise the Makah tribal council of his reasons therefor. If these reasons appear to the council insufficient, it may by a majority vote, refer the ordinance or resolution to the Secretary of the Interior, who may, within 90 days from the date of its enactment, approve the same in writing, whereupon the said ordinance or resolution shall become effective.

SEC. 3. Further powers.—The Makah Indian tribal council may exercise such further powers as may in the future be delegated to it by the Secretary of the Interior, or by any other duly authorized official or agency of government.

SEC. 4. Reserved powers.—Any rights or powers heretofore vested in the Makah Indian Tribe but not expressly referred to in this constitution shall not be abridged by this article, but may be exercised by the people of the Makah Indian Tribe through the adoption of appropriate bylaws and constitutional amendments.

ARTICLE VII—BILL OF RIGHTS

SECTION 1. Suffrage.—All members of the tribe over the age of 21 shall have the right to vote in all tribal elections. The residence qualifications established by article IV of this constitution shall apply to all elections except elections for the amendment of this constitution and bylaws.

SEC. 2. Economic right.—All members of the tribe shall be accorded equal opportunities to participate in the economic resources and activities of the reservation.

SEC. 3. Civil liberties.—All members of the tribe may enjoy, without hindrance, freedom of worship, conscience, speech, press, assembly, and association.

SEC. 4. *Rights of accused.*—Any member of the Makah Indian Tribe accused of any offense shall have the right to a prompt, open, and public hearing, with due notice of the offense charged, and shall be permitted to summon witnesses on his own behalf. Trial by jury may be demanded by any prisoner accused of any offense punishable by more than 30 days' imprisonment or by more than \$45 fine.

Excessive bail shall not be required and cruel punishment shall not be imposed.

ARTICLE VIII.—LAND

SECTION 1. *Allotted lands.*—Allotted lands, including heirship lands, within the Makah Reservation shall continue to be held as heretofore by their present owners. It is recognized that under existing law such lands may be condemned for public purposes, such as roads, public buildings, or other public improvements, upon payment of adequate compensation, by any agency of the State of Washington or of the Federal Government, or by the tribe itself. It is further recognized that under existing law such lands may be inherited by the heirs of the present owner, whether or not they are members of the Makah Indian Tribe. Likewise it is recognized that under existing law the Secretary of the Interior may, in his discretion, remove restrictions upon such land, upon application by the Indian owner, whereupon the land will become subject to State taxes and may then be mortgaged or sold. The right of the individual Indian to hold or to part with his land, as under existing law, shall not be abrogated by anything contained in the constitution, but the owner of restricted land may, with the approval of the Secretary of the Interior, voluntarily convey his land to the Makah Indian Tribe either in exchange for a money payment or in exchange for an assignment covering the same land, or other land, as hereinafter provided.

SEC. 2. *Tribal lands.*—The unallotted lands of the Makah Reservation, and all lands which may hereafter be acquired by the Makah Indian Tribe or by the United States in trust for the Makah Indian Tribe shall be held as tribal lands, and no part of such land shall be mortgaged or sold. Tribal lands shall not be allotted to individual Indians but may be assigned to members of the Makah Indian Tribe, or leased, or otherwise used by the tribe, as hereinafter provided.

SEC. 3. *Leasing of tribal lands.*—Tribal lands may be leased by the tribal council, with the approval of the Secretary of the Interior, for such periods of time as are permitted by law.

In the leasing of tribal lands preference shall be given, first, to Indian cooperative associations of members of the tribe; and secondly, to individual Indians who are members of the Makah Indian Tribe.

SEC. 4. *Grant of standard assignments.*—In any assignment of tribal lands which now are owned by the tribe or which hereafter may be acquired for the tribe by the United States or purchased by the tribe out of tribal funds, preference shall be given, first, to heads of families which are entirely landless; and secondly, to heads of

families which shall have no allotted lands or interests in allotted lands, but shall have already received assignments consisting of less than an economic unit of agricultural land or other land or interest in land of equal value.

No allotted member of the Makah Indian Tribe who may hereafter have the restrictions upon his land removed and whose land may thereafter be alienated except to the tribe shall be entitled to receive an assignment of land as a landless Indian.

The tribal council may, if it sees fit, charge a fee of not to exceed \$5 on approval of an assignment made under this section.

Assignments made under this section shall be for the primary purpose of establishing homes for landless Indians, and shall be known as standard assignments.

SEC. 5. *Tenure of standard assignments.*—If any member of the tribe holding a standard assignment of land shall, for a period of 2 years fail to use the land so assigned or use such land for any unlawful purpose, his assignment may be canceled by the tribal council after due notice and an opportunity to be heard, and the said land may be reassigned in accordance with the provisions of section 4 of this article.

Upon the death of any Indian holding a standard assignment, his heirs or other individuals designated by him, by will or by written request, shall have a preference in the reassignment of the land, provided such persons are members of the Makah Indian Tribe who would be eligible to receive a standard assignment.

SEC. 6. *Grant of exchange assignments.*—Any member of the tribe who owns an allotment or any share of heirship land may voluntarily transfer his interests in such land to the tribe in exchange for an assignment to the same land or other land of equal value. If the assignee prefers, he may receive, in lieu of a specific tract of land, a proportionate share in a larger grazing unit.

Assignments made under this section shall be known as "exchange assignments."

SEC. 7. *Leasing of exchange assignments.*—Exchange assignments may be used by the assignee or leased by him to Indian cooperative associations of members of the tribe to individual members of the tribe, or, if no individual Indian or Indian cooperative association of members is able and willing to rent the land at a reasonable fee, such assignments may be leased to non-members in the same manner as allotted lands.

SEC. 8. *Inheritance of exchange assignments.*—Upon the death of the holder of any exchange assignment, such land shall be reassigned by the tribal council to his heirs or devisees, subject to the following conditions:

(a) Such lands may not be reassigned to any heir or devisee who is not a member of the Makah Indian Tribe, except that a life assignment may be made to the surviving widower or widow of the holder of an assignment.

(b) Such lands may not be reassigned to any heir or devisee who already holds more than an economic unit of land to be determined from time to time by the tribal council.

(c) Such lands may not be subdivided among heirs or devisees into units too small for convenient management. No area of uncleared

or timber land shall be subdivided into units smaller than 40 acres, and no area of tillable agricultural land shall be subdivided into units smaller than $2\frac{1}{2}$ acres, except that land used for buildings or other improvements may be divided to suit the convenience of the parties. Where it is impossible to divide the land properly among the eligible heirs or devisees, the tribal council may issue to the eligible heirs or devisees interests in tribal lands of the same value as the assignment of the decedent.

(d) If there are no eligible heirs or devisees of the decedent, the land shall be eligible for reassignment in accordance with the provisions of section 4 of this article.

SEC. 9. *Inheritance of improvements.*—Improvements of any character made upon assigned land may be bequeathed to and inherited by members of the Makah Indian Tribe or otherwise disposed of under such regulations as the tribal council shall provide: *Provided further*, That sales of improvements on the land of any decedent can be made only to members of the Makah Indian Tribe.

SEC. 10. *Exchange of assignments.*—Assignments may be exchanged between members of the Makah Indian Tribe by common consent in such manner as the tribal council shall designate.

SEC. 11. *Use of unassigned tribal land.*—Tribal land which is not assigned, including tribal timber reserves, shall be managed by the tribal council for the benefit of the members of the entire tribe, and any cash income derived from such land accrue to the benefit of the tribe as a whole. All action of the tribal council with respect to such lands shall be in conformity with departmental regulations for the protection of Indian range and timber resources authorized by section 6 of the act of June 18, 1934.

SEC. 12. *Purchase of land by tribe.*—Tribal funds may be used; with the consent of the Secretary of the Interior, to acquire land, under the following conditions:

(a) Land within the Makah Reservation or adjacent to the boundaries thereof which is not now in Indian ownership may be purchased by or for the Makah Indian Tribe.

(b) Restricted land, which is in heirship status at the time of the adoption and approval of this constitution, may be purchased by or for the tribe, with the consent of all the adult heirs, and the legal guardians of minor heirs, payment therefor to be made as may be agreed upon.

(c) Land owned by any member of the tribe who is over the age of 60 years, or who is physically incapacitated, may be transferred by its owner to the tribe in exchange for a pension of not more than twice the annual rental value of the land for the life of the pensioner, to be paid out of available tribal funds.

(d) Land owned by any member of the tribe in excess of his needs for domestic purposes may be purchased by the tribe with the consent of the owner, payments to be made on such terms as may be agreed upon by the council and the owner.

(e) Land owned by any members of the tribe who desire to leave the reservation permanently may be purchased by the tribe under such terms as may be agreed upon.

SEC. 13. *Method of making assignments.*—Applications for assignment shall be filed with the secretary of the council and shall be in

writing, setting forth the name of the person or persons applying for the land and as accurate a description of the land desired as the circumstances will permit.

Notices of all applications received by the secretary shall be posted by him in the agency office and in at least three other conspicuous places on the reservation for not less than 20 days before action is taken by the council. Any member of the tribe wishing to oppose the granting of an assignment shall do so in writing, setting forth his objections, to be filed with the secretary of the council, and may if he so desires, appear before the council to present evidence. The secretary of the council shall furnish the superintendent or other officers in charge of the agency a complete record of all action taken by the council on applications for assignment of land, and a complete record of assignments shall be kept in the agency office and shall be open for inspection by members of the tribe.

The council shall draw up one or more forms for standard and exchange assignments, which shall be subject to the approval of the Secretary of the Interior.

ARTICLE IX.—REFERENDUM

Upon a petition of least one-third of the qualified voters of the Makah Indian Tribe, a referendum may be demanded on any enacted or proposed ordinance or resolution of the tribal council, and the vote of the majority of the qualified voters in such referendum shall be conclusive and binding on the tribal council.

ARTICLE X.—AMENDMENTS

This constitution and bylaws may be amended by a majority vote of the qualified voters of the tribe voting at an election called for that purpose by the Secretary of the Interior, provided that at least 30 percent of those entitled to vote shall vote in such election; but no amendment shall become effective until it shall have been approved by the Secretary of the Interior.

It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment upon receipt of a petition signed by one-third of the qualified voters, members of the tribe.

BYLAWS OF THE MAKAH INDIAN TRIBE

ARTICLE I.—DUTIES OF OFFICERS

SECTION 1. *Chairman of the council.*—The chairman of the council shall preside over all meetings of the council; shall perform all duties of the chairman, and exercise any authority delegated to him by the council. The chairman shall also preside at all regular and special meetings of a general tribal nature. He shall vote only in case of a tie.

SEC. 2. *Vice chairman of the council.*—The vice chairman shall assist the chairman when called upon so to do. In the absence of the chairman he shall preside; when so presiding he shall have all the rights, privileges, duties, and responsibilities, of the chairman.

SEC. 3. Secretary of the council.—The secretary of the tribal council shall conduct all tribal correspondence and shall keep an accurate record of all business transacted at council meetings. It shall be his duty to keep minutes of regular and special tribal meetings and to submit copies of such minutes to the superintendent of the jurisdiction and also to the Commissioner of Indian Affairs.

SEC. 4. Treasurer of the council.—The treasurer of the tribal council shall account for, receive, receipt for, preserve, and safeguard all funds in the custody of the council, whether same be tribal or other funds for which the council is acting as trustee or custodian. Deposits of such funds shall be made in a bank or elsewhere, as designated by the council, and he shall make and preserve a financial record of all such funds and shall report on all receipts and expenditures, and the amount and nature of all funds in his possession or custody, such report being made in writing to the council at regular meetings, and at such other times as requested by the council. He shall not pay out or otherwise disburse any funds in his possession or custody, or in the possession or custody of the tribal council, until properly authorized so to do by resolution duly passed by the council.

The books and records of the treasurer shall be audited at least once each year by a competent auditor employed by the council and at such other times as the council or the Commissioner of Indian Affairs may direct.

The treasurer shall be required to furnish a bond satisfactory to the council and to the Commissioner of Indian Affairs, and the council is hereby authorized to pay the premium on such bond from any available funds. The treasurer shall be present at all special or regular meetings of the council.

SEC. 5. Duties of appointive officers and boards.—The duties of all appointive boards or officers of the council shall be clearly defined by resolution of the council at the time of their creation or appointment. Such boards and officers shall report from time to time, as required, to the council, and their activities and decisions shall be subject to review by the council upon the complaint of any person aggrieved.

ARTICLE II.—CERTIFICATION OF ELECTION

It shall be the duty of the tribal council, or a board appointed by them, to certify to the election of the newly elected tribal council members within 5 days after the election and thereupon they shall be notified by the secretary of their election.

ARTICLE III.—INSTALLATION OF COUNCIL MEMBERS

Newly elected members who have been duly certified shall be installed thereafter at the next regular meeting of the tribal council. Each newly elected member shall subscribe to the following oath:

STATE OF WASHINGTON,

County of Clallam, ss:

I, _____, do solemnly swear (or affirm) that I will support and uphold the Constitution of the United States,

the constitution and laws of the State of Washington and the constitution, bylaws, and ordinances of the Makah Indian Tribe of the Makah Indian Reservation in the State of Washington.

That I will in all respects faithfully and fully perform the duties of my office of ----- for the Makah Indian Tribe of the Makah Indian Reservation, so help me God.

 Subscribed and sworn to before me this ----- day of
 ----- 19 ---

 (The oath may be taken and subscribed to before any officer authorized to administer oaths in the State of Washington.)

ARTICLE IV.—COMPENSATION

The tribal council may prescribe such compensation of officers or members of the council as it deems advisable from such funds as may be available, subject to approval of the general tribal meeting.

ARTICLE V.—TIME AND PLACE OF MEETINGS

SECTION 1. *Meetings.*—Regular meetings of the tribal council shall be held at the agency at Neah Bay on the first Monday of January, April, July, and October, and at such other times as the tribal council may by resolution provide.

Special meetings may be called by a written notice signed by the majority of the tribal council, and, when so called, the tribal council shall have power to transact business as in regular meetings.

SEC. 2. *Quorum.*—No business shall be transacted unless a quorum is present. A quorum shall consist of four council members.

SEC. 3. *Order of business.*—The following order of business is established for all meetings:

1. Call to order by chairman.
2. Roll call.
3. Reading the minutes of last meeting.
4. Unfinished business.
5. Reports.
6. New business.
7. Adjournment.

ARTICLE VI.—GENERAL TRIBAL MEETINGS

SECTION 1. There shall be an annual general tribal meeting open to all members of the tribe held at the agency on the last Monday in December. At this annual meeting, elections shall be held as designated heretofore in this constitution. The bylaws, orders, and resolutions, which are subject to approval at the general tribal meeting, shall be taken up for consideration at this time.

It shall also be the duty of the chairman to make a report at said meeting of the activities of the council throughout the year and to outline proposed plans for economic and social betterment of the tribe.

SEC. 2. Special general tribal meetings may be called by the chairman of the general council: *Provided*, That due notice is posted throughout the reservation at least 15 days prior to such meeting.

Fifty legal voters of the tribe may at any time, by written petition, call a general tribal meeting, provided that at least 15 days' notice is posted throughout the reservation.

ARTICLE VII.—ADOPTION OF CONSTITUTION AND BYLAWS

This constitution and bylaws, when ratified by a majority vote of the qualified voters of the Makah Indian Tribe of the Makah Reservation voting at an election called for the purpose by the Secretary of the Interior, provided that at least 30 percent of those entitled to vote shall vote in such election, shall be submitted to the Secretary of the Interior, and, if approved, shall be effective from the date of approval.

CERTIFICATION OF ADOPTION

Pursuant to an order, approved March 21, 1936, by the Secretary of the Interior, the attached constitution and bylaws were submitted for adoption to the adult members of the Makah Indian Tribe and were on April 18, 1936, duly adopted by a vote 58 for, and 15 against, in an election in which over 30 percent of those entitled to vote cast their ballots, in accordance with section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the act of June 15, 1935 (Public, No. 147, 74th Cong.).

PERCY IDES,

Chairman of Election Board.

JERRY McCARTY,

Chairman, Makah Indian Tribal Council.

HILDRED McCARTY,

Secretary, Makah Indian Tribal Council.

N. O. NICHOLSON,

Superintendent.

I, Harold L. Ickes, the Secretary of the Interior of the United States of America, by virtue of the authority granted me by the act of June 18, 1934 (48 Stat. 984), as amended, do hereby approve the attached constitution and bylaws of the Makah Indian Tribe of the Makah Indian Reservation.

All rules and regulations heretofore promulgated by the Interior Department or by the Office of Indian Affairs, so far as they may be incompatible with any of the provisions of the said constitution or bylaws are hereby declared inapplicable to the Makah Indian Tribe of the Makah Indian Reservation.

All officers and employees of the Interior Department are ordered to abide by the provisions of the said constitution and bylaws.

Approval recommended May 7, 1936.

WILLIAM ZIMMERMAN, JR.,

Assistant Commissioner of Indian Affairs.

HAROLD L. ICKES,

Secretary of the Interior.

WASHINGTON, D. C., May 16, 1936.

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