

*****AMENDED AND RESTATED ORDINANCE WITH PROPOSED CHANGES*****

The revisions made to the current version of the Mashpee Wampanoag Tribal Council Meetings Ordinance by the proposed Amendment are illustrated in this document.

KEY:

Additions to the Ordinance = **Underlined**

Deletions to the Ordinance = **~~Strikethrough~~**

2017-ORD-000
AMENDED AND RESTATED MEETINGS OF THE TRIBAL COUNCIL

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The Mashpee Wampanoag Tribal Council does ordain as follows:

Section 1. FINDINGS

The Mashpee Wampanoag Tribal Council finds as follows:

- (a) The Mashpee Wampanoag Tribe is a federally-recognized Indian Tribe with a duly-enacted Constitution.
- (b) That it is essential to the general orderly management of the Mashpee Wampanoag Tribal Council to set forth rules governing the meetings of the Tribal Council.
- (c) That it is beneficial to the general public and Tribal members to have such rules of the Tribal Council in order to conduct the affairs of the Tribal Council in an orderly manner.

Section 2. AUTHORITY AND PURPOSE

(a) The purpose of these rules is to ensure effective Tribal government and to set forth the procedures governing the meetings of the Tribal Council.

(b) The authority for these rules is found in Article VI, § 2.A., Article IX § 1(a), Article IX, § 1(c), and Article IX, § 3 of the Constitution of the Mashpee Wampanoag Tribe under which the Tribal Council is vested with all executive and legislative powers of the Tribe.

(c) This Ordinance is not intended to satisfy the requirements of Article IX, § 1(d) of the Constitution regarding standing rules, which requirement shall be addressed separately.

Section 3. DEFINITIONS

(a) "Action" shall mean any motion, resolution or ordinance adopted by the Tribal Council or any other official act of the Tribal Council.

(b) "Chairperson" shall mean the elected Chairperson of the Mashpee Wampanoag Tribe or the presiding officer where specified.

(c) "Constitution" shall mean that document entitled "Constitution of the Mashpee Wampanoag Tribe" as certified on June 28, 2004, as may be amended from time to time.

(d) "Council Member" shall mean a member of the Tribal Council of the Mashpee Wampanoag Tribe.

(e) "Employee" shall mean a person who is hired for a wage, salary, fee or payment to perform work for the Tribe.

(f) "Motion" shall mean a proposition by a Tribal Council member that the Council take a particular action.

(g) "Open Session" shall mean all portions of a meeting that are open to Tribal membership.

(h) "Ordinance" shall mean those laws passed by the Tribal Council on matters of general and permanent interest pursuant to the Constitution of the Mashpee Wampanoag Tribe.

(i) "Parliamentary Procedure" shall mean the uniform method of conducting meetings in a fair and orderly manner as set forth in Robert's Rules of Order Newly Revised (1970) and the subsequent provisions of these rules.

(j) "Resolution" shall mean an official motion formally expressing the sense, will, or action of the Tribal Council.

(k) "Roll Call Vote" shall mean a procedure by which the vote of each Council member is formally recorded in the minutes.

(~~lk~~) "Second" shall mean to indicate support for consideration of a motion by saying: "I second the motion."

(~~ml~~) "Secretary" shall mean the Secretary of the Tribal Council of the Mashpee Wampanoag Tribe, or such other person as may be designated recordkeeping responsibility by the Tribal Council.

(~~nm~~) "Tribe" shall mean the Mashpee Wampanoag Tribe.

(~~on~~) "Tribal Council" or "Council" shall mean the governing body of the Tribe pursuant to the Constitution of the Mashpee Wampanoag Tribe.

(~~pe~~) "Unexcused Absence" shall mean failure to attend a regular, special or emergency meeting of Tribal Council without prior written notification to and approval by the Tribal Council Chairman. A Tribal Council member shall also be deemed to have an "unexcused absence" from a regular, special or emergency meeting of Tribal Council if such Tribal Council member arrives after the meeting has been called to order or leaves prior to adjournment of meeting without prior notification to and approval by the Tribal Council Chairperson. "Prior notification" for the purposes of this subsection shall mean 24 hours' notice before the start of the meeting at-issue. As the situation necessitates, the Chairperson may approve an absence upon shorter notice. The Tribal Council shall consider an unexcused absence as a "failure to attend" as described in Article VIII, Section 2(a) of the Constitution and hereby delegates to the Tribal Council Chairperson, the authority to determine whether an absence is unexcused consistent with the guidance provided in this Ordinance. -The Chairperson may deem the following events as a reasonable excuse to be absent: (1) personal illness; (2) illness in the immediate family; (3) work obligations that cannot be altered or changed; (4) other Tribal Council business; (5) funerals and bereavement; (6) hazardous or inclement weather conditions; (7) suspension by Tribal Council; (8) leave of absence approved by a majority vote of the members of the Tribal Council in attendance; and (9) other occurrences beyond the control of the Council member.

(~~qpe~~) "Voice Vote" shall mean a vote taken by having Council members call out "yes" or "no" at the Chairperson's direction.

(~~req~~) "Yield" shall mean to give the floor to the Chair, to another speaker, or to a motion taking precedence over that being considered.

Section 4. REGULAR MEETINGS OF THE TRIBAL COUNCIL

(a) **Time and Place.** The Tribal Council shall meet in open and official session on the second Wednesday of the month each calendar year at ~~6~~5:30 P.M. (prevailing Eastern Time~~F~~) in the Tribal Council Office, or at such other dates, times or places as the Council shall determine from time to time by a majority vote at a regular, special or emergency meeting properly called and held at which quorum of Tribal Council members is in attendance. The Tribal Council Chairperson may cancel a Tribal Council meeting upon no less than 24 hours² notice prior to the meeting unless hazardous or inclement weather conditions are present or the Chairperson has

notice that there will be an absence of quorum, at which time the Chairperson may cancel a meeting upon less than 24 hours' notice.

(b) **Open Meetings.** Attendance at Tribal Council meetings shall be open to enrolled members of the Tribe and their spouses when accompanied by their Tribal member spouse and invited guests who have submitted a request and been approved to appear on the meeting agenda, provided, the Council may hold executive sessions during a regular meeting, from which all members of the public may be excluded, for the purpose of considering the matters set forth in Section 7 of these rules.

(c) **Additions to Meeting Agenda.** Any enrolled Tribal member or non-tribal member requesting to be placed on the meeting agenda must submit in writing, with a signature, in person, by email or by fax, the topic they wish to discuss.

(1) The submission must be given to the Offices of Tribal Council Secretary and Tribal Council Chairperson at least three (3) working days prior to the regularly-scheduled, open-session Tribal Council meeting. In the event that a submission to the agenda has an imminent due date, the Presiding Officer may waive this three (3)-day requirement.

(2) Failure to submit a written request will be grounds for denying the opportunity to discuss a non-agenda topic.

(3) It is in the discretion of the Presiding Officer to place requested items on the meeting agenda.

~~(4)~~ Items not placed on the agenda, in the discretion of the Presiding Officer whom sets the agenda, may be addressed during the 15-minute, open-discussion period, if any, by Tribal members in attendance. Outside the open-discussion period, all discussion will be limited to Tribal Council members and those on the agenda for the specific agenda topic they have requested.

(d) **Quorum.** Quorum shall be established in accordance with the Constitution and further shall be established according to 2009-ORD-003, Regulating Adoption, Amendment or Repeal of Ordinances and Resolutions, which ordinance is hereby ratified and confirmed and which satisfies the requirements of Article IX, §2 of the Constitution

(e) **Presiding Officer.** The Chairperson shall be the presiding officer at all meetings of the Council. In the absence of the Chairperson, the Vice-Chairperson shall preside. In the absence of both the Chairperson and the Vice-Chairperson, the Secretary of the Council shall call the Council to order, whereupon a temporary presiding officer shall be elected by the Council members present to serve until the arrival of the Chairperson or Vice-Chairperson or until adjournment. Wherever in this section the term Chairperson is used, it shall apply equally to the presiding officer as set forth in this subsection.

(1) **Participation.** The Chairperson may not move, second, debate, and vote from the Chair on any issue or matter before the Council, unless there is a tie vote whereupon the

Chairperson may cast his/her vote. The Chairperson may, however, open the floor for a particular motion prior to a Councilor making the motion.

(2) **Signing of Documents.** The Chairperson shall sign all ordinances, resolutions, contracts and other documents necessitating his/her signature which were adopted in his/her presence, unless he/she is unavailable, in which case the signature of the alternate Presiding Officer present at the meeting in which the ordinance, resolution, contract or other document was approved by the Council may be used. The Tribal Council shall also comply with all recording requirements for ordinances and resolutions in the 2007-ORD-001, Establishing Format of Ordinances and Resolutions.

(3) Chairperson Absence. If Vice Chairperson has prior notice that the Chairperson will be absent, Vice Chairperson shall fulfill all duties of the Chairperson in his or her absence.

(f) **Order of Business.** The business of the Tribal Council and the order of its agenda shall be in such form as the Council may from time to time adopt by motion. The Council may place time limits on agenda items or set times when particular items will be heard. The general order of business in any regular or special meeting of the Council shall be as follows:

- (1) Call to order.
- (2) Prayer by authorized person on behalf of Council.
- (3) Roll Call – Quorum.
- (4) Agenda.
- (5) Reading and acceptance of minutes of previous meetings.

(6) Public Comment.

~~(7)~~ Officer and Committee appointments and/or reports.

~~(8)~~ Unfinished-Old business.

~~(9)~~ New business.

~~(9) Open discussion period.~~

(10) Adjournment.

The above order of business is intended to be a guide to Tribal Council when conducting Tribal Council meetings. The Presiding Officer has the discretion to move through the order of business as deemed necessary depending on the priority of the business for that particular meeting.

(g) **Correspondence.** Correspondence addressed to the Council and received by the Secretary or any other officer or employee of the Tribe shall not become a public record nor be read aloud at a Council meeting unless requested by [the Presiding Officer or related to Tribal Council appointments.](#) ~~a majority vote of the Council.~~

(h) **Meeting Minutes.** The [Office of the](#) Secretary shall be responsible for the preparation of the minutes of Tribal Council meetings, and any directions for changes in the minutes shall be made only by majority action of the Council. Unless the reading of the minutes of a Council meeting is ordered by a majority vote of the Council, such minutes may be approved without reading if the Secretary provides each member with a copy.

(i) **Rules of Debate.**

(1) **Getting the Floor.** Every Council member desiring to speak at a Council meeting shall first address the Chair, gain recognition by the Chairperson, and confine him/herself to the question under debate.

(2) **Interruptions.** A Council member, once recognized, shall not be interrupted when speaking unless called to order by the Chairperson, unless a point of order or personal privilege is raised by another Council member, or unless the speaker chooses to yield to a question by another Council member. If a Council member is called to order while speaking he/she shall cease speaking until the question of order is determined, and, if determined to be in order, he/she may proceed.

(3) **Points of Order.** The Chairperson shall determine all points of order, subject to the right of any Council member to appeal to the Council. If an appeal is taken, the question shall be "Shall the decision of the Chairperson be sustained?" A majority vote shall conclusively determine such question of order.

(4) **Points of Personal Privilege.** The right of a Council member to address the Council on a question of personal privilege shall be limited to cases in which his/her integrity, character, or motives are questioned or where the welfare of the Council is concerned. A Council member or staff raising a point of personal privilege may interrupt another Council member or person who has the floor only if the Chairperson recognizes the privilege.

(5) **Privilege of Closing Debate.** The Council member moving the adoption of an ordinance, resolution, or motion shall have the privilege of closing debate.

(6) **Limitation of Debate.** No Council member shall be permitted to speak more than once upon any particular subject until every other Council member desiring to do so shall have spoken.

(j) **Rules of Order.**

(1) **In General.** In the event of question as to procedure not set forth in these rules for Council meetings, the Council shall be guided to the best of its ability by the rules of general parliamentary procedure, as set forth in Robert's Rules of Order as revised from time-to-time. A majority vote of the Tribal Council shall decide any question of procedure not set forth in these rules.

(2) **Failure to Observe Rules of Order.** Rules adopted to expedite the transaction of the business of the Council in an orderly fashion shall be deemed to be procedural only, and the failure to strictly observe such rules shall not affect the jurisdiction of the Council or invalidate any action taken at a meeting which is otherwise held in conformity with law.

(k) **Rules of Decorum for Council and Staff Employees.**

(1) **Council Members.** While the Tribal Council is in session, the Council members shall preserve order and decorum, always acting in a professional manner, and a member shall neither, by conversation or otherwise, delay or interrupt the proceedings or the peace of the Council, nor disturb any member while speaking, nor refuse to obey take direction the orders of the Chairperson. Members of the Council shall not temporarily step out of meeting leave the meeting while it is in session without first obtaining the permission acknowledgment by of the Chairperson.

(2) **Employees Tribal Employees.** Members of the Tribe's staff Tribal employees shall observe the same rules of order and decorum as are applicable to the Council.

(3) **Attendance at Meetings.** Each member of Tribal Council, except the Tribe's Chief, and Tribal employees when requested by the Tribal Council are required to attend emergency, special and regular meetings of the Tribal Council. A Tribal Council member is required to attend every such meeting of Tribal Council from the scheduled start time to adjournment. A Tribal employee is required to attend Tribal Council meetings for the time period stipulated by the Tribal Council. A Council member or staff member that fails to follow these attendance requirements will have an unexcused absence for each breach and will be subject to the sanctions discussed in Section 4(k)(6) – (7) below. From time-to-time, a Council or employee may miss, arrive to, or leave early from a Council meeting without such action constituting an unexcused absence if the requirements are fulfilled in Section 3(o) above.

(43) **Persons Addressing the Council.** Any person, including Council members, making impertinent, slanderous, or profane remarks or who becomes boisterous while addressing the Council at Tribal Council or General membership meetings shall be called to order by the Chairperson and, if such conduct continues, may, at the discretion of the Chairperson, be ordered barred from further audience before the Council during that meeting or may be removed from the Tribal Council meeting by Tribal Security or Police under the direction of the Chairperson.

(54) **Prohibited Behavior**Members of the Audience. Any person, including a Council member, in the audience who engages in disorderly conduct at Tribal Council or General membership meetings, such as clapping of the hands, stamping of the feet, whistling, using profane language, yelling or similar demonstrations, which conduct disturbs the peace and good order of the meeting, or who refuses to comply with the lawful orders of the Chairperson, upon instructions from the Chairperson, shall be removed from the meeting room with the assistance of security or law enforcement if the Chairperson deems such assistance necessary. A removal under this subsection from a Tribal Council meeting shall constitute an unexcused absence.

(65) **Consequences of Improper Conduct of Tribal Employees.** Any ~~Council members or staff~~ Tribal employee found to be engaging in ~~such~~ improper conduct under this Section 4 (k) ~~shall be reported to the Tribal Administrator immediately and subject the Tribal employee to sanctions consistent with the Tribe's Employee Handbook~~ subject to consequences that shall be decided by majority vote of the Council while such person is in the presence of Council.

(7) **Consequences of Improper Conduct of Tribal Council Members.** Any Tribal Council member that is found to have engaged in improper conduct under this Section 4 (k) shall be subject to sanctions. Tribal Council is required to impose such sanctions at the next regularly scheduled meeting after the meeting at which the improper conduct occurred. Tribal Council shall abide by the following guidelines when imposing sanctions:

(A) Each unexcused absence of a Tribal Council member will result in a fine for the meeting in which the unexcused absence is accrued. For those Council members that receive a stipend per meeting, an unexcused absence will result in the Council member not receiving his or her stipend for two (2) consecutive meetings. Council members are required to attend Council meetings regardless of the receipt of stipends. For full-time Council members, the fine will be deducted from their next pay check.

(B) All other improper conduct under this Section 4 (k) will be imposed by majority vote of the members of the Tribal Council in attendance while such person is in the presence of Council using one or more of the following sanctions:

(i) Reprimand, which is defined as public censure or condemnation administered by the Tribal Council;

(ii) Restitution or fine, the amount to be determined by Council but in no case should be more than \$300;

(iii) Suspension without pay provided that the suspension shall not exceed three months for any specific violation;

(iv) Expulsion or removal consistent with the requirements of Article VIII, Section 2 of the Constitution; and

(v) Other sanctions consistent with the Tribe's history, culture and traditions.

(8) Expulsion for Unexcused Absences. The Tribal Council shall expel a Tribal Council member from office on grounds of (3) unexcused absences for three (3) successive regular meetings of the Tribal Council in a given calendar year.

(l) Rules of Decorum for Tribal members.

(1) **Acknowledgement by Chairperson.** Before speaking, attendees must be acknowledged by the Chairperson of the meeting. Speaking without being acknowledged may be considered improper conduct and may be considered grounds for removal from the meeting.

(2) **Improper Conduct.** Improper conduct includes any conduct which threatens the health and safety of participants at the meeting, disrupts the orderly functioning of the Tribal Council, endangers Tribal property or obstructs the orderly functioning of the meeting in any way. Such conduct includes, but is not limited to, the following:

(A) Partaking of intoxicating beverages or illegal non-prescription drugs;

(B) Use and/or possession of firearms or other dangerous weapons;

(C) Continuation of any action or behavior after the Chairperson of the meeting has ruled it out of order, including speaking out of order;

(D) Verbal and/or physical assaults upon Tribal officials, Tribal members, or guests which threaten the efficient working atmosphere of the meeting and the immediate premises; or

(E) Making threats, intimidations, name calling, fighting or challenging to fight, lewd or suggestive language, or disrespect of any Tribal member or Tribal official.

(3) **Consequences of Improper Conduct.** Any person found to be engaging in such improper conduct shall be requested to leave the premises voluntarily by the Chairperson, Vice Chairperson, presiding officer of the meeting, or a majority vote of the members of the Tribal Council in attendance~~of the meeting~~. If the person refuses to leave voluntarily, the assistance of security or the police shall be employed and any and all legal action may be taken against the person. If security or police force has to be used to remove a person, that person may be barred from future Tribal Council meetings. Non-Tribal members

may be barred permanently and any Tribal member may be barred for six months and until they have appeared before the Tribal Council for reinstatement to attend Tribal Council Meetings.

(m) **Motions.** A motion by any a member of the Council may not be considered by the Council without receiving a second.

(n) **Voting Procedure:**

(1) **Questions to be Stated.** Upon moving the question to vote, the Chairperson shall call for the vote which shall ~~be~~ begin from the chair to the left of the Chairperson, then proceeding to the chair to the right of the Chairperson. The Chairperson shall vote last in the event of a tie vote.

(2) **Conflicts of Interest Disqualification.** Any Council member who is disqualified to vote on a particular matter by reason of a conflict of interest shall publicly state, or have the Chairperson state, the nature of such disqualification in open session. When no clearly disqualifying conflict of interest appears, the matter of disqualification may, at the request of the Council member affected, be decided by the other Council members by motion. A Council member who is disqualified by reason of a conflict on that issue shall not attempt to influence other Council members' votes on that issue and may, shall not remain in his/her seat during the debate or vote on such matter and shall request and be given ~~the~~ permission of the Chairperson to leave step away from the Council Chambers table and leave the Tribal Council Office. A Council member stating such disqualification shall ~~not~~ be counted as a part of ~~a~~ quorum and shall be considered required absent to abstain for the purpose of determining the outcome of any vote on such matter.

For purposes of this Section, a Council member shall have a conflict of interest when a decision of the Council will have a direct effect solely on:

(A) The Council member's natural mother, father, brother, sister, children, the Council member's spouse, or live-in partner.

(B) Any business in which the Council member or his or her spouse or live-in partner has a direct or indirect investment.

(C) Any real property in which the Council member or his or her spouse or live-in partner owns an interest.

(D) Any person who has been a source of income to the Council member of \$250.00 or more within the 12 months immediately preceding consideration of the issue that will result in a decision.

(E) Any other interest brought to the Council's attention which the Council by majority vote determines is a conflict of interest.

(3) **Failure to Vote.** Every Council member shall vote unless disqualified by reason of a conflict of interest or abstains for another reason.

~~(4) **Abstention.** A Council member who publicly announces he/she is abstaining from voting on a particular matter shall not subsequently be allowed to withdraw his/her abstention.~~

(o) **Reconsideration of Actions.** Except for a motion to reconsider the proposal of an ordinance or resolution, which shall be in accordance with §6(a)(1)(C) of 2009-ORD-003, Regulating Adoption, Amendment or Repeal of Ordinances and Resolutions, ~~a motion~~ to reconsider any action taken by the Council may be made only on the day such action was taken or at the next Regular Council meeting following the meeting that such action was taken. It may be made whether immediately during the same session or at a recessed session thereof. Such motion may be made ~~by only by one of the any~~ Council member except the Presiding Officer.s who voted with the prevailing side, unless in the case of a proposed resolution or ordinance, the Council member who made the original proposal may make a motion to reconsider. The provision of this section shall not be construed to prevent any Council member from taking or remaking the same or any other motion at a subsequent meeting of the Council if new information or facts are presented to the Council at the subsequent meeting pertaining to the motion.

(p) **Reading of Ordinances and Resolutions.** It is the responsibility of each Councilor to read proposed ordinances and resolutions prior to a final vote approving an ordinance or resolution. ~~All reading of ordinances shall comply with the 2009 ORD 003, Regulating Adoption, Amendment or Repeal of Ordinances and Resolutions.~~

(q) **Motions, Resolutions and Ordinances.** Official actions of the Council shall be in the form of motions, resolutions, or ordinances.

(1) **Motions.** Motions shall be used to express decisions of the Council on routine questions or matters of temporary importance or to give instructions to staff and shall be moved, seconded, debated, and voted upon by a voice vote unless a roll call vote is requested by a Council member.

(2) **Resolutions.** Resolutions shall be used to express decisions of the Council of a permanent or lasting nature and shall be introduced, seconded, debated, and voted upon by a roll call vote and shall comply with the requirements of the Constitution and 2009-ORD-003, Regulating Adoption, Amendment or Repeal of Ordinances and Resolutions.

(3) **Ordinances.** Ordinances shall be used to adopt formal ~~policy and~~ laws of the Tribe, in the exercise of the Tribe's inherent sovereign powers and in accordance with the Tribal Constitution, 2009-ORD-003, Regulating Adoption, Amendment or Repeal of Ordinances and Resolutions, and in other instances required by Tribal or Federal law.

(4) **Notice of Tribal Council Decisions.** The Chairperson, Vice Chairperson, or other presiding officer or their designees areis authorized to provide any and all notices on

behalf of Tribal Council when needed after the Tribal Council makes a decision during a Tribal Council meeting that necessitates notification to Tribal employees, Tribal committees or any other individuals or entities.

(r) **Committees and Appointed Officers.** The duties of all committees and appointed officers shall be clearly defined by resolution of the Tribal Council at the time of their creation or appointment. Those committees and appointed officers shall report to the Tribal Council from time to time as ~~the~~ Tribal Council may require and the Tribal Council may review their activities and decisions.

(s) **Dangerous Instruments.** No person may enter the Tribal Council Office, or any place where the Council is in session, with any firearm, weapon, or explosive device of any nature. The provisions of this section shall not apply to authorized Tribal law enforcement officers or to those persons authorized by Tribal law to carry such weapons.

(t) **Recess.** The Tribal Council Chairman may recess a regular meeting at any time and continue the meeting to a later time without giving further notice. Roll call shall be taken when the meeting reconvenes.

Section 5. SPECIAL MEETINGS OF THE TRIBAL COUNCIL

(a) **In General.** Special meetings of the Tribal Council may be called at any time by the Chairperson or upon written request of any three members of the Tribal Council. Special meetings shall conform to the requirements of the Constitution and Special Meetings requirements in the 2009-ORD-003, Regulating Adoption, Amendment or Repeal of Ordinances and Resolutions, as amended. Such meetings shall be open to all enrolled members of the Tribe, provided, the Council may hold executive sessions during a special meeting, from which all members of the public may be excluded, for the purpose of considering the matters set forth in Section 7 of these rules.

(b) **Quorum.** Quorum for a special meeting of the Tribal Council shall be nine members of the Tribal Council. Quorum shall comply with the requirements of special meetings in the Constitution and the 2009-ORD-003, Regulating Adoption, Amendment or Repeal of Ordinances and Resolutions as amended.

(c) **Notice.** Notice of a special meeting shall be delivered to each Council member by personal service or by registered mail or by electronic transmission that documents receipt of the notice at least seventy-two (72) hours prior to the special meeting. The notice shall set forth the time and place of the special meeting and the business to be transacted. A copy of the notice shall also be posted in accordance with Section 8 of these rules. Attendance at the special meeting shall constitute waiver of the notice requirement. The notice of such meetings shall conform to the requirements in the 2009-ORD-003, Regulating Adoption, Amendment or Repeal of Ordinances and Resolutions, as amended.

(c) **Scope.** No business shall be conducted at any special meeting of the Tribal Council unless the business has been stated in the notice of that meeting, provided that any business which may

lawfully come before a regular meeting may be transacted at a special meeting if all the members of the Council are present and consent in writing.

Section 6. EMERGENCY MEETINGS OF THE TRIBAL COUNCIL

(a) **In General.** Emergency meetings of the Tribal Council may be called at any time by the Chairperson or upon written request of any three members of the Tribal Council. Such meetings shall be open to all enrolled members of the Tribe, provided, the Council may hold executive sessions during an emergency meeting, from which all members of the public may be excluded, for the purpose of considering the matters set forth in Section 7 of these rules. Such meetings shall conform to the requirements of the Constitution and Emergency Meetings [requirements](#) in the 2009-ORD-003, Regulating Adoption, Amendment or Repeal of Ordinances and Resolutions, [as amended](#).

(b) **Notice.** The Tribal Council may call an emergency meeting with less than seventy-two (72) hours of notice if that meeting is necessary for the preservation or protection of the immediate health, peace, safety, or property of the Tribe, and notice shall be given by personal service or by registered mail or by electronic transmission that documents receipt of the notice to each Tribal Council member. The notice shall set forth the time and place of the emergency meeting and the business to be transacted. Notice of an emergency meeting shall be posted as provided in Section 8 of these rules. Notice shall also conform to the requirements in the 2009-ORD-003, Regulating Adoption, Amendment or Repeal of Ordinances and Resolutions, [as amended](#).

(c) **Scope.** No business shall be conducted at any emergency meeting of the Tribal Council unless the business has been stated in the notice of that meeting.

(d) **Quorum.** Quorum shall be established according to the requirements of Emergency Meetings in the 2009-ORD-003, Regulating Adoption, Amendment or Repeal of Ordinances and Resolutions, [as amended](#).

Section 7. EXECUTIVE SESSION

(a) **Grounds for Executive Session.** The Tribal Council may exclude all persons from a meeting and hold a closed session to discuss or consider any of the following:

(1) **Tribal enrollment or membership.** Any issue related to the enrollment of an applicant or membership of an enrolled Tribal member.

(2) **Personnel matters.** The appointment, employment, evaluation, performance, disciplinary action of or dismissal of any member of the Tribal Council or Tribal employee or to hear complaint or charges brought against such member of the Tribal Council or employee by another person or employee. The Tribal Council may also exclude from any such public or closed meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the Tribal Council.

(3) **Claim against the Tribe.** Any claim against the Tribe, Tribal Council or Tribal Courts or their officials, whether in litigation or otherwise.

(4) **Legal consultation and advice.** To confer with its attorney regarding the introduction of pending legislation or to confer with or receive advice from its attorney regarding pending or threatened litigation or to confer with or receive advice from its attorney regarding pending or future negotiation with a federal or state official or agency or private individual or corporation where disclosure of the Tribe's negotiating position would weaken the position of the Tribe or prevent the Tribe from obtaining contract terms most favorable to the Tribe or to confer with or receive advice on any legal matter.

(5) **Litigation.** Matters involved in litigation concerning the Tribe, Tribal Council or Tribal Courts, or their officials.

(6) **Deliberation or Review.** Deliberation or review of any matter heard by the Tribal Council in a quasi-judicial capacity.

(7) **Business Proposals, Property and Contract Negotiations.** Deliberation on any business proposal or plan and/or negotiations concerning the purchase, sale, lease or other acquisition of real or personal property, or interests therein, or concerning any contracts except those required to be the subject of open competitive bidding.

(b) **Recordation of Executive Session.** The Tribal Council may determine not to keep a record of all or any part of the discussion in executive session. The general reason for that determination shall be recorded and a record shall be kept of any action taken in executive session. The record may be withheld from inspection by Tribal members pending final disposition of the matter concerned.

(c) **Voting.** No vote by the Tribal Council shall be taken while convened in executive session.

(d) **Confidentiality.** No member of the Tribal Council, employee of the Tribe, or any other person present during an executive session of the Council shall disclose to any person not present at that executive session the content or substance of any discussion which took place during such executive session unless the Council ~~shall~~, by a majority vote, authorizes the disclosure of such information. And, each Tribal Councilor is required to sign a non-disclosure agreement where the Tribal Councilor agrees to keep the confidentiality of Tribal Council executive sessions. In the event a Tribal Councilor refuses to sign such a non-disclosure agreement, he or she will be excluded from participating in Tribal Council executive sessions. As an exception, a Tribal Councilor or a Tribal attorney may update a Tribal Councilor, if he or she has signed a non-disclosure agreement, of the content of an executive session if that Tribal Councilor was absent during the executive session. Failure of a Tribal Council member to keep the confidentiality of an executive session is considered nonfeasance and malfeasance. As such, Tribal Councilors that violate the provisions of this Section 7(d) subject themselves to disciplinary proceedings under Article VIII, § 2 of the Constitution. Further, all persons other than Tribal Councilors that attend executive sessions are required to complete an acknowledgment that he or she understands the contents of this Section 7(d) and agrees to keep Tribal Council executive sessions confidential.

Section 8. POSTING PROCEDURE

The Tribal Council designates the following two public places where posting of Tribal ordinances and other tribal public documents required by law to be posted shall be made: (1) the Mashpee Wampanoag Tribal [Community & Government Center-Council Office](#), and (2) the Tribe's official website, both as required by the Tribal Constitution and 2009-ORD-003, Regulating Adoption, Amendment or Repeal of Ordinances and Resolutions, Section 6(b).

Section 9. REPEALER

All rules or parts of rules inconsistent with these rules are repealed.

Section 10. SEVERABILITY

If any section, subsection, paragraph, sentence, or other portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed to be a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 11. EFFECTIVE DATE

This Ordinance shall take effect immediately and be enforced from and after its passage.

[Legislative History](#)

[Enacted November 18, 2009](#)

[Amended \[\], 2017](#)