

SHOALWATER BAY TRIBE

CODE OF LAWS

TITLE 4

EXCLUSION

Adopted 4-27-87

SHOALWATER BAY TRIBE CODE OF LAWS

TITLE 4 - EXCLUSION

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TITLE 4
EXCLUSION

Chapter 4.1 Purpose and Jurisdiction

4.1.010 PURPOSE. This title is enacted to protect the natural resources of the Shoalwater Bay Tribe and to protect the peace and tranquility of the members of the Shoalwater Bay Tribe and their property.

4.1.020 JURISDICTION. The Shoalwater Bay Tribal Court shall have jurisdiction over all matters arising under this title. All means necessary to exercise that jurisdiction are delegated to the Tribal Court. In the exercise of jurisdiction under this title, if a course of proceeding is not specified, any suitable process may be adopted by the Tribal Court, in keeping with the spirit of the laws of the Tribe.

Chapter 4.2 Grounds for Exclusion

4.2.010 GROUND FOR EXCLUSION. Any person who is not an enrolled member of the Shoalwater Bay Indian Tribe may be excluded from the Reservation jurisdiction of the Tribe for any of the following reasons:

- a) Commission of a crime under tribal, state or federal laws, whether or not the person may be prosecuted by the Tribe;
- b) Repeated invasion of the privacy of the Reservation residents;

- c) Failure to pay tribal taxes, assessments or user fees;
- d) Entry onto any Tribal land for the purpose of hunting, fishing, trapping, timber cutting, driftwood collecting, without a valid Tribal permit;
- e) Any activity involving the taking of or damage to the property or natural resources of the Tribe or of any resident of the Reservation;
- f) Trespass upon any tribal land which has been closed to non-tribal members. Tribal land may be closed by order of the Shoalwater Bay Tribal Council and shall be identified as closed by the erection of "No Trespassing" signs in prominent locations on and at the boundaries of the closed areas;
- g) Evading arrest or prosecution for an offense committed in another jurisdiction;
- h) Failure to comply with any legal process, notice, subpoena, order, or other decree issued by the Shoalwater Bay Tribal Court, Tribal Council, or Tribal administrative procedure panel.
- i) Removing or attempting to remove any child of a member of the Shoalwater Bay Tribe without proper authority;
- j) Disturbing grave sites, artifacts, or other sites and objects of historical or anthropological value without authorization from the Tribal Council;
- k) Failure to comply with any tribal law, policy, or contractual obligation regarding employment practices;
- l) Repeated harassment of members of the Shoalwater Bay Tribe, tribal officials, or tribal employees; or
- m) Presence within the jurisdiction of the Shoalwater Bay Tribe during a time when that person is legally required to be in school. This applies only to persons under the age of eighteen years who are not members of the Tribe.

Chapter 4.3 Rules for Exclusion Procedure

4.3.01 PETITION FOR EXCLUSION. The Chairman or Vice-Chairman of the Shoalwater Bay Tribal Council may petition the Shoalwater Bay Tribal Court to begin exclusion procedures whenever the Chairman or Vice-Chairman has reason to believe that cause exists for the exclusion of any person.

4.3.02 NOTICE OF EXCLUSION PETITION. Upon finding that probable cause exists for excluding the person, the Court shall have notice of the exclusion petition served on the person in question. Such notice shall state the reason for the order and shall name a time, not less than ten (10) days, when the person may appear before the Shoalwater Bay Tribal Court for a hearing to show cause why he or she should not be excluded from the Shoalwater Bay Indian Reservation.

4.3.03 RIGHTS AT HEARING. The person proposed for exclusion shall be entitled at the hearing to present evidence and witnesses on his or her own behalf and to rebut evidence and cross-examine witnesses presented by the Tribe. He or she shall be entitled to have the assistance of counsel, admitted to practice before the Shoalwater Bay Tribal Court, at his or her own expense.

4.3.04 STANDARD FOR THE COURT'S DECISION. The Tribal Court may enter an order for exclusion if, based on the evidence presented, the Court is reasonably certain that:

- a) The individual or entity committed an act or omission which falls within one or more grounds for exclusion; and
- b) That removal or exclusion is necessary to protect the health, safety, or welfare of the community.

4.3.05 FAILURE TO APPEAR AT THE HEARING. If the person does not appear at the hearing at the time and place scheduled the Shoalwater Bay Tribal Court shall issue an order excluding the person under Section 4.3.06 of this code. The order shall be effective for the period specified in the order or until revoked or modified by the Court.

4.3.06 ORDER OF EXCLUSION. The Court may orally advise the parties of its decision at the hearing or may issue an opinion no later than ten working days from the date of the hearing. In either case, the Court shall prepare a written order and cause it to be served on both parties written orders for exclusion shall include:

- a) The grounds for the decision;
- b) The date and time the individual or entity must remove himself;
- c) The duration the order is to be in effect;
- d) Any circumstances under which the individual or entity may be permitted to return. For example, payments of restitution, evidence of rehabilitation, visitation of children, visitation during certain times only, and a limited time to return to pick up belongings.
- e) A date by which the Tribal Court will review the order and circumstances or conditions attached, if the individual or entity requests a review.

4.3.07 SERVICE OF THE ORDER. A copy of the order shall be given to the person personally, or, in his or her absence, shall be mailed to his or her last known address, or served upon him or her by the Tribal Law Enforcement Officer.

4.3.08 ORDER OF EXCLUSION - ENFORCEMENT. The Court may request Tribal Law Enforcement to supervise the removal of the respondent. Tribal Law Enforcement, in its discretion and under its supervision, may allow the person to gather any necessary belongings from the jurisdiction of the Tribe, prior to removal. If the respondent fails to voluntarily remove himself within the time limit stated in the order, Tribal Law Enforcement may physically remove him. Tribal Law Enforcement shall use only so much force as is reasonable to accomplish the removal.

4.3.09 EMERGENCY REMOVAL. Notwithstanding the above, the Chairman or Vice-Chairman of the Shoalwater Bay Tribal Council may order the immediate removal of any person not enrolled in the Shoalwater Bay Tribe in cases that he or she believes involve immediate danger to life, health, morals, property, or natural resources of the Shoalwater Bay Tribe, of Reservation residents, or of tribal members. In addition to other reasons for immediate removal, for purposes of this code, those activities described in Section 4.2.010 (d), (e) and (f), if carried on without a tribal permit, shall be construed to be causing immediate danger to the property and natural resources of the Reservation. At the time

of removal, or as soon thereafter as possible, the Chairman or Vice-Chairman shall have the person removed served notice of the right to a hearing upon request as provided in Section 4.3.02.

4.3.10 SEVERABILITY. If any provision herein is determined to be invalid, such adjudication shall not be held to affect or invalidate the remainder of the code, but shall be confined in its operation to the provision directly involved in the controversy in which such judgment was rendered.

SHOALWATER BAY INDIAN TRIBE
SHOALWATER BAY RESERVATION

SHOALWATER BAY INDIAN TRIBE,)
)
 vs,) PETITION FOR
) EXCLUSION OR REMOVAL
)
 _____,)
 RESPONDENT.)

I, _____, the Chairperson
Vice-Chairperson of the Shoalwater Bay Tribal Council file this
petition for the exclusion of _____
from the jurisdiction of the Shoalwater Bay Indian Tribe.

I.

The respondent is not a member of the Shoalwater Bay Indian
Tribe.

II.

The respondent should be excluded because _____

The facts stated above are grounds for exclusion under the
Shoalwater Bay Code, Section 4.2.010 _____
(a-m)

I have read this complaint and believe it to be true.

DATE _____ SIGNATURE OF PETITIONER _____

SHOALWATER BAY INDIAN TRIBE
SHOALWATER BAY RESERVATION

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3 SHOALWATER BAY INDIAN TRIBE,)
4) ORDER FOR EMERGENCY REMOVAL
5 vs.) OR EXCLUSION
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The Tribal Council of the Shoalwater Bay Indian Tribe enters
this Order for Emergency Removal or Exclusion of _____

I.

Reasons for Emergency Removal or Exclusion _____

II.

_____ may request a hearing before
the Shoalwater Bay Tribal Court. The request must be submitted
to the Tribal Council within ten (10) days after this order is
received.

III.

If _____ does not request a hearing
within ten (10) days after this order is received, the order for
removal or exclusion may become permanent.

IV,

_____ must leave the Reservation
at this appointed time _____, and at this appointed date
_____.

DATE

CHAIRPERSON / VICE-CHAIRPERSON

RECEIVED:

DATE

RESPONDENT

IV.

1 CIRCUMSTANCES UNDER WHICH THE RESPONDENT MAY BE PERMITTED TO
2 RETURN _____

3 _____
4 _____
5 _____
6 _____
7 _____

V.

8 DATE OF REVIEW, IF REQUESTED BY RESPONDENT _____

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11 DATE _____

JUDGE _____

SHOALWATER BAY INDIAN TRIBE
SHOALWATER BAY RESERVATION

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3 SHOALWATER BAY INDIAN TRIBE,)
4) OPPORTUNITY TO REQUEST
5 vs.) HEARING
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This notice for the Opportunity to Request a Hearing before
the Shoalwater Bay Tribal Court is presented to _____

I.

Reason(s) for the emergency removal of Respondent _____

II.

You may request a hearing before the Shoalwater Bay Tribal
Court within (10) days after receiving this notice.

III.

Failure to request a hearing within the ten (10) days time
limit may result in a permanent order for exclusion being entered
by the Tribal Court against you, the Respondent.

DATE _____

CHAIRPERSON/VICE-CHAIRPERSON

RECEIVED:

DATE _____

RESPONDENT

1 SHOALWATER BAY INDIAN TRIBE
2 SHOALWATER BAY RESERVATION

3
4 SHOALWATER BAY INDIAN TRIBE,)
5 vs.) NOTICE OF
6) EXCLUSION HEARING
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NOTICE OF HEARING IS GIVEN TO _____

I.

TIME: _____

DATE: _____

PLACE: SHOALWATER BAY TRIBAL COURT, SHOALWATER BAY TRIBAL CENTER, TOKELAND, WASHINGTON.

II.

Reason(s) for the hearing: _____

III.

You may be represented by counsel at your own expense.

IV.

You may present testimony of witnesses and other evidence on your behalf.

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V.

Failure to attend the Hearing may result in the Court entering a permanent order of exclusion from the territorial jurisdiction of the Shoalwater Bay Indian Tribe.

DATE _____ JUDGE _____

RETURN OF SERVICE

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THIS NOTICE OF HEARING BEFORE THE SHOALWATER BAY COURT WAS
SERVED UPON _____

THIS NOTICE WAS SERVED IN THE FOLLOWING MANNER _____

DATE _____

PROCESS SERVER/LAW ENFORCEMENT _____

RETURN OF SERVICE

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THIS NOTICE OF HEARING BEFORE THE SHOALWATER BAY INDIAN TRIBAL
COURT WAS SERVED UPON _____

THIS NOTICE WAS SERVED IN THE FOLLOWING MANNER _____

DATE

PROCESS SERVER/LAW ENFORCEMENT

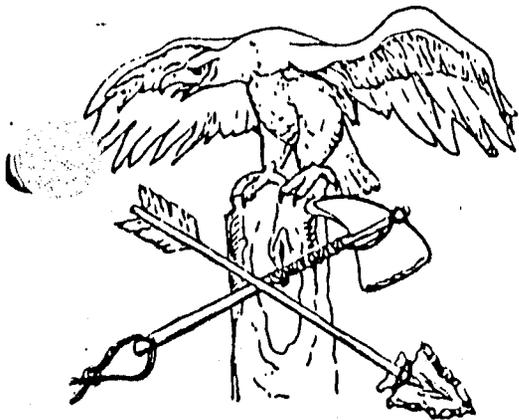
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RETURN OF SERVICE

THIS NOTICE FOR THE OPPORTUNITY TO REQUEST A HEARING BEFORE
THE SHOALWATER BAY TRIBAL COURT WAS SERVED UPON _____

THIS NOTICE WAS SERVED IN THE FOLLOWING MANNER _____

DATE PROCESS SERVER/LAW ENFORCEMENT



SHOALWATER BAY INDIAN TRIBE

Tokeland, Washington 98590

Telephone 267-6766

SHOALWATER BAY INDIAN TRIBE

RESOLUTION NO. 04-27-87-1D

WHEREAS, the Shoalwater Bay Tribe is a federally recognized Tribe headquartered on the Shoalwater Bay Indian Reservation in the State of Washington; and

WHEREAS, the Shoalwater Bay Tribal Council is the governing body of the Shoalwater Bay Indian Tribe according to its Constitution; and

WHEREAS, the Shoalwater Bay Tribal Council has the power to establish procedures for the exclusion of non-tribal members under Article VI, section 1 (1) of the Constitution of the Shoalwater Bay Tribe; and

WHEREAS, the Shoalwater Bay Tribe is currently amending and codifying its laws, including the Exclusion Ordinance adopted by the Tribal Council on December 14, 1978

NOW THEREFORE BE IT RESOLVED, that the attached TITLE FOUR, EXCLUSION, SHOALWATER BAY TRIBE CODE OF LAWS is hereby adopted, effective on the date of this resolution.

C E R T I F I C A T I O N

The above resolution was passed at a regular Tribal Council meeting held on the 27th day of April, 1987 at the Shoalwater Bay Tribal Center at which a quorum was present by a vote of 3 FOR, 0 AGAINST, and 1 ABSTAIN.

[Signature]

ATTEST:

[Signature]