

# Ely Shoshone Tribe



Location: Nevada

Population: 500

Date of Constitution: 1966, as amended 1990

## PREAMBLE

We, the Ely Shoshone Indians of Nevada, located at Ely, Nevada, to exercise our traditional and historical inherent sovereign powers and to improve the constitution previously adopted, pursuant to the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended, and approved on April 8, 1966; to provide an opportunity for other eligible Shoshone Indians to become a part of this tribe; to conserve our tribal property; to develop our resources; to administer justice; to promote the welfare of ourselves and our descendants, and to otherwise govern the affairs of this tribe; do ordain and establish this constitution pursuant to the Indian Reorganization Act of 1934, as amended.

## ARTICLE I. TERRITORY

The territory and jurisdiction of the Ely Shoshone Tribe shall extend to all reservation lands, tribal lands within the boundaries of the present tribal lands located in White Pine County, Nevada, and all other lands (allotments/cemeteries) held in trust for or owned by the tribe. The territory also includes all other trust lands occupied by members of the tribe which may be subject to the jurisdiction of the tribe by majority vote of the Indians residing thereon and other lands heretofore or hereafter acquired by the United States, the Ely Shoshone Tribe and held by the United States as trustee. In pursuance with acceptable Federal law, persons or property within the territory of the tribe shall be subject to tribal jurisdiction.

## ARTICLE II. MEMBERSHIP

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

- (a) All persons of at least one-quarter (1/4) degree Shoshone Indian blood whose names appear on the census roll of the Ely Colony dated April 1, 1930, revised April 19, 1983; Provided, That the Ely Shoshone Tribal Council shall have the authority to make any necessary corrections in the above specified roll.
- (b) All persons of at least one-quarter (1/4) degree Shoshone Indian blood who are descendants of members.

SECTION 2. The Ely Shoshone Tribal Council shall have the power to enact ordinances governing enrollment procedures including the loss of membership and the adoption of new members.

SECTION 3. No persons enrolled with another Indian tribe or group. Whether federally recognized or not, shall be a member of the Ely Shoshone Tribe.

SECTION 4. Written applications must be filed on behalf of all applicants applying for enrollment with the Ely Shoshone Tribe. Any person refused membership or who is subject to loss of membership by the Ely Shoshone Tribal Council shall have the right to appeal in accordance with tribal ordinances.

#### ARTICLE III. GOVERNING BODY

SECTION 1. The governing body of the Ely Shoshone Tribe of Ely Shoshone tribal lands shall be known as the Ely Shoshone Tribal Council

SECTION 2. A council member must be twenty-one (21) years of age.

SECTION 3. The tribal council shall consist of five (5) members.

SECTION 4. Three (3) council members shall constitute a quorum.

#### ARTICLE IV. NOMINATIONS AND ELECTIONS

SECTION 1. The first election under this constitution shall be called and supervised by the present tribal council on the fourth Saturday of January after the date of approval of this constitution.

SECTION 2. The duly elected tribal council shall serve three (3) years, two (2) members being elected each year except that every third year (1) shall be elected.

SECTION 3. For the first election under this constitution the council so organized shall elect from within its own number (1) a chairperson; 2) a vice chairperson; and (3) a secretary/treasurer.

- (a) The two candidates receiving the highest number of votes shall hold office for three (3) years; the next two highest, two (2) years; and the next highest, one (1) year; and they shall hold office until their successors are duly elected and seated into office.
- (b) After the first election, elections for the tribal council shall be called annually at least sixty (60) days prior to expiration of terms of office of respective outgoing tribal council members.

SECTION 4. Any enrolled member of the tribe who is at least eighteen (18) years of age shall be entitled to vote.

SECTION 5. Any qualified tribal member, who is at least twenty-one (21) years of age, may announce his/her candidacy for the council by notifying the secretary-treasurer in writing of his/her candidacy. The list of certified candidates shall be posted by the secretary-treasurer the tribal council at least ten (10) days before the election.

SECTION 6. The council shall appoint an election board of at least three (3) members who shall determine regulations governing elections; supervise the elections; and shall certify the elections to the council within five (5) days after election returns have been counted.

SECTION 7. The Ely Shoshone Tribal Council shall be the sole judge of the qualifications of its members.

SECTION 8. All elections shall be by secret ballot.

#### ARTICLE V. VACANCIES AND REMOVAL

SECTION 1. If any tribal council member shall die, resign, being incapacitated, be removed from office, be found guilty of a felony or misdemeanor involving dishonesty in any Indian State or Federal Court, a vacancy in the tribal council shall be created automatically, and at its next regular or special meeting, the tribal council shall appoint another qualified eligible tribal member to fill the vacant position for the remainder of the unexpired term.

SECTION 2. The tribal council may, by three (3) affirmative votes, remove from office any tribal council member convicted of a misdemeanor involving moral turpitude, or for gross neglect of duty, malfeasance in office, misconduct reflecting on the dignity and integrity of the tribal government or failure to attend any three (3) consecutive tribal council meetings without permission of the tribal council, except for illness, or disqualification to serve as a tribal council member. Before any vote for removal from office is taken, the member shall be given a written statement of charges against him/her at least fifteen (15) days before the meeting of the tribal council at which he/she is to appear, and he/she shall be given an opportunity to answer any and all charges at the tribal council meeting. If the member refuses to appear before the tribal council, the tribal council shall proceed with the vote as scheduled. The chairperson shall have the right to vote in all removal proceedings except his own.

#### ARTICLE VI. POWERS AND DUTIES OF THE TRIBAL COUNCIL

SECTION 1. Enumerated Powers. The council shall exercise the following powers, subject to any limitations imposed by Federal law and subject further to all express restrictions upon such powers contained in this constitution.

- (a) To negotiate, consult and contract with Federal, State, local and tribal governments, private enterprises, individuals and other organizations
- (b) To employ legal counsel, the choice of counsel and the fixing of fees to be subject to the approval of the Secretary of the Interior as long as such approval is required by Federal law.
- (c) To prevent the sale, exchange, disposition, lease or encumbrance of tribal lands, interest of land or other assets of the tribe to sell, dispose of, lease, encumber, assign or otherwise regulate tribal lands, interest in lands, other tribal assets, subject to applicable Federal statutes and regulations;
- (d) To charter and regulate independent organizations, subordinate organizations, committees and boards of officials of the tribe and to delegate powers as appropriate, retaining the right to supervise and to rescind delegated powers.

- (e) To plan and manage all economic affairs and enterprises of the tribe;
- (f) To establish agencies for and otherwise provide for law enforcement and a criminal justice system within the territory and jurisdiction of the tribe;
- (g) To the extent permitted by Federal law to levy assessments dues, fees or taxes upon the members of the tribe and upon non-members residing or doing any business of any sort within the territory and jurisdiction of the tribe;
- (h) To spend tribal funds in accordance with an annual budget approved by the tribal council;
- (i) To promote and protect the health, peace, morals, education, safety and welfare of the tribe, its members and all other persons within its jurisdiction, and govern the conduct of tribal members to the extent permitted by Federal law;
- (j) To enact criminal and civil laws governing the conduct of any person within the tribal lands and jurisdiction of the tribe consistent with Federal law;
- (k) To regulate all administrative and legislative bodies of the tribe, its agencies, officers and organizations;
- (l) To provide for the exclusion and expulsion of non-members from the territory within the jurisdiction of the tribe for good cause;
- (m) To enact all ordinances and resolutions which shall be necessary and proper for carrying into effect the foregoing powers.

SECTION 2. Future Powers. The council may exercise such further powers as may in the future be delegated to the tribal council by the members of the tribe, the Secretary of the Interior, or any other duly authorized officials or agencies of the State or Federal government.

SECTION 3. Reserved Powers. Any rights or powers heretofore vested in the Indians of the tribe but not expressly referred to in this constitution shall not be abridged by this constitution but may be exercised by the tribal council through the adoption of appropriate amendments to this document.

#### ARTICLE VII - REFERENDUM, INITIATIVE AND RECALL

SECTION 1. Referendum. The tribal council shall upon receipt of a petition signed by one-third (1/3) of the eligible voters of the tribe, submit any enacted or proposed tribal legislation to a referendum of the eligible voters. The decision of a majority of the voters voting in the referendum shall be binding on the tribal council. The tribal council shall call the referendum within thirty (30) days from the date of the receipt of a valid petition and shall prescribe the manner in which it is to be conducted.

SECTION 2. Initiative. The enrolled members of the tribe who are at least eighteen (18) years of age reserve the power to independently propose tribal legislation. Any proposed initiative measure shall be presented to the tribal council accompanied by a petition signed by not less than one-third (1/3) of the eligible voters of the tribe. Upon receipt of such a petition. The tribal council shall call a special election for the purpose of allowing the members of the tribe to vote on the initiative measure. The election shall be held within thirty (30) days from the date a valid petition is presented to the tribal council. The decision of a majority of the voters voting in such an election shall be binding on the council.

SECTION 3. Recall. Upon receipt of a petition signed by at least one-third (1/3) of the eligible tribal voters demanding a recall of any member of the tribal council, it shall be the duty of the tribal council to call a special election on the question of the recall within thirty (30) days from the date of the filing of a valid petition. The election shall be held in the manner prescribed by the tribal council, but no council member shall be recalled unless a majority of the voters voting in an election vote in favor of the recall.

SECTION 4. The tribal council shall enact such ordinances as are necessary to implement recall elections consistent with this Article. The ordinance shall also prescribe when an office subject to recall has been vacated and who shall fill such office consistent with Article V.

## ARTICLE VIII. BILL OF RIGHTS

SECTION 1. All members of the Ely Shoshone Tribe shall have equal rights, equal protection, and equal opportunity to participate in the economic resources, tribal assets and activities of the tribe.

SECTION 2. Rights of Tribal Members. The tribe, in exercising powers of self-government, shall not:

- (a) Make or enforce any law prohibiting the free exercise of religion or abridging the freedom of speech, or of the press, or of the people peaceable to assemble and to petition for a redress of grievances;
- (b) Violate the right of the people to be secure in their persons, houses, papers and effects against unreasonable search and seizure, to issue warrants, but upon probable cause, supported and by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;
- (c) Subject any person for the same offense to be twice put in jeopardy;
- (d) Compel any person in any criminal case to be a witness against himself/herself;
- (e) Take any private property for a public use without just compensation;
- (f) Deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause the accusation, to be confronted with the witnesses against him/her, to have compulsory process for obtaining witnesses in his/her favor, and at his/her own expense, to have the assistance of counsel for his/her defense;
- (g) Require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for a conviction any one (1) offense any penalty of punishment greater than imprisonment for a term of one (1) year or a fine of five thousand dollars (\$5,000), or both;
- (h) 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;
- (i) Pass any bill of attainder or ex post facto law; or
- (j) Deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six (6) persons.

## ARTICLE IX. AMENDMENTS

SECTION 1. Amendments to this constitution may be adopted in the same manner as the initial ratification when adopted by a majority vote of the qualified voters of the tribe voting in a special election called by the Secretary of the Interior in which at least thirty (30) percent of the members entitled to vote cast their ballots, shall be submitted to the Secretary of the Interior for his approval, and shall be effective from the date of approval, so long as such approval is required by Federal law.

SECTION 2. Upon receipt of a petition signed by one-third (1/3) of the tribal members who are entitled to vote, or upon receipt of a resolution adopted by a majority vote of the members of the council, the Secretary of the Interior shall call a special election for the purpose of voting on any proposed amendments to this constitution. If adopted, an amendment(s) shall become effective upon approval by the Secretary of the Interior so long as approval is required by Federal law.

SECTION 3. Savings Clause. Existing resolutions and ordinances consistent with this constitution shall remain in effect.

SECTION 4. Severability. If any part of this constitution is held by the Federal court to be invalid or unconstitutional, the remainder of the document shall continue in effect.

#### ARTICLE X. DUTIES OF OFFICERS

SECTION 1. The chairperson of the council shall preside over all its meetings, and shall be entitled to vote upon all matters except where conflict of interest exists. She/he shall perform all duties of a chairperson and exercise and authority delegated to him/her by the council.

SECTION 2. The vice-chairperson of the council shall assist the chairperson when called upon so to do, and in the absence of the chairperson, he/she shall have all the rights, privileges, duties and responsibilities of the chairperson.

SECTION 3. The secretary-treasurer of the council shall conduct all tribal correspondence and keep a complete and accurate record of all matters transacted at council meetings. It shall be his/her duty to submit promptly to the Superintendent of the Eastern Nevada Agency copies of all minutes, resolutions and ordinances of the regular and special meetings.

The books and records of the secretary-treasurer shall be audited at least once each year by a competent auditor employed by the tribal council.

The secretary-treasurer shall be required to give bond satisfactory to the council. The premium for such bond shall be paid from tribal funds.

SECTION 4. Appointive Officers. The duties of all appointive committee or officers of the tribe shall be clearly defined by the tribal council at the time of their creation or appointment. Such committees and officers shall report on their activities and decisions

from time to time as required by the tribal council. Their actions and decisions shall be subject to review by the tribal council.

SECTION 5. Newly elected members who have been duly certified shall be installed at the first regular meeting of the tribal council.

SECTION 6. Each member of the tribal council elected or appointed under this constitution shall take an oath of office prior to assuming the duties thereof by which oath he/she shall pledge himself/herself to support and defend the Constitution of the United States and this constitution.

Oath: "I, \_\_\_\_\_ do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the Ely Shoshone Tribe against all enemies; 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 the Ely Shoshone Tribe in accordance with this constitution."

SECTION 7. Regular meetings of the tribal council shall be held the Tuesday of each month or at such other times as the tribal council resolution provide on a day to be determined by the tribal council.

SECTION 8. Special meetings may be called by a written notice signed by the chairperson, or a majority of the tribal council, and when so called, the tribal council shall have the power to transact business as in the regular meeting.

SECTION 9. No business shall be conducted unless a tribal council quorum is present, which shall consist of those officially elected to the Ely Shoshone Tribal Council and shall be duly seated on said tribal governing body.

SECTION 10. Order of Business.

- (a) Call to Order by the chairperson
- (b) Roll Call
- (c) Reading of minutes of last meeting
- (d) Unfinished business
- (e) Reports
- (f) New business
- (g) Adjournment

## ARTICLE XI. TRIBAL LANDS

SECTION 1. Use of Tribal Lands. Tribal lands may be used by tribal and non-members by leases, permits or other appropriate contracts subject to the following rules:

- (a) Leases. Tribal lands may be leased by the tribal council, subject to approval by the Secretary of the Interior as long as required by Federal law, for such period of time as permitted by law.
- (b) Preference for Leases. First preference shall be given to tribal organizations, enterprises, etc. Second preference shall be given to tribal members, individually or in groups. Third preference shall be given to non-members.

SECTION 2. Ordinances. The tribal council may enact additional regulations which are in harmony with this constitution governing the use of tribal lands.

SECTION 3. Fees. Fees, if any, for leases and other contracts dealing with the use of tribal lands shall be as determined by the tribal council by resolution or ordinance, and shall be paid to the tribe.

SECTION 4. Necessary Approval of Secretary of the Interior. All leases or contracts of any kind pertaining to tribal lands or the tribal real property must be approved by the Secretary of the Interior, or his authorized representative. So long as such approval is required by Federal law.

## ARTICLE XII. JUDICIARY

SECTION 1. Courts. The judicial power of the Ely Shoshone Tribe shall be vested in a tribal court of general jurisdiction, a juvenile court of special jurisdiction and an appellate court. The judge(s) of the tribal and juvenile courts shall be elected and hold offices for a term of six (6) years and receive for services a compensation which shall not be diminished during the term of the office. A judge shall be at least thirty (30) years of age and of good moral character.

SECTION 2. Jurisdiction. The judicial power shall extend to all cases, in law and equity, arising under this constitution and the laws of the Ely Shoshone Tribe, and to all persons and property within the jurisdiction of the tribal lands to the extent permitted by Federal law. The jurisdiction of these courts over suits against the Ely Shoshone Tribe is limited to suits brought by a member or members of the Ely Shoshone Tribe and any judgments obtained in such suits in favor of tribal members against the Ely Shoshone Tribe shall not exceed \$10,000 which will exclude attorney fees.

SECTION 3. Recall. Upon receipt of a petition signed by at least one-third (1/3) of the eligible voters demanding a recall of an elected judge for good cause, it shall be the duty of the tribal council to call a special election on the question of the recall within thirty (30) days from the date of the filing of the valid petition.

SECTION 4. Vacancy. If an elected judge shall die, resign, be removed or recalled from office, or shall be found guilty of a felony or misdemeanor involving dishonesty, in any Indian, State or Federal court, the tribal council shall declare the position vacant and appoint a qualified person to fill the unexpired term if less than six (6) months remain. If the unexpired term is more than six (6) months, the tribal council shall call a special election to elect a new judge to fill the remainder of the unexpired term.

## ARTICLE XIII. ADOPTION

This constitution, when adopted by a majority vote of the qualified voters of the tribe voting in a special election called for that purpose by the Secretary of the Interior in which at least thirty (30) percent of the members entitled to vote cast their ballots, shall be submitted to



the Secretary of the Interior for his approval and shall be effective from the date of such approval.

SECTION 1. Former Constitution and Bylaws. The Constitution and Bylaws of the Ely Indian Colony adopted by the colony on February 19, 1966 and approved April 8, 1966, is hereby superseded.

#### CERTIFICATE OF RESULTS OF ELECTION

Pursuant to an order issued by Hazel E. Elbert, Deputy to the Assistant Secretary - Indian Affairs (Tribal Services), on Jan 31, 1990, the Constitution of the Ely Shoshone Tribe, Nevada was submitted to the qualified voters of the Ely Shoshone Tribe, and on April 21, 1990, was duly adopted/rejected by a vote of 18 for, and 0 against, and 0 cast ballots found separated or mutilated, in an election in which at least thirty (30) percent of the 29 entitled to vote cast their ballots in accordance with Sec.7 on 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984) as amended.

#### CERTIFICATE OF APPROVAL

I, Ronal Eden, Deputy to the Assistant Secretary - Indian Affairs (Tribal Services), by virtue of the authority granted to the Secretary of the Interior by the Act of June 18. 1934 (48 Stat. 984), as amended, and delegated to me by 230 D.M. 2.4 do hereby approve the Constitution and Bylaws of the Ely Shoshone Tribe of Nevada. Provided, that nothing contained in this approval shall be construed as authorizing any action under this constitution that would be contrary to Federal law.  
Signed. 1990.