

After the first election held under this document, Tribal Council members shall elect the following officers from the Tribal Council:

1. Chairperson;
2. Vice-Chairperson; and
3. Secretary/Treasurer.

The officers shall be elected by a majority vote and shall serve two year terms.

After all subsequent Tribal Council elections, the Tribal Council members shall elect officers from the Tribal Council when the prior officer's term has expired or vacated.

#### ARTICLE VII

##### Duties of Officers

###### Section 1.

a. The Chairperson shall have the following duties:

1. To preside at all meetings of the Tribal and General Councils;
2. To vote at Tribal and General Council meetings only when it is necessary to break a tie vote;
3. Subject to the approval of the Tribal Council, to appoint all non-elected officials and employees of the Tribal government and direct them in their work, subject only to applicable restrictions embodied in this document or in enactments of the Tribal Council establishing personnel policies or government personnel management;
4. Subject to the approval of the Tribal Council, to establish such boards, committees, or sub-committees as

the business of the Tribal Council may require and to serve as an ex-officio member of all such committees and boards;

5. Subject to the approval of all contracts by the Tribal Council, to serve as a contracting officer or agent for the Tribe including the authority to retain legal counsel;
6. Subject to such regulations and procedures as may be prescribed by statute enacted by the Tribal Council and subject to approval by the Tribal Council, to grant pardons or restore Tribal members to eligibility for elective office in the Tribal government;
7. Subject to the approval of the Tribal Council to appoint tribal judges and tribal law enforcement officials as are from time to time required to assure the administration and enforcement of tribal laws;
8. The Chairperson shall hold no other Tribal office or engage in private remunerative employment which may pose a conflict of interest with the Tribe's enterprises or business activities during his term of office;
9. To prepare and cause to be published at least five (5) days before the meetings, an agenda for each General Council meeting. The agenda shall include, but not be limited to:
  - a) A report by the Tribal Secretary/Treasurer on the finances of the Tribal government during the quarter immediately preceding the meeting; and,

b) A list of all the laws enacted by the Tribal Council during the quarter immediately preceding the meeting, with a short summary explaining each law. During the meeting the Tribal Council chairperson will ensure that this agenda, including the financial report, will be available for inspection by any member of the General Council upon request. All items on the agenda will be considered by the General Council before considering new matters from the floor.

#### Section 2.

The Vice-Chairperson shall, with the consent of the Tribal Council, in the absence of the Chairperson, perform all duties and assume all the responsibilities vested in the chairperson. The vice-chairperson shall, upon the request of the chairperson, assist in carrying out the duties of the chairperson. The vice-chairperson shall perform such other duties as the chairperson may direct.

#### Section 3.

The Secretary-Treasurer shall

- a. Call the roll, handle all official correspondence of the Tribal Council, keep the minutes of all regular and special meetings of the Tribal and General Councils, and certify to the Superintendent of the Bureau of Indian Affairs, Central California Agency, the duly elected officers of the Tribal and General Councils within fifteen (15) days from the date of any election;
- b. Accept, keep and safeguard all funds under the exclusive control of the Tribe by depositing them in a bank insured

by an agency of the federal government or in an IIM account or Tribal trust account with the Bureau of Indian Affairs, as directed by the Tribal Council and shall keep or cause to be kept an accurate record of such funds and shall report on all receipts and expenditures and the amount and nature of all funds in his or her custody to the Tribal and General Councils at regular meetings and at such other times as requested by either Council. The Secretary-Treasurer shall not pay or otherwise disburse any funds in the custody of the Tribal Council except when properly authorized to do so by the Tribal Council;

c. At such times as the Tribal Council or General Council may direct, have the books and records of the Tribe audited by a competent independent auditor employed by the Tribal Council.

d. Be present at all meetings of the Tribal and General Councils unless prevented by illness or circumstances beyond his or her control;

e. Required to give a surety bond satisfactory to the Tribal Council if the Tribal Council so desires;

f. Sign and approve all checks drawn on Tribal funds and all vouchers with at least one officer or designated check signer of the Tribe in accordance with a written procedure approved and adopted by the Tribal Council by resolution; and

g. In the absence of the Chairperson and Vice-Chairperson, with the approval of the Tribal Council, the Secretary-Treasurer shall carry out the duties of the Chairperson.

Section 5.

The Tribal Council may require all responsible tribal offi-

cials and employees to be bonded, the person responsible for the cost of such bonding to be determined by the Tribal Council.

## ARTICLE VIII

### Meetings

#### Section 1.

All meetings of the General or Tribal Councils shall be open to all tribal members, except in those cases where the matter under discussion would invade the privacy of an individual tribal member.

#### Section 2.

All meetings of the Tribal Council shall be held in accordance with the following provisions:

a. The Tribal Council shall meet at least once per month. The Council may schedule additional regular meetings as necessary, provided that it shall publish the schedule of all such meetings.

b. A majority of the members of the Tribal Council shall constitute a quorum at all Council meetings. No business shall be conducted in the absence of a quorum.

c. Special meetings of the Tribal Council may be called by the Chairperson or by any three (3) members of the Council. The notice in regard to any special meeting shall be given at least three (3) days prior to the meeting and shall specify the purpose of the meeting.

d. Each member of the Tribal Council shall have one vote on all matters, and all matters to be acted on at a Tribal Council meeting shall be approved or disapproved by a majority vote of those present and voting, unless provided to the contrary in

this document.

Section 3.

All meetings of the General Council shall be held in accordance with the following provisions:

a. The annual General Council meeting shall be held on the last Saturday of October. The Tribal Council may set more frequent meetings of the General Council as necessary, provided it shall publish a schedule of all such meetings.

b. Special meetings of the General Council may be called by the Tribal Chairperson or by any member of the General Council who submits a petition with ten (10) signatures of General Council members to the Tribal Council requesting a special meeting. The notice in regard to any special meeting shall be given at least three (3) days prior to the meeting and shall specify the purpose of the meeting.

c. No business shall be transacted in the absence of a quorum. A majority of the voting members of the General Council shall constitute a quorum at all Council meetings.

ARTICLE IX

Enactments

Section 1.

All final decisions on matters of general and permanent interest to members of the Tribe shall be embodied in ordinances, such as an enrollment or an election ordinance. Such enactments shall be available for inspection by members of the General Council during normal office hours.

Section 2.

All final decisions on matters of short term or one time in-

terest where a formal expression is needed shall be embodied in resolution. Other decisions of a temporary nature or relating to particular individuals, officials or committees shall be put in the form of motions and noted in the minutes and shall be available for inspection by members of the General Council during normal business hours.

### Section 3.

All ordinances and resolutions shall be dated and numbered and shall include a certification showing the presence of a quorum and the number of members voting for and against the proposed enactment.

### Section 4.

The General and Tribal Councils shall submit Tribal laws and enactments to the Secretary of the Interior for his review, comment and approval only when required to do so by federal law. Both the General and Tribal Councils may submit any Tribal law or enactment to the Secretary of the Interior for his review, comment and approval if they so desire when not required to do so by federal law. However, the failure of the General or Tribal Councils to submit any Tribal law or enactment to the Secretary or the failure of the Secretary to approve any Tribal law or enactment, when approval is not required by federal law, shall in no way affect the legal validity of such Tribal law or enactment enacted pursuant to this document.

## ARTICLE X

### Vacancies

#### Section 1.

The Tribal Council shall declare a Tribal Council position

vacant for any of the following reasons:

- a. When a Tribal Council member dies;
- b. When a Tribal Council member resigns;
- c. When a Tribal Council member is convicted of a crime that is classified as a felony by either state or federal law;
- d. When a Tribal Council member is removed from office;
- e. When a Tribal Council member is recalled from office.

If less than twelve (12) months of vacant term remains, the Tribal Council shall fill the vacancy by appointment of a General Council member who qualifies for candidacy for the vacant position. If more than twelve (12) months remain in the vacant term a special election shall be held to fill the vacant position. Such a special election shall be held within thirty (30) days after the Tribal Council declares the position vacant.

#### ARTICLE XI

##### Removal and Recall

###### Section 1. Removal

Any member of the Tribal Council may be removed from office for any of the following reasons:

- a. Absence from regular Tribal or General Council meetings three (3) successive, unexcused times, or three (3) unexcused times in any twelve (12) month period;
- b. Conviction of a crime involving the moral character of the Tribal Council member;
- c. Neglect of duty;
- d. Misconduct in office.

1. Any member of the Tribe can request removal of any Tribal Council member by submitting a written statement of



charges to the Chairperson of the Tribal Council, or in the case of a request for removal of the Chairperson, to the Vice-Chairperson of the Tribal Council. Such written statement must be received by the accused Council member no later than ten (10) days before the next regular Council meeting at which he or she is to appear.

2. At the next regular Tribal Council meeting following the submission of such written statement, the charging party shall present his or her allegations and proof against the accused member of the Tribal Council, and the accused member shall be given an opportunity to reply to all charges by presenting his or her allegations and proof to the Tribal Council.

3. After hearing all the charges and proof presented by both sides, the Tribal Council shall take a vote on whether the accused member shall be removed from office. If a majority of the Tribal Council vote to remove the accused Council member, his or her seat shall be declared vacant. The Tribal Council member who is the subject of the removal request shall not vote nor serve in his or her capacity as a Tribal Council member in the removal proceedings.

#### Section 2. Recall

Every person elected to a position on the Tribal Council or who is an elected officer of the Tribe shall be subject to recall from such office by the General Council as follows:

a. Any member of the Tribe may circulate one or more petitions among the eligible voters of the Tribe requesting a special recall election, which petition(s) shall contain the name(s) of the person(s) whose recall is sought and shall state the charges

being preferred against such person(s) in 25 words or less. If one-third (1/3) of the eligible voters of the General Council shall sign the petition(s), such petition(s) shall be presented to the Tribal Council Chairperson, or if charges are being preferred against the Tribal Council Chairperson, to the Vice-Chairperson of the Tribal Council.

b. The Tribal Council Chairperson, or if charges are being preferred against the Tribal Chairperson, the Tribal Council Vice-Chairperson, shall then certify the validity of such signatures of eligible voters maintained by the Tribe. If the required number of valid signatures appear on the recall petition, the Tribal Council shall call a special recall election within sixty (60) days from receipt of the petition(s).

c. Within thirty (30) days after the special recall election has been established, a General Council meeting shall be held. The charging party shall present his or her allegations and proof against the accused member of the Tribal Council, and the accused member shall be given an opportunity to reply to all charges by presenting his or her allegations and proof to the General Council.

d. The ballot used for a recall election shall contain the question: "Shall [name of member(s)] be recalled from office on the Timbisha (Tribal) Council?". The ballot shall contain a space opposite such question in which the words "Yes-No" shall be printed so that the voter may indicate with a mark whether he or she wishes to vote for or against the recall of the member(s) so named. In the case of a recall of two (2) or more Council members, there shall be a separate ballot for each member being

recalled.

e. If a majority of the General Council members voting in a special recall election vote to recall the Council member(s) or any other officer(s) of the Tribe named on the ballot, and provided that two-thirds (2/3) of the General Council vote in said election, the Tribal Council shall immediately declare the Council member(s) or officer(s) to be recalled from office and his or her seat(s) shall be declared vacant.

## ARTICLE XII

### Referendum and Repeal

#### Section 1.

Upon receipt of a petition signed by three (3) Tribal Council members or at least one-third (1/3) of the General Council members by the Secretary-Treasurer of the Tribal Council demanding a referendum or a repeal of any proposed or enacted Tribal law or any action undertaken by the Tribal Council, the action(s) of the Tribal Council shall be either modified, repealed or sustained by the General Council in a general or special election to be held within twenty (20) days after receipt of the petition by the Tribal Secretary-Treasurer.

The election shall be called by the Tribal Council Chairperson and the vote of a majority of the members of the General Council voting in such referendum or repeal shall be conclusive and binding on the Tribal Council provided that at least two-thirds (2/3) of the members of the General Council are present and cast their ballots therein. No absentee voting shall be allowed.

#### Section 2.

No referendum or repeal conducted pursuant to the provisions of Section 1 above shall serve to abrogate, modify or amend any properly executed contract or agreement approved by the Tribal Council and entered into with third parties.

### ARTICLE XIII

#### Judiciary

##### Section 1.

The judicial power of the Tribe shall be vested in a Supreme Court and in such other inferior courts as the Tribal Council may from time to time establish. The Tribal Courts shall exercise jurisdiction over all cases and controversies within the Tribe's jurisdiction, in law and equity, whether civil or criminal in nature, that arise under this document, the laws of the Tribe, or which is vested in the Tribal courts by federal law.

##### Section 2.

The Supreme Court shall consist of a chief judge, appointed by the Tribal Council and confirmed by a majority vote of the General Council.

##### Section 3.

The duties and procedures of the courts shall be determined by the Tribal Council pursuant to Tribal law.

##### Section 4.

The tenure and salary of Tribal judges shall be established by statute of the Tribal Council. No person shall be appointed to the office of Tribal judge unless he or she is an enrolled member of the Tribe, not less than twenty-one (21) years of age and has never been convicted of a felony or, within one year preceding his or her appointment, of a misdemeanor.

**Section 5.**

In all criminal prosecutions, the accused shall enjoy the right to a speedy jury trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, the right of cross-examination, to have compulsory process for obtaining witnesses in his or her favor, and to have the assistance of an advocate for his or her defense admitted to practice before the Tribal courts.

**Section 6.**

The General Council shall sit as a Court of Appeals whenever necessary and may hear appeals from the Supreme Court at any regular or special meeting. Whenever the General Council sits as an appellate court, their decision shall be final and binding upon all parties to the suit and not subject to review. The procedures of the General Council sitting as an appellate court shall be determined by the General Council at any regular or special meeting.

**ARTICLE XIV**

**Bill of Rights**

**Section 1.**

All members of the Tribe shall enjoy without hindrance, freedom of worship, conscience, speech, press, assembly and association.

**Section 2.**

This constitution shall not in any way alter, abridge or otherwise jeopardize the rights and privileges of the members of the Tribe as citizens of the State of California or the United States.

Section 3.

The individual property rights of any member of the Tribe shall not be altered, abridged or otherwise affected by the provisions of this document.

Section 4.

Tribal members shall have the right to review all Tribal records, including financial records, at any reasonable time in accordance with procedures established by the Tribal Council.

Section 5.

In accordance with Title II of the Indian Civil Rights Act of 1968 (82 Stat. 77) the Tribe in exercising its powers of self-government shall not:

a. Make or enforce any law prohibiting the full 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;

b. Violate the right of the people to be secure in their persons, houses, papers and effects against unreasonable search and seizure, 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;

c. Subject any person for the same offenses to be twice put in jeopardy;

d. Compel any person in any criminal case to be a witness against himself;

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 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;

g. 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 imprisonment for a term of six (6) months or a fine of \$500.00 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;

j. Deny to any person accused of imprisonment the right, upon request, to a trial by jury of not less than six (6) persons.

#### ARTICLE XV

##### Ratification

This document shall become effective when it has been ratified by a majority of the eligible voters of the Tribe at a special election called by the Secretary of the Interior in which at least thirty percent (30%) of the eligible voters vote and when it has been approved by the Secretary of the Interior.

#### ARTICLE XVI

##### Amendments

This document may be amended by a majority vote of the eligible voters of the Tribe in an election called for that pur-

pose by the Secretary of the Interior, provided that at least fifty percent (50%) of those entitled to vote shall vote in such election. Amendments adopted in this way may be submitted for approval to the Secretary of the Interior. The Secretary-Treasurer shall call an election on a proposed amendment to the document upon receipt of a petition signed by at least one-third (1/3) of the eligible voters of the Tribe or upon receipt of a resolution of the Tribal Council.

#### ARTICLE XVII

##### Severability

If any provision of this document shall in the future be declared invalid by a court of competent jurisdiction, the invalid provision shall be severed and the remaining provisions shall continue in full force and effect.



Timbisha Shoshone Tribe  
P.O. Box 206  
Death Valley, Ca. 92328  
(619) 786-2418

CONSTITUTION AND BY-LAWS  
RESOLUTION NO. 86-14

WHEREAS, the Timbisha Shoshone General Council met on January 25, 1986 to review and adopt a Tribal Constitution and By-Laws, and

WHEREAS, all enrolled members of the Timbisha Shoshone Tribe were mailed copies of the proposed Constitution and By-Laws at least three (3) weeks before the General Council Meeting, and

WHEREAS, Timbisha Shoshone Tribal Staff advertised the General Council meeting in local and regional newspapers two (2) weeks before the date of the General Council Meeting, and

WHEREAS, all Tribal members in attendance of the General Council Meeting were given an opportunity to voice their concerns (written comments were also solicited from those not able to attend), and

WHEREAS, upon a vote of the enrolled members in attendance (a list of those attending is made part of this resolution) of the meeting all voted in favor of the Constitution and By-Laws as written,

NOW THEREFORE BE IT RESOLVED, that the Timbisha Shoshone Tribal Council does herein attest to the adoption of the Constitution and By-Laws by the General Council and certifies its ratification by those present.

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

Feb. 17, 1986

Pauline Esteves  
Pauline Esteves, Chairperson

Dollie Jones  
Dollie Jones, Vice-Chairperson

Barbara Durham  
Barbara Durham, Secretary

Grace Goad  
Grace Goad, Council Member

Cathy Cottonwood  
Cathy Cottonwood, Council Member