

Klamath Tribes



Location: Oregon

Population: 3500

Date of Constitution: 1950, as amended 1996, 1998, 2000 & 2011

PREAMBLE

We, the People of the Klamath and Modoc Tribes and the Yahooskin Band of Snake Indians, [hereafter referred to as the Klamath Tribe(s)] do hereby establish and adopt this Constitution for the government of our General Council in order to recognize our Tribes for the continued preservation of its culture, identity, and to provide a responsible organization to carry out the official business of the Tribe including our Treaty rights.

By adoption of this Constitution we act to clarify the misconceptions that exist regarding the effect of the Klamath Termination Act (25 USC S 564 et. seq.) by stating to all people that the Klamath Tribes never ceased to exist and that the effect to termination was the eligibility of our members to receive services from the federal government, through the Bureau of Indian Affairs. Therefore, Public Law 99-398, was approved on August 26,1986 allowing for the Restoration of Federal recognition for the Klamath Tribes.

By adoption of this Constitution we hereby establish ourselves as a body which, along with its appropriate committees, commissions, corporations and boards shall act to represent the Klamath Tribes in its full relationships with the United States government, the State of Oregon, other Indian tribes and associations, and all other persons or bodies.

In adopting this Constitution we recognize the authority of the Tribal Committees formed by the General Council in April of 1975 to deal with the administration of our treaty and other rights and we recognize the authority of our elected Officials hereafter referred to as "Tribal Council."

In adopting this Constitution it is our goal and intent to provide a Constitution with amendments to the Constitutions of February 3,1950. Amendment dates are April 13,1996, August 17,1996, November 21,1998, November 25,2000 and November 19,2011 to adapt it to the Klamath Tribes.

ARTICLE I-NAME

SECTION I: The name of the organization, comprising all eligible voters of the enrolled

Klamath and Modoc Tribes and Yahooskin Band of Snake Indians shall continue to be the Klamath General Council.

SECTION II: The name and logo of the Klamath Tribes (s) cannot be used by any organization, group, or individual to do business or represent the Klamath Tribe (s) in any official capacity without the approval of the "Tribal Council" and consent of the Klamath Tribes General Council. Such use of the Tribal name shall be specified in writing with purpose, conditions, and timelines.

ARTICLE II-PURPOSE

SECTION I: The purpose of this Constitution and its' attachments is to define the powers of government inherent to the Klamath General Council, without limiting others and to provide standards for the conduct of business by the General Council.

ARTICLE III - MEMBERSHIP, ENROLLMENT AND VOTING

SECTION I: All persons whose names appear on the final roll of August 13, 1954 shall automatically be enrolled members of the Klamath Tribe (s).

SECTION II: All persons born after, August 13, 1954, shall be eligible for enrollment upon submitting the documents required by the Tribal Enrollment Committee.

- A. Eligibility shall be open to all persons of at least 1/4 Klamath, Modoc, or Yahooskin blood or who otherwise qualify for enrollment under whatever ordinances the General Council shall adopt.
- B. Eligibility for enrollment shall be determined by an Enrollment Committee.
- C. Enrollment of person's born after August 13, 1954 shall be for Tribal purposes only and shall not be itself, affect their eligibility for funds from any types of disbursements related to the Klamath Termination Act or claims litigation.
- D. Appeals from denial of enrollment may be taken by personal petition to the General Council through the "Tribal Council".

SECTION III: Any enrolled members of the Klamath Tribe(s) who have attained the age of 18 years shall comprise the membership of the General Council and shall be entitled to vote at all General Council meetings.

SECTION IV: Voting by absentee ballots shall be allowed for the election of "Tribal Council" members and Tribal Judges only. Absentee ballot rules will be included in any election ordinance approved or accepted by the General Council.

ARTICLE IV - JURISDICTION

SECTION I: The sovereign powers, authority and jurisdiction of the Klamath Tribes extends to all the territory which formerly constituted the Klamath Reservation, and to all property, airspace, natural resources, cultural resources and such other lands or interests that have been or may thereafter be added thereto by purchase, gift, act of Congress or otherwise.

- A. All lands of the Klamath Tribes and all lands thereafter acquired by the Klamath Tribes and held for the use of the Tribes or its members shall be considered a valuable Tribal resource. Control and management thereof are vested in the General Council, which may enact laws governing the use, assignment, permit, lease, or other disposition of lands, interests in land, and resources of the Tribes.
- B. It shall be the policy of the Klamath Tribes to seek the return, to the Klamath Tribes, of all lands, natural and cultural resources, including minerals and water rights that become available and which were historically a part of the Klamath Tribes heritage
- C. All waters which originate in or flow through the Klamath Tribes jurisdiction, or which are stored within the Klamath Tribes jurisdiction, whether found on the surface or underground, are a valuable Tribal resource of the Klamath Tribes, and are to be protected for the present and future use of the Klamath Tribes.

SECTION II: The sovereign powers, authority and jurisdiction of the Klamath Tribes and its government shall extend to all persons and activities within the territory which formerly constituted the Klamath Reservation and is consistent with Federal law.

SECTION III: The sovereign powers, authority and jurisdiction of the Klamath Tribes and its government may extend beyond the geographical boundaries of the Klamath Tribes territorial jurisdiction.

SECTION IV: This Article was implemented and approved by the General Council on April 13, 1996.

ARTICLE V - JUDICIAL BRANCH

SECTION I: The Judicial power of the Klamath Tribes shall be vested in the independent Klamath Tribes Judiciary, which shall consist of the Klamath Tribes Supreme Court, Klamath Tribal Court, Klamath Juvenile Court, Klamath Peacemaker Court and such lower courts that the Klamath Tribes may from time to time establish.

SECTION II: The judicial power of the Klamath Judiciary shall extend to all cases in law and equity arising under this Constitution, and the laws, ordinances and customs of the Klamath Tribes. The Tribal Courts shall be empowered to exercise all judicial authority of the Klamath Tribes. Said authority shall include but not be limited to enforcement of Tribal law and the power to review and rule on the constitutionality of Tribal legislative and executive actions under this Constitution.

SECTION III: The Klamath Tribal Courts shall be courts of record and shall consist of Native American Judges only, and shall be elected by the General Council. No person will serve in the capacity of Tribal Judge under the age of 30 years. General Council shall then designate one (1) Native American Judge as Chief Judge who shall serve in that capacity for the duration of his/her term. Native American Judges shall be elected at the general election following the first election of judges.

SECTION IV: The Supreme Court shall consist of three (3) Visiting Justices appointed by the Chief Judge to hear the case, with one (1) Justice appointed by the Chief Judge as Chief Justice.

SECTION V: The appellate power of the Klamath Tribes shall be vested in the Klamath Tribes Supreme Court, which shall have jurisdiction to hear all appeals from the Klamath Courts. The Klamath Tribes Supreme Court decision shall be final.

SECTION VI: The Tribal Court shall consist of one (1) Native American Chief Judge, and such Native American Associate Judges and staff as are designated by Tribal Ordinance. The Ordinance shall set forth the terms of office and qualifications for Tribal Court Chief Judge, Associate Judges and Staff.

SECTION VII: The Chief Judge shall, each year, designate an Associate Judge as Judge of the Klamath Tribes Juvenile Court and shall oversee the Klamath Tribes Peacemaker Court, Section VIII: Judges and Justices of the Klamath Judiciary shall receive compensation for their services as established by Tribal Ordinance. This compensation shall not be diminished by any amount or increased by any amount or increased beyond reasonable cost of living allowance during their term of office.

SECTION IX: This Article will be effective upon the approval of the General Council and the presentation of and the General Council approval of the required ordinances.

ARTICLE VI - POWERS

SECTION I: The General Council has and may, use the following powers, as limited by the Constitution, By-Laws, Ordinances and Charters of the Klamath Tribes;

- A. To participate in the management of all Tribal property, Treaty Rights, and all other Rights the Tribes may possess.
- B. To purchase land, when authorized by law, and to acquire other property with funds controlled by the Tribes or made available by Congress for said purpose.
- C. To levy dues of fees upon members or non-members exercising special privileges controlled by the Tribes.
- D. To borrow money.
- E. To expend Tribal funds within the exclusive control of the Tribes.
- F. To recommend expenditure of other Tribal funds.
- G. To adopt and enforce ordinances providing for the maintenance of law and order, conservation regulations, and Tribal business.
- H. To protect and preserve the wildlife and natural resources of the ancestral lands of the Klamath Tribes.
- I. To exercise all other reserved powers, or powers delegated to or conferred upon the Tribes, by Congress or by any other governmental agencies.
- J. To delegate to the "Tribal Council", and/or any other tribal committee answerable to the "Tribal Council", any of the above powers.
- K. To exercise all powers necessary to carry any of the aforesaid powers into effect.

ARTICLE VII- ELECTED OFFICIALS OF THE GENERAL COUNCIL

SECTION I: The officials, who shall comprise the “Tribal Council” of the General Council, shall consist of a Chairman, Vice-Chairman, Secretary, Treasurer and six Council Members. The Chairman, Vice-Chairman, Secretary, and Treasurer shall be the Officers of the Klamath Tribes General Council and of the “Tribal Council”. The General Council shall elect the Tribal Council to act on behalf of the General Council regarding day to day business of the Tribes. The Tribal Council shall adopt such rules as they deem necessary for the conduct of Tribal business. Such rules will be established in written form and made available to all Tribal Members upon request.

SECTION II: Tribal Council Members must be members of the Klamath Tribes’ General Council,

SECTION III: Terms of office. All Officers and Tribal Council Members shall hold office for a “three” year period and may be re-elected, (effective after February 2001 elections)

SECTION IV: Duties of Officers

- A. The Chairman shall be the presiding officer of the General Council and the “Tribal Council”. The Chairman will be responsible for informing the General Council of all “Tribal Council” decisions, assuring that Tribal business is brought before the General Council, conducting meetings in accordance with parliamentary rules to be adopted by the General Council, until such rules are adopted, or where they are not determinative the Chairman’s rulings shall be based on Roberts Rules of Order.
- B. The Vice-Chairman shall be available at the call of the Chairman for consultation on Tribal business. During the absence of the Chairman the Vice-Chairman shall assume the duties of the Chairman (If both the Chairman and Vice-Chairman are absent at any meeting, the next ranking officer shall call the meeting to order. The officers shall rank in the order that appears in Section I of Article VII.)
- C. The Secretary shall be responsible for giving proper notice of General Council, Tribal Council, and other special meetings. The Secretary shall maintain accurate records of all proceedings of the General Council and official correspondence relating to Tribal affairs. The Secretary shall attend to the posting/ forwarding of all official correspondence and/or notices to members of the Tribes as required, have custody of the official Tribal Seal, and insure that minutes of General Council meetings are available at the Tribal office within seven days after the meeting. (The Secretary shall have, at General Council; Minutes of the previous General Council, the Constitution of the Klamath Tribes, Minutes of the Tribal Council meetings, Committee appointments, and all standing rules of all Committees, Corporations, Commissions and boards.)
- D. The Treasurer shall be responsible for-handling and documenting all funds received on behalf of the General Council, for depositing those funds immediately in a safe depository, and for maintaining accurate records of all funds received and disbursed on behalf of the General Council. The Treasurer shall disburse funds in accordance with budgets or resolution approved by the General Council. The Treasurer shall give such bond, conditioned on faithful and honest performance of duties, as is determined by the General Council, said bond will be recorded with proper authorities, including the Tribal Office.

- E. The Tribal Council of the Klamath Tribes shall perform their duties within the boundaries of this Constitution plus the attached By-Laws, Ordinances and Charters of the Committees, Commissions, Corporations and boards that are responsible to the Tribal Council of the Klamath Tribes.
- F. All materials pertaining to Tribal business that is in the possession of elected officers shall be considered the property of the Klamath Tribes.

ARTICLE VIII - NOMINATIONS AND ELECTIONS OF TRIBAL COUNCIL

SECTION I: Officers and Tribal Council Members shall be nominated at the February General Council meeting of the election year. All enrolled members of the Klamath Tribes of voting age (18years) shall have the right to vote on elections. Voting shall be by secret ballot. Elections shall be held sixty days following the nominations made in accordance with this Constitution and each three years thereafter. Should the Election Day fall on a holiday recognized by the Klamath Tribes, the election shall be held on the following weekday.

SECTION II: Nominations can only be made by persons eligible to vote under this Constitution. All persons nominated must be present at the February General Council Meeting. Nominations must be accepted or declined, in writing, by nominees prior to adjournment of that February General Council; however, if nominee is unable to attend that meeting then exception can be made if explanation of the absence was delivered, in writing, and in person to the Election Clerk or designee within seven (7) days following the February General Council. Said, Election Board will determine if absence is excusable. Nominee will then be notified by certified mail. Election Board decision is final.

SECTION III: Oath of Tribal Council.

- A. Before entering into performance of their duties, the Tribal Council of the General Council shall subscribe to a written oath as follows:
“I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the Klamath General Council and faithfully and impartially carry out the duties of my office to the best of my ability, I affirm that I will assist in all proper and legal efforts which, in my judgment, will promote and protect the best interests and general welfare of members of the Klamath and Modoc Tribes and the Yahooskin Band of Snake Indians.” and do solemnly swear to abide by the Governmental Code of Ethics attached to the Constitution. (Code of Ethics must be signed and filed).
- B. All oaths shall be recorded and preserved by the Secretary of the Tribal Council, and shall be administered by the retiring Chairman, unless the Chairman is reelected, in which event it shall be administered to him by the retiring Vice-Chairman, or in the event of his absence or incapacity, or by a duly elected or appointed judge of any court of the United States of the State of Oregon.

ARTICLE IX - REMOVAL OF TRIBAL COUNCIL MEMBERS AND FILLING VACANCIES

SECTION I: Any Tribal Council Member of the General Council shall forfeit his/her position if at any time during his/her term if any disability arises which would make him/her unable to hold elected position. (This includes Governmental Leave.) Any Tribal Council Member of the

General Council may be removed for the remainder of a term for “just cause” by a majority vote of the qualified voters at any regular or special General Council meeting. No such vote shall take place unless it is requested by a petition setting forth the cause and signed by a minimum of 100 qualified voters of the General Council, and the Tribal Council Member advised of such allegations 15 days or more in advance of the meeting. Upon receipt of such a petition by the Chairman of the General Council, it shall be his/her duty to forward, to the Tribal Council Member proceeded against, a copy of the petition. If the petition is directed against the Chairman, the Vice-Chairman shall perform this duty. If the petition is deemed as having “Just Cause” the Tribal Council Member being proceeded against may, as a matter of right, (1) submit a written resignation to the Tribal Council or (2) be granted a hearing by the Tribal Council to be held immediately preceding the vote being taken on the petition.

SECTION II: In event of a vacancy occurring through death, resignation or other cause, said vacancy shall be filled by an appointment, of the next highest vote recipient of said vacated office, by the Tribal Council, said appointment will be held for the remainder of the unexpired term.

SECTION III: Should any Tribal Council Member be removed through petition process, said Council Member cannot hold any other Tribal position for the remainder of that term of office.

SECTION IV: Should any Tribal Council Member be removed, all records pertaining to Tribal business in their possession shall be surrendered to the Tribal Government office within 15 days of removal.

SECTION V: The Tribal Council may remove a Council Member for “just cause” with a majority vote of at least seven members.

ARTICLE X - COMMITTEES

SECTION I: The following are all permanent committees, commissions, corporations, and boards of the Klamath Tribes.

1. Klamath Indian Game Commission (Natural Resources)
2. Enrollment Committee
3. Constitution Committee
4. Budget Committee
5. Economic Development Corporation
6. Culture and Heritage Committee
7. Elders Committee
8. Kla-Mo-Ya Casino Board of Directors
9. Gaming Regulatory Commission (Casino)
10. Education Committee
11. Housing Advisory Committee
12. Health Advisory Committee
13. NAGPRA Committee (Native American Graves Protection and Repatriation)
14. ICWA Placement board (Indian Child Welfare Act)
15. Veterans Committee

SECTION II: Each committee, commission, corporation and board will establish their By- Laws, Ordinances and/or Charters and attach a copy to this Constitution of the Klamath Tribes.

SECTION III: All committees, commissions, corporations and boards shall elect a Chairman and Secretary. Their duties are to conduct and record the proceedings of their respective committees, commissions, corporations and boards and make reports as mandated to the Tribal Council and the General Council.

SECTION IV: The Chairman shall appoint other committees as the need arises. Such committees shall terminate upon completion of assignment and give a final written report to the Tribal Council and the General Council.

ARTICLE XI - SUPERVISOR OVER ELECTIONS

SECTION I: The elections for Tribal Council shall be conducted under the direction of a Board of Elections, consisting of fifteen (15) Tribal Members plus five (5) alternates? The Board shall be elected at the February General Council meeting when nominations for Tribal Council are made. It shall be the duty of the Election Board to oversee the election process per the election ordinance.

Ballots will be mailed out to eligible Members of the Klamath Tribes, twenty (20) working days after nominations using current enrollment address listing and will include if available at mailed out time a 1 page candidate information sheet at the candidates expense. Ballots will need to be returned and received, at a location to be determined by the Elections Board, by 5p.m. within sixty (60) days after General Council Nominations. All ballots received by the deadline will be stored in a locked secure location until they are tabulated on the sixty-first (61st) day after nominations.

SECTION II: It shall be the duty of the Election Board to preserve carefully all ballots until the respective terms of office have expired.

SECTION III: Each candidate receiving the largest number of votes cast for each respective position shall be deemed to be elected, provided that when any claims of irregularity is made to the Elections Board. The Board shall report its findings to the General Council for appropriate action or decision.

SECTION IV: No claim of irregularity shall be considered unless made within ten days following the election.

SECTION V: Standing rules for elections, shall be attached to this Constitution.

ARTICLE XII - MEETINGS OF THE GENERAL COUNCIL

SECTION I: Regular meetings of the General Council shall be held quarterly, one in February, May, August, and November. The exact time, place, and dates to be determined by the Chairman.

SECTION II: Special meetings of the General Council shall be held (1) at such time and place as the Chairman may designate, (2) at such time and place as may be designated in a petition delivered to the Secretary of the General Council and signed by at least 100 qualified voters of the tribe, or (3) at such time and place as may be designated by the Tribal Council.

SECTION III: Notices designating the time, place, and purpose of regular and special General Council meetings shall be posted at customary and conspicuous places at least 15 days prior to the date of the meeting.

SECTION IV: Notices of Special meetings shall specify all matters of business which the Chairman or petitioners have listed for consideration, and no other matters shall be considered.

SECTION V: Notices of regular meetings shall specify matters of business to be considered. After all items listed on notices of regular meetings have been dispensed with, other matters may be presented for consideration.

SECTION VI: Fifty (50) eligible voters of the Klamath Tribes shall constitute a General Council quorum for the transaction of any business, and the determination of any matter, except as otherwise provided herein, shall be by a majority vote. Voting at meetings shall be by the show of hands unless otherwise directed by the Chairman.

ARTICLE XIII- REVIEW BY THE GENERAL COUNCILS

SECTION I: Any action taken by the Tribal Council or any other committee of the Klamath Tribes may be reviewed by the General Council upon motion duly made by any member of the General Council. Any action of the Tribal Council or any other committee of the Klamath Tribes may be reversed by the General Council provided, a majority of the members, at General Council, voting on such a motion vote for reversal; provided further, any action taken by the Tribal Council or any other committee of the Klamath Tribes shall be final unless reversed by the General Council at the next regular meeting after said action was approved by the Tribal Council.

ARTICLE XIV - REFERENDUM

SECTION I: Upon petition of two hundred fifty or more of the eligible voters of the Klamath Tribes, any action of the General Council shall be submitted to a popular referendum, and the vote of the majority of the qualified voters voting in such referendum shall be conclusive and binding, provided that at least four hundred fifty of the eligible voters shall vote in such election. Referendum vote shall be final.

ARTICLE XV - EXPENSES FOR ADMINISTRATION

SECTION I: The expenses of administration under this Constitution shall be paid out of funds made available by (1) the Klamath Tribes, (2) the Congress of the United States, (3) the Secretary of the Interior, or (4) from any other source.

ARTICLE XVI - ADOPTION OF CONSTITUTION

SECTION I: This Constitution shall be in effect when adopted by a majority vote of the Klamath Tribes General Council, and shall repeal the existing Constitution of the Klamath Tribes General Council.

ARTICLE XVII - AMENDMENT OF CONSTITUTION

SECTION I: Notwithstanding Article XIV, amendments to this Constitution may be made in accordance with the following:

- A. Proposed in writing and accepted at any regular meeting of the Klamath Tribes General Council, and voted upon at the next special meeting of the Klamath Tribes General Council called for the purpose of voting on the proposed amendment, or at the next regular meeting of the Klamath Tribes General Council; or
- B. By the majority vote of the Tribal Council or General Council to submit the proposed amendment to a referendum vote of the membership of the General Council. Proposed amendments submitted by referendum shall be effective if approved by a majority of those voting in the referendum, provided that at least four hundred fifty of the eligible voters shall vote in such referendum. Amendments to the Constitution made by referendum vote shall be final and subject to change only by further referendum vote.

CERTIFICATION OF ADOPTION

We, the undersigned, Tribal Council Chairman and Secretary of the Klamath Tribes, do hereby certify that at a Regular General Council meeting held on the 19th day of November, 2011 with a quorum present, the General Council took action and duly adopted and approved this Constitution as amended, by a vote of for, opposed, and / abstentions.

Gary Frost, Chairman, The Klamath Tribes
Torina Case, Secretary, The Klamath Tribes

AMENDMENTS

Amendments made to the Constitution are:

- * Amendment to Article IV - Jurisdiction - approved by General Council on April 13, 1996.
- * Addition of Article V - Judicial Branch - approved by General Council on August 17, 1996.
- * Amendment to Article X - Committees - approved by General Council on April 13, 1996
- * Amendment to Article III - Membership, Enrollment, and Voting - approved by General Council on November 21, 1998
- * Amendment to Article VII - Officers of the General Council - approved by General Council on November 21, 1998
- * Amendments to the Constitution and By-Laws of The Klamath Tribes - Presented to the Klamath Tribes General Council on February 19, 2000, September 9, 2000 - Approved by The Klamath Tribes General Council November 25, 2000

- * Amendment to Article XVII - Amendment of Constitution and Bylaws - approved by General Council on November 19, 2011, General Council Resolution 2011-003.

The Klamath Tribes

Code of Ethics for Government service and Tribal Employment

As a Representative of the Klamath Tribes I Agree to:

- Put Loyalty to the highest moral principle to the Klamath Tribes above Loyalty to persons, party or Government Department.
- Uphold the Constitution and Bylaws, and Policy and Procedures of the Klamath Tribes.
- Give a full days labor for a full days pay, giving earnest effort and best thought to the performance of duties.
- Seek to find and employ more efficient and economical ways of getting tasks accomplished.
- Never discriminate unfairly by dispensing of social favors or privileges to anyone, and never accept for myself or family members favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of Government Duties.
- Make no private promises of any kind binding upon the duties of office.
- Never use any information gained confidentially in the performance of Government duties as a means of making private profits.
- Expose corruption wherever discovered.
- Uphold these principles, ever conscious that public office is a public trust.
- Abide by the Drug and Alcohol Free Policies of the Klamath Tribes Personnel Policies and Procedures.