

SQUAXIN ISLAND TRIBE

RESOLUTION NO. 95- 57
of the
SQUAXIN ISLAND TRIBAL COUNCIL

WHEREAS, the Squaxin Island Tribal Council is the governing body of the Squaxin Island Tribe of Indians by the authority of the Constitution and By-Laws of the Squaxin Island Tribe, as approved and adopted by the General Body and the Secretary of the Interior on July 8th, 1965; and

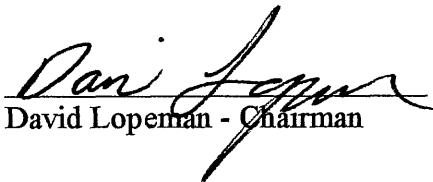
WHEREAS, the Tribal Council has by resolution adopted the Exclusion Ordinance, Resolution No. 80-06 (1980); and

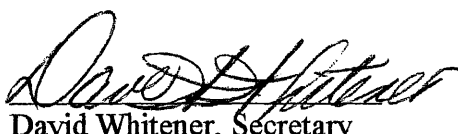
WHEREAS, The Squaxin Island Tribal Council finds it necessary and appropriate to revoke and replace the existing Exclusion Ordinance, for the purpose of protecting the general safety and welfare of tribal members and to reflect the self governing status of the Tribe, and

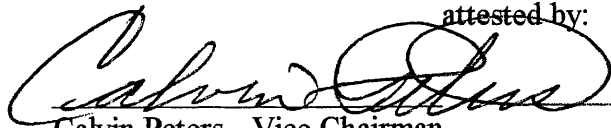
NOW THEREFORE BE IT RESOLVED, that the Squaxin Island Tribal Council hereby replaces the Squaxin Island Exclusion Ordinance with the attached document:

CERTIFICATION

The Squaxin Island Tribal Council does hereby authorize that the foregoing resolution was adopted at a regular meeting of the Squaxin island Tribal Council held on this 29th day of June, 1995, at which time a quorum was present and passed by a vote of 3 for and 0 against.


David Lopeman - Chairman

attested by: 
David Whitener, Secretary


Calvin Peters - Vice Chairman

EXCLUSION ORDINANCE
By Tribal Resolution No. 95- 57

1. Who May Be Excluded.

1.1 Any person, except persons authorized by federal law to be present on tribal land, may be excluded from the Squaxin Island Reservation.

1.2 Grounds for Exclusion. Persons may be excluded for commission of one or more of the following acts:

1.2.1 Wrongful possession or taking of natural resources, including fish, shellfish, wildlife, trees, minerals, water, and other natural resources.

1.2.2 Interference with, or threat to interfere with, lawful business activities of the Squaxin Island Tribe, including, but not limited to, intentional attempts to discourage lawful business relations between the Tribe and its clients and/or customers through any means, including the legal processes of any courts;

1.2.3 Disturbance or destruction of anthropological sites, artifacts, grave sites or any other objects that evidence history and/or culture of the ancestors of present Indians of the South Puget Sound, without tribal authorization;

1.2.4 Acts contrary to applicable tribal, state or federal criminal laws, to be proved by conviction or a preponderance of the evidence, when such acts show a willful disregard for personal or property interests, including, but not limited to, assaults on other persons and intentional destruction of property.

1.2.5 Interference with Tribal rights, including inherent sovereign rights, Treaty, Constitutional, and other governmental rights.

1.2.6 Refusal to comply with any legal process, notice, subpoena, order or other decree issued by the Tribal Council or Tribal Court

2. Hearings, notice.

2.1 Notice of Proposed Exclusion.

Any member of the Squaxin Island Tribe (petitioner) may initiate the exclusion process by directing the Tribal Court Clerk to note the issue for hearing. The Court Clerk shall then set an exclusion hearing in Tribal Court, and cause notice to be served on the person against whom an exclusion request has been

made (respondent), by registered mail or personally. If mailed, such notice shall be presumed to have been received three days after dispatch. The hearing shall be no less than five days after receipt of such notice, PROVIDED, that if the petitioner states upon oath that an emergency exists, the Court Clerk may take extraordinary measures in relief of that emergency pursuant to section 3.2 below.

2.2 Exclusion Hearing.

Upon proper notice, Squaxin Island Tribal Court shall hold a hearing to decide whether a respondent shall be excluded from the Squaxin Island Reservation. The Tribal Council shall be a party to the case, as well as the petitioner and the respondent. All parties may be represented by counsel, and may present evidence and testimony.

If the respondent fails to appear at the hearing, the Tribal Court shall order him or her excluded from the Squaxin Island Reservation. Generally, the hearing shall be conducted informally, in the character of an administrative hearing. The court shall order the respondent excluded from the reservation if the evidence and testimony establish by a preponderance of the evidence that the requirements for the exclusion have been met.

Upon finding exclusion or non-exclusion, the Tribal Court shall issue an appropriate order, either specifying the nature and duration of the exclusion and any special conditions, or denying exclusion.

2.3 Appeals.

Any person aggrieved by the decision of the Tribal Court may appeal such a decision as provided in the Squaxin Island Rules of Appellate Procedure, PROVIDED, that the standard for reversal shall be met only if it is shown by a preponderance of evidence that the Tribal Court acted in an arbitrary or capricious manner, or its ruling was clearly erroneous based in the record as a whole.

2.4 Change of Status.

Any person excluded from the reservation may petition the Tribal Court for a change in such status. The Tribal Court shall order the exclusion of such person discontinued if it finds, after a hearing, held pursuant to the terms of this ordinance, that a change in circumstances exists so that the reasons for exclusion no longer prevail. The Tribal Court may also order such a hearing if an order of exclusion was entered in the absence of respondent, and respondent requests such a hearing.

3. Enforcement.

3.1 Procedures for Enforcement of Orders of Exclusion

Tribal Law Enforcement officers shall have authority to enforce orders of exclusion issued by the Tribal Court. If, after service of the order of exclusion, the respondent does not voluntarily comply with the order, an officer may remove the respondent and/or any property of the respondent bodily from tribal land, including land leased to the Inter-Tribal Housing Authority. Except in cases of emergency (see Section 3.2), the respondent shall be allowed a reasonable opportunity to comply with the order of exclusion. The officer enforcing the order shall use only so much force as is necessary to effect the removal. Except in emergencies under Section 3.2, the officer shall notify the Tribal Court prior to removing the respondent.

3.2 Emergency Exclusions.

In cases involving immediate danger to the life, health, morals, or property of the Tribe, or any of its members, and where a delay would result in irreparable damage, any tribal law enforcement officer on the Squaxin Island Indian Reservation may remove a person and/or any property of such person bodily from tribal land, including land leased to the Inter-tribal Housing Authority, either before or after the person has been excluded by the Tribal Court as provided in Paragraph 2.2 above. The Officer executing the order shall use only so much force as it is necessary to effect the removal. If service of the notice provided for in paragraph 2.1 above has not already been made on the person at the time of removal, he or she shall cause the notice to be served as soon after removal as possible. The officer shall notify the judge of the Tribal Court of the emergency exclusion as soon after removal as possible.

Editor's Notes, 6-28-95:

This ordinance, adopted by Resolution 95-__, replaced the existing Exclusion Ordinance adopted by Resolution 80-06 and amended by Resolutions 82-6 and 82-14.