

Sitka Tribe of Alaska Constitution

CONSTITUTION OF THE SITKA TRIBE OF ALASKA

PREAMBLE

We, the citizens of the sovereign Sitka Tribe of Alaska, in order to establish a more perfect tribal government, to preserve and exercise the Tribe's inherent sovereign rights and powers, to provide for our posterity, to conserve tribal lands and resources, and to establish justice, pursuant to Tlingit tribal law and custom and federal law, make for ourselves this Constitution by authority of the Act of June 18, 1934, (48 Stat. 984) as amended. The Constitution of the Sitka Community Association approved by the Secretary of the Interior on July 13, 1938 is hereby superseded to the extent not in conflict with this Constitution.

ARTICLE I. NAME

The Tribe, formerly known as the Sitka Community Association, shall hereafter be known as the "Sitka Tribe of Alaska" a federally recognized sovereign tribe.

ARTICLE II. TERRITORY AND JURISDICTION

The jurisdiction of the Sitka Tribe of Alaska shall extend to all lands constituting the Native Village of Sitka and the areas formerly known as "Indian Possessions" and "Cottage Settlement", and to all surrounding areas of Indian Country, if any, including all customary and traditional use and access areas in the vicinity of Baranof Island, Chichagof and surrounding islands, and all fee lands and allotments and lands owned by Sealaska, Inc. or Shee-Atika, Inc. located therein (the Native corporations established pursuant to the Alaska Native Claims Settlement Act (Pub. L. 92-203) as amended to hold the land and other benefits provided by Congress in partial compensation for the extinguishment of the Tribe's aboriginal land rights), to the fullest extent permitted by federal and tribal law.

ARTICLE III. CITIZENSHIP

Section 1. Citizenship. All persons whose names appear on the official citizenship roll of the Tribe dated October 29, 1991 shall be citizens of the Tribe.

Section 2. Children of Citizens. All children born to tribal citizens shall be enrolled in the Tribe.

Section 3. Loss of Citizenship or Other Rights. Any tribal citizen shall be deemed to have relinquished his or her citizenship by enrolling in another tribe, and may relinquish his or her citizenship in writing or, after notice and an opportunity to present his defense, may have one or more of his or her citizenship

Sitka Tribe of Alaska Constitution

Page 2

rights (including voting rights or the right to hold elective office) taken away for good cause shown (including being found guilty by the Tribe of fraud or misconduct in his or her relations with the Tribe or of working deliberately against the interests of the Tribe) pursuant to an enrollment ordinance adopted in accordance with the provisions of this Article and upon the affirmative vote of two-thirds of the eligible voters present at a General Citizenship meeting. A person whose citizenship rights have been involuntarily taken away may only have his or her rights reinstated upon the affirmative vote of two-thirds of the eligible voters present at a General Citizenship meeting.

Section 4. New Citizens. Any person who has voluntarily relinquished his or her citizenship in the Tribe, and any other person who is a member of (or is eligible for membership in) a Native American tribe, who sets up a permanent home in the vicinity of the Tribe, who renounces in writing his or her membership in any other Tribe, who establishes social or cultural relations with the Tribe, and who agrees to be bound by this Constitution, may be made a tribal citizen upon such terms and conditions as may be established pursuant to an enrollment ordinance adopted in accordance with the provisions of this Article.

Section 5. Citizenship and Enrollment Rules. The Tribal Council shall adopt an ordinance establishing rules and procedures for citizenship and enrollment, consistent with the provisions of this Constitution.

ARTICLE IV. GOVERNING BODY

Section 1. Tribal Council and Officers. The governing body of the Sitka Tribe of Alaska shall be known as the Sitka Tribal Council. The Tribal Council shall consist of a Chairman and eight (8) other members, all of whom shall be entitled to vote. The nine (9) Council members shall be elected directly by the voters. The Tribal Council shall itself each year elect from its members a Vice-Chairman, a Secretary and such other officers as it may deem appropriate.

Section 2. Duties of Officers. The Chairman shall preside at all meetings of the Tribe and of the Tribal Council and shall execute on behalf of the Tribe all contracts, leases or other documents approved by the Tribal Council. The Chairman may vote in all matters except on the matter of the Chairman's removal. The Chairman shall have general supervision of all other officers, employees, agents and committees and shall see that their duties are properly performed. The Chairman shall be the official representative of the Tribe but shall make no financial or other commitment on behalf of the Tribe without the Tribal Council's approval. The Vice-Chairman shall assist the Chairman when called upon to do so and, in the Chairman's absence or disability, shall have all the rights, privileges, duties and responsibilities of the

Sitka Tribe of Alaska Constitution

Page 3

Chairman. The Secretary shall keep the minutes of all Council meetings and shall attest to the enactment of all resolutions and ordinances. The duties of all other officers shall be specified by the Tribal Council.

Section 3. Eligibility. Any citizen of the Tribe thirty (30) years of age or older shall be qualified to seek and hold office on the Tribal Council, provided that he or she has been living within the area described in Article II of this Constitution for at least one (1) year directly preceding the election, unless such right to hold elective office has been taken away pursuant to an enrollment ordinance in accordance with Article III. In any one election a person may only seek to hold one office on the Tribal Council. A Council member who is elected Chairman shall resign his or her office as Council member before entering upon the official duties of Chairman.

Section 4. Term. Council members shall be elected by secret ballot. The terms of the Council members other than the Chairman shall be staggered as follows: At the first general election following the adoption of this Constitution, the voters shall elect four (4) Council members for one-year terms (being the Council members elected by the least votes), four (4) Council members for two-year terms (being the Council members elected by the most votes), and the Chairman for a two-year term. Thereafter, at each annual general election the voters shall elect four (4) Council members for two-year terms. The voters shall elect the Chairman every two years. Beginning with the first general election following the adoption of this Constitution, each Council member shall serve until his or her successor has been elected and seated. All Council members holding office at the time this Constitution is adopted shall remain in office until the next general election referred to in this Section.

Section 5. Council Meetings. The Tribal Council shall meet each month on a date and place to be fixed by action of the Tribal Council, and at such other times and places as may be designated by action of a majority of the Tribal Council or by the Chairman. The Chairman shall direct that personal notice be provided to each Council member no less than forty-eight (48) hours prior to any meeting. A quorum to transact business shall consist of at least five (5) Council members. To be effective, a majority of the members present shall vote on all motions, resolutions and ordinances. The Tribal Council shall keep a complete and accurate record of all proceedings, including reports of actions taken at every meeting.

Section 6. Oath of Office. Before entering upon their official duties, all members of the Tribal Council and all other tribal officers shall take and subscribe to the following oath or affirmation to be administered by a qualified officer:

Sitka Tribe of Alaska Constitution

Page 4

"I, _____, do solemnly swear (or affirm) that I will support the Tlingit customs, laws and Constitution of the Sitka Tribe of Alaska, that I will promote and protect the best interests of the Tribe, and that I will faithfully discharge the duties of my office according to the best of my ability."

Section 7. Forfeiture. Any member of the Tribal Council who (a) submits a written resignation, (b) is convicted by any competent court of a felony or any other offense involving dishonesty while in office, (c) has his or her citizenship rights taken away, in whole or in part, for good cause shown, pursuant to Article III, Section 3, or (d) is absent from three (3) successive monthly Tribal Council meetings without being excused by the Tribal Council for good cause shown, shall automatically forfeit his or her office and shall be so notified by the Chairman in writing.

Section 8. Removal. Any member of the Tribal Council found guilty by the Tribal Council of neglect of duty, gross misconduct in office, or any offense involving dishonesty may be removed from office by the Tribal Council by at least five (5) Tribal Council members voting by secret ballot, provided, that such member shall first be given ten (10) days notice in writing of the charges against him or her and be given an opportunity to answer such charges before the Tribal Council. No member of the Tribal Council shall preside over the meeting at which his or her removal is being considered. All questions of removal under this section shall be resolved by the Tribal Council and the decision of the Tribal Council shall be final.

Section 9. Recall. Any member of the Tribal Council may be recalled by the Tribal voters if a valid petition requesting such recall and setting forth the reasons, signed by at least thirty percent (30%) of the eligible voters, is presented to the Tribal Council. The Tribal Council shall within thirty (30) days of receipt of such petition call an election to consider the recall of the named official, such election to be conducted pursuant to the election ordinance. If a majority of the voters vote in favor of the recall at an election at which at least 30% of the eligible voters participate, the official shall be removed. No official may be subjected to recall proceedings more than once in the course of his or her term.

Section 10. Vacancies. The Tribal Council shall appoint a person who meets the criteria of Section 3 of this Article to fill a vacancy caused by the death, forfeiture, removal, resignation or recall of a Council member, and such appointed person shall serve the full unexpired term of the member and thereafter until a successor has been duly elected and seated; provided, that in the event of a vacancy in the position of Chairman, the Vice Chairman shall temporarily vacate his or her position and automatically

Sitka Tribe of Alaska Constitution

Page 5

serve as Chairman until a successor Chairman has been duly elected and seated at the next general election for the balance, if any, of the unexpired term of office of the Chairman, provided further that in such an event the Tribal Council shall appoint a person who meets the criteria of Section 3 of this Article to fill the resulting vacancy on the Council, such appointed person to serve until a successor Chairman has been duly elected and seated, and the Tribal Council shall thereafter elect from its members an Acting Vice Chairman.

ARTICLE V. GENERAL CITIZENSHIP MEETINGS

A meeting of the General Citizenship may be called at any time by the Tribal Council, provided, that the Tribal Council shall call such a meeting at least once a year. A General Citizenship meeting shall be called by the Tribal Council upon receipt of a petition specifically requesting such a meeting signed by no less than thirty percent (30%) of the eligible voters. Written notice of General Citizenship meetings shall be posted in a public place and advertised generally in the community. A quorum shall be comprised of twenty percent (20%) of the eligible voters of the Tribe. The Tribal Council shall adopt an ordinance establishing rules and procedures for General Citizenship meetings. At such meetings the General Citizenship shall furnish its advice to the Tribal Council.

ARTICLE VI. ELECTIONS

Section 1. General Elections. The Tribal Council shall select a date in November of every year for regular elections, and shall give at least thirty (30) days notice of such elections, posted in a public place.

Section 2. Special Elections. The Tribal Council shall call special elections as necessary provided that at least ten (10) days notice of such special elections is provided by posting in a public place.

Section 3. Voter Qualification. Any citizen of the Tribe eighteen (18) years of age or older shall have the right to vote in all tribal elections, provided that he or she has been domiciled within the area specified in Article II of this Constitution for at least six (6) months directly preceding the election, unless such right to vote has been taken away pursuant to an ordinance adopted in accordance with Article III.

Section 4. Election Ordinance. The Tribal Council shall adopt an election ordinance establishing rules and procedures to govern all aspects of voter registration, campaigns, nominations, candidate filings, elections, election protests, and related matters.

Sitka Tribe of Alaska Constitution

Page 6

ARTICLE VII. POWERS OF THE TRIBAL COUNCIL

Section 1. Powers. The Tribal Council shall exercise the following powers by appropriate motion, resolution or ordinance, subject to any limitations imposed by the Constitution or applicable laws of the United States:

- a. To negotiate with tribal, federal, state, foreign and local governments and others on behalf of the Tribe and to advise and consult with representatives of the United States and the State of Alaska and other states on all activities which may affect the Tribe.
- b. To promote and protect the health, education, economic and general welfare of the citizens of the Tribe and their children, and to administer charity and such other services as may contribute to the social, traditional, cultural and economic development of the Tribe.
- c. To levy dues, taxes or license fees subject to approval by the tribal voters, and to otherwise raise revenue.
- d. To regulate the internal affairs and procedures of the Tribal Council.
- e. To encourage, guard and foster the traditional Tlingit cultural practices of the Sitka Indian people, including the protection of artifacts and archaeological sites and the promotion of Tlingit arts and crafts.
- f. To authorize or direct subordinate boards, committees, Tribal officials, or Tribal employees to administer the affairs of the Tribe and to carry out the directives of the Tribal Council.
- g. To form a federation or union with other tribes subject to approval by the Tribal voters.
- h. To manage, lease, exchange, acquire, or otherwise deal with Tribal or other property, and to protect and preserve the Tribal property and the wildlife and natural resources within those areas under the jurisdiction of the Tribe.
- i. To prevent the sale, disposition, lease or encumbrance of any property (including lands, waters, interests therein and all other assets) of the Tribe without the consent of the Tribal Council.
- j. To make assignments of land or water areas of the Tribe for use and occupancy to citizens of the Tribe in accordance with the customs of the Tribal citizens or with the laws and regulations of the Tribe.

Sitka Tribe of Alaska Constitution

Page 7

- k. To administer any funds within the control of the Tribe.
- l. To engage in Tribal economic development enterprises for the benefit of Tribal citizens.
- m. To provide for the maintenance of law and order and the administration of justice, including through the establishment of an appropriate Tribal judicial system.
- n. To safeguard and promote the peace, safety, morals, physical and general welfare of the citizens of the Tribe and their children.
- o. To employ legal counsel, provided that the exercise of this power shall be subject to the approval of the Secretary of the Interior so long as required by federal law.
- p. To organize and charter enterprises, corporations and associations, and to join or charter housing authorities.
- q. To zone, exercise the power of eminent domain and otherwise regulate land use within those areas under the jurisdiction of the Tribe.
- r. To regulate inheritance among citizens and their children whether by intestacy or otherwise, and other domestic relations matters.
- s. To prescribe the rules and procedures necessary to give effect to any provision of this Constitution.

Section 2. Reserved Powers. All rights and powers not delegated to the Tribal Council in this Constitution are reserved to the people and may be exercised by the citizens of the Tribe through the adoption of amendments to this Constitution except as otherwise provided in this Constitution.

Section 3. Sovereign Immunity. Nothing in this Constitution constitutes a waiver of the sovereign immunity of the Tribe. The sovereign immunity of the Tribe may only be waived by express resolution of the Tribal Council adopted upon the affirmative vote of no fewer than seven Council members including the Chairman. No resolution generally waiving the Tribe's sovereign immunity shall be valid. To be valid a resolution waiving the Tribes sovereign immunity must be specific and limited as to its duration, the grantee, the transaction, the court having jurisdiction and the law to be applied, and, if subject to the waiver, the property or funds of the Tribe subject to the waiver. No resolution shall be deemed a general consent to the levy of any judgment, lien or attachment upon the funds or property of the Tribe other than the funds or property specifically pledged, assigned or otherwise expressly made subject to levy in the resolution.

Section 4. Annual Reports. The Tribal Council shall make an annual report of its activities, including a budget report, to the general citizenship at the annual general citizenship meeting.

Section 5. Actions of the Tribal Council. All ordinances, resolutions and motions (other than routine motions) shall be acted upon by the Tribal Council by a roll call vote and the vote of each member shall be recorded.

Section 6. Ordinances. An ordinance shall take effect only after being posted in a public place for thirty (30) days after its adoption by the Tribal Council provided that an emergency ordinance shall take effect immediately. All enacted ordinances shall be made available for inspection by citizens of the Tribe at the Tribal office.

Section 7. Initiative and Referendum Procedures. The citizens of the Tribe may propose and enact laws by the initiative, and approve or reject enactments of the Tribal Council by the referendum. An initiative may only propose laws which the Tribal Council is empowered to enact. An initiative or referendum is proposed by a petition setting forth on the top of each page the proposed law to be initiated or the ordinance to be referred, and carrying the signature, printed name and address of no fewer than thirty percent (30%) of the eligible Tribal voters, provided that the Tribal Council may initiate a referendum on its own motion without a petition. A referendum petition may only be filed within ninety (90) days of the enactment of the ordinance to which it is directed. The text (or a summary thereof) of the proposed law or action shall be placed on the ballot of the first special or general Tribal election held more than sixty (60) days after the filing of the initiative or referendum petition, provided that an election on such petition shall be held no more than 120 days after its filing, provided further that if prior to the election the Tribal Council takes action to enact or repeal an ordinance substantially similar to the measure proposed, the petition shall be deemed void. An initiated law becomes effective thirty (30) days after certification of the results of an election at which a majority of the votes cast are in favor, and for two (2) years thereafter may be amended by the Tribal Council but not repealed. An ordinance rejected by referendum is void thirty (30) days after certification of the results of an election at which a majority of the votes cast favor rejection. No initiative or petition may apply to the dedication of Tribal revenues, to Tribal appropriations, to the establishment of Tribal judicial systems, to local or special legislation, or to the repeal of laws necessary for the immediate preservation of the public peace, health, or safety.

Sitka Tribe of Alaska Constitution

Page 9

ARTICLE VIII. AMENDMENTS TO THE CONSTITUTION

This Constitution may be amended by a majority vote of the qualified voters of the Tribe at an election called by the Secretary of the Interior in which at least thirty percent (30%) of the qualified voters take part. The Secretary shall call such an election on a proposed constitutional amendment at the request of five (5) of the nine (9) Tribal Council members or upon petition of thirty percent (30%) of all citizens of the Tribe eighteen (18) years of age or older. To the extent required by federal law, amendments to the Constitution shall become effective when approved by the Secretary of the Interior or his or her authorized representative.

ARTICLE IX. BILL OF RIGHTS

Section 1. The Tribe shall not make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances.

Section 2. The Tribe shall not violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized.

Section 3. The Tribe shall not subject any person for the same offense to be twice put in jeopardy.

Section 4. The Tribe shall not compel any person in any criminal case to be a witness against himself.

Section 5. The Tribe shall not take any private property for a public use without just compensation.

Section 6. The Tribe shall not deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense to have the assistance of counsel for his defense.

Section 7. The Tribe shall not require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of twelve (12) months or a fine of \$5,000.00 or both, except to the extent as may be authorized by amendment to the federal Indian Civil Rights Act.

Sitka Tribe of Alaska Constitution

Page 10

Section 8. The Tribe shall not deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law.

Section 9. The Tribe shall not pass any bill of attainder or ex post facto law.

Section 10. The Tribe shall not deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six (6) persons.

ARTICLE X. ADOPTION

This Constitution, when adopted by a majority vote of the qualified voters of the Sitka Tribe of Alaska voting at an election called for that purpose by the Secretary of the Interior or his authorized representative in which at least thirty percent (30%) of those entitled to vote participate, shall be submitted to the Secretary of the Interior for his approval, and shall be effective from the date of his approval, as provided in the Indian Reorganization Act.

ARTICLE XI. SAVINGS AND SEVERABILITY

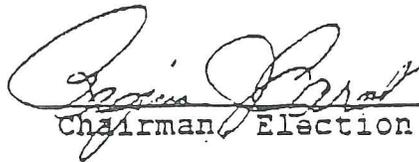
Section 1. All enactments and official acts of the Sitka Tribe of Alaska, previously known as the Sitka Community Association, promulgated or adopted prior to the effective date of this Amended Constitution shall remain in full force and effect to the extent they are not inconsistent with any provision of this Constitution, and in the event of any conflict with this Constitution, the provisions of this Constitution shall control.

Section 2. The provisions of this Constitution are severable, and should any provision of the Constitution be determined by a court of competent jurisdiction to be invalid, such invalidity shall not affect the validity of any other provision of this Constitution.

Sitka Tribe of Alaska Constitution

CERTIFICATE OF RESULTS OF ELECTION

Pursuant to an order issued on November 6, 1991 by the United States District Court, District of Alaska, the Constitution of the Sitka Community Association was submitted to the qualified voters of the Sitka Community Association, and was on November 26, 1991, duly adopted/rejected by a vote of 139 for, and 70 against, and 1 cast ballots found spoiled or mutilated, in an election in which at least thirty percent (30%) of the 210 members 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.


Chairman Election Board


Election Board Member

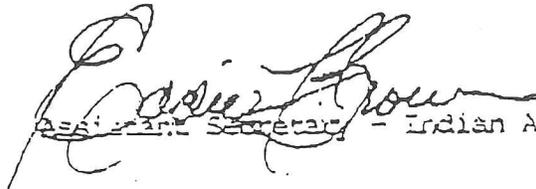

Election Board Member

DATE: December 10, 1991

Sitka Tribe of Alaska Constitution

CERTIFICATE OF APPROVAL

I, Eddie F. Brown, Assistant Secretary - Indian Affairs, by virtue of the authority granted to the Secretary of the Interior by the Act of June 16, 1934 (48 Stat. 924), as amended, and delegated to me by 230 D.M. 2.4, do hereby approve the Constitution of the Sitka Tribe of Alaska, formerly known as the Sitka Community Association. This approval shall not be construed to validate any assertion that the Sitka Tribe of Alaska has governmental authority over lands (including management of, or regulation of the taking of fish and wildlife) or persons who are not members of the tribe, absent a ruling by a court of competent jurisdiction, an opinion of the Solicitor of the Department of the Interior or an Act of Congress subsequent to the date of the certification which indicates the existence of such authority over lands or non-members. This Constitution is effective as of this date; Provided, That nothing in this approval shall be construed as authorizing any action under this document that would be contrary to Federal law.


Assistant Secretary - Indian Affairs

Washington, D. C.

Date: 10 3 1932