

## TITLE 2. ADMINISTRATION AND GOVERNMENT SERVICES

### Chapter 2.5

#### SUQUAMISH FOUNDATION CHARTER

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**2.5.1. Title.** The title of this chapter is the “Suquamish Foundation Charter.” (Charter approved Nov. 7, 2005)

**2.5.2. Authority.** The Suquamish Tribal Council (“Tribal Council”) is authorized by Article III(i) of the Constitution and Bylaws of the Suquamish Tribe to charter this foundation. (Charter approved Nov. 7, 2005)

**2.5.3. Name.** The name of the organization is the Suquamish Foundation, from here on referred to as the “foundation.” (Charter approved Nov. 7, 2005)

**2.5.4. Duration.** The duration of the foundation is perpetual unless and until the Tribal Council terminates it, as set forth in this chapter. (Charter approved Nov. 7, 2005)

**2.5.5. Findings.** (a) The Suquamish people have lived in and around the Kitsap Peninsula since time immemorial. Prior to contact with non-Indians, the Suquamish people had a rich and vibrant culture based on the spiritual and moral teachings of their ancestors. They also had a strong, vigorous economy in which they traded salmon and other goods and products with Indian communities throughout what is now known as the Northwest region of the United States and Canada. Other tribal communities greatly

respected Suquamish leaders, often seeking their advice and asking them to intervene and resolve intertribal disputes. When non-Indian traders reached the Northwest, the Suquamish people were among the first to befriend and conduct trade with them.

(b) In 1855, Chief Seattle, leader of the Suquamish people, signed the Treaty of Point Elliott with the United States of America. In signing this treaty, Chief Seattle intended to ensure the continuing vitality of the Suquamish people's way of life. In exchange for ceding over 81,000 acres of Suquamish territory, Chief Seattle secured a permanent homeland, now called the Port Madison Indian Reservation, and secured continuing financial and other assistance from the United States government to ensure the education, medical care, and social and economic welfare of his people.

(c) In the intervening years since 1855, the United States government, through misguided policies and actions, failed to fully fulfill its treaty obligations and devastated the Suquamish people and the Suquamish tribal community. During this time, over sixty percent (60%) of the Suquamish homeland fell into non-Indian ownership. Federal Indian agents separated Suquamish children as young as six from their parents and forced them to attend distant boarding schools that prohibited the children from speaking their native language and practicing their native religion. Federal Indian agents forced Suquamish fishers to stop fishing in an attempt to make them potato farmers.

(d) The Suquamish people, through sheer will power and self-determination, have survived these multiple attempts to quash the Suquamish culture and traditional way of life. The Suquamish people have returned to generating revenues for their community through treaty fishing activities and other economic endeavors. The Suquamish people understand that the revitalization of the Suquamish culture and spirit can be best accomplished by creating a foundation that will allow other interested people and organizations to help the Tribe fulfill the legacy of Chief Seattle. (Charter approved Nov. 7, 2005)

**2.5.6. Purpose.** The foundation's purpose is to benefit the Tribe, its people, and its mission and thereby fulfill the legacy of Chief Seattle. The foundation is organized exclusively for charitable, educational, cultural, spiritual, and scientific purposes; for making distributions to organizations that qualify as exempt organizations under §501(c)(3) of the Internal Revenue Code of 1986 ("IRC") or any successor or provision; and to do any and all lawful activities that are determined necessary, useful, or desirable for the furtherance, accomplishment, fostering, or attainment of the purposes stated above, either directly or indirectly, alone or in conjunction or cooperation with others, whether those others be persons or organizations of any kind or nature, such as corporations, firms, associations, trusts, institutions, foundations, or governmental bureaus, departments, or agencies. (Charter approved Nov. 7, 2005)

**2.5.7. Limitations.** (a) All of the purposes and powers of the foundation will be exercised exclusively in such manner that the foundation qualifies as an exempt

organization under the IRC and that contributions to the foundation are deductible under IRC §170(c)(2).

(b) The foundation may not carry on propaganda or otherwise attempt to influence legislation, except as is permitted to an exempt organization in the IRC. The foundation may not participate or intervene in, including publishing or distributing statements with respect to, any political campaign on behalf of or in opposition to any candidate for public office.

(c) Notwithstanding any other provisions of this charter, the foundation may not carry on any activities that are prohibited to a foundation that (a) is exempt from federal and state income taxes under the IRC or (b) receives contributions which are deductible under IRC §170(c)(2).

(d) No part of the net earnings of the foundation may inure to the benefit of or be distributable to its trustees, officers, or other private persons, except that the foundation is authorized or empowered to pay reasonable compensation for services rendered and to make payments and distributions to promote its purposes.

(e) In any taxable year in which the foundation qualifies as a private foundation under IRC §509(a), the foundation will distribute its income for that period at a time and in a way so as not to be subject to tax under IRC §4942. The foundation may not engage in any act of self-dealing as defined in IRC §4941(d), retain any excess business holdings as defined in IRC §4943(c), make any investments that will subject it to tax under IRC §4944, or make any taxable expenditures as defined in IRC §4945(d) or corresponding provisions of any subsequent federal tax laws. (Charter approved Nov. 7, 2005)

**2.5.8. Powers of the Foundation.** Subject to the limitations and conditions set forth in the following sections, the foundation has the power, in its own name:

(a) To acquire, lease, manage, encumber and dispose of real and personal property;

(b) To hire and discharge employees;

(c) To receive money so long as its receipt and use is in conformance with the IRC §501(c)(3) requirements;

(d) To contract for personnel and professional services;

(e) To enter into contracts, provided it does not grant any waiver of sovereign immunity except as provided for elsewhere in the bylaws of the foundation; and

(f) To engage in activities and take actions necessary for carrying out these powers and any other powers conferred upon it by the Tribal Council. (Charter approved Nov. 7, 2005)

**2.5.9. Board of Trustees.** (a) Powers and Duties. The foundation is managed by a board of trustees (“board”) which has all of the powers and authorities this charter grants to it. The powers and duties, qualifications, terms of office, and criteria for trustees’ appointment and removal is set forth in the foundation’s bylaws. The board will perform but will not be limited to the following specific duties:

(1) Provide policy direction for the foundation;

(2) Solicit and distribute all funds related to the foundation’s operation consistent with this charter, the foundation’s bylaws, and all applicable tribal and federal laws;

(3) Coordinate all activities with and report to the Tribal Council;

(4) Employ an executive director under written contract; and

(5) Employ by recommendation from the executive director other personnel to assist in carrying out the duties of the board, officers, and executive committee.

(b) Number of Trustees. The board consists of eleven (11) trustees who are appointed by the Tribal Council: two (2) trustees must be members of the Tribal Council; three (3) trustees must be adult Suquamish tribal members who are eligible to vote in tribal elections and who are not on the Tribal Council; and six (6) trustees must be members of the community, either Suquamish tribal members or nontribal members, who have a demonstrated interest in the Suquamish Tribe, the Suquamish community, and the mission of this foundation. At the time of appointment, trustees must acknowledge and consent to serve voluntarily and at the will of the Tribal Council. Five trustees comprise a quorum.

(c) Compensation. Trustees may not be compensated for their services as trustees, but may, at the Council’s discretion, receive a stipend for attending meetings and they may be reimbursed for their reasonable and necessary expenses incurred in the performance of their duties. (Charter approved Nov. 7, 2005; amended by Res. 2010-103 but section 2.5.9(b) was incorrectly numbered 2.4.9(b), passed Jun. 1, 2010; amended by Res. 2013-149, passed Dec. 16, 2013; amended by Res. 2016-218, passed Dec. 12, 2016)

**2.5.10. Powers and Duties of Officers.** (a) Officers of the Foundation. The officers of the foundation are the president, vice-president, secretary and treasurer. Officers are elected from the board by vote of all board members. Officers serve for a term of one (1) year and may be reelected to serve multiple consecutive terms. A single person

may serve as both secretary and treasurer. The duties and responsibilities of each office are as follows.

(1) President. The president presides at all foundation meetings and performs all duties and exercises the authority of the president as provided in the foundation's bylaws, as pertain to the office, and as the board delegates to him or her.

(2) Vice-president. In case of the president's absence, disability, or death, the vice-president will exercise all powers, perform all duties, and exercise the authority of the president as provided in the foundation's bylaws, as pertain to the office, and as the board delegates to him or her.

(3) Secretary. The secretary keeps the foundation's minutes, gives all notice of meetings as required in this chapter, and generally performs all duties and exercises the authority of the office as the foundation's bylaws provide, as pertain to the office, and as the board delegates to him or her.

(4) Treasurer. The treasurer accounts for, receives, gives receipt for, preserves and safeguards all the foundation's funds and assets and immediately transfers such funds with all necessary records to the Suquamish Tribe's finance department, which will serve as the foundation's accounting department until such time as independent accounts are established. All funds the foundation receives will be separately accounted for, will be kept in a separate bank account established and maintained in a federally chartered bank, and will not be combined with any other funds. The treasurer also performs all duties and exercises the authority of the office as provided in the foundation's bylaws, as pertain to the office, and as the board delegates to him or her.

(b) Compensation. Officers may not be compensated for their services and activities as officers but may be reimbursed for their reasonable and necessary expenses incurred in the performance of their duties. (Charter approved Nov. 7, 2005)

**2.5.11. Limitation of Liability.** A trustee has no liability to the foundation for monetary damages for conduct as a trustee, except for acts or omissions that involve the trustee's intentional misconduct or knowing violation of law, where the trustee votes or assents to a distribution which is unlawful or violates this charter's requirements or the foundation's bylaws, or for any transaction from which the trustee will personally receive a benefit in money, property, or services to which the trustee is not legally entitled. If tribal law or any other applicable law is later amended to authorize a foundation action further eliminating or limiting a trustee's personal liability, then a trustee's liability will be eliminated or limited to the full extent permitted by such tribal law. Any repeal or modification of this charter will not adversely affect any right or protection of a trustee existing at the time of the repeal or modification for or with respect to an act or omission of such trustee occurring prior to the repeal or modification. (Charter approved Nov. 7, 2005)

**2.5.12. Indemnification.** The foundation indemnifies its officers, directors, and employees to the greatest extent permitted by law. The foundation has power to purchase and maintain insurance on behalf of any person who is or was a director, officer, or employee of the foundation against any liability asserted against that person or incurred by that person in any such capacity provided he or she is or was acting within his or her official capacity and authority at the time of the event.

(a) Nonexclusivity of Rights. The right conferred in this section to indemnification and the payment of expenses incurred in defending a proceeding before its final disposition is not exclusive of any other right that any person may have or later acquire under any tribal ordinance, charter provision, bylaws, or agreements.

(b) Indemnification of the Foundation's Agents. The foundation may by action of its board provide indemnification and pay expenses before the final disposition of a proceeding on behalf of any agent of the foundation with the same scope and effect as this section's provisions with respect to the indemnification and advancement of expenses for foundation trustees, officers, and employees. (Charter approved Nov. 7, 2005)

**2.5.13. Sovereign Immunity.** Neither the foundation, nor any officer, trustee, employee, agent, nor attorney of the fund may take any action, sign any contract, nor otherwise act to waive the Suquamish Tribe's sovereign immunity without the Tribal Council's prior express written consent. (Charter approved Nov. 7, 2005)

**2.5.14. Advisory Committees.** The board may at its discretion establish advisory committees with which it may consult in carrying out its responsibilities under this charter. Members of advisory committees should be persons with unique expertise in the areas of law, fundraising, accounting, management, anthropology, history, art, Native American culture, Native American spirituality, or other skills necessary to fulfill the goals this charter establishes. (Charter approved Nov. 7, 2005)

**2.5.15. Leadership Circle.** The board of trustees may at its discretion appoint a leadership circle of the Suquamish Foundation.

(a) Members of the leadership circle should be distinguished people from a variety of backgrounds including but not limited to business, government, education, and the arts who support the mission of the foundation and the Suquamish Tribe.

(b) The leadership circle will meet at least semiannually to offer advice and counsel to the board of trustees. Members of the leadership circle also may assist the foundation in its efforts to further its goals at any time. (Charter approved Nov. 7, 2005)

**2.5.16. Distribution of Assets.** (a) The board may act to dissolve the foundation. Action taken by the board under this section must be by resolution of the full board of trustees.

(b) The assets of the foundation remaining after payment of, or provision for payment of, all of the foundation's debts and liabilities will be distributed first to the Suquamish Tribe's general revenue fund to be used exclusively to accomplish the purposes for which the foundation was organized. Any assets not distributed to the Suquamish Tribe under this section will be disposed of by the Suquamish Tribal Court to one or more organizations that are organized and operated exclusively for purposes similar to the foundation. (Charter approved Nov. 7, 2005)

**2.5.17. Principal Office.** The foundation's headquarters and principal office are as follows:

The Suquamish Foundation  
18490 Suquamish Way  
Suquamish, Washington 98392

(Charter approved Nov. 7, 2005)

**2.5.18. Registered Agent.** The foundation's registered agent is the Tribal Attorney, Suquamish Tribe, PO Box 498, Suquamish, Washington, 98392 or 18490 Suquamish Way, Suquamish, Washington, 98392. (Charter approved Nov. 7, 2005)

**2.5.19. Amendment.** This charter may be amended when necessary by Tribal Council resolution so long as it is not inconsistent with the IRC. (Charter approved Nov. 7, 2005)

Note 1: Per the Nov. 7, 2005 meeting notes, five (5) of nine (9) would be a quorum and a final version was to have been presented after this date but there is no record that this was done at that time. This was later amended by Res. 2013-149.

Note 2: In addition to amending the number of foundation board members, resolution 2016-218, passed Dec. 12, 2016, made changes to the language, but not the content, throughout this chapter, to increase clarity and ease of reading.