
SHINNECOCK INDIAN NATION



UPDATED GOVERNING DOCUMENTS April 9, 2015



CONSTITUTION OF THE SHINNECOCK INDIAN NATION

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PREAMBLE

Under the guidance of the Creator, in honor of our ancestors, and for the future of our children, we are determined as the people of the Shinnecock Indian Nation, to live and govern with faith, respect, integrity, honesty, common sense, and compassion. We are the caretakers of the land and waters that nourish and heal us; we learn and teach the values and traditions that have been passed down for generations.

It is with this knowledge that we have established guidelines for governance The Nation. Invoking the wisdom, blessings, and guidance of the Creator, we affirm our faith and assert our sovereignty based on our history and cultural heritage from time immemorial. We, the people of the Shinnecock Indian Nation, do ordain and establish this Constitution for the following purposes:

- . To promote our unity;
- . To ensure and promote the well-being of our Nation;
- . To protect our sovereignty;
- . To defend our freedom of self-determination;
- . To preserve our Shinnecock culture, values, traditions, and human rights;
- . To conserve and utilize our tribal lands and resources appropriately; and
- . To advance the common good of the Shinnecock Indian Nation.

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ARTICLE I. NAME

The name of our Tribe is the Shinnecock Indian Nation as referred to herein as “The Nation.”

ARTICLE II. TERRITORY OF THE NATION

The territory of the Shinnecock Indian Nation extends to all lands belonging to, owned by, and under the present and future jurisdiction of The Nation. The authority of the government established by this Constitution shall extend over all Shinnecock Tribal Citizens and all persons, properties, subjects, activities, intellectual property, cultural resources and territories including land, water, natural resources, airspace and entry interest therein, either now or in the future, owned or held in trust for The Nation. Our Nation is inextricably linked to our ancestral territories and we will continue to respect and protect our lands and waters that will allow us to maintain our relationships with our natural world as land and water based people, including but not limited to our collective rights as fisherman, hunters, harvesters, and gatherers.

ARTICLE III. SOVEREIGNTY OF THE NATION

The Shinnecock Indian Nation is a sovereign nation and has been since time immemorial. The Nation therefore possesses inherent sovereign power, the same as all governments, and shall exercise this inherent sovereign authority with no less rights or privileges than any other state or nation, including the United Nations Declaration on the Rights of Indigenous Peoples. We believe that we have been gifted, by the Creator with specific values and responsibilities as Shinnecock people, and The Nation recognizes itself as such. Additionally, The Nation is recognized first and foremost by other Indigenous Nations throughout Turtle Island and the world, then by pre-colonial, settler-colonial and other governments on a government-to-government basis. No tribal right or sovereign power of any kind shall be weakened, impaired, or surrendered by the adoption of this Constitution.

ARTICLE IV. CITIZENSHIP

The Shinnecock Indian Nation has the inherent right to determine its Citizenship of Tribal Members. Citizenship is determined by proven genealogical descent as direct lineal descendants of the Shinnecock ancestors listed on either the *1900 Federal Census, Schedule No. 1, New York State, Suffolk County Southampton Township, Supervisor’s District No. 2, Enumeration District No. 785* or the *1910 Federal New York State Census, Indian Population, Suffolk County, Southampton Township, Shinnecock Indian Reservation, Supervisor’s District No. 2, Enumeration District No. 1319* and/or such other criteria as The Nation has set forth for the purpose of listings submitted for *Federal Recognition* in 2010, or as may be changed by a referendum vote of the General Council through Enrollment Ordinance.

ARTICLE V. GOVERNMENT STRUCTURE OF THE NATION

The authority of The Nation exists within the Tribal Government as set forth by the roles, responsibilities, and powers of two (2) governing bodies, the General Council and the Council of Trustees. Further, The Nation internally recognizes two (2) additional bodies, a Council of Elders and a Youth Council, for the purpose of acknowledging our past and future.

This is the document on which the Tribe voted to approve on February 26, 2013. Amended by General Council on April 7th, 2015

ARTICLE VI. GENERAL COUNCIL

Section 1. Composition of the General Council

The General Council shall serve to promote and protect the health, public welfare, safety, education, and cultural and political sovereignty of the citizens of the Shinnecock Indian Nation. The General Council shall consist of the eligible voters of The Nation. Members of the General Council shall consist of all adult citizens, at least twenty-one (21) years of age, who reside on the Shinnecock Indian Reservation for a minimum of at least six (6) months prior to an election or vote, a said member will participate in, or as may be changed by a referendum vote of the General Council through Voting Ordinance. This body of eligible voters shall be referred to herein as the "General Council".

Section 2. Powers of the General Council

The General Council shall retain all authority and powers inherent to The Nation except as to such powers specifically delegated to the Council of Trustees, or such other entities as it may establish. Members of the General Council the rights, responsibilities and powers shall include but not limited to:

- a) To elect from its members, seven (7) Officers that will serve on the Council of Trustees;
- b) To demand timely and accurate reports from the Council of Trustees when further clarification and information is warranted;
- c) To ratify the annual budget of The Nation;
- d) To participate in the development and approval of The Nation's Comprehensive Plan; and,
- e) Through a petition process, the General Council shall have the collective powers of recall, initiative, referendum, and Constitutional amendment.

Section 3. Meetings of the General Council

- a) **Regular Meetings.** There shall be at least twelve (12) regular meetings of the General Council each year, to be held monthly, and shall be facilitated by the Council of Trustees. Regular meetings shall require at least fourteen (14) days notice. In the event of death of a tribal member, severe weather conditions, or dire emergency, a General Council meeting may be postponed and re-scheduled to take place within a ten (10) day period and may not take the place of another regular scheduled meeting.
- b) **Budgetary Meetings.** Two (2) of the aforementioned regular meetings must be held for presentation and recommendation of the annual budget of The Nation. Annually, the first issue of business, upon election of the Council of Trustees, shall be the ratification of the budget, affirmed by the votes of the General Council at a regular meeting. Additionally, prior to an election of the Council of Trustees, a budget proposal for the upcoming year shall be presented to the General Council at a regular meeting, as the responsibility of the outgoing Officers.
- c) **Special Meetings.** The General Council may call a special meeting to respond to pressing matters in need of urgent decision or action. Special meetings of the General Council may be called by the Chairperson of the Council of Trustees or by the General Council through petition,

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signed by at least fifty (50) members of the General Council. A special meeting may be called upon five (5) days notice.

- d) **Notice of Meetings.** Notice for each meeting, stating the time, place, and purpose thereof, shall be provided to the Citizenry of the Nation by email, placed on the Nation's website, posted in all community buildings or public places, and sent via regular mail to members who do not use email. All meetings of the General Council are to be open to all enrolled citizens of the Shinnecock Indian Nation.
- e) **Quorum.** If a vote of General Council members is to occur at a General Council meeting, said vote will not be valid or binding unless a minimum of twenty percent (20%) of the General Council is in attendance. All duly authorized decisions shall be by majority vote of the quorum present. The deemed percentage of the General Council shall be based upon the records of eligible voters according to the previous Council of Trustees General Election.

ARTICLE VII. COUNCIL OF TRUSTEES

Section 1. Composition of the Council of Trustees

The Council of Trustees shall have seven (7) Officers, which shall consist of a Chairperson, Vice-Chairperson, Treasurer, General Council Secretary, Trustee Council Secretary, Sunksqua and a Sachem. Held under the Shinnecock Indian Nation Oath of Office, their duties shall be as follows:

- a) **The Chairperson** of the Council of Trustees shall preside over all meetings, serve as the spokesperson, representing the will of The Nation in external affairs, affix his or her signature to official documents along with Sachem, countersign warrants duly drawn by the Treasurer against the tribal funds. Chairperson shall not vote except in the case of a tie.
- b) **The Vice-Chairperson** shall preside over all meetings of the General Council, shall attest the minutes thereof, shall appoint temporary officers in the absence of the duly elected officers, and shall perform such other duties as are placed upon him/her by this Constitution. The Vice-Chairperson shall preside at meetings and otherwise act in full capacity of the Chairperson in the absence, disability, or at the request of the Chairperson.
- c) **The Treasurer** shall accept, receipt for, and safeguard all funds of The Nation under his or her custody as directed by the Council of Trustees, and keep a complete record of receipts and expenditures. He or she shall be a bonded officer and shall not disburse any funds of The Nation except as duly authorized by the Council of Trustees. He or she shall present a monthly report and account for all business transactions and assets, and transactions involving the disbursement, collection or obligation of Tribal funds to the Council of Trustees. The Treasurer shall make quarterly financial reports, including certified audits not less than thirty (30) days after the completion of the final audit to the General Council. The Treasurer shall also present the Annual Tribal Budget of The Nation at a duly called meeting of the General Council for approval by majority vote of those in attendance.
- d) **The General Council Secretary** shall take minutes, record official actions, and shall serve as custodian of all files and records of the General Council. The General Council Secretary shall also conduct all correspondence and issue public notices of General Council meetings. In the

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absence of the Trustee Council Secretary, it shall be the duty of the General Council Secretary to undertake the secretarial role of duties within the Council of Trustees.

- e) **The Trustee Council Secretary** shall take minutes, record official actions, and shall serve as custodian of all files and records of the Council of Trustees. The Trustee Council Secretary shall also conduct all correspondence and issue public notices of Trustee Council meetings. In the absence of the General Council Secretary, it shall be the duty of the Trustee Council Secretary to undertake the secretarial role of duties within the General Council.
- f) **The Sunksqua** shall be an elder woman, age fifty-five (55) years or older. The Sunksqua shall serve to promote, enhance, and secure the traditions, history, language, cultural values and practices of The Nation. It shall be her duty to remind the Officers of the Council of Trustees and the General Council of the faith, respect, common sense, compassion, togetherness, peace, prosperity and legacies of our ancestors and our territory. The Sunksqua will assume her role as an elder, initiating or delegating the opening prayer of all meetings of the General Council and the Council of Trustees.
- g) **The Sachem** shall be an elder male, age fifty-five (55) years or older. The Sachem shall serve to promote, enhance, and secure the traditions, history, language, cultural values and practices of The Nation. He shall affix his signature to official documents along with the Chairperson. It shall be his duty to remind the Officers of the Council of Trustees and the General Council of the faith, respect, common sense, compassion, togetherness, peace, prosperity and legacies of our ancestors and our territory. The Sachem will assume his role as an elder, initiating or delegating the closing prayer of all meetings of the General Council and Council of Trustees.

Section 2. Duties of the Council of Trustees

The governing body of The Nation shall be the Council of Trustees who shall first and foremost serve as representatives of the people, to preserve and protect this Constitution, and to act as protectors and promoters of our Shinnecock lands, tradition and culture. Subject to limitations imposed by the Constitution of The Nation, the Council of Trustees shall have the following rights, responsibilities and duties:

- a) To represent The Nation and to negotiate with Federal, State and local government. To advise representatives of the Federal and State governments on appropriations, projects, and legislation that affect The Nation.
- b) To manage all affairs of The Nation, including the administration and allotment of tribal lands and other resources, to approve appropriate contracts, leases, permits, and loan or sale agreements and to implement laws, rules and regulations of The Nation.
- c) To appoint committees, commissions, and advisory councils and to delegate authority to said bodies, with approval of the General Council.
- d) To develop, implement, and enforce codes, ordinances, and statutes governing the conduct of all persons and activities within the boundaries of the Shinnecock Indian Territories, providing for the policies and procedure of the Council of Trustees, and being fully vetted.

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- e) Carrying out any duties herein conferred upon the Council of Trustees as ratified by the General Council.

Section 3. Regular and Special Meetings of the Council of Trustees

- a) **Regular Meetings.** The Council of Trustees shall hold at least four (4) regular meetings each month of the calendar year, at such time and place, as it shall fix. Regular meetings, held on the Shinnecock Indian Reservation shall be open to any enrolled citizens and notice shall be posted at least two (2) days notice prior to meeting, stating the time and place of said meeting.
- b) **Executive Sessions.** The Council of Trustees, whenever necessary, in the judgment of the majority of the Council of Trustees, to protect the confidentiality of sensitive information, may hold private deliberations known as executive sessions. The Council of Trustees shall designate such executive sessions in advance and post that the session will be conducted as such at least two (2) days prior to the executive session. All executive sessions are to be conducted in accordance with the laws of The Nation.
- c) **Special Meetings.** The Council of Trustees may hold special meetings when called by the Chairperson of the Council of Trustees, or by written request of any three (3) Officers, upon at least two (2) days notice to each member of the Council of Trustees. Special meetings shall be open to any enrolled citizens and notice of the special meeting, stating its time, place, and purpose shall be posted at least two (2) days prior.
- d) **Quorum.** At all meetings of the Council of Trustees, whether regular or special, in open or executive session, five (5) members shall constitute a quorum. All duly authorized decisions shall be by majority vote of the quorum present with a minimum of four (4) affirmative votes.

Section 4. Documents, Records, and Minutes

The Council of Trustees shall have custody of its letters, documents, records, and minutes, and shall promulgate procedures for access to those documents and records by enrolled citizens.

ARTICLE VIII. COUNCIL OF ELDERS

The Council of Elders shall serve as the traditional wisdom keepers of The Nation and provide guidance, advisement, and support to the governing body of The Nation in accordance with their policies and procedures. They will serve to provide The Nation with oral remembrances from the experience and education that comes only through years of living.

ARTICLE IX. YOUTH COUNCIL

The Youth Council shall serve to empower the young people of the Shinnecock Nation, and groom them to make the transition from youth leadership to Tribal leadership in accordance with their policies and procedures. They will be fortified with the richness of Eastern Woodland culture and all that is indigenous to the Shinnecock People.

ARTICLE X. ELECTIONS

Section 1. Purpose of Elections

General Elections and Special Elections shall be called for the following purposes:

- a) **Fill Position of Office.** To fill officer positions of the Council of Trustees, including elections to fill vacancies and run-off elections to resolve ties.
- b) **Recall.** To vote on the recall of a Council of Trustees Officer(s).
- c) **Ratify Removal of Officers.** To vote on whether to ratify the Council of Trustees removal of a Council of Trustees Officer(s).
- d) **Initiative and Referendum.** To vote on an initiative or referendum.
- e) **Constitutional Amendment.** To vote on proposed Constitutional amendments.

Section 2. Election of the Council of Trustees

- a) **Date and Time.** All tribal elections occurring for the Officers of the Council of Trustees shall be held on the first Tuesday in April on a biennial basis.
- b) **Terms of Office.** Officers of the Council of Trustees shall hold office for a period of two (2) years, or until their respective successors are elected and take office.
- c) **Election for Office.** Eligible enrolled members must declare their candidacy for election to the Council of Trustees. The General Council shall elect the Council of Trustees by majority vote of those participating in the election in accordance with the Election Ordinance. As provided hereafter in Article XVII, the first election of Officers of the Council of Trustees shall be held not more than ninety (90) days nor less than thirty (30) days after this Constitution is ratified by a majority vote of the General Council.
- d) **Certification of Elections.** The Election Committee and Chairperson of the Council of Elders shall certify the results of all elections of Officers of the Council of Trustees.
- e) **Voting.** Voting in tribal elections shall be by secret ballot. Notice of the time, place, and procedures for tribal elections shall be posted thirty (30) days prior to the election.

ARTICLE XI. OATH OF OFFICE

All Officers of The Nation, elected or appointed shall before entering upon the duties of their respective offices, take and subscribe to an official Oath of Office which will include the disclosure of conflicting interests, and commitment to act within their scope of authority without misrepresentation. Such ceremonies shall be conducted by the Council of Elders.

ARTICLE XII. VACANCIES AND RECALL

Section 1. Recall by General Council

Any Officer(s) of the Council of Trustees may be removed from office by a majority vote of the General Council, upon the filing of a recall petition signed by at least thirty percent (30%) of the General Council, submitted to the Council of Trustees. Such petition shall state clearly the charges against the individual(s) whose recall is sought. Nothing herein shall limit the authority of the Council of Trustees or the General Council to activate a suspension pending investigation. It shall be the duty of the Council of Trustees, when a recall petition is filed in proper form with sufficient signatures, forthwith to call an election of the General Council to vote upon the petition within sixty (60) days. The individual(s) sought to be recalled shall have the right to see the said petition and presented for a public hearing, in accordance with policies and procedures, whereby they can answer the charges made against him or her, at least twenty (20) days before the said election. The recall must receive a minimum of thirty percent (30%) of the entire General Council affirmative votes for the recall to be binding.

Section 2. Recall by Council of Trustees

Whenever, in the majority opinion of the entire Council of Trustees, any member of the Council of Trustees has been found guilty of gross neglect of duty, it shall certify its opinion, together with the findings and reasons, to the General Council. The General Council must ratify the Council of Trustees' action(s) in order to remove said member from office by a majority vote of the General Council for purpose of recall. The member who is accused shall have the right to receive a copy of the charges against him or her and be presented for a public hearing, in accordance with policies and procedures, whereby they can answer the charges made against him or her, at least twenty (20) days in advance of the meeting of the General Council at which the question of removal is to be voted on. . The recall must receive a minimum of thirty percent (30%) of the entire General Council affirmative votes for the recall to be binding.

Section 3. Vacancies

In the event of a successful recall or other unscheduled Officer vacancies of the Council of Trustees, the General Council shall have the power to elect a successor to fill the vacant position by an election called for that purpose within sixty (60) days.

ARTICLE XIII. INITIATIVE AND REFERENDUM

Section 1. Initiative

The General Council shall have the right to propose any legislative measure by a petition signed by at least twenty percent (20%) of the eligible voters of The Nation. Such petition of initiative shall be filed with the Election Committee at least thirty (30) days prior to the regular General Council meeting at which time the proposed measure shall be placed on the ballot. Voting shall be by secret ballot. Notice of the vote must be posted twenty (20) days in advance. If approved by a majority vote of the quorum of those General Council members participating in the election, the legislative measure on said petition shall be effective immediately. A quorum constitutes a minimum of twenty percent (20%) of the General Council.

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Section 2. Referendum

The Council of Trustees, by approval of at least five (5) Officers may refer any legislative measure to the General Council by calling for a special election at least thirty (30) days in advance of when said measure is to be placed on the ballot or by placing the said measure on the ballot at the next annual election. Voting shall be by secret ballot. If approved by a majority vote of the quorum of those General Council members participating in the election, the legislative measure on said petition shall be effective immediately. A quorum constitutes a minimum of twenty percent (20%) of the General Council.

ARTICLE XIV. RATIFICATION OF PRIOR TRIBAL ACTIONS

All actions, including but not limited to ordinances, resolutions, enactments, or any other actions taken on behalf of The Nation by The Nation, adopted prior to the effective date of this Constitution shall continue in effect to the extent that they are consistent with this Constitution. Such actions, ordinances, resolutions and enactments shall be kept on file, categorized by label and date adopted, available to all enrolled citizens upon request as provided in Article VII Section 4.

ARTICLE XV. SAVINGS CLAUSE

Should any Article or Section of this Constitution be found in violation of any applicable tribal ordinance or law adopted by The General Council on behalf of The Nation, it will be addressed separately, and the remainder of this Constitution shall continue in effect to the extent that they are consistent with this Constitution upon ratification.

ARTICLE XVI. JUDICIARY

The General Council may establish by Tribal Ordinance a Judiciary and Peacemaking branch of government, including but not limited to a Tribal Court. The judicial power of The Nation shall be vested in the Tribal Court, which shall have general authority to adjudicate disputes and enunciate principles of law.

ARTICLE XVII. AMENDMENTS

This Constitution may be amended by a majority vote of eligible voters of General Council. An election may be called to amend the Constitution by resolution of the Council of Trustees and/or by a majority vote of the General Council provided that such amendment receives a minimum of thirty percent (30%) of the entire General Council affirmative votes. If initiated by the General Council, the vote will be held, upon the filing of an amendment petition signed by at least thirty percent (30%) of the General Council, submitted to the Council of Trustees. Notice of date, time, and purpose of the vote must be posted twenty (20) days in advance and shall set forth the proposed amendment in full. Unless specified otherwise in the ballot text for the amendment, all amendments approved by the General Council shall take effect thirty (30) days after the certification of the said vote.

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1. On April 7th, 2015 the General Council approved a constitutional amendment to Article X Section 2 line a). The word **biennial** was amended to **annual**.

ARTICLE XVIII. RATIFICATION

This Constitution shall become effective upon ratification by a majority vote of those eligible voters of the General Council.

[Type the document title]

SHINNECOCK INDIAN NATION



COUNCIL OF TRUSTEES PROCEDURE CODE

ADOPTED BY THE GENERAL
COUNCIL BY REFERENDUM
NOVEMBER 2ND, 2013

COUNCIL OF TRUSTEES PROCEDURE CODE

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COUNCIL OF TRUSTEES PROCEDURE CODE

CHAPTER 1. GENERAL PROVISIONS

SECTION 1.01. NAME

This document shall be known as the Shinnecock Nation Council of Trustees Procedure Code.

SECTION 1.02. PURPOSE

The purpose of this Code is to define certain procedures employed by the Council of Trustees in conducting its affairs.

SECTION 1.03. ORIENTATION OF COUNCIL MEMBERS

In the interest of maintaining orderly transition of authority, the Council of Trustees shall receive orientation training on this code within five (5) days after the beginning of each new term of the Council of Trustees. Further, the Council of Trustees will convene a transitional meeting with the prior Council of Trustees within ten (10) days after the beginning of each new term.

SECTION 1.04. DEFINITIONS

A. Unless context requires otherwise, the following terms shall be defined as indicated.

1. "**Act of Civil Disobedience**" means a deliberate, but nonviolent act of law breaking to call attention to a particular law or set of laws believed by the lawbreaker to be of questionable, legitimacy or morality.
2. "**Advisory Council**" means the Council of Elders or the Youth Council
3. "**Actual Conflict of Interest**" occurs when a Tribal Official takes official action that would financially impact the official, the official's immediate family, or a business with which the Tribal Official or an immediate family member is associated.
4. "**Appropriate Contracts**" means contracts that have been fully vetted through the legislative process and or contracts that have been voted on by the General Council.
5. "**Ceremonial and Customary Gift**" means a gift that is given to a Tribal Official as a symbol of appreciation to the Tribe and not as a personal gift to the Tribal Official.
6. "**Code of Ethics**" means the Shinnecock National Code of Ethics Ordinance as approved by the Council of Trustees as adopted on {DATE}.
7. "**Constitution**" means the Constitution of the Shinnecock Indian Nation, adopted by the Nations' General Council (or Membership or Citizens) on February 26, 2013.

8. **"Council of Trustees"** or **"Council"** means the governing body of the Shinnecock Indian Nation, established by Article VII of the Shinnecock Indian Nations' Constitution.
9. **"Council hearing"** means a gathering of the Council of Trustees, at which the Council of Trustees hears testimony, views evidence, determines facts, and/or acts as in an adjudicatory capacity as a part of tribal administrative procedure.
10. **"Council meeting"** means a regular or special meeting of the Council of Trustees (as established under Article VII, Section 3 of the Nations' Constitution) where the Trustees may take official action.
11. **"Employment"** includes professional services and other services rendered by a Tribal Official, whether rendered as an employee, consultant or other independent contractor.
12. **"Executive session"** means a gathering of the Council of Trustees from which the public and non-essential staff are excluded.
13. **"Favorable action"** means the approval of a contract or agreement, award or a bid, granting of a business opportunity, negotiation on behalf of pursuant to government-to-government relations with federal, State, or local governments or agencies, or the extension of any economic benefit.
14. **"Final Determination"** means a decision made by the Ethics Commission on an appeal from a final decision, or where there is no appeal taken, it is the initial decision made by the Ethics Commission.
15. **"Fraud"** means a knowing misrepresentation of the truth or concealment of a **material** fact to induce another to act.
16. **"Frivolous"** shall mean a filed complaint that is not supported by any credible evidence. For example, a complaint is frivolous if it is based upon hearsay; a statement not corroborated by another credible witness, and/or is not supported by any written documents.
17. **"General Council"** means the political institution created by Article VI of the Nation's Constitution.
18. **"Gift"** means anything of value based upon an understanding that one's official action may be influenced thereby. Gift does not include food and drink totaling less than \$50 and ceremonial awards costing less than \$100.
19. **"Immediate Family"** means father, mother, son, daughter, husband, wife, brother, sister, grandparents, grandchildren, and any other person in a similar relationship, and any person living in the Council of Trustees, Committee member, or Tribal Administrator's household.

20. **“Laws”** means statutes, codes, ordinances, resolutions, directives, rules, policies and procedures that are now in effect and those that may be issued and in effect in the future.
21. **"Management"** and **"Managerial"** means or refers to the control, direction, and supervision of Tribal staff, the implementation of Tribal laws and budgets, and short-term planning.
22. **"Member of the General Council"** means a Tribal member of the age of twenty-one years or older as defined in Article VI Section 1 of the Nation’s Constitution.
23. **"Member of the Shinnecock Indian Nation"** or **"tribal member (or citizen)"** means a person enrolled in the Shinnecock Indian Nation, regardless of age.
24. **"Next week"** shall mean the week following the week during which action is currently taking place.
25. **"Non-member Indian"** means a person who is not enrolled in the Shinnecock Indian Nation but who is enrolled in a federally or State recognized American Indian tribe.
26. **"Officer"** or **"Council Officer"** means one of the seven members of the Council of Trustees who are elected to specific offices as defined in Article VII Section 1 of the Nation’s Constitution.
27. **“Ordinance”** means a rule, law or statute established by authority and is also a term used to designate the enactments of a legislative body.
28. **"Outside Entity"** means any government, agency, business, non-profit corporation, citizens' group, or other body that is not a branch of the government of the Shinnecock Indian Nation.
29. **“Perjury”** means the voluntary violation of an oath to tell the truth by swearing to what is untrue or by omission to do what has been promised under oath.
30. **“Personal Interest”** for the purposes of this Ordinance means an action taken by Council of Trustees, Committee member or the Administrator which is intended to benefit the Council of Trustee, Committee member or the Tribal Administrator and/or his or her immediate family rather than the Shinnecock Nation as a whole.
31. **“Petition”** shall mean the process set forth in the Shinnecock Nation Tribal Ethics Ordinance.

32. **"Policy"** means general principles established by the Council of Trustees to guide the management of Tribal affairs. It includes Tribal laws and other guidance promulgated by the Trustees. A policy is a rule of broad application, not a decision that is specific to a particular incident or person. A policy enunciates general principles rather than deciding the outcome of a specific controversy. Such policy-making is a legislative power. Nevertheless, a "policy statement" by the Trustees on a matter of external affairs may contain conclusions about how specific controversies should be resolved. Such "policy statements" can be viewed as an exercise of retained executive authority by the Trustees.
33. **"Polled resolution"** means a resolution that is adopted by surveying Council members outside of any Council meeting, and which provides an indication of the Trustees' intent, but is non-binding and does not take effect until ratified by the Trustees at a Trustees meeting.
34. **"Potential Conflict of Interest"** occurs when a Tribal Official takes official action that could financially impact the Tribal Official, the official's immediate family or a business with which the Tribal Official or an immediate family member is associated.
35. **"Probable Cause"** is a standard of review that means reasonable cause or having more evidence for than against. It is a lesser standard than the "beyond a reasonable doubt" standard used in criminal prosecution.
36. **"Regular Trustees meeting"** or **"Regular meeting"** means at least one of four (4) regular meetings each month of the calendar year held by the Council of Trustees during which the Trustees takes official action.
37. **"Resolution"** means a Trustees Resolution: a document that records certain official decisions of the Council of Trustees, using a standard format designated by the Trustees Secretary.
38. **"Serious Crime"** means a felony or misdemeanor, not involving an act of civil disobedience, which involves an act of moral turpitude. Crimes of moral turpitude are crimes involving dishonesty such as larceny, fraud or murder, for example.
39. **"Shinnecock"** or **"the Nation"** means the Shinnecock Indian Nation.
40. **"Special Council meeting"** means a meeting of the Council of Trustees which: (1) conforms to the notice requirement of Article VII Section 3 of the Constitution; (2) is held on a date and time other than the date and time when the regular Trustees meeting is held; and (3) during which the Trustees takes official action.

41. **"Subsidiary Body"** means an advisory committee, regulatory commission, Council of Directors, ad hoc committee, task force, or other entity created by the Council of Trustees by its authority under Article VII Section 2 (c) of the Nations' Constitution.
42. **"Tribal Administrator"** means the duly employed Tribal Administrator in his/her official capacity.
43. **"Tribal member"** means a person enrolled in the Shinnecock Indian Nation, regardless of age.
44. **"Tribal Official"** means a member of the Council of Trustees
45. **"Tribe", "Tribal" or "Nation"** refers to the Shinnecock Indian Nation Reservation.
46. **"Trustee"** means individual member of the Council of Trustees
47. **"Trustees"** means the collective body of the Council of Trustees
48. **"Council resolution" or "Resolution"** means a document that records certain official decisions of the Council of Trustees, using a standard format designated by the Council of Trustees Secretary.
49. **"Council work session" or "work session"** means a gathering of the Council of Trustees where the Council conducts discussions and/or receives briefings from staff and others, but does not take official action.
50. **"Valuables"** mean items in excess of \$20.00.

GATHERINGS OF THE COUNCIL OF TRUSTEES

SECTION 1.05. REGULAR COUNCIL MEETINGS

- A. **Time and Place.** The Council of Trustees shall hold at least four (4) regular meetings each month of the calendar year, at such time and place, as it shall fix. Regular meetings, held on the Shinnecock Indian Reservation shall be open to all enrolled Tribe members and notice shall be posted at least five (5) days' prior to meeting, stating the time, place, and agenda of said meeting. At least one meeting per month must be held on a Saturday.

- B. A Regular Council meeting may be deferred to the following day if any of the following occur: 1) the regular meeting date falls on a designated holiday; 2) a quorum will not be obtainable; 3) it is impossible to meet due to weather-related closure of the office or other emergency; or 4) other reasons as determined by the Trustees. Whenever possible, the Trustees shall authorize such a deferral at a prior regular Council of Trustees meeting. Except in unusual circumstances, the Trustees shall not defer consecutive regular meetings. Pursuant to Article VII Section 3 of the Constitution, the Trustees shall assure that at least four regular Council of Trustees meeting shall occur every month.
- C. Quorum. As provided by Article VII Section 3 (d) of the Nations' Constitution, five members of the Council constitute a quorum. A Council meeting shall not be held if a quorum is not present. If a Quorum is not reached the Council may hold a work session.
- D. Minutes. The Secretary, or an officer of the Council of Trustees, shall assure that a person who is qualified to take minutes is present and taking minutes for each meeting.
- E. Attendees.
1. On occasion a Council member may be absent from a regular Council meeting when on authorized leave or work-related travel. If unable to attend due to unforeseen circumstances, a Council member (or designee) shall call the main switchboard or send electronic notice to the Council of Trustees.
 2. Under ordinary circumstances a staff member who is on duty should only attend a meeting when the topic for discussion falls within the subject area of their work.
 3. As provided in Article VII Section 3 (a) and (c) of the Nations' Constitution, any tribal member/citizen may attend a regular or special meeting of the Council of Trustees, except when in Executive Session.
 4. As described below, the meeting agenda shall be divided into a Council session and a tribal session. Only tribal members and staff are permitted to attend the Council and Tribal sessions. Invited guest may only attend by invitation of the Council of Trustees
- F. Agenda. Under normal circumstances the meeting shall be conducted according to the following agenda. Nevertheless, the Chair may deviate from this agenda as the need arises.
1. Council Session
 - a. Call to Order
 - b. Invocation
 - c. Ascertainment of Quorum

- d. Agenda Review
- e. Old Business
- f. New Business
 - i. Proposed Resolutions
 - ii. Trustees / Tribal Administrator Travel and Leave Requests
 - iii. Other Council Actions
- g. Shinnecock Tribal Administrator's Report

2. Tribal Session

- a. Other Business
 - i. Legislative Report
 - ii. Commission / Committee Reports
 - iii. Tribal Administrator Communication
 - iv. Scheduled Work Sessions
 - v. Trustees / Tribal Administrator and Travel Report
- b. Review Minutes
- c. Announcements
 - i. Next Meeting – Date and Agenda Items
 - ii. Notes/Comments
- d. Adjournment

G. Old Business. This portion of the agenda shall be used to ratify polled resolutions, resume work on matters tabled at a prior meeting, and so forth.

- 1. Although their use is discouraged, polled resolutions may be used by the Council of Trustees to take official action. They shall only be used when circumstances require that an official Council decision be taken sooner than a regular or special Council meeting can take place. The polling of Council members shall be conducted by the Secretary of the Council

of Trustees, or the Secretary's designee. Polled resolutions shall be ratified by the Council of Trustees at the next Council meeting.

2. On rare occasions, it is necessary for the Councilor to informally make and adopt motions between Council meetings. As with polled resolutions, this measure shall only be taken when absolutely necessary. Such motions shall be ratified by the Council of Trustees at the next Council of Trustees meeting.

H. New Business.

1. **Submission of Requests.** Any person (other than a Council of Trustees member) requesting an official Council action, such as the adoption of a resolution, an appointment to a committee or commission, or other action shall file a request with the Secretary of the Council of Trustees. The Secretary shall require any person submitting a request to file the request in proper form. The Secretary shall retain all requests that have been submitted in proper form and shall present them to the Council of Trustees at the appropriate point in each regular Council meeting.
2. **Action by the Trustees.** At a Council of Trustees meeting, Council members shall discuss each proposed resolution or other request for official Trustees action and take one of the following actions:
 - a. Approve the proposal as presented,
 - b. Approve the proposal with specified modifications,
 - c. Table (defer) further discussion or decision on the proposal until:
 - i. Certain modifications are made,
 - ii. An additional work session can be held, or
 - iii. A subsequent Council of Trustees meeting, or
 - d. Deny the proposal.

3. Resolutions. Except as specifically authorized by the Council, any proposed resolution (together with any exhibits to the proposed resolution) shall be reviewed by the Council at a work session prior to being placed on the agenda for a Council meeting. At the work session, the format of the resolution will be reviewed for consistency with the standard format established by the Secretary of the Council of Trustees pursuant to Section 1.10, below. Any necessary changes to the content or format of the resolution or exhibits may be made during the work session. If, at the work session, the Council of Trustees authorize the placement of a resolution on the agenda for a subsequent Council meeting, the person requesting the adoption of the Council resolution shall submit a proposed resolution. If the resolution refers to any exhibits, the exhibits must be submitted along with the proposed resolution. The Trustees shall defer consideration of any proposed resolution that comes before them lacking an indicated exhibit.
4. Committee / Commission Appointments.
 - a. A person seeking appointment to a committee or commission must submit a properly completed Committee/Commission Application form. Persons submitting incomplete applications shall not be considered for appointment.
 - b. The last Council meeting of each month shall be designated as the day on which the Trustees make decisions concerning announcing and advertising advisory committee and regulatory commission vacancies. The Council of Trustees shall also make decisions on the last Council meeting of each month concerning appointments to fill vacancies announced the previous month. Vacancy announcements and completed applications must be submitted to the Council of Trustees Secretary the week preceding the last Council meeting of a given month in order for the Trustees to make a decision regarding the advertising of or appointment to a position
5. Trustees / Tribal Administrator Travel and Leave Requests. Council members, the Tribal Administrator shall use this portion of the meeting to request Trustees authorization for any Trustees-related travel, Personal Leave, or Administrative Leave that he/she plan to take during the week or beyond. Travel or Leave that would result in a Council member missing a regular Council meeting is discouraged. Persons seeking authorization for travel or leave shall complete a Travel / Leave Request Form and submit it to the Trustees' Secretary or his or her designee.
6. Other Council Actions. Other Council Actions include any other official action the Trustees deems necessary and appropriate to take during the Public Session.

7. Shinnecock Tribal Administrator's Report. At this point in the agenda, the Tribal Administrator shall inform the Trustees of any new developments that require Council consideration. The Tribal Administrator shall use a report format determined by the Council. He or she may also request direction from the Trustees, including official Trustees Action, as well as discuss the Trustees schedule and other matters. At the Tribal Administrator's direction, senior staff may also participate in this discussion.
- I. Committee & Advisory Council Reports. The various Committees and Advisory Councils (Elders & Youth) may be requested to provide updates, present policy recommendations, and discuss items of interest at the direction of the Council of Trustees.
- J. Legislative Report. The Tribal Administrator shall report on legislative developments in Washington, D.C. and/or the New York State Capitol that affect tribal interests, as well as political campaign events and contributions.
- K. Tribal Administrator Communication. The Tribal Administrator may use this point on the agenda to discuss sensitive matters.
- L. Scheduled Work Sessions. The Secretary of the Council of Trustees shall review with the Trustees the work session requests that have been received and the dates and times for which the work sessions have been scheduled. Council members who wish to object to the granting of a work session may do so at this time.
- M. Trustees and Tribal Administrator Travel Reports. At this point in a regular Council meeting, any Council member who has traveled during the past week shall report on his or her activities while on travel status, and shall make the disclosures required by Chapter 3 of this Code.

SECTION 1.06. SPECIAL COUNCIL MEETINGS

As authorized by Article VII Section 3 (c) of the Nations' Constitution, a special meeting of the Council of Trustees may be called by the Chair of the Trustees or by written request of three (3) members of the Council of Trustees, upon at least two (2) days personal notice of each Council member of the time, place, and purpose of the special meeting. The Trustees may take any action at a special meeting that it could take at a regular meeting. A special meeting may be scheduled for any time or place, and should use an abbreviated agenda tailored to the purpose for the meeting. The rules listed above concerning quorum, minutes, and attendees of regular Council meetings apply with equal force to special Council meetings.

SECTION 1.07. COUNCIL WORK SESSIONS

A Council work session is a gathering of the Council of Trustees where the Trustees conduct discussions and/or receives briefings from staff and others, but does not take official action. Consequently, a quorum

is not required. When the Trustees are considering taking action on a complex topic, the Trustees will ordinarily conduct a work session with staff, committee/commission members and/or others, as appropriate, before taking official action on the matter at a subsequent regular Council meeting.

SECTION 1.08. COUNCIL HEARINGS

A Council hearing is a gathering of the Council of Trustees at which the Trustees hear testimony, views evidence, determines facts, and/or acts as in an adjudicatory capacity as a part of Tribal administrative procedure. Examples of Council hearings include hearings conducted by the Trustees under the Executive Sessions provision of Article VII Section 3 (b) and hearings for the removal of committee or commission members, authorized by the bylaws of the affected committee or commission. Council's hearings may be held during a regular or special Council meeting. Alternatively, a hearing may also be held at a different time. In such a case the Council shall finalize its hearing findings and conclusions at the next Council of Trustees meeting.

SECTION 1.09. EXECUTIVE SESSIONS

Whenever necessary, in the judgment of the majority of the Council of Trustees, to protect the confidentiality of sensitive information, the Trustees shall hold private deliberations known as executive sessions. Members of the public, including members of the General Council, are prohibited from attending executive sessions, unless invited by the Council of Trustees. On duty Staff may only attend if: (1) as a consequence of their job duties they have specialized information concerning the matter being discussed; and (2) they receive permission from the Council of Trustees. Because of the unique nature of the attorney-client relationship, at least one Tribal Attorney shall attend executive sessions, except when specifically excluded by the Council of Trustees. Regular and special Council meetings may not be conducted as executive sessions, although the Trustees may temporarily recess a meeting in order to conduct an executive session.

SECTION 1.10. RESOLUTIONS OF THE COUNCIL OF TRUSTEES

The Secretary of the Council of Trustees shall designate a standard resolution format which shall be used for all Council of Trustees resolutions. The Secretary may alter this format from time to time as needed. The Secretary shall also designate a standard format for "polled" resolutions. A voting sheet, recording each Council member's vote, shall be attached to each resolution.

SECTION 1.11. CANCELLATION OR LIMITATION OF TRUSTEES MEETINGS DUE TO DEATH OF COMMUNITY MEMBER

- A. For the purposes of this Section, the term "community member" shall mean:
1. A member of the Shinnecock Indian Nation who at the time of his or her death was living within the boundaries of the Shinnecock Indian Reservation, or

2. A member of the Shinnecock Indian Nation whose funeral related service is scheduled to take place within the boundaries of the Shinnecock Indian Reservation.
 3. A spouse of a member of the Shinnecock Nation whose funeral related service is scheduled to take place within the boundaries of the Shinnecock Indian Nation.
- B. In response to the death of a community member, gatherings of the Council of Trustees shall be cancelled or limited as follows.
1. No Council meetings shall be conducted on the same day as the burial of the community member, except for time-critical meetings that are held after the conclusion of the burial services.
 2. During the period after the death is announced but prior to the burial:
 - a. Council meetings shall only address action items,
 - b. Council hearings shall be rescheduled and time requirements established by other tribal statutes or bylaws shall be waived.

CHAPTER 2. AUTHORITY OF INDIVIDUAL COUNCIL MEMBERS

SECTION 2.01. FINDINGS OF THE COUNCIL OF TRUSTEES

The Council of Trustees makes the following findings.

- A. As a governing body of the Shinnecock Indian Nation the powers of the Council of Trustees, as listed in Article VII Sections 1 and 2 of the Nation's Constitution, include the power to represent the tribe, to approve appropriate contracts, to manage the affairs of the tribe, to establish committees, enact statutes, and to exercise any other powers delegated to them under the Constitution of the Shinnecock Indian Nation.
- B. The Council of Trustees has enacted management policies which delegate certain managerial powers of the Trustees to subsidiary bodies, the Tribal Administrator and other staff.
- C. Individual Council officers or members have no independent authority other than those specified in the Constitution or those delegated by the Council of Trustees.
- D. The Council's authority to establish Tribal policy includes Trustees responsibility to monitor the implementation of its policy direction and to revise Tribal policy as events or Tribal needs dictate. Performing these Council functions requires Council members to have access to information and

reports so that Council's policy is informed and benefits from the work of Tribal programs and employees.

SECTION 2.02. COUNCIL MEMBERS' INTERACTION WITH STAFF

Consistent with the Trustees' constitutionally delegated powers, and with the need to avoid disruption of Tribal programs and staff by individual Council member requests for information and reports, the Council of Trustees hereby establishes the following rules governing the conduct of individual Council members and the Trustees as a whole:

- A. To facilitate the efficient operation of tribal affairs, Council members and staff are generally encouraged to communicate openly with each other.
- B. The exercise of the constitutionally delegated powers of the Council of Trustees shall be exercised by the Trustees as an entity; no individual Council member shall attempt to exercise any power delegated to the Council unless authorized by the Constitution or by action of the Council of Trustees.
- C. The Council of Trustees manages the affairs of the tribe and oversees the implementation of Council policy direction. Council members shall not attempt to dictate lower-level managerial decisions, whether supervisory, budgetary, or disciplinary.
- D. If requests by an individual Council member for staff information or reports become excessive, senior enterprise management, governmental management, or other Council members may ask the Trustees to review the requests.

CHAPTER 3. TRAVEL REIMBURSEMENT PAYMENTS

SECTION 3.01. THIRD PARTY REIMBURSEMENT FOR TRAVEL BY COUNCIL MEMBERS

- A. Council of Trustees members are encouraged and authorized to seek third party reimbursement for their travel expenses in connection with their travel to a meeting. At no time shall a Council member seek reimbursement from the Shinnecock Indian Nation for travel related expenses that have been or will be directly reimbursed by a third party, or for travel expenses that have been or will be paid to vendors on the traveler's behalf (motel, airfare, etc.). If a third party reimburses a Council member for travel expenses for which the Shinnecock Indian Nation has already advanced funds to the Council member, then the Council member shall submit to the Finance Office the exact amount of the duplicate reimbursement. The Finance Office will then credit the amount received to the Council member's travel expense line item that was used for that travel. All Council members will adhere to the financial policies of the Shinnecock Indian Nation.

- B. When it is known that a third party is only going to reimburse a portion of a Council member's travel, the Council member shall direct the third party to remit the reimbursement directly to the Finance Office. The Council member may then submit a Travel Advance or Reimbursement request to the Finance Office for the full amount of the travel. If the third party is unwilling to make the reimbursement directly to the Finance Office and insists on paying it directly to the traveler, then the traveler shall either sign over the reimbursement check or remit funds to the Finance Office in the amount of the reimbursement. Travel reimbursement payments made directly to the Shinnecock Indian Nation (either by third parties or by Council members) shall be credited to the travel line item of the Council member whose travel is being reimbursed.

SECTION 3.02. REPORTING OF REIMBURSEMENTS, HONORARIA, AND STIPENDS

- A. Reporting By Council Members. When reporting on completed travel at a Council meeting, Council members shall disclose the amount of any travel reimbursements they have received (or anticipate receiving) from any outside entities associated with that travel. Council members shall also disclose any travel related services that were paid directly by the outside entity.
- B. Reporting by Finance Office. On a monthly basis, the Finance Office shall report to the Council of Trustees concerning all Council-related travel reimbursements, honoraria, and stipends that the Office has received in the prior month.

SECTION 3.03. DISCLOSURE OF COMMITTEE, COMMISSION, AND COUNCIL MEMBERSHIP

- A. By the fourth Regular Council meeting following a General Election, the Council of Trustees' Secretary shall publish a list containing the following information:
1. Membership of each Council of Trustees member on committees, commissions, and Trustees of the Shinnecock Indian Nation,
 2. Membership of each Council member on all committees, commissions, and Councils of outside entities, and
 3. The frequency of meetings for each committee, commission, or Trustees.
- B. The list shall be available for review by the Council of Trustees and tribal membership, and shall be updated monthly.

CHAPTER 4. ETHICS AND CONDUCT

The Shinnecock Nation hereby adopts a Code of Ethics ("Code of Ethics") which is referenced as part of this Council of Trustees Procedure Code. The Code of Ethics provides a process whereby the people may hold such officials and employees accountable for their actions in performing the duties and responsibilities of office or employment while serving in a leadership capacity within the Governing Body

of the Shinnecock Nation. The Code of Ethics governs the conduct and activities of all elected and appointed officials, tribal personnel, and Tribal Citizens and provides due process, as mandated.

SECTION 4.01. PURPOSE AND POLICY

The purpose of the Shinnecock Nation Code of Ethics is to establish ethical standards for the Shinnecock Nation, its Tribal Citizens, Council of Trustees, Committees, Advisory Council, and its government (hereafter, “citizens, elected officials and employees”). All those acting on behalf of the Shinnecock Nation are imbued with a sacred trust to act in the highest ethical manner, carrying out their duties in such a manner as to keep inviolate the best interest of the Tribe and its members. Those Individuals elected, appointed, or employed shall not place their personal interest above that of the Nation. The policy is to also require Tribal Officials to be accountable to the Tribe and to act with high standards of honesty, integrity, fairness, and impartiality in their conduct. The Council of Trustees, Committees, Advisory Councils, employees, and staff shall act in the best interest of the Shinnecock Nation. The Code of Ethics is intended to guide the actions of Tribal Officials and provide guidance for the conduct of Tribal business, to protect the interests of the Tribal citizens, and to protect the reputation and integrity of the Shinnecock Tribal Government.

Standards and Guidelines

- Alcohol and Drugs Use
- Travel and attendance at conferences, training
- Conflict of Interest
- Private gain
- Solicitation
- Gifts, Loans, Favors or other Benefits
- Unauthorized Compensation
- Honorarium
- False Claim
- Misuse of Funds and Property
- Misuse of Staff
- Financial disclosure
- Confidential information
- Abuse of Authority
- Preferential Treatment - giving advantage or priority to a person or group
- Nepotism - favoritism shown by somebody in power to relatives and friends, especially in appointing them to good position
- Neglect of Duty
- Impeding Governmental Efficiency
- Abstention for Office Action
- Public Serve in a Non-Tribal Appointed or Elected Office

- Retaliation and Bad faith
- Political and Campaign Activity
- Harassment
- Convictions

SECTION 4.02. ETHICAL OBLIGATIONS AND STANDARDS OF CONDUCT

A. Oath of Office:

All Tribal Officials shall take an oath of office as follows and shall resign or renounce affiliations in other organizations or governments which are inherently inconsistent with the selective service as a member of the Council of Trustees, Committee Member, or Advisory Council member:

“I _____, accept the position of _____ for the Shinnecock Nation. I do solemnly swear to uphold the Constitution, Laws, Customs and Traditions of the People of the Shinnecock Tribe.”

B. Conformity with Applicable Laws

All Tribal Officials shall comply with all laws which apply to Tribal Officials that are applicable within the jurisdiction of the Tribe. Compliance is required whether or not the laws apply to the Official in his or her individual or official capacity.

A Tribal Official who is convicted of a serious crime shall be guilty of violating this Code of Ethics; except that a conviction related to an act of civil disobedience shall subject the official only to investigation under this Code of Ethics which may or may not result in a sanction able violation of this Code of Ethics. A plea of no contest, a plea to a lesser charge, or a conviction of a lesser charge may constitute a conviction for purposes of this subsection if the plea or conviction would be sufficient, in a civil context, to support a judgment of said official with regard to the original charge.

C. Actual or Apparent Impropriety

Tribal Officials shall not engage in acts which are illegal, involve an abuse of power, or involve actions and activities that bring discredit or disrespect on the Tribe. These acts may include:

1. Functioning as an official of the Tribe under the influence of illegal substances or engaging in illegal drug transactions.
2. Functioning as an official of the Tribe while inebriated.
2. Misappropriation or misuse of Tribal funds

3. Concealing, removing, altering, mutilating, or destroying Tribal records or documents
4. Committing perjury or fraud
5. Intentionally and knowingly providing false information or misrepresenting a Tribal position that causes harm to Tribal members
6. Intentionally misrepresenting oneself as acting on behalf of the Tribe without authorization.
7. Knowingly misrepresenting the Tribe or a position the Tribe has taken.
8. Causing or threatening to cause personal bodily harm.

D. Conflicts of Interest

1. Tribal Officials shall not take any official action, whether in a Tribal meeting, committee meeting, or otherwise, in which the official or the official's immediate family has a potential or an actual financial or personal interest that is or could be affected by such an action.
2. No Tribal Official shall use, or attempt to use, any official capacity of their office for the economic gain of any business interests with which they or their immediate family is associated.
3. Tribal Officials shall refrain from all acts or activities that may be construed as a conflict of interest.
4. When a potential or actual conflict of interest exists for an official with regard to a particular issue, that official shall disclose the conflict of interest which shall be duly noted in official meeting minutes, and shall recuse him or herself.
5. If the Chairs of the Council of Trustees, Committee, or Advisory Councils has an actual conflict of interest with a particular issue, his or her Vice-Chairs may be appointed to take official action on the issue.

E. Use of Public Office for Private Gain, Restrictions against Loans or Gifts

1. Tribal Officials shall not solicit money, economic opportunity, favors, service, loans or gifts for their own personal benefit or gain while presently serving in office.
2. Tribal Officials shall not use his or her office in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the official, any members of their immediate families, or for an organization or business with which the official is associated.
3. Tribal Officials shall not engage in, whether directly or indirectly, financial or other economic transactions as a result of, or primarily depending upon information obtained through their elected office.
4. Tribal Officials shall not use Tribal resources or power of office to advance personal or individual political interests.
5. Tribal Officials shall not accept gifts valued at over \$100. All gifts whether or not valued at \$100 or more shall be reported to the Council of Trustees and the Finance Office. All prohibited gifts shall either be returned to the donor or shall become the property of the Tribe.
6. Tribal Officials may accept ceremonial and customary gifts on behalf of the Tribe.

F. Use of Confidential Information

1. Tribal Officials shall not disclose confidential materials presented, considered, or discussed in executive or closed session without the approval of all parties involved, except where authorized under a Tribal open records law.
2. No Tribal Official shall use or disclose confidential information gained in the course or by reason of their official position or activities, to further their own economic and personal interest or that of anyone else.
3. No Tribal Official Shall use or disclose confidential information regarding a minor.

G. Restrictions against Incompatible Interests

1. **Tribal Officials shall NOT:**

- a. Have direct or indirect financial or other economic interests other than his or her Tribal duties which necessarily involve inherent substantial conflict with their duties as Tribal Officials.
 - b. Acquire any economic or other financial property during his or her term as a Tribal Official when he or she believes or has reason to believe that it may directly or substantially affect or be so affected by his official actions or duties.
2. Subject to the restrictions in the Code of Ethics, Tribal Officials are free to engage in lawful financial transactions to the same extent as any Tribal member.
 3. Tribal Officials shall immediately resign from all appointments obtained during office upon completion of his or her term.

H. Tribal Government Contracts; Restrictions and Bid Requirements

1. No Tribal Official or any member of that person's immediate family shall be a party to, nor have an interest in the profits or benefits of any governmental contract of the Tribe or of any investment of funds of the Tribe, unless the contract or investment meets all of the following requirements:
 - a. The contract is let by the applicable procurement policy;
 - b. Is pursuant to the continuous course of a business commenced before the Tribal Official assumed his or her current term of office;
 - c. The entire transaction is conducted at arm's length, with the Tribe's full knowledge of the interest of the Tribal Official or member of his or her immediate family; and
 - d. The Tribal Official has taken no part in the determination of the specifications, deliberations, or decisions with respect to the contract or investment.
2. A Tribal Official or a member of his or her immediate family shall not be considered as having an interest in a contract or investment if they have a limited investment or creditor interest of less than ten percent (10%) of the ownership of net assets or the total indebtedness of any business or other entity which is the contractor, sub-contractor, of supplier on the contract or in which the funds are invested, or which issues any security therefore.

I. Restrictions on Assisting or Representing other Interests after Termination of Public Office

1. After a Tribal Official has left office he or she shall not act as an agent, attorney, or representative for any person or entity for the purpose of influencing any employee, official, or governmental body of the Tribe in connection with any proceeding, contract, claim, controversy, investigation, charge, or accusation in which the Tribal Official *personally* and *substantially* participated.
2. If a matter was pending within the scope of a Tribal Official's responsibilities, but the individual did not participate as set forth in Paragraph (1) above, the prohibitions hereunder shall apply only for a period of one (1) year immediately following the termination of public office.
3. The Council of Trustees shall not take any action favorable to any personal business, governmental or other entity, which is assisted or represented personally in the matter by a former Tribal Official whose official act, while a Tribal Official, directly contributed to the taking of such favorable action.

J. Restrictions on Official Action Involving Former Interests; Conflict of Interest

1. A Tribal Official shall not take action on any issue, matter, or decision where the Tribal Official, within one year immediately prior to taking office, acted as an agent, attorney, or representative for any person, organization, business, or other entity in connection with any proceeding, contract, claim, controversy, investigation, charge, or accusation, or in which the Tribal Official *personally* and *substantially* participated prior to assuming public office.

K. Unauthorized Use of Property or Funds of the Tribe

1. A Council of Trustees, Committee, or Advisory Council member shall return all Tribal equipment, supplies, and any other Tribal property to the Tribe within five (5) days of completing his or her term of office.
2. Council of Trustees, Committee, or Advisory Council members shall refrain from using Tribal facilities, resources, or personnel to perform personal business.

L. Misuse of Staff

1. No Tribal Official shall employ, with the Tribe's funds, any unauthorized person(s) who does not perform duties commensurate with such compensation, and shall utilize authorized employees and staff only for the official purposes for which they are employed or otherwise retained in a manner consistent with Section 2.02.

M. Restrictions against Gifts or Loans to Influence Official Acts

Tribal Officials should not provide, offer, or exercise official influences in exchange for votes, money, or valuables.

N. Official Statements and Representations

Tribal Officials shall not make official statements to the media that misrepresent the Tribe or the position of the Tribe. This provision shall not prohibit a Tribal Official from defending him or herself from a criminal charge or civil claim or testifying as a witness in a legal proceeding, or from responding to allegations concerning conduct made pursuant to the Code of Ethics.

O. Attendance at Meetings

Council of Trustees members shall attend all regular and special scheduled meetings. Council of Trustees members shall also attend all General Council monthly meetings. A Council of Trustees member shall notify the Council of Trustees prior to any meeting they will not attend, with a valid excuse. Four (4) unexcused absences during a Council of Trustees member's term shall constitute a violation of the Code of Ethics.

CHAPTER 5. COUNCIL OF TRUSTEES RECORDS POLICY

SECTION 5.01. COUNCIL OF TRUSTEES MINUTES

- A. Following the approval of the minutes of a Council of Trustees meeting, the Secretary of the Council of Trustees shall insure that copies of the approved minutes of Council of Trustees meetings are available in the Tribal office for review, and that copies are available at no cost for Tribal members at the Tribal office or through a digital copy, and through the Tribal Newsletter.
- B. The Secretary of the Council of Trustees shall, upon request by a Tribal member, provide copies of approved Council of Trustees minutes in the same calendar year at no cost;

- C. The Secretary of the Council of Trustees shall, upon request by a Tribal member, provide copies of minutes of Council of Trustees meetings in prior calendar years to the extent the Tribal Records Management Program possesses and can locate such minutes in its files. Such copies shall be made available to Tribal members who submit written requests for such minutes. The Secretary of the Council of Trustees shall impose and collect a fee in the amount of \$0.20 per page for the copying of all such minutes that are requested. In the event that Tribal Records Management Program staff are required to research files to locate minutes of prior Council of Trustees meetings, such research time shall also be charged at the rate of \$10.00 per hour. Such reproduction and research fees shall be collected from the person requesting the Council of Trustees minutes prior to the release of the minutes.

SECTION 5.02. COUNCIL OF TRUSTEES RESOLUTIONS

- A. Following approval of a resolution by the Council of Trustees, the Secretary of the Council of Trustees shall insure that copies of the approved resolution are available in the Tribal office for review, and that copies are available at no cost for Tribal members at the Tribal office.
- B. The Secretary of the Council of Trustees shall, upon request by a Tribal member, provide copies of any Council of Trustees resolutions in the current year at no cost.
- C. The Secretary of the Council of Trustees shall, upon request by a Tribal member, provide copies of approved Council of Trustees resolutions from prior calendar years to the extent the Tribal Records Management Program possesses and can locate such resolutions in its files. Such copies shall be made available to Tribal members who submit written requests for such resolutions. The Secretary of the Council of Trustees shall impose and collect a fee in the amount of \$0.20 per page for the copying of all such resolutions that are requested. In the event that Tribal Records Management Program staff are required to research files to locate resolutions approved by the Council of Trustees in prior calendar years, such research time shall also be charged at the rate of \$10.00 per hour. Such reproduction and research fees shall be collected from the person requesting the Council of Trustees resolutions prior to the release of the resolutions.
- D. Reproduction and distribution of any Council of Trustees resolution shall be governed by this policy unless the Council of Trustees expressly restricts or prohibits reproduction or distribution of a resolution within the body of a particular resolution. In such event, the specific instructions restricting or prohibiting release of such resolution shall supersede this policy.

SECTION 5.03. ATTACHMENTS TO COUNCIL OF TRUSTEES RESOLUTIONS

- A. Attachments to resolutions shall be governed by the same policy that applies to the availability and release of Council of Trustees resolutions set forth in Section 4.02, above, except that the following attachments shall not be released:

- 1. The attachment is a contract or commercial agreement;

2. The attachment is a document involving Tribal finance, investments, or enterprises;
3. The attachment is a document involving confidential or sensitive personnel, social services, medical, law enforcement, or related protected information;
4. The Council of Trustees has expressly restricted the public release of an attachment within the body of a resolution approving the attachment; and
5. The Council of Trustees is prohibited by Tribal or other applicable law from release of information contained in the attachment.

SECTION 5.04. INDICES OF COUNCIL OF TRUSTEES RESOLUTIONS

The Tribal Records Management Program shall establish and maintain an index of Council of Trustees resolutions as they are enacted on a year-by-year basis. The index shall identify the resolution number, date of enactment, and brief summary of the subject matter of the resolution. An index of Council of Trustees resolutions enacted in the previous calendar year shall be made available to members of the Shinnecock Indian Nation in the Tribal office in February of each year at no cost. To the extent indices for prior years have been developed and are maintained by the Tribal Records Management Program, such indices shall be made available, upon request by a Tribal member, under the same financial terms as are copies of prior year Council of Trustees minutes set forth in Section 4.01(c), above.

SECTION 5.05. TRIBAL COMMITTEE OR COMMISSION ACCESS TO COUNCIL OF TRUSTEES DOCUMENTS

Any Tribal Committee or Commission possessing policy guidance or regulatory authority in connection with a Tribal program or project shall have access to any Council of Trustees meeting minutes, resolutions, and associated attachments that pertain to the Tribal program or activity within the Commission or Committee's jurisdiction at no cost. Such requests shall be filed with the Tribal Records Management Program.

SECTION 5.06. TRIBAL EMPLOYEE ACCESS TO COUNCIL OF TRUSTEES DOCUMENTS

Tribal employees working on a Tribal program or project that is directly affected by an official action of the Council of Trustees, may have access to any relevant Council of Trustees minutes, resolution, and associated attachments at no cost. Such requests shall be filed with the Tribal Records Management Program.

SECTION 5.07. ADMINISTRATION OF COUNCIL OF TRUSTEES RECORDS POLICY

The Secretary of the Council of Trustees shall be responsible for the administration of this Council of Trustees Records Policy. The Tribal Records Management Program shall assist in such administration as directed by the Secretary.

CHAPTER 6. PERSONNEL PROCEDURES OF THE COUNCIL OF TRUSTEES

SECTION 6.01. FINDINGS

- A. Council members are unlike tribal staff in many ways. Council members serve 2 year terms and must be re-elected to new terms to retain their positions.
- B. Currently, Trustees are paid stipends for their service. In the future, it is expected that Trustees will be either part-time or full-time paid positions. This Chapter will take affect and apply to Council of Trustees members if and when they become part-time or full-time positions.
- C. Because of their many distinctions from staff, Council members are not covered by the Tribal Personnel Policies and Procedures Manual (TPPPM). Therefore the Trustees have adopted specific guidelines set out below.

SECTION 6.02. TIMEKEEPING

Council members shall record their actual hours worked on official Tribal timesheets. When designating hours worked, any time spent performing duties related to their Trustees positions shall be counted, whether during regular working hours or at other times. Examples of duties related to their Trustees positions include attending funerals. Examples of activities that cannot be counted as work time include campaign activities associated with elections of the Shinnecock Indian Nation, or activities that are engaged in a non-official capacity because of personal or family interest.

SECTION 6.03. NOTIFICATION OF ABSENCE

Council members shall request in advance at a Council Meeting. If unable to attend to Trustee's duties due to unforeseen circumstances, a Council member (or designee) shall call the main switchboard or send electronic notice to the Council of Trustees.

SECTION 6.04. PAID TIME OFF

- A. Holidays.
 - 1. Council members may take time off with pay for the holidays consistent with holidays as designated in the existing Tribal Personnel Policies.
 - 2. The Chair of the Council of Trustees may designate certain days as Tribal holidays. Council members will be given time off with pay for all designated Tribal holidays.
 - 3. A Council member will not be charged for approved Personal Leave days which occur on holidays.

B. Administrative Leave.

1. When Provided. Council members are entitled to take administrative leave for the following:
 - a. Death in the Council member's immediate family. The Council member may be eligible for five (5) working days of Administrative Leave.
 - b. Death in the Council member's spouse's immediate family. The Council member may be eligible for five (5) working days of Administrative Leave.
 - c. Inability to travel to work safely because of unusually severe weather or natural disaster, authorized by the Tribal Administrator for up to 40 hours.
2. Immediate Family Defined. Immediate family members are as defined in the existing Tribal Personnel Policies.

C. Personal Leave.

1. Definition. In lieu of Annual (vacation) Leave, Sick Leave, and Traditional Leave, Council members shall be entitled to take Personal Leave. Personal Leave may be used for any purpose (e.g. vacation, illness, family events, etc.) for which a Council member desires to have paid leave from Council duties.
2. Accrual and Use. Upon being sworn into office, each Council member shall accrue 2 weeks (80 hours) of Personal Leave which the Council member may take during the Council member's first year in office, dated from the date of being sworn in. This is equivalent to the amount of vacation and sick leave that a long-term tribal employee receives in a year. On the Council member's first anniversary of being sworn in, each Council member shall accrue a new 2 weeks (80 hours) of Personal Leave.
3. Limitations on Use. Any leave taken in excess of 80 hours in a year shall be taken as leave without pay. Hours not used during any particular year are lost at the end of that year and are not carried over from year to year. Council members are not authorized to obtain cash pay-outs for their unused Personal Leave. Council members are not authorized to donate leave to staff or receive donations of leave from staff, but may donate leave to (and receive leave from) each other. Exceptions can be made in extenuating circumstances.
4. Transition from Annual and Sick Leave. In the payroll following the date upon which this sub-section takes effect, Council members shall be paid the cash value of any Annual Leave that they have accrued. Council members shall retain and may continue to use any

Sick Leave they have accrued until they have used it all, whether in the present Trustee's term or a subsequent one. The retained Sick Leave shall be accounted for separately from their Personal Leave.

SECTION 6.05. FRINGE BENEFITS

- A. Social Security. IRS policy prohibits Council members from participating in Social Security. Council members who have formerly participated in Social Security remain qualified to use the benefits earned during that employment.
- B. Unemployment Compensation. The tribe contracts with the state of New York to provide unemployment benefits for employees. Council members do not qualify for these benefits.
- C. Family Medical Leave. Family Medical Leave is not applicable to Council members.
- D. 401(k). Council members are eligible to participate in the tribal 401(k) program.
- E. Insurance. Council members are eligible for the tribe's health and life insurance benefits.
- F. Worker's Compensation. Council members are part of the Shinnecock Indian Nations' worker's compensation pool and are eligible for benefits.

SHINNECOCK INDIAN NATION



LEGISLATIVE PROCEDURE CODE

ADOPTED BY THE GENERAL COUNCIL
THROUGH REFERENDUM

NOVEMBER 2ND, 2013

LEGISLATIVE PROCEDURE CODE

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LEGISLATIVE PROCEDURE CODE

SECTION 1: LEGISLATIVE PROCESS OVERVIEW

SECTION 6.06. PURPOSE

The purpose of this Code is to define certain procedures employed by the Council of Trustees and The General Council pertaining to drafting, passing, and implementing legislation and Constitutional Amendments through the initiative, referendum, and resolution process under the Shinnecock Indian Nation Constitution.

SECTION 6.07. DEFINITIONS

A. Unless context requires otherwise, the following terms shall be defined as indicated.

1. “**Attorney Client Privilege**” means a legal concept that protects certain communications between a client and his or her attorney and keeps those communications confidential.
2. “**Constitution**” means the Constitution of the Shinnecock Indian Nation, adopted by the Nations’ General Council on February 26, 2013.
3. “**Council of Trustees**” means the governing body of the Shinnecock Indian Nation, established by Article VII of the Shinnecock Indian Nations' Constitution.
4. “**Council hearing**” means a gathering of the Council of Trustees, authorized by separate legislation, at which the Council of Trustees hears testimony, views evidence, determines facts, and/or acts as in an adjudicatory capacity as a part of tribal administrative procedure.
5. “**Council meeting**” means a regular or special meeting of the Council of Trustees (as established under Article VII, Section 3 of the Nations’ Constitution) where the Trustees may take official action.
6. “**Executive session**” means a gathering of the Council of Trustees from which the public and non-essential staff are excluded.
7. “**Favorable action**” means the approval of a contract or agreement, award or a bid, granting of a business opportunity, negotiation on behalf of pursuant to government-to-government relations with federal, State, or local governments or agencies, or the extension of any economic benefit.
8. “**General Council**” means the political institution created by Article VI of the Nation’s Constitution.
9. “**Initiative**” means a legislative measure initiated by a General Council member and voted on by the General Council.

10. **“Legislation”** means ordinances, rules, or amendments that originate by Initiative, Referendum, Resolution, or Constitutional Amendment; Not yet in effect and may be voted on for future passage.
11. **"Member of the General Council"** means a Tribal member of the age of twenty-one years or older as defined in Article VI Section 1 of the Nation’s Constitution.
12. **"Member of the Shinnecock Indian Nation"** or **"tribal member (or citizen)"** means a person enrolled in the Shinnecock Indian Nation, regardless of age.
13. **"Next week"** shall mean the week following the week during which action is currently taking place.
14. **"Officer"** or **"Council Officer"** means one of the seven members of the Council of Trustees who are elected to specific offices as defined in Article VII Section 1 of the Nation’s Constitution.
15. **“Ordinance”** means a rule, law or statute established by authority and is also a term used to designate the enactments of a legislative body.
16. **“Referendum”** means a legislative measure initiated by the Council of Trustees and voted on by the General Council.
17. **"Regular Trustees meeting"** or **"Regular meeting"** means at least one of four (4) regular meetings each month of the calendar year held by the Council of Trustees during which the Trustees takes official action.
18. **"Resolution"** means a Trustees Resolution: a document that records certain official decisions of the Council of Trustees, using a standard format designated by the Trustees Secretary.
19. **"Shinnecock"** or **"the Nation"** means the Shinnecock Indian Nation.
20. **"Special Council meeting"** means a meeting of the Council of Trustees which: (1) conforms to the notice requirement of Article VII Section 3 of the Constitution; (2) is held on a date and time other than the date and time when the regular Trustees meeting is held; and (3) during which the Trustees takes official action.
21. **"Tribal member"** means a person enrolled in the Shinnecock Indian Nation, regardless of age.
22. **“Tribal Official”** means a member of the Council of Trustees, committees, and advisory councils.

23. **"Tribe"**, **"Tribal"** or **"Nation"** refers to the Shinnecock Indian Nation Reservation.
24. **"Trustee"** means individual member of the Council of Trustees
25. **"Trustees"** means the collective body of the Council of Trustees
26. **"Council resolution"** or **"Resolution"** means a document that records certain official decisions of the Council of Trustees, using a standard format designated by the Council of Trustees Secretary.
27. **"Council work session"** or **"work session"** means a gathering of the Council of Trustees where the Council conducts discussions and/or receives briefings from staff and others, but does not take official action.

SECTION 2: REFERENDA

Section 2.01. Introducing Referenda

The Council of Trustees, by approval of at least five (5) Officers may refer any legislative measure to the General Council for a vote as a Referendum.

Section 2.02. Meetings Requirement

The Council of Trustees must hold at least two (2) Council of Trustee meetings (Regular, Special, work session, or Executive session (can only be used to fulfill one meeting)) prior to a Referendum proceeding to a vote by the General Council. All meetings must adhere to the guidelines set forth in Article VII Section 3 of the Shinnecock Indian Nation Constitution.

Section 2.03. Notification and Vote protocol

The Council of Trustees must call for a Special Election at least thirty (30) days in advance of when a Referendum is to be placed on the ballot. The Council of Trustees may also place a Referendum on the ballot at a Council of Trustees election. Voting shall be by secret ballot.

Section 2.04. Quorum

If a vote of General Council members is to occur at a General Council Meeting, said vote will not be valid or binding unless a minimum of twenty (20%) of the General Council is in attendance. All duly authorized decisions shall be by majority vote of the members present. The deemed percentage of the General Council shall be based upon the records of eligible voters according to the previous Council of Trustees General Election.

Section 2.05. Certification

The Election Committee of the Shinnecock Indian Nation will supervise all Tribal elections and votes, regular or Special pursuant to the Shinnecock Indian Nation Election Ordinance. The Election Committee Chair and the Council of Elders Chair will certify all elections and votes under the guidelines of the Shinnecock Nation Election Ordinance and Article X Section 1 & 2 of the Shinnecock Indian Nation Constitution. The Referendum will immediately become Tribal Law upon certification.

Section 2.06. Amendments

Referenda can be amended or repealed by the Council of Trustees or General Council through the Initiative or Referendum process laid out in these codes.

Section 3: INITIATIVES

Section 3.01. Introducing Initiatives

Any Tribe member shall have the right to propose any legislative measure through the General Council by a petition signed by at least twenty (20%) of eligible voters of the Nation.

Section 3.02. Meetings Requirements

General Council members who utilize the initiative process must first have at least one (1) meeting with a Committee Chair, one (1) meeting with the Council of Trustees, and at least two (2) meetings with the General Council before an initiative can proceed to the General Council for a Vote. All meetings must adhere to the guidelines set forth in Article VI Section 3 of the Shinnecock Indian Nation Constitution.

Section 3.03. Petition Requirements

Petitions for Initiatives must be initiated by a member of the General Council and signed by at least twenty (20%) of eligible voters. Such petitions must be filed with the Election Committee who will confer with the enrollment office and certify all petitions. All petitions for initiatives must clearly state the purpose and goal of the initiative. The petition must have clear language that states what the General Council member or members want to become law, amend, or repeal. The language used in the petition will be the language used for the final vote. If a petitioner changes the language any time after the first signature, then that petition is invalid and will not be accepted.

Section 3.04. Notification and Vote protocol

Upon certification of an initiative petition the Election Committee shall schedule a vote no sooner than (30) thirty days before a General Council meeting. The Election Committee will have the discretion of placing an initiative on the ballot during a Council of Trustees election if said election falls within 90 days of certification of an initiative petition. Notice of the Vote must be posted (20) days in advance. Voting shall be by secret ballot.

Section 3.05. Quorum

If a vote of General Council members is to occur at a General Council Meeting, said vote will not be valid or binding unless a minimum of twenty (20%) of the General Council is in attendance. All duly authorized decisions shall be by majority vote of the members of General Council present. The deemed percentage of the General Council shall be based upon the records of eligible voters according to the previous Council of Trustees General Election.

Section 3.06. Certification

The Election Committee of the Shinnecock Indian Nation will supervise all Tribal elections and votes, regular or Special pursuant to the Shinnecock Indian Nation Election Ordinance. The Election Committee Chair and the Council of Elders Chair will certify all elections and votes under the guidelines of the Shinnecock Nation Election Ordinance and Article X Section 1 & 2 of the Shinnecock Indian Nation Constitution. The initiative will immediately become Tribal Law upon certification.

Section 3.07. Amendments

Initiatives can be amended or repealed by the Council of Trustees or General Council through the Initiative or Referendum process laid out in these codes.

SECTION 4: COUNCIL OF TRUSTEES RESOLUTION

Section 4.01. Introducing a Council of Trustees Resolution

Any Trustee who has acquired at least one (1) co-sponsor from the Council of Trustees, may introduce a Council of Trustees' Resolution.

Section 4.02. Types of Council of Trustee Resolutions

Under Article VII Section 2 the Council of Trustees have the right to develop, implement, and enforce codes, ordinances, and statutes governing the conduct of all persons and activities within the boundaries of the Shinnecock Indian Territories. As such, the Council of Trustees shall exercise these rights through Resolutions. Resolutions can include but are not limited to enacting proposed ordinances, rules, regulations, codes, and issuing administrative action and or excising any other right delegated to the Council of Trustees under Article VII Section 1 & 2 of the Shinnecock Indian Nation Constitution.

Section 4.03. Meetings Requirement and Notification

Except as specifically authorized by the Council of Trustees, any proposed resolution shall be reviewed by the Council of Trustees at a work session prior to being placed on the agenda for a Trustees meeting. Any proposed Resolution must be discussed and vetted at three (3) Council of Trustees Meetings. Notification of a resolution vote must be posted five (5) days in advance of the vote. In the case of dire emergency the Council of Trustees may waive these meeting requirements by a unanimous vote of the Council. All meetings must adhere to the guidelines set forth in Article VII Section 3 of the Shinnecock Indian Nation Constitution.

Section 4.04. Quorum

At all meetings of the Council of Trustees, whether regular or special, in open or executive session, five (5) members shall constitute a quorum. All duly authorized decisions shall be by majority vote of the quorum present with a minimum of four (4) affirmative votes to pass a resolution.

Section 4.05. Certification

The Chairperson of the Council of Trustees and the Sachem will certify and sign all Council of Trustee Resolutions.

Section 4.06. Amendment

Resolutions can be amended or repealed by the Council of Trustees or by General Council through the Initiative, Referendum or Resolution process laid out in these codes.

SECTION 5: CONSTITUTIONAL AMENDMENTS

Section 5.01. Introducing a Constitutional amendment

Any member of the General Council can propose a Constitutional amendment by filing a Constitutional amendment petition signed by at least thirty (30%) of eligible voters of the General Council. Also, through the resolution process the Council of Trustees can propose a Constitutional Amendment.

Section 5.02. Meetings Requirement

Both petitioner and the Council of Trustees must present their Constitutional amendment at one (1) work session, three (3) Council of Trustees meetings, and three (3) General Council meetings before the amendment is voted on by the General Council. All meetings must adhere to the guidelines set forth in Article VI Section 3 of the Shinnecock Indian Nation Constitution.

Section 5.03. Petition Requirements

Petitions for a Constitutional amendment must be signed by at least thirty (30%) of eligible voters of the General Council. Such petitions must be filed with the Election Committee who will confer with the enrollment office and certify all petitions. All petitions for Constitutional amendments must clearly state the purpose and goal of the amendment. The petition must have clear language that states what the General Council member or members want amended. The language used in the petition will be the language used for the final vote. If a petitioner changes the language any time after the first signature, then that petition is invalid and will not be accepted.

Section 5.04. Notification and Vote protocol

Upon certification of a Constitutional amendment petition the Election Committee shall schedule an all-day (7am-7pm) vote no earlier than twenty (20) days and no longer than sixty (60) days after certification. Notice of the date, time, and purpose of the vote must be posted twenty (20) days in advance and shall set forth the amendment in full.

Section 5.05. Quorum

The proposed Constitutional amendment must garner thirty (30%) affirmative votes of the entire General Council for passage. (Article XVII of the Constitution of the Shinnecock Indian Nation).

Section 5.06. Certification

The Election Committee of the Shinnecock Indian Nation will supervise all Tribal elections and votes, regular or Special pursuant to the Shinnecock Indian Nation Election Ordinance. The Election Committee Chair and the Council of Elders Chair will certify all elections and votes under the guidelines of the Shinnecock Nation Election Ordinance and Article X Section 1 & 2 of the Shinnecock Indian Nation Constitution. The Constitutional amendment will become Tribal Law thirty (30) days after certification.

SHINNECOCK INDIAN NATION



ELECTION ORDINANCE

Adopted by General Council through Referendum

{08-13-2013}

Amended by General Council through Initiative on
(10-11-2014) and on (04-07-2015) by General Council
through Referendum

ELECTION ORDINANCE

SECTION 1. NAME

This document shall be known as the Shinnecock Nation Election Ordinance.

SECTION 2. PURPOSE

The Election Committee of the Shinnecock Nation is hereby authorized to be established for the purposes of conducting and supervising all Tribal elections, regular or special and in accordance with the mandates of this Ordinance, resolving election disputes as provided in this Ordinance, providing information and education to members of the Shinnecock Nation about the Tribal election process.

SECTION 3. ELECTION DATE AND LOCATION

Elections for the Council of Trustees of the Shinnecock Nation shall be administered by the election committee and will be held on the first Tuesday in April on a biennial basis. Elections will be held at the Shinnecock Community Center. Polls will be open from 7am to 7pm. Voting will take place from 7am to 7pm, followed by a general council (Tribe) meeting at 8:15pm, at which time the results will be announced. This date shall be waived for the first election of the Council of Trustees, which shall take place no more than 90 days after the appointment of the election committee.

SECTION 4. SPECIAL ELECTIONS

Votes taken for Initiatives, Referendums, Constitutional amendments and Recall shall be conducted by the election committee in accordance with Article X, Article XII and Article XIII of the Constitution of the Shinnecock Indian Nation.

SECTION 5. ELECTION ANNOUNCEMENT

The Election Committee shall prepare and post the official election announcement at each Tribal office, public building, church and in the Tribal Newsletter. An announcement will give the date, time, and place of election. The announcement will also include nomination procedures, time limits for election procedure and voting requirements. This announcement will be posted no less than sixty (60) days prior to the date of the elections.

SECTION 6. TRIBAL ELECTION COMMITTEE COMPOSITION

(A) The Election Committee shall consist of eight (8) Tribal members appointed by the Council of Trustees and approved by the General Council. An additional Three (3) tribal members will be selected as alternates. Alternates will be selected on a biennial basis. In order to ensure some continuity initial appointments shall be staggered with 4 members who will serve a 2 year term and 4 members who shall serve a 4 year term. Committee members will devise a

method on selecting which members serve the aforementioned terms. This appointment shall be conducted by the Tribal Council for the first election committee.

- (B) Public Notary Requirement. At least one committee member shall be a public notary. If no committee member is a public notary upon the election of the committee officers, at least one officer shall become a public notary within sixty (60) days of that election.
- (C) Minimum qualifications: a) Enrolled member in the Nation. b) Twenty-one years of age or older. (c) Willingness and ability to comply with the Ethical Duties of the committee members as defined in the advisory committee codes. (d) Willingness and ability to perform in compliance with the Constitution of the Shinnecock Indian Nation and statutes, the policies and directives of the Council of Trustees and other applicable law. (e) Having knowledge of, training in, or experience with the subject matter of the committee. (f) Having the time available to actively fulfill the duties of membership-at least eight hours per month, (g) Willingness with receiving orientation and training regarding the duties of the committee.
- (D) The Council of Trustees shall appoint a chairperson of the Election Committee from the Committee's own membership who will serve a two year term with recommendations from the Election Committee. Tribal Council shall conduct this appointment for the first Election Committee.
- (E) Any member of the Election Committee that declares candidacy for Tribal Trustee shall recuse himself or herself from all committee activity.
- (F) If a family member (brother, sister, mother, father, son, daughter, spouse, uncle, aunt, niece, nephew, grandmother or grandfather) of an Election Committee member files as a candidate, that Committee member shall recuse himself or herself from participating in actions that directly pertain to the candidate's petition, registration, biography vetting, and or any other action that would constitute a gross conflict of interest.
- (G) If a family Member (brother, sister, mother, father, son, daughter, spouse, uncle, aunt, niece, nephew, grandmother or grandfather) of an election committee member is directly involved in an initiative, referendum, or recall then that Committee member must recuse himself or herself from participating in any actions that directly pertain to the preparing, certifying, or researching for the initiative, referendum, or recall.
- (H) In the event of a vacancy on the Election Committee, the Council of Trustees may appoint a qualified replacement from a pool of alternates for the remainder of the appointment.

SECTION 7. ELECTION COMMITTEE DUTIES

It shall be the duty of the Election Committee to conduct all Tribal Elections and Votes. The Tribal Election Committee shall:

- (A) Confer with the enrollment office to monitor the roll of registered voters and certify the names and addresses of each.
- (B) Prepare nomination petition and make them available to the membership.
- (C) Certify, prepare, and post at each Tribal office a list of eligible nominated candidates within seven (7) days after the deadline for receiving petition.
- (D) Hear, investigate, and decide all disputes which arise (i.e., candidate & voter eligibility) in accordance with published rules.
- (E) Requisition election machines and ballots.
- (F) Assist in election site activities, voter check in, ballot placement, and placing of names in voting machine.
- (G) Counting of votes.
- (H) Certify the results of the Election to the Nation after all contests have been resolved. An external observer, Southampton Town Clerk shall witness, report and record Election results.
- (I) In the event of a tie vote, the Election Committee shall hold a runoff vote within a two-week period.
- (J) Retain the absentee ballots and other Election material securely for a period of ninety (90) days following the Election.
- (K) All Election Committee members shall refrain from making any public comment regarding the Election procedures unless authorized by the Election Committee. It shall be cause for removal from the Election Committee if any member violates this section.

SECTION 8: OATH OF OFFICE

All Committee members upon appointment before entering the duties of the committee shall take and subscribe to an official Oath of Office that will include the disclosure of conflicting interests, and commitment to act within their scope of authority without misrepresentation. The Council of Elders shall conduct such ceremonies.

SECTION 9: VOTER ELIGIBILITY

- (A) An enrolled member of the Shinnecock Nation.
- (B) Twenty-one (21) years of age or older at the date of the Election or Vote.
- (C) And who has resided on the Shinnecock Reservation for at least six (6) months prior to the date of election or vote as set forth by the Election Committee, with the exception of those in college or military service, whose **home of record**, place of primary residence, is the Shinnecock Reservation.
- (D) Registration for elections or vote will be held throughout the year.

SECTION 10. CANDIDATES FOR ELECTION

- (A) Any registered Tribal voter shall be eligible for election to the Council of Trustees.
- (B) No individual will be permitted to hold more than one elected office at a time.
- (C) No individual who has been removed from office, as a member of the Council of Trustees and/or Board of Trustees shall be eligible for election to office.
- (D) No individual shall be eligible for election to the Council of Trustees who has been convicted of a felony. Further, conviction of a felony shall constitute grounds for removal from office as a member of the Council of Trustees.

SECTION 11: NOMINATIONS

- (A) A candidate may be nominated to office by filing with the Election Committee a valid nomination petition. Nominating petitions must clearly state the full name and primary place of residence of the candidate.
- (B) All nomination petitions shall be on forms provided by the Election Committee for that purpose. With a nomination of 25 **registered** voters' signature. Registered voters may not sign more than seven (7) petitions. If voters sign more than seven (7) petitions, their names will be removed from **ALL** petitions.
- (C) Completed petitions must be submitted to the Election Committee at least thirty (30) days prior to Elections.
- (D) Nominated candidates will be contacted by Election Committee to accept or decline nomination.

SECTION 12: CAMPAIGNING

- (A) No campaigning shall take place in any of the Tribal offices or any Tribal enterprises.
- (B) Tribal employees shall not campaign during office hours.
- (C) One special edition of the Tribal Newsletter shall be devoted to the Tribal Elections fourteen (14) days in advance of Election Date. This publication shall include biographies, which are to be between 100 and 350 words, double-spaced in 12 point, Times New Roman font, not to exceed 1 page; and any disclosures required by the Election Board, of each candidate for Tribal Trustee.
- (D) A date, time and place will be set for a "Meet the Candidates" forum.

SECTION 13: ABSENTEE BALLOT

- (A) A voter should contact the Election Committee for an Absentee Ballot within 20 days prior to Election.
- (B) The Election Committee will take a ballot in a specially marked envelope to Elders, shut-ins, and those who are medically unable to come out to the polling station and that have made a prior request.
- (C) The voter will mark the ballot, put it in the envelope, seal it, print and sign his/her name on the seal and return the ballot to the Election Committee.
- (D) The Election Committee will also initial ballot as a witness, and then bring the sealed envelope to the Election proceedings.
- (E) In the case of Tribal members in the military living away from Reservation or enrolled in college, an absentee ballot will be mailed upon request. All absentee ballots being returned to Tribe must be signed, notarized and returned to Tribe Office one day prior to Tribal Election or Vote.
- (F) All absentee ballot envelopes will be opened upon the final vote tally during Elections.

SECTION 14: AMMENDMENTS

This ordinance can be amended by the Nation through the initiative or referendum process under the Constitution of the Shinnecock Indian Nation.

1. On October 11th, 2014 the General Council approved an initiative to amend Section 10 paragraph (D). Section 10 paragraph (D) is hereby amended to state “**No individual shall be eligible for election to the Council of Trustees who has been released from incarceration due to a felony conviction within five (5) years prior to the date of elections, who is on active parole or probation, and who is a registered sex offender. Further, conviction of a felony shall constitute grounds for removal from office as a member of the Council of Trustees.**”
2. On April 7th, 2015 the General Council approved a Referendum to amend Section 3 to allow for staggered terms. **Trustee Elections will be held on an annual basis and Officers of the Council of Trustees shall serve 2 year staggered terms. Three seats shall become vacant one year, and four seats shall become vacant the following year.**

SHINNECOCK INDIAN NATION



ENROLLMENT ORDINANCE Adopted by General Council through Referendum 04-08-2014

Findings

The citizenry of the Shinnecock Indian Nation find as follows:

- (A) The Shinnecock Indian Nation exists as a political sovereign from time immemorial.
- (B) The citizenry of the Nation has the inherent sovereign power to make laws governing Citizenship and to enact an ordinance setting forth procedures and substantive requirements for enrollment in the Nation.
- (C) The citizenry of the Nation deem it essential to define and regulate enrollment and Citizenship in the Nation in accordance with the Constitution of the Shinnecock Indian Nation and the traditions and customs of the Nation.

ENROLLMENT ORDINANCE

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ENROLLMENT ORDINANCE

Section 1. TITLE

This Ordinance shall be known as the Enrollment Ordinance.

Section 2. AUTHORITY AND PURPOSE

- (A) The authority for this Ordinance is the Nation's inherent sovereignty.
- (B) The purpose of this Ordinance is to define, regulate, and establish fair and uniform enrollment procedures and substantive requirements for enrollment and citizenship in the Nation.

Section 3. DEFINITIONS.

(A) Unless context requires otherwise, the following terms shall be defined as indicated:

1. "Adoption" means a legal proceeding that creates a parent-child relationship between a child and adult.
2. "Applicant" means a person seeking to be enrolled as a citizen of the Nation pursuant to this Ordinance.
3. "Appointment Panel" means the Panel established by the Council of Trustees, which is empowered under this Ordinance to establish the Enrollment Board according to its own procedure, and composed of two (2) enrolled elders, three (3) members of the Council of Trustees, two (2) enrolled members who are least 21 years of age, but not elders, and physically reside on the Shinnecock Indian Nation territory in Suffolk County, New York.
4. "Child" means a person under the age of 21.
5. "Citizen" means an individual who meets the requirements in Sections 5 and 6 of this Ordinance and is enrolled under this Ordinance.
6. "Disenrollment" means an affirmative action by the Enrollment Board to disenroll a citizen of his or her right to citizenship in the Nation.
7. "Elder" means an enrolled citizen of the Nation who is 55 years of age or older.
8. "Enrollment Board" or "Board" means the Board established under section 10 of this Ordinance..

9. "Family Member" means a mother, father, son, daughter, sister, brother, grandparent, aunt, uncle, first cousin or second cousin, sharing a biological relationship.
10. "Indian Tribe" means any Indian Tribe, Band, Nation, or Community, including any Alaskan Native Village, or regional or village Corporation which is recognized by the United States or a State.
11. "Nation" means the Shinnecock Indian Nation.
12. "Near" means residence or domiciled within thirty (30) miles of the Shinnecock Indian Nation Reservation, New York, at Shinnecock neck adjacent to the village of Southampton.
13. "Paternity" means the quality or state of being a biological father.
14. "Relinquishment" means an enrolled citizen who voluntarily relinquishes his or her citizenship in the Nation.
15. "Wed" means legally married.
16. "Trustees" mean the collective body of the Council of Trustees.

Section 4. CITIZENSHIP RIGHTS.

Citizenship in the Nation shall not automatically establish eligibility or an entitlement to participate in certain of the Nation's rights, privileges, benefits, programs or services, all or some of which may be conditioned by the laws or customary or traditional practices of the Nation, whether written or oral.

Section 5. CITIZENSHIP.

The citizens of the Nation on the effective date of this Ordinance shall be:

(A) Enrolled Citizens.

Those persons whose names appear on the roll of enrolled citizens of the Shinnecock Indian Nation as of the date of enactment of this Ordinance.

(B) Child Born to Citizen Listed in Petition.

Upon the effective date of this Ordinance, a child of an enrolled citizen of the Nation listed in Section 6(a) shall be approved for citizenship by the Council of Trustees with the advice and consent of the Nation's Enrollment Board. Such approval is conditioned upon, the enrolled citizen following a registration process for enrollment as established by the Board; further provided, such child's biological mother is an enrolled citizen, or the biological father is an enrolled citizen and is wed, or weds the child's mother after the child's birth or had been wed to the non-Shinnecock mother, with his name appearing on the child's birth certificate.

Section 6. REQUIREMENTS FOR ENROLLMENT AND CITIZENSHIP.

An applicant shall meet the following descendency and social and family contacts requirements for enrollment and citizenship.

- (A) The applicant proves by verifiable documentary evidence that he or she is a direct lineal descendant:
 - 1. From a Shinnecock who is listed on the 1900 Federal Census, Schedule No. 1, Indian population, New York State, Suffolk County, Southampton Township, Supervisor's District No. 2, Enumeration District No. 785 (see Appendix A);
 - 2. From a Shinnecock who is listed on the 1910 Federal New York State Census, Indian Population, Suffolk County, Southampton Township, Shinnecock Indian Reservation, Supervisor's District No. 2, Enumeration District No. 1319
 - 3. From Cora Mae Hunter or Benjamin Harrison Hunter (see Appendix C).
- (B) The applicant proves his or her biological mother is Shinnecock, or biological father is Shinnecock, as established by DNA testing in accordance with Section 14, and the father is wed, or weds the child's mother after the child's birth, or had been wed to his or her non-Shinnecock mother; and
- (C) The applicant demonstrates at a minimum according to a verification process established by the Enrollment Board:
 - 1. Tribal community involvement, prior to the submission of the application for citizenship, by verified attendance at a minimum of a combination of three of the four following events at the required numbers.
 - (a) One annual Shinnecock tribal Thanksgiving dinner within the last five years;
 - (b) Three annual Shinnecock Tribal Socials or pow-wows within the last five years
 - (c) Two June meetings within the last five years;
 - (d) A funeral(s) of an enrolled Shinnecock tribal member(s); and
 - 2. Family involvement prior to the submission of the application for citizenship by meeting the following requirements:
 - (a) Submitting a petition for enrollment by ten enrolled family members, including enrolled tribal elders; and

- (b) Showing proven social contact with enrolled family members who reside on the Shinnecock Indian Nation Reservation, New York, at Shinnecock neck adjacent to the village of Southampton, by such means including, but not limited to, phone records, letters, photos of family and holiday gatherings; and
- 3. Demonstrating knowledge of Tribal history and culture; and
- 4. The applicant has lived on or near the Shinnecock Indian Nation Reservation, New York, at Shinnecock neck adjacent to the village of Southampton, or has had family Members actively involved in tribal community affairs who have lived on or near the Shinnecock Indian Reservation for at least the preceding forty (40) years.

SECTION 7. ENROLLMENT BOARD INTERVIEW

The Enrollment Board in its discretion may conduct a verbal and/or written interview with an applicant to verify if the applicant, who hereby consents to such interview, has met the requirements in Section 6 of this Ordinance and to further question the applicant on his or her genealogy and social contact with enrolled family members and the Nation's community, especially the community that resides on the Shinnecock Indian Nation Territory. The applicant consents to such interview, the nature of which is broad in scope given the consequences of the decision. Thus, the scope of questioning shall be at the discretion of the Enrollment Board and shall be answered to the satisfaction of the Committee and the failure to answer for whatever reason to the satisfaction of the Committee shall be grounds to reject the application.

SECTION 8. DUAL ENROLLMENT.

(A) Dual Citizenship Permitted.

A citizen of the Nation may be enrolled in another federal or state recognized Indian tribe; however, such citizen shall not be entitled to hold elective or appointive office or official governmental representative status for the Nation while simultaneously holding or campaigning for elective or appointive office or official governmental representative status of another federal or state recognized Indian tribe; and such member shall be ineligible to receive benefits or services provided by the Nation, in accordance with the Nation's law, if such citizen already receives such benefits or services from another federal or state recognized Indian tribe.

(B) Enrolled Citizen Obligated to Notify.

A dual-enrolled citizen of the Nation shall notify in writing the Nation's Enrollment and Vital Records Office of such dual enrollment. The failure of an enrolled to submit such notification shall cause such citizen to be immediately suspended from the membership roll. That person shall not be entitled to any rights, privileges, benefits, programs or services based on citizenship in the Nation, until such time, if at all, the person submits any documents required by the Enrollment Board to lift the suspension.

(C) Applicant Obligated to Disclose.

An applicant for citizenship in the Nation shall declare whether such person is enrolled in another federal or state recognized Indian tribe. The failure of an applicant to declare enrollment in another federal or state recognized Indian tribe shall cause such person's application to be rejected. If such application is approved, nonetheless, such member shall be subject to Section 6(C).

SECTION 9. ADOPTION.

No person shall be eligible to be a citizen of the Nation, unless such adoptee meets the criteria for citizenship in Section 6.

SECTION 10. ENROLLMENT BOARD.

(A) Establishment; Composition; Staggered Terms; Resignation, Removal and Vacancies; Ineligibility and Forfeiture of Term.

1. Establishment and Composition.

Within sixty days of the effective date of this Ordinance, an Enrollment Board composed of five enrolled citizens, two of whom shall be elders of the Nation, shall be appointed by the Appointment Panel for staggered terms of three years by a secret ballot and majority vote by the citizens of the Nation present at a meeting called for the purpose of making such appointments.

2. Staggered Terms.

The initial term of each Board member first appointed shall be randomly assigned with three Board members serving three years and two Board members serving two years.

3. Resignation, Removal and Vacancies.

(i) Resignation.

A Board member may resign at any time by giving written notice to the Board and such resignation shall be effective on the date specified in the notice.

(ii) Removal.

A Board member may be removed from office by majority vote of the members of the Appointment Panel present at a meeting called for the purpose of considering such removal. Cause for removal shall consist of

malfeasance, misfeasance or non-feasance of office, gross neglect of duty, misconduct reflecting on the dignity and integrity of the Nation, or an irresolvable conflict of interest. In addition, any Board member who is absent without excuse and approval from three (3) consecutive meetings of the Board, whether such meetings be regular meetings, special meetings, or a combination thereof, shall be automatically removed and such seat shall be declared vacant. A Board member selected for removal for cause by the Board shall be informed in writing of the specific grounds for removal and shall be given a reasonable opportunity to respond in person before a decision to remove is made.

(iii) Vacancies.

Whenever any vacancy shall occur on the Board by death, resignation or removal, the same shall be filled without undue delay by the Appointment Panel. Such appointment shall be made within sixty (60) days after the occurrence of such vacancy, unless the remaining vacant term is less than sixty (60) days whereupon the vacancy shall be filled as scheduled.

4. Ineligibility.

Any person who holds any elective or appointive Nation office or is a candidate for such office shall be ineligible to serve on the Enrollment Board.

5. Forfeiture of Term.

Any member of the Enrollment Board who is elected or appointed to a Nation office shall automatically forfeit the remainder of his or her term of office on the Enrollment Board.

(B) Duties.

The Enrollment Board shall be responsible for enforcing the Nation's enrollment laws. The duties of the Enrollment Board shall include, but not be limited to, the following:

1. Maintaining the Nation's citizenship roll, including handling disenrollment's; and
2. Reviewing and approving or rejecting applications for enrollment into the Nation.
3. Establishing rules to present the prospective enrollee at a Tribe meeting.
4. Establish rules to determine when and if the citizenship roll shall be opened and closed, and how many applications shall be considered for any given time the roll is opened.
5. Establishing rules to determine when and if a moratorium shall be placed or lifted on the taking of applications.

6. Handling all matters necessary to carry out such duties and purpose of this Ordinance.

(C) Issuance of Policies, Procedures and Regulations.

The Enrollment Board may issue and publish such policies, procedures and regulations as may be necessary to carry out their duties and to implement this Ordinance.

SECTION 11. AUTOMATIC FORFEITURE OF CITIZENSHIP.

A member shall be deemed to have automatically forfeited citizenship in the Nation along with all rights, privileges, and benefits to which members are entitled by virtue of their membership upon a final finding that membership in the Nation was obtained by fraud or mistake.

SECTION 12. DISENROLLMENT BY ENROLLMENT BOARD.

(A) Initiation of Proceeding.

1. The Enrollment Board of the Nation may initiate a Disenrollment Proceeding on the eligibility of any Member. The Enrollment Board may initiate such proceeding upon receipt of written evidence from the Tribal Enrollment and Vital Records Office challenging the membership eligibility (as defined in section 6) of any Member

2. The challenge in subsection (a)1 is to be in writing citing specific allegations for disenrollment of a Member and attaching all documentation supporting or going against the allegation.

(B) Notice of Disenrollment Proceedings.

1. If there is a majority agreement among the members of the Board to proceed, the Enrollment Board shall have written notice of the charges sent by certified mail, return receipt requested, to the Member who has been charged. The notice shall specify in detail the grounds for initiating such disenrollment proceeding, shall explain the disenrollment procedures and shall inform the Member of his or her right to a hearing before the Enrollment Board.

2. In the event that the "Notice of Disenrollment Proceeding" is returned undeliverable by the United States Post Office, the Enrollment Board shall publish for sixty (60) days the "Notice of Disenrollment Proceeding" in the local newspaper in the county of the last known address of the Member against whom a disenrollment proceeding has been initiated. At the expiration of sixty (60) days from the date such notice first appears in the local newspaper, the Member shall be deemed to have been served with the "Notice of Disenrollment."

(C) Scheduled Disenrollment Hearing.

1. Included in the notice required by Section 12(b) shall be a copy of the challenge

described in Section 12(b)1, and a date set for a hearing before the Enrollment Board to consider the matter with the date being not less than twenty (20) days from receipt of the notice.

2. The Enrollment Board may reschedule a hearing upon a showing that circumstances exist which require an extension of time. A request for extension of time shall be made directly to the Enrollment Board. The Board shall respond in writing to the request for extension of time within three (3) days of receipt of the request.

3. Failure of a Member to appear at a duly scheduled hearing shall be deemed to be a waiver of the right of personal appearance and the Enrollment Board shall conduct the hearing and issue a final decision based on the record and evidence properly presented.

(D) Conduct of Disenrollment Hearing

1. Any Member subject to a disenrollment proceeding, who has filed a written response to the "Notice of Disenrollment Proceedings" with the Enrollment Board, shall have the right to be represented by counsel at his or her own expense at all stages of the proceeding, the right to inspect and copy all documents which purportedly support disenrollment, the right to inspect and copy all documents in the member's application file, the right to cross-examine all adverse witnesses, the right to present testimony and documentary evidence on his own behalf, the right to adequate notice of all proceedings, and the right to a written decision in which the facts relied upon and the conclusions made by the Enrollment Board are given. All disenrollment proceedings shall be conducted as closed hearings in Executive Session (unless an appeal is made under Section F).

2. The Enrollment Board shall consider any matter or information relevant and Material to the circumstances alleged to be grounds for disenrollment.

3. The burden of proof for disenrollment of a Member is upon the Enrollment Board and they must find by clear and convincing evidence that there are grounds for disenrollment.

(E) Decision of Enrollment Board.

1. The Enrollment Board shall express its final determination of eligibility as a Member by a unanimous order of five votes. The order shall explain the basis for the Board decision, date of birth of the Member, the membership requirements either not established or established, how notice of the hearing was given, date of receipt of notice of hearing, and whether the Member was present at the hearing.

2. The Member shall be notified of the Board order by certified mail, return receipt requested.

3. The decision of the Board in any disenrollment proceeding shall be final, unless an appeal is made under Section F.

4. If the Committee orders disenrollment, and the applicant does not appeal or appeal is unsuccessful, the Tribal Enrollment and Vital Records Office shall strike the name of such person from the membership roll of the Nation. Any such person who has been disenrolled shall be prohibited from thereafter seeking enrollment in the Nation. Such person who is disenrolled shall have no further association with the Nation and loses all right, title and interest which that person, has, if any, in property or assets of the Nation, and all rights and privileges, if any, derived from membership in the Nation.

(F) Appeal to Tribal Membership.

1. Any person who has been disenrolled by order of the Enrollment Board shall have the right to appeal to the membership of the Nation at a General Council Meeting duly called for the purpose of the appeal.

2. The disenrolled member shall have the right to appeal the decision within thirty (30) days to the membership by filing a notice of appeal with the Chairperson of the Council of Trustees and Chairperson of the Enrollment Board. The Chairperson shall thereafter, but no later than 30 days after receiving the notice of appeal, schedule a General Council Meeting for the sole purpose of considering the appeal. The disenrolled member shall also file a Statement of Reasons with the Notice of Appeal. Such Statement shall be prominently posted in the Tribal Office for members to consider prior to the General Council Meeting.

3. The burden of proof at the appeal process is on the disenrolled member.

4. The sole purpose of the appeals process will be to determine if the decision to disenroll the person is supported by clear and convincing evidence based on the evidence considered by the Enrollment Board. The membership shall only overrule the disenrollment if the evidence cannot reasonably be considered to support the action of the Enrollment Board. The membership will not consider additional or supplemental documentation or evidence.

5. If the membership upholds the decision of the Enrollment Board to disenroll the member, the Tribal Enrollment and Vital Records Office shall strike the name of such person from the membership roll of the Nation. Any such person who has been disenrolled shall be prohibited from thereafter seeking enrollment in the Nation. Such person who is disenrolled shall have no further association with the Nation and loses all right, title and interest which that person has, if any, in property or assets of the Nation, and all rights and privileges, if any, derived from membership in the Nation.

6. If the membership overrules the order of the Enrollment Board to disenroll the person, the Tribal Enrollment and Vital Records Office shall keep the name of such person on the membership roll of the Nation and such person shall continue to enjoy full privileges of membership in the Nation.

7. If no appeal is timely filed, the order of the Enrollment Board shall be final and non-appealable.

SSECTION 13. RELINQUISHMENT OF ENROLLMENT.

A member of the Nation may relinquish citizenship in the Nation as well as the membership of their minor/dependent children. Any minor whose citizenship is relinquished by a parent or legal guardian shall have the right to petition the Enrollment Board for automatic reinstatement of citizenship upon reaching the age of 21; provided that such person petitions within one year from the day that person reaches the age of 21. If such person fails to petition for automatic reinstatement, such person may apply for membership under Section 7 of this Ordinance.

SECTION 14. DETERMINING PATERNITY.

(A) Methods to Establish Paternity.

Paternity for enrollment purposes shall be established only as follows; genetic testing (DNA testing) by a qualified testing company approved by the Enrollment Board, as set forth in subsection (b) of this Section, and at the sole cost of the applicant or in the case of a child by his or her legal guardian.

(B) DNA Testing.

It is the policy of the Nation to require genetic testing (DNA testing) only as part of an application for citizenship and only:

1. As required under Section 7 of this Ordinance, or
2. If the natural father's name does not appear on the child's birth certificate, or
3. if, upon investigation of the Enrollment Board, there is probable cause to believe that a birth certificate has been altered to reflect an incorrect father's name or other evidence of fraud in connection with paternity.

(C) Establishment of Paternity.

Establishment of paternity shall in no way constitute automatic entitlement to enrollment in the Shinnecock Indian Nation. It shall only be used to establish Shinnecock Indian ancestry, which is one factor considered in the application process.

SECTION 15. REPEALER.

All ordinances or parts of ordinances inconsistent with this Ordinance are hereby Repealed.

SECTION 16. SEVERABILITY.

If any section, subsection, paragraph, sentence, or other portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed to be a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 17. EFFECTIVE DATE.

This Ordinance shall take immediate effect and be enforced from and after its passage and publication in accordance with the Constitution of the Shinnecock Indian Nation.

SECTION 18. AMENDMENTS

This Ordinance can be amended by the Council of Trustees or by General Council through the Initiative or Referendum process laid out in the Legislative Procedure code.

SHINNECOCK INDIAN NATION



TOBACCO ORDINANCE

**Adopted by General Council through
Referendum on September 13th, 2014**

Findings

The Shinnecock Indian Nation (“Nation”) hereby finds and declares that:

- (a) In order to promote the health, education, and general welfare of the members of the Nation it is necessary for the Nation to promulgate and enforce tribal resolutions, ordinances, and laws as needed, including ordinances governing tribal economic development, ordinances which levy taxes and fees, and ordinances which provide for the licensing of businesses within the Nation’s jurisdiction.

TOBACCO ORDINANCE

SECTION 1. PURPOSE

(1.) The purpose of this Ordinance is to achieve the following objectives:

1. To protect and preserve the health, safety and general welfare of the territory and its members;
2. To regulate and license the manufacture, distribution, wholesale, and retail sale of all tobacco products including native and non-native brands, electronic cigars and cigarettes, and any other nicotine delivery systems;
3. To generate revenue for the tribal government through sales and taxation of tobacco products;
4. To create Tobacco regulations adequate to shield the Nation from corrupting influences and illegal transactions.
5. To secure tribal social and economic development while ensuring a tribal revenue stream to be used for tribal government purposes, including services and programs; and

SECTION 2. DEFINITIONS

(A) Unless context requires otherwise, the following terms shall be defined as indicated:

1. **“Cigar”** means a tobacco product which is any roll of tobacco wrapped in leaf tobacco or any substance containing tobacco (other than any roll of tobacco which is a “cigarette” within the meaning of this section) or,

(a). Electronic Cigars

2. **“Cigarette”** means a product that –

(a) Is a tobacco product, and

(b) Is any roll of tobacco wrapped in paper or in any substance not containing tobacco; and

(c) Includes tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette or as roll-your-own tobacco.

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3. **“Consumer”** means any person who receives or comes into possession of tobacco products for the purpose of consuming or otherwise disposing of them in any way except by an exchange of value.
 4. **“Dispute Resolution Committee”** means the committee appointed by the COT and confirmed by the General Council to hear and rule on appeals.
 5. **“Distributor”** means any person who furthers the distribution of a tobacco product in large quantities, at any point from the original place of manufacture to another distributor, or the retailer. Common carriers that are paid solely to deliver product from one location to another location, are not considered distributors for purposes of this Ordinance.
 6. **“Manufacturer”** means any person, including any re-packer or re-labeler, who:
 - (a) Manufactures, fabricates, assembles, processes, or labels a tobacco product; or
 - (b) Imports a finished tobacco product for sale or distribution into the United States.
 7. **“Nation”** means the Shinnecock Indian Nation.
 8. **“Office of Tribal Tobacco Products”** means the regulatory body appointed by the Council of Trustees and confirmed by the General Council to regulate tobacco sales, including tribal taxation and stamping of tobacco products sold on the reservation.
 9. **“Person”** means any natural person, regardless of Tribal membership status in the Nation, or any corporation, firm, partnership, joint venture, association, or other business entity, whether private or governmental.
 10. **“Reservation”** means all lands lying within the exterior boundaries of the Shinnecock Indian Territory, including any lands, which may hereafter be added to the Shinnecock Indian Territory by any means.
 11. **“Retailer”** means any person who is licensed by the Nation to sell tobacco products on the Reservation to individuals for personal consumption, or operates a facility where self-service displays of tobacco products are permitted.
 12. **“Roll-your-own tobacco”** means any tobacco product which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes
 13. **“Smokeless tobacco”** means any tobacco product that consists of cut, ground, powdered, or leaf tobacco and that is intended to be place in the oral or nasal cavity.

14. **“Tobacco Fund”** or **“Fund”** means the Shinnecock Tobacco Fund established by this Ordinance.

15. **“Tobacco Operator”** shall mean any retailer licensed by the Office of Tobacco Products to operate a tobacco outlet on the Reservation. Also shall mean any manufacturer, or wholesaler who provides tobacco products to the Shinnecock Nation.

16. **“Tobacco product”** means any product made or derived from tobacco, including cigarettes, cigarette tobacco, cigars, smoking tobacco suitable for pipes, roll-your-own tobacco, smokeless tobacco, and paraphernalia designed for the smoking or ingestion of tobacco.

17. **“Council of Trustees”** means the governing body of the Shinnecock Indian Nation, established by Article VII of the Shinnecock Indian Nations' Constitution adopted on 2013.

18. **“Tribal Court”** means a judicial or administrative tribunal established or authorized by the Nation to hear and resolve legal disputes associated with this ordinance.

19. **“Trustee”** means individual member of the Council of Trustees.

20. **“Wholesaler”** means any person organized and existing or doing business primarily to sell tobacco products at a discounted rate.

SECTION 3. AUTHORIZATION OF THE COUNCIL OF TRUSTEES

(1.) The authority for this Ordinance is found in the Constitution of the Shinnecock Nation under ARTICLE VII Section 2 (d).

The Council of Trustees shall have the following powers and duties:

- (A) To establish, publish and enforce rules and regulations implementing this Ordinance
- (B) To bring suit to enforce this Ordinance as necessary; except that the Sovereign Immunity of the Nation shall not be waived except in accordance with Nation law.
- (C) To exercise such other powers as is necessary and appropriate to fulfill the purposes of this Ordinance except that the sovereign immunity of the Nation shall not be waived except in accordance with Nation law.
- (D) To establish an Office of Tribal Tobacco Products with the following powers:
 - 1. To issue licenses permitting the sale of tobacco products to all manufacturers, distributors, and retailers selling tobacco products within the Reservation or Shinnecock territories.

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2. To hold hearings on violations of this Ordinance or for the issuance or revocation of licenses hereunder;
 3. To determine penalties for violations of this Ordinance;
 4. To collect fees levied or set in relation to this Ordinance:
 5. Will ensure that all tobacco products sold within the exterior boundaries of the Shinnecock Nation Territory are manufactured in compliance with applicable law.
 6. To decide appeals consistent with Section 10 of this Ordinance.

SECTION 4. TOBACCO WHOLESALERS; MANUFACTURERS; SALES; LICENSING; TRIBAL PREFERENCE

- (A) Only tobacco products manufactured in compliance with applicable law shall be permissible for sale within the exterior boundaries of the Reservation.
- (B) Tobacco products manufactured by an Indian tribe or nation, or by an Indian-owned manufacturer authorized by an Indian tribe or nation, within such Indian tribe or nation's territory (Native-made products), shall be permissible for sale within the exterior boundaries of the Reservation upon issuance of a license to the manufacture by the Shinnecock Nation.
- (C) The Nation may issue a Tobacco Sellers License to any qualified applicant for retail and wholesale only. Any person that shall engage in the sale of tobacco products on the Reservation shall obtain a license for such sales, provided that any outlet engaging in such sales prior to the adoption of this Ordinance shall obtain a license within sixty (60) days from the date of its adoption by the Council of Trustees.
- (D) Only entities wholly owned by the Nation will be authorized to manufacture, and distribute tobacco product on the Reservation.

SECTION 5. OVERSIGHT BY THE OFFICE OF TRIBAL TOBACCO PRODUCTS

- (A) All entities selling tobacco products are required to be licensed by the Nation's Office of Tribal Tobacco Products, including but not limited to any Manufacturer, Distributor, or Retailer operating within the exterior boundaries of the Reservation or selling to any tribally owned entity authorized to purchase and resell tobacco products within the reservation.
- (B) All licensed entities shall adhere to the Nation's Laws and be regulated by the Office of Tribal Tobacco Products.

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- (C) The Office of Tribal Tobacco Products shall promulgate regulations setting forth the criteria that must be met in order for a tribally owned entity to qualify as a Tribal Instrumentality for the purposes of engaging in manufacturing, distributing, or retail sales of tobacco products on the Reservation. Tribal Instrumentalities shall be licensed in accordance with this Ordinance and regulations promulgated pursuant to this Ordinance and Nation law.
 - (D) The Office of Tribal Tobacco Products shall promulgate regulations setting forth criteria that must be met in order for an individual to qualify for issuance of a license to engage in or continue in retail or wholesale of cigarettes on the reservation. All currently operating retailers shall come into compliance with such requirements purposes before issuance of a license. Only licensed entities shall be allowed to engage in the sale of tobacco products on the reservation.
 - (E) All licensed distributors and/or manufactures shall provide the Office of Tribal Tobacco Products with accurate velocity reports. Failure to produce an accurate velocity report will result in a suspension of the Manufacturers, Wholesalers, Distributors or Retailer's tobacco license.

SECTION 6. TOBACCO REGULATION

- (A) The Office of Tribal Tobacco Products shall adopt regulations regarding licensing and operation of Manufacturers, Distributors, and Retailers. Before going into effect the Council of Trustees and the General Council must approve all regulations adopted by the Office of Tribal Tobacco Products through referendum.
- (B) The regulations may include, but need not be limited to, rules concerning the following:
 1. Licensing of Manufacturers, Wholesalers, Distributors, and Retailers;
 2. Minimum age requirements;
 3. Requirements for verification of consumers' age in face-to-face and remote sales;
 4. Stamping, labeling, packaging, and transportation of tobacco products;
 5. Sale, distribution, possession, exposure to, access to, advertising and promotion of, or use of tobacco products by individuals of any age;
 6. Information reporting to the Nation;
 7. Measures relating to fire safety standards for tobacco products;
 8. Taxation of tobacco products; and

9. Penalties for violations.

SECTION 7. TOBACCO STAMPS

The Nation will stamp all cigarettes that come into the reservation. The Nation authorizes the issuance of Tobacco Stamps, which will be affixed to tobacco product packages offered for sale on the Reservation as evidence of the deposit of applicable funds into the Tobacco Fund created pursuant to section 8 of this ordinance.

SECTION 8. TOBACCO FUND

- (A) There is hereby established a fund to be called the Shinnecock Tobacco Fund (“Tobacco Fund”), which shall be separate from all other tribal funds and revenues.
- (B) Licensees under this Ordinance shall pay to the Nation a Tribal Tobacco tax of an amount to be determined by the Nation. Each holder of a Tobacco Sellers License must have their distributor submit a quarterly velocity report within ten days of the end of the calendar quarter. The report must be accompanied by payment of the total amount of excise Tribal Tobacco tax due.
- (C) The Nation shall deposit into the Tobacco Fund all revenues from the tax imposed by subdivision (b) of this section, and from any fees, fines, or other payments collected from licensees, license applicants, or unlicensed persons pursuant to this Ordinance.
- (D) The Nation shall utilize the revenues deposited in the Fund to benefit the health, education and general welfare of the Nation and its members, and cover costs for regulation of the manufacture and sale of tobacco products on the Reservation.
- (E) The Council of Trustees shall present projected revenue from the Fund in the annual yearly projected budget and actual revenue in the annual yearly budget report to the Nation.

SECTION 9. PENALTIES AND ENFORCEMENT

(A) The Office of tribal Tobacco Products, upon presentation of an affidavit or other evidence showing probable cause to believe that any person is in violation of this Ordinance may do any of the following or combination of the following:

1. Assess a civil penalty

- (a) In an amount not to exceed \$10,000.00 for each violation, against any person who engages in the business of selling or distributing tobacco products on the Reservation in violation of this Ordinance or any regulation enacted pursuant to Section 7 of this Ordinance;

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1. Revoke or withhold a Tobacco Licensee's Tobacco License upon the assessment of two or more penalties listed in subsection (1)(A) above;
 2. Seek enforcement of this Ordinance in a Court of competent jurisdiction.
 3. Order such other relief, as the Office of Tribal Tobacco Products deems appropriate and consistent with this Ordinance and Nation law.

SECTION 10. LICENSEE RIGHTS AND RESPONSIBILITIES

- (A) All licensed Tobacco operators will have the responsibility of complying with this Ordinance, all regulations adopted pursuant to this Ordinance, and any other rules, policies or procedures that the Council of Trustees and/or the Office of Tribal Tobacco Products adopt consistent with this Ordinance and Nation law.
- (B) Any licensed Tobacco operator who has received an infraction or penalty from the Office of Tribal Tobacco Products shall have the right to request an appeal hearing before the Dispute Resolution Committee (DRC) so long as the appeal-hearing request is received by the DRC's secretary within fifteen (15) days of the assessment of the penalty. Upon adequate notice to the DRC, an appeal hearing shall be held by the DRC at which time such person shall be given an opportunity to present evidence in defense of his or her activities.
1. If the Dispute Resolution Committee determines by a preponderance of the evidence that such person was in violation of this Ordinance or a regulation, the Dispute Resolution Committee may uphold the prescribed penalty.
 2. If the Dispute Resolution Committee determines by a preponderance of the evidence that such person was not in violation of this Ordinance or any regulations then the Council may vacate the penalty.

SECTION 11. INAPPLICABILITY TO TRADITIONAL AND CULTURAL FUNCTIONS

None of the provisions or restrictions in this Ordinance shall apply to tobacco products intended for use in any traditional or cultural ceremonies, customs, or for any Official functions of the Nation.

SECTION 12. TRIBAL IMMUNITY; LIABILITY

- (A) Adoption of this Ordinance in no way should be interpreted as a waiver of the Nation's sovereign immunity. (B) The Nation, by issuing a license, shall not become liable for the acts or omissions of any licensee.

SECTION 13. SEVERABILITY

If any provision of this Ordinance, regulations or procedures promulgated pursuant to this Ordinance (or pursuant to amendments to this Ordinance), or the application of any such provision of this Ordinance is held to be invalid, the remainder of this Ordinance, such amendments and such regulations, and the application of such provisions to any other person or circumstance shall not be affected and shall continue to be enforced to the fullest extent possible.

SECTION 14. PRIOR ACTS; ORDINANCES

All prior acts, ordinances and laws, or parts thereof, which are inconsistent with this Ordinance, are hereby repealed.

SECTION 15. AMENDMENTS

The Council of Trustees and/or the General Council can amend this ordinance through the Initiative and Referendum process laid out in the Legislative Procedure code.

SHINNECOCK INDIAN NATION



TOBACCO CODE

Adopted by General Council through
Referendum on Saturday December 13th,
2014

Section 1.1: Findings

The Shinnecock Indian Nation (“Nation”) hereby finds and declares that:

- A. In order to promote the health, safety, and general welfare of the members of the Nation it is necessary for the Nation to promulgate and enforce Tribal resolutions, ordinances, and laws as needed, including codes governing Tribal economic development, codes which levy taxes and fees, and codes which provide for the licensing of businesses within the Nation’s jurisdiction.
- B. Further, the Office of Tribal Tobacco Products has the power to:
 - 1. Issue licenses permitting the sale of tobacco products to all manufacturers, distributors, and retailers selling tobacco products within the existing or future Shinnecock territories; and
 - 2. Hold hearings on violations of this code or the Shinnecock Indian Nation Tobacco Ordinance or for the issuance or revocation of licenses hereunder; and
 - 3. Determine penalties for violation of this code or the Shinnecock Indian Nation Tobacco Ordinance; and
 - 4. To collect fees levied or set in relation to this code or the Shinnecock Indian Nation Tobacco Ordinance; and
 - 5. Ensure that all tobacco products sold within exterior boundaries of the Shinnecock Nation Territory are manufactured in compliance with applicable law.

Section 2.1: Authority and Purpose

- A. Articles II and III of the Shinnecock Nation Constitution give the Nation full sovereign authority over all activities occurring on the Nation’s territory.
- B. The authority for this resolution is found in Section 3. of the Tobacco Ordinance voted on by the General Council and passed 9/13/2014.
- C. This Tobacco Code is established for the purpose of:
 - i. Protecting and preserving the health, safety and general welfare of the Territory and its members; and
 - ii. To regulate and license the manufacture, distribution, wholesale, and retail sale of all tobacco products including native and non-native brands, electronic cigars and cigarettes, and any other nicotine delivery systems within the present and future jurisdiction of the Shinnecock Nation; and

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- iii. To generate revenue for the Tribal government through sales and taxation of tobacco products.

Section 3.1: Definitions

Unless defined elsewhere in this Code or the context clearly requires otherwise, the definitions in this section shall apply throughout this code.

1. “Cigar” means a tobacco product which is in any roll of tobacco wrapped in leaf tobacco or any substance containing tobacco (other than any roll of tobacco which is a “cigarette” within the meaning of this section) or,
 - (a) Electric Cigars.
2. “Cigarette” means a product that –
 - (a) *Is a tobacco product; and*
 - (b) *Is any roll of tobacco wrapped in paper or in any substance not containing tobacco; and* Includes tobacco, in any form, that is functional in the product, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette or as roll-your- own tobacco.
3. “Consumer” means any person who receives or comes into possession of tobacco products for the purpose of consuming or otherwise disposing of them in anyway except by an exchange of value.
4. “Dispute Resolution Committee” or “DRC” means the committee appointed by the Council of Trustees and confirmed by the General Council to hear and rule on appeals.
NOTE: The Council of Trustees shall appoint the members of the DRC within 30 days of the passage of this code.
5. “Distributor” means any person who furthers the distribution of tobacco products in quantities of 301 cases or more a week, at any point from the original place of manufacture to another distributor, wholesaler or the retailer. Common carriers that are paid solely to deliver products from one location to another location are not considered distributors for the purpose of this Code.
6. “Manufacturer” means any person, including any re-packer or re-labeler, who:
 - (b) Manufactures, fabricates, assembles, processes, or labels a tobacco products; or
 - (c) Imports a finished tobacco product for sale or distribution into the United States.
7. “Nation” means the Shinnecock Indian Nation.

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8. “Office of Tribal Tobacco Products” or “OTTP” means the regulatory body appointed by the Council of Trustees and confirmed by the General Council to regulate tobacco sales, including tribal taxation and stamping of tobacco products sold on the reservation.
 9. “Person” means any natural person, regardless of Tribal membership status in the Nation, or any corporation, firm, partnership, joint venture, association, or other business entity, whether Shinnecock Indian Territory by any means.
 10. “Retailer” means any person who sells 100 cases or less and who is licensed by the Nation to sell tobacco products on the Reservation to individuals for personal consumption, or operates a facility where self-service displays of tobacco products are permitted.
 11. “Roll your own tobacco” means any tobacco product which, because of its appearance, type, packing or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.
 12. “Smokeless tobacco” means any tobacco product that consists of cut, ground, powdered, or leaf tobacco and that is intended to be place in the oral or nasal cavity. “Territory” means all lands lying within the exterior boundaries of the” Shinnecock Indian Territory”, including any lands, which may hereafter be added to the Shinnecock Indian Territory, by any means.
 13. . “Territory” means all lands lying within the exterior boundaries of the” Shinnecock Indian Territory”, including any lands, which may hereafter be added to the Shinnecock Indian Territory, by any means.
 14. “Tobacco Fund” or “Fund” means the Shinnecock Tobacco und established by the Tobacco Ordinance.
 15. “Tobacco Ordinance” means the Tobacco Ordinance adopted in September 2014.
 16. “Tobacco Operator” shall mean any retailer licensed by the Office of Tribal Tobacco Products to operate a tobacco outlet on the Territory. The term shall mean any manufacturer or wholesaler who provides tobacco products to the Shinnecock Nation.
 17. “Tobacco Product” means any product made from or derived from tobacco, including cigarettes, cigarette tobacco, cigars, smoking tobacco suitable for pipes, roll-your-own-tobacco, smokeless tobacco, and paraphernalia designed for smoking or ingestion of tobacco.
 18. “Council of Trustees” means the governing body of the Shinnecock Indian Nation established by Article VII of the Shinnecock Indian Nations’ Constitution and adopted in 2013.

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19. “Tribal Court” means a judicial or administrative tribunal established or authorized by the Nation.
 20. “Trustee” means an individual member of the Council of Trustees.
 21. “Wholesaler” means any person organized and existing or doing business primarily to sell tobacco products at a discounted rate and any person who furthers the sale of tobacco products in quantities between 101 cases to 300 cases a week, to another wholesaler or the retailer. Common carriers that are paid solely to deliver products from one location to another location are not considered wholesalers for the purpose of these Codes.

Section 4.1: Cigarette Import Tax

- A. There is hereby levied and there shall be collected, as hereinafter provided, a Tribal tax upon the import of all Tobacco Products by a tobacco operator on lands owned by the Shinnecock Nation. This tax shall be in the amount of \$1.00 per carton.
- B. All cigarettes and tobacco products sold to tobacco operators from Shinnecock Sovereign Distribution shall be exempt from this import tax.
- C. Shinnecock Sovereign Distribution will be exempt from this tax.
- D. The Nation and/or the Council of Trustees may change the amount of the tax through the Initiative or Referendum process laid out in the Legislative Procedure Code.
- E. Except with respect to Native Brand Tobacco Products, the tax imposed by this Section shall conform to any requirements imposed by an intergovernmental agreement or compact entered into by the Shinnecock Nation with the State of New York, or with any other tribal, state or foreign jurisdiction.

Section 4.2: Collection of Cigarette Import Tax

- A. It shall be the right, responsibility and duty of the Office of Tribal Tobacco Products (OTTP) to collect accurate velocity reports from licensed distributors and manufactures and to collect all taxes.
- B. Distributors, Wholesalers and Retailers shall submit accurate velocity reports to the OTTP every two months, starting from the date they receive their license from the OTTP, or on any other such date that the OTTP requires.
- C. Wholesalers and Retailers shall pay import taxes every two months when they submit their velocity reports.

Section 4.3: Utilization of Tax Revenue

- A. The Tribe shall deposit into the Tobacco Fund all revenues from the tax imposed by Section 4.1 of this code, and from any fees, fines, or other payments collected from licensees, license applicants, or unlicensed persons pursuant to this code.
- B. The Tribe shall utilize the revenues deposited in the Fund to benefit the health, safety and general welfare of the Tribe and its citizen and cover costs for regulation of the manufacture and of tobacco products on the Territory.

Section 5.1 Tobacco Sales Licenses

- A. Any person that engages in the sale of tobacco products within the present or future jurisdiction of the Shinnecock Nation shall first obtain a license for such sales, provided that any outlet engaging in such sales prior to the adoption of this code shall obtain a license within sixty (60) days from the date of its adoption by the General Council.
- B. A tobacco sales license shall be valid for a period of two (2) years from the date of its issuance and shall expire automatically without notice on the expiration date stated in the license.
- C. No tobacco sales license shall be transferable.
- D. All distributions to licensed tobacco operators shall be taxed at such rate as is established in Section 4.1 of this code.
- E. Only entities wholly owned by the Nation will be authorized to manufacture, and distribute tobacco product on the Territory.
- F. Only Shinnecock Sovereign Distribution, Distributors and Manufacturers licensed by a Federal, State or Tribal agency shall be authorized to sell to Shinnecock Sovereign Distribution, wholesalers and/or retailers within the exterior boundaries of the Territory.

Section 5.2 Procedure for License and Renewal

- A. Application for a tobacco sales license shall be on a form approved by the OTTP, which shall be fully completed by the applicant or a duly authorized representative. The application shall state the name and address of the applicant, the location of the proposed tobacco outlet, the beginning date for which the license is requested, a description of any other retail or commercial business conducted or to be conducted by the applicant at the location of the proposed tobacco outlet, such other information as the OTTP may require, and shall be signed

by the applicant under oath. The application shall be submitted to the OTTP with the required license fee specified in Section 4.3 of this Code.

- B. Upon the denial of any application for a tobacco sales license, the applicant may request a hearing before the OTTP by submitting a written request to the OTTP not later than seven (7) days after the receipt of the OTTP's decision. The OTTP shall provide a reasonable notice to the applicant of the hearing date, time and location as well as the procedures to be followed. If the OTTP upholds its decision to deny the license, the applicant may appeal the decision to the Dispute Resolution Committee (DRC), but only on the grounds that the decision was arbitrary and capricious or a violation of these codes or the Tobacco Ordinance. Such appeal must be filed with the DRC in writing on or before the fourteenth (14th) day following receipt of the OTTP's written decision. The DRC shall review, on the record, the decision of the OTTP. The applicant has the burden of persuading DRC that the OTTP's decision is arbitrary or capricious or a violation of Tribal Constitutional rights.
- C. An operator may apply for renewal of a tobacco sales license by filling a renewal application with the OTTP not less than thirty (30) days prior to the license expiration date. Renewal applications shall be subject to all conditions and requirements applicable to an initial application, including a fee for the issuance of a renewal license.

Section 5.3: Conditions for Application and Approval of License

- A. No application for a tobacco sales license shall be granted unless:
- i. The applicant has paid the required license fee, initially established at \$2,000 for retailers, \$4,000.00 for wholesaler/retailers, and \$10,000.00 for distributors;
 1. Distributors shall pay this fee within 30 days of this code being enacted.
 2. However, Distributors shall not be subjected to this fee if they distribute their product solely through Shinnecock Sovereign Distribution.
 3. Under the initial term of this code, the OTTP, under its own discretion and terms, and to be decided on a case-by-case basis, may accept an installment plan payment of the retail and wholesale/retailer fees.
 4. This fee may be changed by the Nation and/or the Council of Trustees through the Initiative or Referendum process laid out in the Legislative Procedure Code;

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- ii. The applicant has submitted a completed application form;
 - iii. The applicant is an enrolled member of the Shinnecock Indian Nation; This is for the wholesale/retail and retail license only and pertaining to businesses within the exterior boundaries of the Territory.
 - iv. The applicant is at least 21 years of age;
 - v. The applicant's lease for their existing tobacco outlet is paid and up to date pursuant to applicable Tribal law;
 - vi. The tobacco outlet complies with all applicable building codes and zoning codes pursuant to applicable Tribal law; and
 - vii. The tobacco outlet is insured with fire and liability insurance.

B. The conditions described in this Section are not exclusive and the OTTP may impose any other conditions which it deems necessary to safeguard and promote the health, safety and general welfare of the Nation.

Section 6.1: Stamp Requirement

No cigarette package shall be sold which does not bear a stamp of the Shinnecock Indian Nation.

NOTE: However, this section shall not apply until such time that the Nation has the capabilities to stamp. Operators shall be notified of the Nation's added capability within 7 days, and shall agree to follow the directive of the Nation at such time. Such directive will include rules concerning stamping, labeling, packaging, and transportation of tobacco products.

Section 7.1: Tribal Sovereign Immunity/Liability

No operator shall attempt to or be authorized to waive the sovereign immunity of the Nation from suit. Nor shall any operator attempt to or be authorized to create any liability on behalf of the Nation.

Section 8.1: Sale to Minors

No person licensed under this code shall sell tobacco products to any consumer underage with accordance to the laws of NY State. Consumer age may be verified by a tribal ID card, state ID card, federal Passport, or any other valid form of picture identification. This restriction applies to both face-to-face and remote sales.

Section 9.1: Fire Safety Standards

All cigarettes sold within the territory of the Nation must comply with the most current Fire Safety Standards, based on the American Society for Testing and Materials (ASTM) E2187, standard Test Method for Measuring the Ignition Strength of Cigarettes. The OTTP shall provide more information about complying with this section, including which brands currently meet this standard, upon request.

Section 10.1: Operating Without a License

No person shall engage in the business of selling or distributing tobacco products on the Reservation without having in effect a valid tobacco sales license issued pursuant to this Code.

Section 11.1: Revocation of License

- A. Failure of an operator to abide by any provision of this Code and any conditions set forth herein or imposed by OTTP may result in revocation of the operator's tobacco sales license by the OTTP as well as the assessment of civil penalties in accordance with Section 12.1 of this Code.
- B. Prior to revocation of a tobacco sales license, the operator shall have the right to a hearing before the OTTP. The OTTP shall provide reasonable notice to the operation of the hearing date, time and location as well as the procedures to be followed. An operator may appeal a revocation decision by the OTTP to the Dispute Resolution Committee, but only on the grounds that the decision was arbitrary and capricious or a violation of this Code. Such appeal must be filed with the DRC in writing on or before the fourteenth (14th) day following receipt of the OTTP's written decision. The DRC shall review, on the record, the decision of the OTTP. The operator has the burden of persuading the DRC that the OTTP's decision is arbitrary or capricious or a violation of this Code or the Tobacco Ordinance.

Section 12.1: Civil Penalties

- A. The OTTP may assess a penalty, in an amount not to exceed \$10,000.00 for each violation, against any person who engages in the business of selling or distributing tobacco products on the Territory in violation of this Code.
- B. Upon the assessment of a penalty, the person against whom the penalty was assessed may request a hearing before the OTTP by submitting a written request to the OTTP not later than seven (7) days after receipt of assessment. The OTTP shall provide reasonable notice to the person against whom the penalty was assessed of the hearing date, time and location as well as the procedures to be followed. If the OTTP upholds its decision to assess a penalty, the person against whom the penalty was assessed may appeal the decision to the DRC, but only on the grounds that decision was arbitrary and capricious or a violation of this Code or the Tobacco Ordinance. Such appeal must be filed with the DRC in writing on or before the

fourteenth (14th) day following receipt of the OTTP's written decision. The DRC shall review, on the record, the decision of the OTTP. The person against whom the penalty was assessed has the burden of persuading the DRC that the OTTP's decision is arbitrary or capricious or a violation of this Code or the Tobacco Ordinance.

- C. The Council of Trustees hereby specifically finds that such penalties are reasonably necessary and are related to the expense of governmental administration necessary in maintaining law and order and public safety on the Territory and in managing, protecting and developing the natural resources on the Territory. It is the legislative intent of the Council of Trustees that all violations of this Ordinance, whether committed by tribal members, nonmember Indians or non-Indians, be considered civil in nature rather than criminal.

Section 13.1: Enforcement

- A. The Council of Trustees, through the Tribal Law Representative, may seek enforcement of this Code in Tribal Court or a court of competent jurisdiction against any person who engages in the business of selling or distributing tobacco products on the Reservation in violation of this Code.
- B. The OTTP, upon presentation of an affidavit or other evidence showing probable cause to believe that a tobacco outlet is being operated in violation of this Code, may issue an order directing the closure of the operator's establishment. Within three (3) days of such closure, and after adequate notice to the person operating such outlet, a hearing shall be held before the Council of Trustees, at which time such person shall be given an opportunity to present evidence in defense of his or her activities. If the Council of Trustees shall determine by a preponderance of the evidence that such tobacco outlet was being operated in violation of this Code, the Council of Trustees may order such other relief, which the Council of Trustees deems appropriate and consistent with this Code.

NOTE: This responsibility shall be transferred to the Tribal Court within thirty (30) days that such Court becomes operational.

Section 14.1: Severability

If a court of competent jurisdiction finds any provision of this Code to be invalid or illegal under applicable federal or Tribal Law, such provision shall be severed from this Code and the remainder of this Code shall remain in full force and effect.

Section 15.1: Amendments

The General Council and/or the Council of Trustees may amend this Code through the Initiative or Referendum process laid out in the Legislative Procedure Code.

SHINNECOCK INDIAN NATION



Residency Ordinance

**Adopted by General Council through
Referendum on September 13th, 2014**

RESIDENCY ORDINANCE

Section 1: Purpose

The purpose of the ordinance is to define who can lawfully reside on the Shinnecock Indian Nation Territory. Also, this ordinance provides a means for the Tribe to protect its property and the property of those living on the Territory from theft, vandalism and other harm and to protect the Nation, its members, and other persons living on the Territory from people whose presence on the Territory is harmful to, or threatens harm to the peace, health, safety, environment, morals and general welfare of the Territory.

Section 2: Background and Intent

The Council of Trustees has determined that acts of third parties that interfere with the property rights and / or welfare of the Tribe, Tribal members, residents and guests threaten the peace, health, safety, environment, morals and general welfare of the Territory and the health, welfare, environment, political integrity and economic security of the Tribe. It is the intent of the Council of Trustee to make such acts a Civil or Criminal Violation with the desire to protect such rights.

Section 3: Definitions

As used in this ordinance, the following words or phrases shall have the following definitions:

- A. "Indian" shall mean a member of a state or federally recognized Indian Tribe.**
- B. "Council of Trustees" shall mean the Council of Trustees of the Shinnecock Indian Nation.**
- C. "Territory" shall mean all lands that are part of the Shinnecock Indian Nation.**
- D. "Nation" shall mean or refer to the Shinnecock Indian Nation.**
- E. "Tribal member" shall mean an enrolled member of the Shinnecock Indian Nation.**
- F. "Homeowner" shall mean any person or entity who owns a home on tribal territory.**
- G. "Property" shall mean real estate, as well as governmental, commercial, or residential dwellings.**
- H. "Trespasser" shall mean a person who is not an enrolled member of the Nation, and who has entered the land of the Shinnecock Indian Nation without consent or permission of an enrolled tribal member or is not a person defined in section 4 or 5 of this ordinance, and/or who has violated section 6 of this ordinance.**

Section 4: LEGAL RESIDENTS

4.1 Enrolled Members

All enrolled members of the Shinnecock Indian Nation may reside on the Nation's Territories.

4.2 Legal Spouse

An enrolled Tribal member's spouse may legally reside on the Nation's territory under the following circumstances:

- 1. The spouse is legally married to an enrolled tribe member and has produced a certificate of marriage to the enrollment office.**
- 2. The spouse resides with the enrolled tribal member.**
- 3. The spouse has not been barred from the Territory.**

4.3 Widow or Widower

An enrolled Tribal member's widow or widower may legally reside on the Nation's territory under the following circumstances:

- 1. The widow or widower must reside in the enrolled Tribal member's home.**
- 2. The widow or widower cannot have any non-enrolled persons living in the home.**
- 3. The widow or widower has not been barred from the Territory.**

4.4 Divorcee

An enrolled Tribal member's divorced spouse may legally reside on the Nation's territory under the following circumstances:

- 1. The divorcee has enrolled children under the age of 21**
- 2. The divorcee's enrolled children reside with the divorcee**
- 3. The divorcee has not been barred from the Territory**

4.5 Non-enrolled child

If an enrolled Tribal member has legal custody of a non-enrolled child then that child may reside on the reservation on a case by case basis and under the following circumstances:

- 1. The child is under the age of 18**
- 2. The child resides with the enrolled Tribal member**
- 3. The child has not been barred from the Territory**

SECTION 5: GUEST

Section 5.1 Non-Native Guest

Enrolled Tribal members residing on the Territory are permitted to have non-native guest stay on the territory under the following circumstances:

- 1. The tribal member must register their guest with the Tribal office if they are staying more than five (5) days.**
- 2. The guest can stay on the territory up to two (2) weeks or longer but must get approval from the Council of Trustees.**
- 3. The guest must stay with the enrolled member who registered them.**
- 4. The guest has not been barred from the territory.**

Section 5.2 Native Guest

Enrolled Tribal members residing on the territory are permitted to have native guest stay on the territory under the following circumstances:

- 1. The tribal member must register their guest with the Tribal office if they are staying more than five (5) days.**
- 2. The Native guest must produce a Tribal I.D. card from a state or federally recognized tribe.**
- 3. The Native guest may stay for up to six (6) months but must notify the Tribal office and get approval from the Council of Trustees.**
- 4. The guest must stay with the enrolled member who registered them.**
- 5. The Native guest has not been barred from the territory**

5.3 Special needs professional

An enrolled Tribal member's special needs professional may legally reside on the Nation's territory under the following circumstances:

- 1. The professional is licensed or certified and is in good standing and has provided legal documentation to the Tribal office.**
- 2. The Tribal member or their family has provided documentation pertaining to the extent of the stay to the Tribal office.**
- 3. The Tribal member must register for a short term special residency card from the enrollment office.**

SECTION 6: TRESPASSING

The Nation hereby establishes the violation of Trespass to be prosecuted as a civil or criminal violation in accordance with Tribal, State, and Federal law. The Council of Trustees declares that persons committing the violation of Trespass threaten the peace, health, safety, environment, morals and general welfare of the Reservation and the health welfare, environment, political integrity and economic security of the Tribe.

A person commits the Violation of Trespass if the person enters land of the Shinnecock Indian Nation without consent or permission of an enrolled tribal member or is not a person defined in section 4 or 5 of this ordinance.

SECTION 7: REVOCATION OF GUEST STATUS

Any guest visiting a Tribal member and registered with the Tribal Office will have his/her guest status revoked if they commit any of the following acts, unless otherwise authorized under applicable law:

- 1.Cuts down, destroys, or injures any wood, timber, plant, vegetation, or crop standing on the land allotment of another, or carries away any wood, timber, plant, vegetation or crop of the Nation;**
- 2.Discharges a firearm, releases arrows from a bow, or otherwise uses any weapon;**
- 3.Engages in any act, or attempted act of hunting, trapping or fishing;**

- 4. Digs, takes, or carries away from the allotment of another, earth, soil, minerals, cultural resources, or any other property;**
- 5. Erects, puts up, fastens, prints, or paints upon another's property, notices, advertisements, signs or other writing designed to communicate to the general public;**
- 6. Dumps, deposits, places, throws, burns, emits or leaves rubbish, refuse, debris, substances, or other objects upon a highway, road, air, waters or any land;**
- 7. Opens, damages, renders inoperable, or destroys a fence, or gate on enclosed land allotment of another;**
- 8. Destroys or injures allotted land, waters, livestock, poultry, buildings, equipment, or any property or another;**
- 9. Permits or allows livestock or any other domesticated animal to enter upon or remain upon the land;**
- 10. Parks or drives any vehicle on the allotted land of another or drives recklessly and/or under the influence of alcohol or drugs.**
- 11. Refuses to leave land to which the person has no reasonable claim or right of possession when requested to do so;**
- 12. Enters upon such land with knowledge, actual or constructive, that permission by the Homeowner for such person to enter such land does not exist, or has been expressly denied or revoked;**
- 14. Violates any restraining order, including a domestic restraining order issued or recognized by the Shinnecock Indian Nation.**
- 15. Enters upon lands owned by or leased from the Tribe in violation of regulations governing access to such lands.**

SECTION 8: REMOVAL AND EXCLUSION OF PERSONS

A. Penalty Cumulative

In addition to any penalty imposed for the Violation of Trespasser a trespasser may be excluded from the reservation as provided in this Ordinance.

B. Tribal Removal and Exclusion

1. Persons violating this Ordinance may be removed and excluded from all or any part of the lands within the exterior boundaries of the Territory, upon a showing by a preponderance of the evidence, of any of the following grounds:
 - a. Commission of a crime or civil offense or violation as defined by laws of the United States, the Tribe or the State of New York;
 - b. Hunting, fishing, or trapping on the Territory without authority from the Tribe or contrary to the rules and regulations of the Nation governing such activities;
 - c. Trading, or conducting business upon the Territory in violation of Tribal regulations;
 - d. Prospecting, mining, cutting timber or other plant life, grazing or other use, abuse or damage to the Territory environment or Tribal or Tribal entity infrastructure without authority from the Nation.
 - e. Exploring for or excavating items, sites, or locations of historic, religious, scientific or cultural resources without authority from the Nation or in violation of federal, Tribal, or state laws, ordinances or regulations; or
 - f. Doing or threatening to do any act upon the Territory that seriously threatens the peace, health, safety, environment, morals or general welfare of the Territory, or the health, welfare, environment, political integrity, or economic security of the Nation, or its members.
2. The provisions of removal and exclusion shall not be invoked to exclude persons: From lands owned by, or held in trust by the United States for the Shinnecock Indian Nation, when such person are authorized by federal statute or regulation to be present on such lands.
3. An exclusion may authorize an excluded person to travel on any part of the Reservation for certain limited purposes, which include without limitation, maintaining employment, fulfilling familial duties, or meeting educational requirements.

SECTION 9: TERM OF EXCLUSION

The Council of Trustees and/or the General Council shall have the absolute discretion to determine the term of any exclusion; provided that repeat offenders of this Ordinance should be excluded for significantly greater periods of time.

SECTION 10: APPLICATION FOR EXCLUSION

1. The Tribal attorney or any resident of the Reservation may make an application, in writing, to the Tribal Office requesting that a non-enrolled person be excluded from any part or all of the Territory and stating the grounds for the exclusion.
2. Based on the content of the application, an order to show cause shall be issued by the

Council of Trustees upon an express finding that there exists a reasonable basis for belief that the proposed exclusion is justified under one or more of the grounds stated above. Such order to show cause shall state the ground or grounds for the proposed exclusion, a brief summary of the facts relied upon to justify the proposed exclusion, and the names and addresses of witnesses who will be produced to support the proposed exclusion. The order shall

- a. Name a time and a place where the person may appear to show cause
Why he or she should not be excluded from the designated areas of the Reservation.**
- b. Clearly state that, at the show cause hearing, the person may**
 - 1. Call witnesses and present evidence on his or her on behalf; and**
 - 2. Clearly state that if the person fails to appear at the show cause hearing or to request a timely continuance, the Council of Trustees may enter an order and judgment excluding the person from all or part of the Reservation.**
- 3. The Constitution shall govern the exclusion proceedings; provided, that at the time that the Tribal Attorney files an application for exclusion, he or she must also provide a copy of the application to the Council of Trustees.**
- 4. If the Shinnecock Council of Trustees has probable cause to believe that an emergency threatens the peace, health, safety, morals or general welfare of the Tribe, its members, or other persons living on the Territory the State Police may remove persons from the Reservation; provided, that within five (5) working days, either the Council of Trustees or the Tribal Attorney shall commence show cause proceedings under this section. If the Tribal Attorney commences such proceedings, the emergency removal order shall remain in effect until the Council of Trustees has the opportunity to rule on the emergency exclusion.**

SECTION 11: RULEMAKING AUTHORITY

Using the regulations procedures set forth, the Council of Trustees and the General Council shall have the authority to prescribe such rules and regulations as it deems necessary to carry out the purpose of this ordinance and to facilitate its operation.

SECTION 12: SEVERABILITY

If any provision of this ordinance or the application of any provision of this ordinance to any person or circumstance is held invalid by a court of competent jurisdiction, that provision shall be severed from the ordinance and the remainder of this ordinance shall remain in full force and effect.

SECTION 13: SOVEREIGN IMMUNITY

Nothing in this ordinance shall be construed as a waiver of sovereign immunity of the Tribe or any entities chartered, established, or otherwise created under Tribal law.

No exclusion order may issue for directors, officers, employees, agents and representatives of the Tribe or such entities, acting within the scope of their employment or authority

SECTION 14: COOPERATIVE ENFORCEMENT

The Shinnecock Council of Trustees or its delegate is authorized to enter into cooperative intergovernmental law enforcement agreements to carry out the provisions of this ordinance. However, no such agreements are required to make this ordinance effective.

SECTION 15: AMENDMENTS

This ordinance can be amended by the Council of Trustees or General Council through the referendum, or initiative process in accordance with the legislative procedure code.