

# Lummi Tribe



Location: 20 miles south of the Canadian border on the Washington coast

Population: 6590

Date of Constitution: 1970, amended 1996

Key Facts: Tribe manages nearly 13,000 acres of tidelands

## PREAMBLE

We, the members of the Lummi Tribe of Indians of the Lummi Reservation in the State of Washington, in order to make the tribal government, established by the constitution and bylaws approved April 10, 1970, more responsive to the tribe, to develop our community resources, administer justice, protect our tribal interests, and promote the economic and social welfare of ourselves and our descendants, and to preserve our land base, culture, and identity, do hereby establish this constitution and bylaws, which shall revoke and replace said constitution and bylaws approved April 2, 1948, and shall henceforth constitute the governing document of the Lummi Tribe.

[Amended: Resolution #98-23, March 6, 1998.]

## ARTICLE I - TERRITORY AND JURISDICTION

The jurisdiction of the Lummi Nation shall extend to: (a) all lands, waters and other resources within the territorial boundaries of the Lummi Reservation as established by the Treaty of January 22, 1855 and added to the Lummi Reservation by the Executive Order of November 11, 1873; (b) all lands, waters and other resources as may be hereafter added to the Lummi Reservation; (c) all lands, waters and other resources owned by the Lummi Nation or held in trust for the Nation or its members; (d) persons and activities within or affecting the lands, waters, and other resources subject to the Nation's jurisdiction; (e) the exercise of treaty reserved rights, including but not limited to, fishing, hunting and gathering; (f) all cultural property, resources and activities of the Lummi People; (g) all members or individuals eligible for membership in the Lummi Nation and their descendents.

[Amended: Resolution #2006-019, February 7, 2006]

## ARTICLE II - MEMBERSHIP

SECTION 1. The membership of the Lummi Tribe shall consist of the following:

- (a) All persons of Indian blood whose names appear on the Official Census Roll of the Tribe as of January 1, 1942, provided that such roll may be corrected by the Lummi Business Council with the approval of the Commissioner of Indian Affairs.

- (b) Any person of Indian blood who were residents of the reservation on January 1, 1947, and whose names would have been placed on a census roll of that date had one been prepared.
- (c) All other persons of Indian blood resident on the reservation at any time between January 1, 1942, and the effective date of this constitution, who were accepted by the general council as members of the Lummi Tribe.
- (d) All children born between January 1, 1942, and the effective date of this constitution, to any member of the tribe who was living on the Lummi Reservation at the time of the birth of said child.
- (e) All children of one-fourth (1/4) degree or more Indian blood born between January 1, 1942, and effective date of this constitution, to any member of the tribe not living on the reservation at the time of the birth of said child.
- (f) All children of one-fourth (1/4) degree or more Indian blood born to any member of the tribe after the effective date of this constitution.

### ARTICLE III - GENERAL COUNCIL

SECTION 1. The general council shall consist of the entire voting membership of the Lummi Tribe when it is convened officially for official business. The annual general council meeting shall be called during the first week of January, provided that special meetings shall be called by majority vote of the business council or upon the request, in writing, of twenty voting members of the tribe. Public notices of all special general council meetings shall be made at least ten (10) days prior to such meetings. It shall also be the duty of the chairman to make a report at the annual general council meeting of the activities of the business council throughout the past year and to outline proposed plans for future economic and social betterment of the tribe.

SECTION 2. Voter Qualifications. Any member of the Lummi Tribe, eighteen (18) years of age, or over, who has maintained legal residence on the reservation or within the boundaries of Whatcom County, Washington, for at least six (6) months immediately preceding any election, shall be qualified to vote on all matters before the general council meetings.

[Amended: Resolution #98-23, March 6, 1998.]

SECTION 3. The duties of the general council shall consist of but need not be limited to the following:

- (a) Act on all adoptions recommended by the business council, as provided in Section 2, Article II of this constitution;
- (b) Review the actions of the business council at the annual meeting;
- (c) Recommend actions to be taken by the business council;
- (d) Appoint a committee to certify all elections to the business council;
- (e) Consider the recall of members of the business council, as provided in Section 2, Article V, and consider all referendums, as provided in Article VII of this constitution.

### ARTICLE IV - GOVERNING BODY

SECTION 1. The governing body of the Lummi Tribe shall be a business council consisting of eleven (11) members duly elected to serve for a three-year term, as provided in Section 4 of this Article, provided that a minimum of seven (7) members must live on the reservation.

SECTION 2. Qualifications. Any eligible voter shall be qualified to serve as a member of the Lummi Business Council, provided that he has been living within the boundaries of Whatcom County, Washington for at least one (1) year immediately preceding any election, and complies with Section 1 of this Article.

SECTION 3. Selection of Officers. The business council so organized shall, on a yearly basis, elect from within its own number: (1) a chairman, (2) a vice-chairman, (3) a secretary, and (4) a treasurer, and may appoint or employ such other officers or committees as may be necessary.

SECTION 4. Election of Business Council Members. After the ratification and approval of this constitution and bylaws, the first business council under this constitution shall be the council existing under the 1948 constitution. Members of that body shall draw lots in order that the terms of office of the present members can be determined for one, two, or three years, and thereafter an election shall be held at the next regular general council meeting for the positions held by the three councilmen who drew the one-year lots with an election of these three positions every three years thereafter. In the other years, four councilmen shall be elected at the regular general council meeting, first for the positions held by the four councilmen who drew the two-year lots and then for the positions held by the four councilmen who drew the three-year lots.

#### ARTICLE V - VACANCIES AND RECALL

SECTION 1. Vacancy. If any member of the business council shall die, resign, or move outside the boundaries of Whatcom County, or shall be found guilty of a felony, or a misdemeanor involving dishonesty in any Indian, State, or Federal court, a vacancy in his office shall automatically be created, and at its next regular or special meeting, the business council shall appoint a person qualified pursuant to Article IV to fill the office until the next annual general council meeting, at which time a successor shall be elected pursuant to Article IV, to fill the office for the balance of the unexpired term, provided that whether vacancies are filled by appointment or election, the number of council members required to live on the reservation pursuant to Section 1, Article IV, shall be maintained.

If a business council member changes his residence from the reservation to elsewhere within Whatcom County during his term of office, and if such move results in less than the number of business council members required to live on the reservation by Section 1, Article IV, that council member's position shall automatically become vacant and shall be filled pursuant to this section.

SECTION 2. Recall. The members of the general council shall have the power to initiate recall of any member of the business council by filing a petition with the secretary of the business council signed by at least twenty-five percent (25%) of the number of those voting at the last regular general council meeting, asking for the recall of said member of the business council; or, the business council may, by majority vote, initiate recall of any councilman for neglect of

duty or gross misconduct, provided that in neither procedure shall a person be recalled except at a special meeting of the general council called for that purpose within thirty days after the business council action or the filing of the voter petition, provided that he shall be given in writing a statement of the charges against him at least ten (10) days prior to the general council meeting, provided further, that he shall be given an opportunity to answer any and all charges. A two-thirds (2/3) majority vote of those attending the meeting shall be required to effect recall. The general council's decision shall be final.

SECTION 3. Unexcused Absence. Any councilman who shall absent himself from three (3) successive meetings without being excused for cause, shall forfeit all rights to his office.

#### ARTICLE VI - POWERS AND DUTIES OF THE BUSINESS COUNCIL

SECTION 1. The Lummi Business Council shall have the following powers, subject to any limitation imposed by Federal statutes or by the Constitution of the United States:

- (a) To administer all tribal property and assets, by ordinance where required;
- (b) To borrow money from the Federal Government, or other sources, and to direct the use of such funds for productive purposes, or loan money to members of the Lummi Tribe, as defined in Article II;
- (c) To collect and expend any Lummi tribal funds within the exclusive control of the tribe, and to recommend the expenditure of any other tribal funds;
- (d) To purchase or lease in the name of the Lummi Indian Tribe any land or other property the council may deem beneficial to said Lummi Tribe;
- (e) To enforce regulations contained in approved tribal resolutions and ordinances for the protection of tribal property, fish and wild life, and other natural resources of the Lummi Tribe;
- (f) (1) To levy assessments or license fees on nonmembers doing business or obtaining special privileges within the reservation, subject to the approval of the Lummi Nation General Council.  
[Amended: Resolution #97-38, February 11, 1997.]  
(2) To promulgate rules and regulations and enforce assessments or license fees on members exercising special privileges or profiting on general resources from tribal property;
- (g) To negotiate with the Federal, State, and local governments on behalf of the tribe;
- (h) To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Lummi Nation General Council;  
[Amended: Resolution #97-38, February 11, 1997.]
- (i) To prevent the sale of tribal lands or interests in tribal lands without the consent of the general council;
- (j) To exclude from the restricted land of the Lummi Reservation persons not legally entitled to reside therein, under ordinances which shall be subject to the approval of the Lummi Nation General Council;  
[Amended: Resolution #97-38, February 11, 1997.]
- (k) To promulgate and enforce ordinances, which shall be subject to the approval of the Lummi Nation General Council, governing the conduct of members of the Lummi Tribe, and providing for the maintenance of law and order and the

administration of justice by establishing a reservation court and defining its duties and powers;

[Amended: Resolution #97-38, February 11, 1997.]

- (l) To safeguard and promote the peace, safety, morals, and general welfare of the Lummi Reservation by regulating the conduct of trade and the use and disposition of property upon the reservation, provided that ordinances directly affecting nonmembers of the tribe shall be subject to approval of the Lummi Nation General Council;

[Amended: Resolution #97-38, February 11, 1997.]

- (m) To adopt resolutions regulating the procedure of the business council itself and subordinate tribal organizations, and tribal officials over whom it has jurisdiction;
- (n) To promote public health and education, encourage Indian handicrafts, the administration of charity, the conservation and utilization of natural resources, and such other services which may contribute to the social advancement of the tribe;
- (o) To make rules and procedures not inconsistent with the provisions of this constitution governing all tribal elections, which shall, among other things, provide for secret balloting;
- (p) To delegate to subordinate boards or to cooperative associations which are open to all members of the tribe, any of the foregoing powers, reserving the right to review any action taken by virtue of such delegated powers, provided that all final action must be taken by the business council.

SECTION 2. Future Powers. The Lummi Business Council may exercise such further powers as may, in the future, be delegated to the business council.

SECTION 3. Reserved Powers. Any rights and powers heretofore vested in the tribe but not expressly referred to in this constitution shall not be abridged by this article, but may be exercised by the people of the Lummi Reservation through the adoption of appropriate bylaws and constitutional amendments.

#### ARTICLE VII - REFERENDUM

Upon receipt of a petition of at least twenty-five percent (25%) of the voting membership of the tribe, or upon the request of the majority of the full membership of the business council, the chairman shall call a special meeting of the general council to be held within thirty (30) days of receipt of such petition or request, to consider any enacted or proposed ordinances or resolutions, and the vote of the majority of the voting membership attending the special meeting will decide whether the enacted or proposed ordinances or resolutions shall thereafter be in effect, provided that twenty-five percent (25%) or more of the eligible voters shall vote in such referendum. Public notices of all special meetings shall be made in accordance with Section 1, Article III.

#### ARTICLE VIII - BILL OF RIGHTS

All members of the Lummi Indian Tribe shall be accorded equal rights pursuant to tribal law. No member shall be denied any of the rights or guarantees enjoyed by non-Indian citizens under the Constitution of the United States, including, but not limited to, freedom of religion

and conscience, freedom of speech, the right to orderly association or assembly, the right to petition for action or the redress of grievances, and due process of law. No member shall be denied any of the rights or guarantees as provided in Title II of Public Law 90-284 – the Act of April 11, 1968 (82 Stat. 77 and 78) as follows:

No Indian Tribe in exercising powers of self-government shall –

- (1) Make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances;
- (2) violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;
- (3) Subject any person for the same offense to be twice put in jeopardy;
- (4) Compel any person in any criminal case to be a witness against himself;
- (5) Take any private property for a public use without just compensation;
- (6) deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense to have the assistance of counsel for his defense;
- (7) require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than authorized by the Indian Civil Rights Act, Title II of Public Law 90-284, as amended from time to time; [Amended: Resolution #2001-022, February 6, 2001.]
- (8) deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law;
- (9) Pass any bill of attainder or ex post facto law; or
- (10) deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six persons.

## ARTICLE IX – AMENDMENTS

This constitution and bylaws may be amended by a two-thirds (2/3) vote of the General Council voting at an election called for that purpose, provided that at least thirty percent (30%) of the General Council entitled to vote shall vote in such an election.

It shall be the duty of the Lummi Indian Business Council to call an election upon a two-thirds (2/3) vote of the members of the business council present at a duly convened meeting or upon receipt of a petition signed by thirty (30) eligible voters of the General Council of the tribe. [Amended: Resolution #96-28, February 8, 1996.]

## BYLAWS OF THE LUMMI TRIBE

### ARTICLE I - THE BUSINESS COUNCIL

SECTION 1. The chairman of the business council shall preside over all business and general council meetings of the tribe. He shall be allowed to vote only in case of a tie. He shall exercise any authority specifically delegated to him by the business council.

SECTION 2. The vice-chairman of the business council shall assist the chairman when called upon to do so. In the absence of the chairman, he shall preside, and when so presiding, have all the rights, privileges, and duties, as well as the responsibilities, of the chairman.

SECTION 3. The secretary shall prepare all tribal correspondence and shall not sign notices or documents unless authorized by the business council. It shall be the duty of the secretary to keep a complete and accurate record of all matters transacted at council meetings and to submit copies of minutes of all meetings of the business council and general council to the Western Washington Agency.

SECTION 4. The treasurer shall have custody of and be responsible for all funds in the custody of the business council. The treasurer shall deposit all such funds in such federally insured banks or elsewhere as directed by the business council and shall keep proper records of such funds. The treasurer shall report on all receipts and expenditures and the amount and nature of all funds on hand at the annual general council meeting and upon request of the business council. The treasurer shall not pay out any funds except when authorized to do so by the business council and all checks must be signed by the treasurer. The business council shall decide when the amount of funds being handled by the treasurer has become large enough to justify the need for an annual audit. It shall then require that the books and records of the treasurer shall be audited by either a competent auditor or by a Federal employee appointed by the Commissioner of Indian Affairs or his authorized representative. The treasurer will be required to have a surety bond satisfactory to the business council and the Superintendent of the Western Washington Agency. The surety bond will be obtained at the expense of the tribe.

SECTION 5 Appointive Officers. The duties of all appointive committees and officers appointed by the business council shall be clearly defined by resolution of the business council at the time of their creation or appointment. Such committees or officers shall report from time to time, as required, to the business council and their activities and decisions shall be subject to review by the business council upon petition of any person aggrieved.

## ARTICLE II - INSTALLATION OF OFFICERS AND COUNCIL MEMBERS

Newly elected members who have been duly certified shall be installed thereafter at the next regular meeting of the business council. Each member of the business council and each officer or subordinate officer, elected or appointed hereunder, shall take an oath of office prior to assuming the duties thereof, by which oath he shall pledge himself to support and defend the Constitution of the United States and this constitution and bylaws.

Oath: "I, \_\_\_\_\_, do solemnly swear that I will support and defend the Constitution of the United States and the constitution of the Lummi Tribe; that I will carry out, faithfully and impartially, the duties of my office to the best of my ability; that I will cooperate, promote, and protect the best interests of my tribe, in accordance with its constitution and bylaws."

### ARTICLE III - TIME AND PLACE OF MEETINGS AND PROCEDURE

SECTION 1. Regular meetings of the business council shall be held on the first Friday of each month. The date of regular meetings may be changed by resolution of the business council. Meetings shall be held at the business office or such other places as the business council may designate from time to time. Special meetings may be called by written notice to all councilmen, signed by the chairman, or by a majority of the business council, and when so called by written notice to all councilmen, the business council shall have power to transact business as in a regular meeting.

SECTION 2. The annual election and general council meeting shall be held during the first week in January of each year, or at such other time as the business council determines.

SECTION 3. Quorum. No business shall be transacted unless a quorum is present. A quorum of the business council shall consist of six (6) members of that council. A quorum of the general council shall consist of twenty-five (25) eligible voters; provided, however, that the lack of a quorum shall not be cause for postponing the annual election of tribal officials.

SECTION 4. The order of business for all meetings is that established in Robert's Rules of Order, Revised Edition.

### ARTICLE IV - RATIFICATION OF CONSTITUTION AND BYLAWS

This constitution and bylaws, when adopted by a majority vote of the adult voters of the Lummi Tribe, voting at a special election authorized by the Lummi Indian Business Council in which at least thirty percent (30%) of those entitled to vote shall vote, shall be submitted to the Lummi Indian Business Council for its approval. It shall be in force from the date of such approval. [Amended: Resolution #98-23, March 6, 1998.]

#### APPROVAL

I, James F. Canan, Commissioner of Indian Affairs do hereby approve the foregoing Constitution and Bylaws of the Lummi Tribe of the Lummi Reservation, Washington, as provided for in Article IV of the bylaws -RATIFICATION OF CONSTITUTION AND BYLAWS of said document.

S/ James F. Canan, Acting - Commissioner of Indian Affairs  
Washington, D.C.

DATE: April 10, 1970

#### CERTIFICATION OF APPROVAL OF AMENDMENT "A" (Article IX)

I, Hilda A. Manuel, Deputy Commissioner of Indian Affairs, by virtue of the authority delegated to me by Article IX of the Constitution and Bylaws of the Lummi Tribe of the Lummi Reservation, Washington hereby approve Amendment A. This Amendment is effective as of



this date, PROVIDED, that nothing in this approval shall be construed as authorizing any action under this document that would be contrary to Federal law.

S/ Hilda A. Manuel, Deputy Commissioner of Indian Affairs  
Washington, D.C.

DATE: June 20, 1996