

## Committee asks Board/BIA for vote on new Constitution

On February 9, 2008, the Constitution Committee voted to approve this proposed new Constitution without a single “no” vote. The Committee voted to send the proposed new Constitution to the Board of Directors along with a formal request that the Board of Directors officially request the BIA to hold a Secretarial Election so that the voters of the Tribe have the opportunity to make the final decision on whether to approve the proposed new Constitution. The Committee specifically voted to recommend that the Board of Directors make no changes or amendments to the proposed new Constitution. Finally, the Committee voted to request that, if the BIA recommends any changes or amendments to the proposed new Constitution, the Committee be permitted respond to and make modifications to the proposed new Constitution based on the BIA comments.

### PREAMBLE

We, the Baaweting Anishinaabek of the Sault Ste. Marie Tribe of Chippewa, in order to provide for the perpetuation of our Anishinaabe Bimaadziwin, provide for the welfare and prosperity of our People, protect our property and resources, preserve our inherent sovereignty in accordance with the teachings of our Seven Grandfathers, do ordain and establish this Constitution.

### ARTICLE I - SOVEREIGNTY

Section 1. Source of Sovereignty. The People shall be the source of all governing authority and power vested in the Tribe by this Constitution.

Section 2. Supremacy. This Constitution shall be the supreme law over the government and all the People of the Tribe. All treaties, laws, compacts, and actions of the government shall be consistent with this Constitution. All laws of the Tribe existing at the time of adoption of this Constitution shall remain in effect so long as such laws are consistent with this Constitution. The Ogemaa shall cause to be completed and presented to the Council a written assessment of the existing laws within six months of the adoption of this Constitution to determine which laws are inconsistent with this Constitution.

Section 3. Delegation of Sovereignty. The government shall exercise only the authority and powers granted by the People in this Constitution.

Section 4. Reserved Powers. Powers not granted to the government shall be reserved to the People.

### ARTICLE II - BILL OF RIGHTS

Section 1. Bill of Rights. The government of the Tribe shall not

make or enforce any law which:

(a) infringes upon religious or cultural beliefs or prohibits the free exercise thereof nor any law which establishes religion;

(b) prohibits the freedom of speech, expression, or of the press, or the right of the People peaceably to associate or assemble, and to petition the government for redress of grievances;

(c) infringes upon the right of any person otherwise eligible at any time to seek and hold elective public office;

(d) violates the right of the People to be secure in the privacy of their persons, houses, papers, electronic and telecommunications information, vehicles, and effects against unreasonable searches and seizures, nor issue warrants but upon probable cause, supported by oath or affirmation signed by a Judge and particularly describing the place, person, house, or things to be searched, the object and scope of such search, and the person or thing to be seized, nor execute an arrest without probable cause, nor exercise a detention without reasonable suspicion;

(e) subjects any person to search without probable cause or to interrogation while in custody without informing the person of their right to remain silent, to have access to an attorney, and to be advised that anything they say can be held against them in a court of law;

(f) subjects any person to criminal prosecution or punishment more than once for the same offense arising out of the same incident, nor compels any person in any criminal case to be a witness against himself or herself;

(g) discharges any person from employment without due process, or takes any private property or possessory interest in private property for public use, without due process and just compensation;

(h) discharges any person from employment or takes any other retaliation against an employee who makes public any information of misconduct by officials or employees of the Tribe;

(i) denies to any person in a criminal or civil proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him or her, to have compulsory process for obtaining witnesses in his or her favor, and in a criminal proceeding to have the assistance of counsel for his or her defense subject to income guidelines;

(j) requires excessive bail, imposes excessive fines, or inflicts cruel and unusual methods of interrogation or punishment;

(k) denies to any person within its jurisdiction the equal protection, application, or opportunity under the law or deprive any person of liberty or property without due process of law, provided, that the government shall have the power to enact

and implement laws that provide employment preferences;

(l) directs a criminal proceeding against a specific individual or group, or punishes conduct after the fact through the enactment of laws or resolutions which criminalize such conduct;

(m) denies to any person accused of an offense punishable by imprisonment the right upon request, to a trial by an impartial jury of not less than six persons, and all persons shall be presumed innocent until proven guilty in a court of law;

(n) denies to any person the access to his or her own personal information maintained by the Tribe;

(o) denies to any Person the right to own, bear, and use arms subject to regulation by the Tribe by law.

Section 2. Pardon Panel. There shall be a Pardon Panel comprised of the Ogemaa, the Speaker of the Council, the Chief Justice of the Supreme Court or their designees, and two Members selected by the Ogemaa, the Speaker of the Council, and the Chief Justice. Upon submission of an application for a pardon, the Pardon Panel shall have the power to issue a pardon if three of the five Members vote to pardon in a public hearing, provided that no pardon may be issued until the passage of three years from the date of conviction.

### ARTICLE III - TERRITORY AND JURISDICTION

Section 1. Territory. The Territory of the Tribe shall encompass all lands which are now or hereafter owned and held by the Tribe or owned by the Tribe and held in trust for the Tribe or Members by the United States, notwithstanding the issuance of any patent or right-of-way in fee or otherwise existing now or in the future. The Territory shall include lands and waters ceded by the 1836 Treaty or any other treaty entered into by the Tribe for purposes of exercising, regulating, and protecting reserved rights of hunting, fishing, trapping, gathering, and cultural, and ceremonial activities. The Territory shall include but not be limited to, the environment, air, airspace, all surface and subsurface land and water, and any resource severable from the land, minerals, and natural resources. No Territory shall be ceded unless authorized by law subject to the approval of the voters in a Special Election. No real property, tangible property, or intellectual property, of the Tribe, shall be transferred, mortgaged, or otherwise encumbered unless authorized by law.

Section 2. Jurisdiction. The Jurisdiction and governing authority of the Tribe shall extend to all persons, property, and activities within the Territory and shall include exercising, regulating, and protecting reserved rights to fish, hunt, trap, and other usual rights and privileges of occupancy over all lands and waters ceded by the Treaty of Washington of 1836 or any other treaty entered into by the Tribe. The Tribe shall have the power

to assert the Sovereignty and Jurisdiction of the Tribe over all matters that affect the interests of the Tribe. Nothing in this Article shall be construed to limit the ability of the Tribe to exercise its Jurisdiction based upon law or its inherent sovereignty.

### ARTICLE IV - MEMBERSHIP

Section 1. Requirements. All persons shall be entitled to membership in the Tribe who possess:

(a) Indian blood and who can trace their ancestry to any historical annuity or census roll of the seven historical bands, which shall include Sugar Island, Grand Island, Point Iroquois, Sault Ste. Marie, Garden River, Drummond Island, and Mackinac; or,

(b) Indian blood and who are validly enrolled as Members of the Tribe as of the date of the approval of this Constitution, which includes members of the Original Bands of the Sault Ste. Marie Tribe of Chippewa Indians, and their lineal descendants.

Section 2. No Dual Membership. No person shall be a Member of the Tribe who is also a member of any other tribe or band of North American Indians.

### ARTICLE V - SEPARATION OF POWERS

Section 1. Branches of Government. There shall be one Legislative branch, one Executive branch, and one Judicial branch. There shall be a system of separation of powers and checks and balances between the branches of government. No branch of government or official of any branch of government shall exercise any power granted in this Constitution or properly delegated by law to any other branch of government except as expressly directed or permitted by this Constitution and each branch shall act as a check and balance upon the actions of the other branches as permitted by this Constitution.

### ARTICLE VI - JUDICIAL BRANCH

Section 1. Composition of the Judicial Branch. There shall be one Judicial Branch. The Judicial Branch shall be made up of one Trial Court which shall be called the Court of Gweyakwaadziwin, one Supreme Court which shall be called the Court of Nbwaakawin, a Judicial Commission, and court staff including a Chief Administrator of the Judicial Branch, staff attorneys, a Chief Clerk of each Court, and appropriate subordinate clerks of court. The Judicial Branch shall also include trial level courts of special jurisdiction as established by law.

(a) Composition of the Trial Court. The Trial Court shall be made up of one Chief Judge, one Associate Judge, and any other Associate Judges or Substitute Judges as authorized by law. The Chief Judge shall have oversight authority of all matters related to the operations and administration of all trial level courts including the employment and discharge of Court personnel.

(b) Composition of the

Supreme Court. There shall be five Justices on the Supreme Court. There shall be one Chief Justice and four Associate Justices. The Chief Justice shall have oversight authority of all matters related to the operations and administration of the Supreme Court.

(c) Composition of Courts of Special Jurisdiction. Courts of Special Jurisdiction shall be made up of judges or peacemakers, including appropriate staff, as established by law.

Section 2. Election and Selection of Justices and Judges.

(a) Election of Justices and Judges. All Justices and Judges, except substitute Judges, shall be elected directly by the voters.

(b) Selection of Substitute Judges. Upon recusal of the Chief Judge and all Associate Judges, the Chief Judge shall select a Substitute Judge, subject to any restrictions imposed by rules of the Courts or by law.

Section 3. Terms.

(a) The term of office for each Judge of the Trial Court or any other trial level court shall be four years and each Judge shall remain seated, unless removed, until an oath of office is administered to a successor. The terms of office for each Justice of the Supreme Court shall be six years and each Justice shall remain seated, unless removed, until the oath of office is administered to a successor.

(b) The terms of office for Justices and Judges shall be staggered.

Section 4. Qualifications.

(a) The Chief Judge shall be a Member of the Tribe, an attorney, and reside within a fifty mile radius of the city limits of Sault Ste. Marie, Michigan upon election to office. All Associate Judges shall be Members of the Tribe, at least thirty-five years old or an attorney, and reside in any voting District upon election.

(b) The Chief Justice shall be a Member of the Tribe and an attorney, and at least two other Associate Justices shall be Members of the Tribe. All Justices shall be of voting age and Native American. At least one Associate Justice shall be an attorney.

(c) No person shall be eligible to serve as a Judge or Justice who has ever been convicted of a felony in any jurisdiction unless pardoned by the Pardon Panel of the Tribe, or by the jurisdiction where the conviction occurred as long as such pardon is disclosed and consistent with the constitution and laws of the Tribe.

(d) A Judge or Justice cannot be an elected or appointed official of any other government.

Section 5. Jurisdiction of the Courts.

(a) The Trial Court shall have original jurisdiction over all cases and controversies, both criminal and civil, in law or in equity,

arising under the Constitution, treaties, laws, and customs of the Tribe, including cases in which the Tribe or its officials and employees shall be a party, except for an appeal of a final decision by the Election Commission on any election protest or challenge including challenges to a redistricting and reapportionment plan filed in the Supreme Court. Any such case or controversy arising within the jurisdiction of the Tribe shall be filed and exhausted in the Judicial Branch before it is filed in any other court or in any other jurisdiction. This grant of jurisdiction shall not be construed to be a waiver of the Sovereign Immunity of the Tribe.

(b) The Supreme Court shall have appellate jurisdiction over any case on appeal from the Trial Court or any other trial level court. The Supreme Court shall also have original and exclusive jurisdiction over any final determination of an election dispute by the Election Commission or on any approved plan to redistrict or reapportion, and such jurisdiction shall include the power to make findings of fact and conclusions of law, and to issue all remedies in law and equity. The Supreme Court shall hear and decide all election disputes within thirty days of filing, and if no decision is rendered within thirty days then the decision of the Election Commission shall be final.

#### Section 6. Powers and Duties of the Courts.

(a) Healing. The primary duty of the Judicial Branch shall be to promote community and individual healing and forgiveness in all matters which come before the Courts in accordance with the laws, customs, and traditions of the Tribe.

#### (b) Trial Court.

(i) The Trial Court shall have the power to make findings of fact, interpret the Constitution, treaties, and laws of the Tribe, make conclusions of law, and issue all remedies in law and in equity.

(ii) The Trial Court shall have the power to declare the laws of the Tribe void if such laws are not consistent with this Constitution.

(iii) The Trial Court shall have the power to review and determine if actions of the Executive, including any Department, Board, Committee, or Executive Branch official are consistent with this Constitution, and to order an appropriate remedy for actions which violate this Constitution.

(iv) All proceedings of the Trial Court or any other trial court shall be recorded for purposes of appellate review.

#### (c) Supreme Court.

(i) The Supreme Court shall have the power to interpret the Constitution, treaties, and laws of the Tribe, make conclusions of law and make findings of fact in election disputes, and issue all remedies in law and in equity. Decisions of the Supreme Court shall be final.

(ii) The Supreme Court shall have the power to declare the laws and Executive actions of the Tribe void if such laws are not consistent with this Constitution.

(iii) The Chief Justice shall have oversight authority of all matters related to the operations and administration of the Supreme Court including the employment and discharge of Court personnel and the preparation and presentation of an annual budget request for the Judicial Branch. The Supreme Court shall have the power to adopt Rules and Court Procedures governing the Judicial Branch subject to the Rules of the Judicial Commission and the laws of the Tribe.

(d) Rules of Court. Each Court shall have the power to make its own rules of court, procedure, evidence, and other judicial matters, subject to the power of the Chief Judge to make or modify such rules, and any rule established by any Court, the Chief Judge, or the Judicial Commission shall be subject to the power of the Council to make or modify any rule by law.

(e) Written Decisions. All orders, judgments, opinions, or final decisions of any Court shall be written and published in a timely manner.

(f) Final Disposition. The Courts shall render a final disposition in all cases properly filed.

(g) Right to Appeal. Any party to a civil action, or a defendant in a criminal action, who is dissatisfied with the judgment or verdict of a Trial Court shall have the right to file an appeal to the Supreme Court. The Supreme Court shall have the right to accept or deny any appeal from a Trial Court. All appeals that are accepted for review by the Supreme Court shall be heard by the full Supreme Court.

(h) Precedent. The Courts shall develop rules regarding precedent. The Courts shall require all parties to a case to present arguments regarding the customs and traditions of the Tribe. In the absence of an applicable written law of the Tribe, the Courts shall separately consider and explain in writing the application of the customs and traditions to the disposition of the case.

Section 7. Conflicts of Interest. Judges and Justices shall disclose and recuse when they have a conflict of interest. Any party to a case shall have the right to request a Judge to recuse, and every decision on recusal shall be accompanied by a written explanation for the decision.

#### Section 8. Judicial Commission.

(a) Establishment. There shall be a Judicial Commission in the Judicial Branch.

(b) Composition of the Judicial Commission. The Judicial Commission shall be comprised of five seats to be filled by Members of the Tribe, three seats which shall be selected upon public nomination by the Ogemaa and two seats which shall be selected upon public nomination by the Chief Justice, all nominations to be subject to confirmation by the. Members of the Judicial Commission shall serve four year staggered terms of office.

(c) General Powers of the Judicial Commission. The Judicial Commission shall have the power to adopt Rules of Court governing the Judicial Branch subject to the Laws of the Tribe.

(d) Specific Powers to Regulate the Conduct of Judges, Justices, Attorneys, Advocates, and Officers of the Courts. The Judicial Commission shall have the power to establish Rules of Ethics for the Judicial Branch to hear any complaints regarding Judges, Justices, attorneys, advocates, or any other Officer of the Courts, subject to law. The Judicial Commission shall have the power, after providing due process, to make recommendations to the Supreme Court to conduct a disciplinary or removal hearing.

Section 9. Compensation. Judges and Justices shall be paid a reasonable compensation by law.

### ARTICLE VII - LEGISLATIVE BRANCH

Section 1. Composition. The Council shall be comprised of fifteen Council Members elected from the eight voting Districts as follows:

(a) The Upper Peninsula shall be divided into five voting Districts with a total of twelve Council Members.

(i) Unless the boundaries of the voting Districts are modified pursuant to the terms of this Constitution, the respective boundaries of the Districts shall continue as they existed at the time of ratification of this Constitution except the boundary of District Five shall be expanded to include the remainder of the western Upper Peninsula.

(ii) Unless the number of Council Members in each District is modified pursuant to the terms of this Constitution, the number of Council Members in each District shall continue as existed at the time of ratification of this Constitution.

(b) The Lower Peninsula shall be divided into three At-large voting Districts, with one Council Member per voting District as follows:

(i) The Northern At-large Voting District shall include Antrim, Otsego, Montmorency, Alpena, and all counties in the Lower Peninsula north of those counties.

(ii) The Western At-large voting District shall include Crawford, Roscommon, Gladwin, Midland, Gratiot, Clinton, Ingham, Jackson, and Hillsdale, and all Michigan counties west of the those counties.

(iii) The Eastern At-large voting District shall include all Michigan counties east of those counties listed in subparagraph (ii) and not listed in subparagraph (I).

#### (c) Redistricting and Reapportionment of the Upper Peninsula Districts.

(i) After the next census in 2010 and every ten years thereafter, the Election Commission shall make Findings of population patterns and demographics for purposes of redistricting or reapportioning. The Election Commission shall prepare a proposed Plan to redistrict or reapportion the five voting Districts in the Upper Peninsula to achieve an equitable redistribution of Council Members based on the Findings, but each District shall have at least one Council Member.

(ii) The Election Commission shall present the proposed redistricting or reapportionment Plan to the Council for approval or disapproval. The Council shall have the authority to modify the Plan submitted by the Election Commission by law. If the Council fails to approve or disapprove the Plan by law within sixty days of submission to the Council, then the original plan proposed by the Election Commission shall be deemed final for purposes of judicial review.

(iii) Any Member of the Tribe shall have standing to challenge in the Supreme Court any redistricting or reapportionment Plan adopted by either the Election Commission or the Council within thirty days of approval, and any approved plan shall be subject to review by the Supreme Court which shall have original and exclusive jurisdiction, and a decision by the Supreme Court shall be final, provided that if the Court does not make a decision within sixty days of filing of the challenge, then the Plan as approved shall be final and no further judicial review shall be permitted.

(iv) Any redistricting or reapportionment plan approved pursuant to this Section shall be implemented prior to the beginning of the 2012 election cycle, and each ten years thereafter.

(d) At-large voting Districts shall not be subject to redistricting or reapportionment.

(e) Eligible Voters of the Tribe shall be permitted to vote exclusively in the voting District in which they maintain their primary residence; provided, that active duty military personnel shall continue to be residents of their respective Districts. Eligible Voters of the Tribe who do not maintain their primary residence in any of the voting Districts shall be permitted to register to vote and vote in any one of the three At-large voting Districts; provided, that once registered to vote in an At-large voting District voters shall not be permitted to change voting Districts unless they establish their primary residence in a voting District.

Section 2. Terms. The term of office for each Council Member shall be four years. The terms of office for all Council Members shall be staggered.

Section 3. Selection. All Candidates for District Council Member shall be named by District on the same ballot and elected by receiving the highest number of votes in descending order cast by eligible voters of the District.

#### Section 4. Qualifications.

(a) Every Council Member shall be a Member of the Tribe and of voting age.

(b) No persons convicted of a felony in any jurisdiction shall serve as a Council Member, unless pardoned by the Pardon Panel of the Tribe after holding a public hearing, or by the jurisdiction where the conviction occurred so long as such pardon is disclosed and consistent with the laws of the Tribe as determined by the Pardon Panel.

(c) Every Council Member shall physically reside in the District which they represent for

at least one year immediately prior to the election and for the duration of their term.

#### Section 5. Compensation.

Council Members shall be paid a reasonable compensation by law commensurate with a full-time job. No Council Member shall be employed in any other governmental capacity.

Section 6. Powers. Legislative power shall be vested in the Council.

(a) The Council shall have the power to make laws, raise revenue, borrow money, and enact an annual balanced budget for the entire Tribe by law, and take any other action as provided in this Constitution. The Council shall not have the power to make a private law.

(b) There shall be one fiscal year and one comprehensive annual balanced budget for the entire Tribe. The annual budget shall include all revenue and funds controlled by the Tribe and all revenue and funds received by the Tribe from any and all sources. The Council shall have the power to conduct one semi-annual budget assessment and make appropriate modifications to the annual budget by law. Upon request of the Executive, the Council shall have the power to make the requested modification to the annual budget at any time. No money shall be drawn from the Treasury unless it has been separately and previously authorized by law and included in an approved budget.

(c) If the Council fails to approve an annual budget by the start of the fiscal year, then the entire Tribe shall continue to function at the level of the previous year's budget, and no Council Member shall be paid any compensation until a new budget is enacted and Council Members shall not receive any retroactive compensation for the period of time when the previous year's budget was in effect.

(d) The Council shall follow a public Legislative Process to enact laws and budgets.

(i) Each proposed law and budget of the Council shall be embodied in a written Bill, unless otherwise indicated in this Constitution. Each Council Member shall have the power to introduce a Bill which shall be read into the public Legislative Record and placed on the public Legislative Calendar. The name of the Council Member who is the primary sponsor of each Bill shall be indicated on the Bill. Every Bill shall include a section explaining how the law derives from, comports with, or affects the customs and traditions of the Tribe. Every Bill shall include a statement identifying the specific law, if any, to be amended, superceded, or repealed.

(ii) The Council or a Committee of the Council shall be required to conduct at least one public hearing in any District held outside the time of a Legislative Session which shall include time for public comment on a Bill prior to passage by the Council. The Council shall have the power to compel evidence, Records, and witnesses by subpoena. Members of the Tribe shall be afforded the opportunity to address the Council privately regarding a personal matter;

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however, the Council shall not be permitted to take any action at such time.

(iii) The shall be required to publish every introduced Bill in the Tribe's newspaper, website, and in other public places at least thirty days prior to a vote by the Council, unless the Bill proposes a budget modification made upon the request of the Executive to meet a time-sensitive requirement for securing funding from a source other than the Tribe.

(iv) A majority of the whole number of seated Council Members shall constitute a quorum, and a quorum shall be required to convene a Regular Session or Special Session of the Council. The Council shall have the power to enact a Bill by a majority vote of Council Members present. The Council shall vote on each Bill in public by separate roll call votes. A Council Member shall be present to cast a roll call vote, and the names and votes of each Council Member on each Bill shall be recorded and published.

(v) All Bills enacted by the Council shall be presented to the Ogemaa for signature or veto. The Ogemaa shall have ten days from presentment to sign the enactment into law or to veto the enactment with a written explanation of objections, and if the Ogemaa takes no action on an enacted Bill, then it shall become law. The Council shall have the power to override an Executive veto by a vote of at least three-fourths of the seated Members of the Council.

(vi) No law or budget, whether enacted by the Council and signed into law by the Ogemaa or enacted by veto override by the Council, except a budget modification, shall be valid until it has been published in the Tribe's newspaper and a period of at least ninety days has passed. All laws shall be compiled into one Code which shall be published annually.

(vii) Unless otherwise permitted by this Constitution, any action by the Council which does not follow the Legislative Process shall be deemed void and shall not be implemented or enforced by the government, Ogemaa, or any official or employee.

(e) Beginning two years after the effective date of the Constitution, a permanent interest-bearing trust fund, which shall be called the Seven Generation Fund, shall be established and the principal of such fund shall remain unencumbered, unappropriated, and unspent. In the first year of the Fund, at least 2% of that part of the Tribe's annual net profit derived from the Tribe's businesses shall be budgeted and deposited into the permanent trust fund. In the second year of the Fund, at least 3% of that part of the Tribe's annual net profit derived from the Tribe's businesses shall be budgeted and deposited into the permanent trust fund. In the third year of the Fund, at least 4% of that part of the Tribe's annual net profit derived from the Tribe's businesses shall be budgeted and deposited into the permanent trust fund. In the fourth year of the Fund and in every year thereafter, at least 7% of that part of the Tribe's annual net profit derived from the Tribe's businesses shall be budgeted and deposited into the permanent trust

fund. In each annual budget, the Council may include up to ninety percent of the available interest from the permanent trust fund for services to Members and reasonable and customary fund administrative fees, and the remaining interest shall become principal of the permanent trust fund.

(f) The Council shall select a Speaker from among its Members. The Council shall have the power to create internal rules and procedures for the Legislative Branch including the power to establish Committees of the Council comprised exclusively of Council Members. The Council shall have the power to employ legislative staff including legislative counsel and a Sargent of arms.

(g) The Council shall have the power to establish executive Departments, Commissions, Boards, Offices, and other subordinate entities by law. All Commissions and Boards shall be established in the Executive Branch. The powers and duties of all Commissions shall be regulatory. No Council Member may be elected, appointed, or employed in the Judicial Branch, in the Executive Branch, or in any other government or its political subdivisions in any capacity including as a consultant, contractor, or otherwise unless specifically authorized by this Constitution, except that the Ogemaa and Council Members who are otherwise qualified may serve as unpaid members of the business board of any gaming enterprise owned by the Tribe and operated outside the Territory.

(h) The Council shall not have the power to enact, adopt, authorize, or otherwise approve any cession, diminishment, or relinquishment by law, agreement, or by any other means any treaty rights reserved to the Tribe. The Council shall not have the power to pass any law or to negotiate any agreement prohibiting or abridging the exercise of any reserved treaty right to hunt, fish, or gather except for temporary conservation purposes which shall be subject to the approval of the voters in a Special Election.

(i) The Council shall have the authority to establish by law a process for the extending Full Faith and Credit to the judicial orders and judgments of other jurisdictions.

(j) The Council shall have the authority to establish limits on campaign spending by law.

#### Section 7. Legislative Sessions.

(a) Regular Sessions. The Council shall convene in Baaweting in a Regular Session during the first full week of the month for up to seven consecutive days.

(b) Special Sessions. The Ogemaa shall be permitted to call a Special Session of the Council. A Special Session may be held in any District and the date and location of the Special Session shall be made by public notice. The purpose of the Special Session shall be explained by public notice and only that purpose shall be considered during the Special Session. A Special Session shall last no longer than one day.

(c) Every Regular Session and Special Session shall be open to the public, unless otherwise per-

mitted by this Constitution.

(d) Council Members may vote on matters only during a Regular Session or a Special Session.

(e) The seat of government shall be Baaweting, the traditional gathering place.

### **ARTICLE VIII - EXECUTIVE BRANCH**

#### Section 1. Composition.

(a) The Executive Branch shall be comprised of one Ogemaa, a Department of Administration including Offices of Property and Supply, Records Management, Personnel, Grants and Contracts, and Procurement, a Department of Culture and Tradition, a Department of Business, Department of Education, Department of Health, Department of Housing, Department of Treasury, Department of Natural Environment, Department of Labor, Department of Anishinaabek Community and Family Services, and any other Departments established by law.

(i) The Department of Business shall govern and regulate all business activity within the Jurisdiction, provided that the management, including any board of directors, of each separate business entity owned by the Tribe shall make the day to day decisions, including personnel decisions, on the entity's business management and operations subject to law.

(ii) The Office of Records Management within the Department of Administration shall be located at the government headquarters in Baaweting. The Office of Records Management shall secure and maintain all Records of the Tribe. The Office of Records Management shall develop systems to index and access all Records maintained in the Office of Records Management or any other office. The Office of Records Management shall make public the pay scale for every position by classification. Members shall have the right to inspect any Record and shall have the right to obtain copies of any Record for a reasonable fee as may be set by law. The Council shall have the power to impose by law reasonable restrictions on access to records relating to private health records, private personnel files, and private information contained in enrollment records.

(b) There shall be a Department of Public Safety comprised of a Division of Law Enforcement and an Office of Prosecutor, an Office of Compliance, and an Office of Conservation Enforcement. The Office of Prosecutor shall have the sole discretion to prosecute on a case by case basis.

(i) The Chief Prosecutor shall be elected by the voters of the Tribe to serve a four year term of office. The Chief Prosecutor shall be a Member of the Tribe, an attorney, and reside within a fifty mile radius of the city limits of Sault Ste. Marie, Michigan upon election to office. If no attorney is available to serve as Chief Prosecutor, then the Ogemaa shall nominate an otherwise qualified person to serve as Chief Prosecutor until the next General Election, subject to confirmation by the Council.

(ii) No person shall be eligible to serve as the Chief Prosecutor who has ever been convicted of a felony in any jurisdiction unless pardoned by the Pardon Panel of the Tribe or by the jurisdiction where the conviction occurred as long as such pardon is disclosed and consistent with the constitution and laws of the Tribe.

(iii) The Prosecutor cannot be an elected or appointed official of any other government.

(c) There shall be one Director to head each Department.

(d) The Ogemaa shall be in charge of the Executive Branch of government. The Ogemaa shall be subject to the laws of the Tribe.

Section 2. Terms. The term of office for the Ogemaa shall be four years.

Section 3. Selection. The Ogemaa shall be elected by receiving the highest number of votes cast by eligible voters of the entire Tribe.

#### Section 4. Qualifications.

(a) The Ogemaa shall be a Member of the Tribe of voting age.

(b) No persons convicted of a felony in any jurisdiction shall serve as an Ogemaa unless pardoned by the Pardon Panel of the Tribe after holding a public hearing, or by the jurisdiction where the conviction occurred so long as such pardon is disclosed and consistent with the laws of the Tribe as determined by the Pardon Panel.

(c) The Ogemaa shall physically reside in any District for at least one year immediately prior to the election, and within thirty days of taking the oath of office, shall physically reside within a fifty mile radius of Baaweting for the duration of their terms.

(d) The Ogemaa shall not hold another job in any capacity.

Section 5. Powers. Executive power shall be vested in the Executive Branch. The Executive Branch shall execute, enforce, and administer the laws and budgets of the Tribe.

(a) The Executive Branch shall present a proposed balanced annual budget to the Council no later than first day of June of each year.

(b) The Ogemaa shall serve as the official representative of the Tribe.

(c) The Ogemaa shall have the power to veto a Bill within ten days of presentation to the Ogemaa. A veto shall include a written explanation of any objections to the Bill.

(d) The Executive Branch shall not have the authority to spend money unless previously authorized by law and appropriated in a budget.

(e) The Ogemaa shall be authorized to hire staff in the Office of Ogemaa. Such positions shall serve at the pleasure of the Ogemaa and shall be vacated to coincide with the expiration of the Ogemaa's term. Funding shall be included for four such positions. Any funding for additional political staff in the Office of

Ogemaa shall be authorized by law.

(f) No person shall make or participate in making an executive decision if such person has a direct and personal financial interest in the outcome of the decision.

(g) The Ogemaa shall present an annual state of the Tribe address.

Section 6. Compensation. The Ogemaa shall be paid a reasonable compensation by law.

### **ARTICLE IX - RECALL, REMOVAL, AND VACANCIES**

#### Section 1. Recall of a Council Member.

(a) A Council Member shall be subject to recall.

(i) A Recall Election shall be initiated by petition signed by at least ten percent of the total number of eligible voters in the District of that Council Member.

(ii) A separate recall petition shall be required for each Council Member subject to recall.

(iii) A recall petition shall be submitted only to the Election Commission. The Election Commission shall determine within fifteen days whether all requirements for the petition are met. If all requirements are met, the Election Commission shall hold a Recall Election after thirty days but no more than sixty days.

(iv) All eligible voters of the District shall be entitled to vote in the Recall Election. A Council Member shall be recalled and removed from office if at least a majority of the votes cast in the Recall Election vote in favor of recall.

(v) A recall petition shall not be initiated or submitted to the Election Commission until at least six months has passed since the start of each new term of a Council Member. A recall petition shall not be initiated or submitted to the Election Commission if six months or less remain in the term of the Council Member. Once a petition is initiated, the petitioners shall have no more than sixty days to collect the requisite number of signatures. A Council Member subject to an unsuccessful recall vote shall not be subject to another Recall Election during their term unless the basis for the recall is a conviction of a felony in any jurisdiction.

(vi) A Council Member who is successfully recalled from office shall not be eligible to run for any elected office until the original term of the Council Member would have expired.

Section 2. Removal of a Council Member. A Council Member shall be subject to removal for good cause as established by law.

(a) At least one hundred eligible voters of a District may present to the Trial Court a signed written petition stating good cause and requesting a removal hearing against a Council Member of that District. The Trial Court shall decide within fifteen days upon receipt of a petition whether the petition states good cause to conduct a removal hearing.

(b) If the Trial Court finds good cause, the Trial Court shall, within sixty days of receipt of a valid petition, conduct a public removal hearing providing due process and make a final determination whether the accused shall be removed from office, and upon a decision of removal, the seat shall be deemed vacant.

(c) The conviction of a Council Member in any court for the commission of a felony may constitute good cause for purposes of removal. Upon commencement of removal proceedings for a felony conviction, a convicted Council Member shall be suspended until a final determination is made regarding removal.

**Section 3. Recall of an Ogemaa.** (a) An Ogemaa shall be subject to recall.

(i) A Recall Election shall be initiated by petition signed by at least ten percent of the total number of eligible voters of the Tribe.

(ii) A recall petition shall be submitted only to the Election Commission. The Election Commission shall determine within fifteen days whether all requirements for the petition are met. If all requirements are met, the Election Commission shall hold a Recall Election after thirty days but no more than sixty days.

(iii) All eligible voters shall be entitled to vote in the Recall Election. The Office of Ogemaa shall be deemed vacant if at a majority of the ballots cast vote in favor of recall.

(iv) A recall petition shall not be initiated until at least six months has passed since the start of the new term. A recall petition shall not be initiated if six months or less remain in the term. The petitioners shall have no more than sixty days to collect the required number of signatures. The Ogemaa shall not be subjected to more than one Recall Election during the term unless the basis for a second Recall Election is a conviction of a felony in any jurisdiction.

(v) An Ogemaa who is successfully recalled from office shall not be eligible to run for any elected office until the original term of the Ogemaa would have expired.

**Section 4. Removal of an Ogemaa.** An Ogemaa shall be subject to removal for good cause as established by law.

(a) At least one hundred eligible voters may present to the Trial Court a signed written petition stating good cause and requesting a removal hearing against an Ogemaa. The Trial Court shall decide within fifteen days upon receipt of a petition whether the petition states good cause to conduct a removal hearing.

(b) If the Trial Court finds good cause, the Trial Court shall, within sixty days of receipt of a valid petition, conduct a public removal hearing providing due process and make a final determination whether the accused shall be removed from office, and upon a decision of removal, the seat

shall be deemed vacant.

(c) The conviction of an Ogemaa in any court for the commission of a felony may constitute good cause for purposes of removal. Upon commencement of removal proceedings for a felony conviction, a convicted Ogemaa shall be suspended until a final determination is made regarding removal.

**Section 5. Removal of a Judge or Justice.** The Supreme Court, upon recommendation from the Judicial Commission and after providing due process, shall have the exclusive power to remove a Judge or Justice.

**Section 6. Vacancy in the Office of a Council Member.** A vacancy in the Office of a Council Member shall be filled by Special Election held after thirty days but no more than one hundred twenty days of the vacancy. If six months or less remain in the term, then the seat shall remain vacant and shall be filled in the next election.

**Section 7. Vacancy in the Office of the Ogemaa.** A vacancy in the office of Ogemaa shall be filled by the Speaker of the Council who shall assume the Office of Ogemaa until a successor shall be seated in a Special Election which shall be held within sixty days of vacancy.

**Section 8. Vacancy in the Office of a Judge or Justice.** A vacancy in the Office of a Judge or Justice shall be filled by Special Election held after thirty days but no more than one hundred twenty days. If six months or less remain in the term, then the seat shall remain vacant and shall be filled in the next election. In the respective case of a vacancy in the Office of Chief Judge or Justice, the Senior Associate Judge or Justice shall temporarily assume such duties.

## ARTICLE X - NEWSPAPER

**Section 1. Official Newspaper.** The government of the Tribe shall establish and maintain a newspaper which shall be separate and independent from the political branches of government. There shall be a Newspaper Board comprised of three non-elected persons with one person selected by the highest elected official of each Branch of government. The Board shall have the power to promulgate rules and regulations for the operation of the Newspaper. The Board shall have the power to appoint and remove a Chief Editor of the Newspaper using personnel practices normally used by the Executive Branch. All official actions of the Board shall be by majority vote. The Chief Editor shall conduct the day-to-day operations, including subordinate personnel matters, subject to the laws of the Tribe.

## ARTICLE XI - ELECTIONS

**Section 1. Election Commission.** There shall be an Election Commission comprised of thirteen Members to conduct all elections in a fair and impartial manner. Members of the Election Commission shall be chosen by a committee comprised of the Ogemaa, the Speaker of the Council, and the Chief Judge from a pool of self-nominated applicants comprised of eligible voters. The Election Commission

shall have the authority to promulgate written rules and regulations governing elections subject to law.

**Section 2. Primary Election, General Election, and Special Election.**

(a) The Primary Election shall be held on the 4<sup>th</sup> Thursday in March.

(b) The General Election shall be held on the 4<sup>th</sup> Thursday in June.

(c) Special Elections shall be held when called for by the Council by law or by this Constitution.

**Section 3. Eligible Voters.** Members of the Tribe age eighteen or older who are registered to vote shall be considered eligible voters of the Tribe. Once registered to vote, a voter shall be considered registered to vote in all subsequent elections unless the voter changes his or her residence.

**Section 4. Election Challenges.** The Election Commission shall certify all election results within three days of the election. Any eligible voter may challenge the certified election results in writing to the Election Commission within three days of certification of the election results. The Election Commission shall decide all challenges within seven days of filing. The Election Commission decision shall be final unless appealed. The Election Commission shall administer the oath of office to newly elected officials within three days of the final certification of the election results by the Election Commission or, if appealed, by the Supreme Court.

**Section 5. First Election.** The First Election under this Constitution shall be held in the first available even-numbered year.

(a) Upon the adoption of this Constitution all persons serving as Members of the Board shall become Council Members for the remainder of their respective terms, except the Chairman who shall become the Ogemaa. For the First Election under this Constitution, the term of office for the Council Members of the Northern At-large voting District and the Eastern At-large voting District shall be four years, and the term of office for the Council Member of the Western At-large voting District shall be two years and a four year term for each thereafter.

(b) In the First Election for purposes of establishing staggered terms of office, the Chief Judge of the Trial Court shall serve for four years, and one Associate Judge of the Trial Court shall serve for two years. In the First Election for purposes of establishing staggered terms of office, two Justices of the Supreme Court who receive the two highest number of votes shall each serve a term of six years, and two Justices of the Supreme Court who receive the next highest number of votes shall serve a term of four years, and one Justice of the Supreme Court who receives the next highest number of votes shall serve a term of two years.

## ARTICLE XII - SOVEREIGN IMMUNITY

**Section 1. Sovereign Immunity.** The Tribe shall possess Sovereign Immunity. Nothing in this Constitution shall be deemed to constitute a waiver of Sovereign Immunity from suit unless specifically stated herein, except that the Council may authorize a waiver of Sovereign Immunity by law. Any authorization by the Council to waive Sovereign Immunity shall be specific and for a limited scope and duration.

**Section 2. Immunity from Suit by Parties Outside the Jurisdiction of the Tribe.** The Tribe and its executive Officials and Employees acting in their official capacity or within the scope of their authority shall be immune from suit brought by any party not subject to the Jurisdiction of the Tribe except to the extent waived in accordance with law.

**Section 3. Immunity from Suit by Parties Within the Jurisdiction of the Tribe.** The Tribe and its Executive Officials and Employees acting in their official capacity or within the scope of their authority shall be immune from suit except to the extent waived in accordance with law or except for suits in equity filed exclusively in the Courts of the Tribe by any party subject to the Jurisdiction of the Tribe to enforce rights and duties established by law or this Constitution. Any Member of the Tribe may bring a suit exclusively in the Judicial Branch to enforce the terms of this Constitution. Sovereign Immunity shall not extend to Officials and Employees acting outside their official capacity or beyond the scope of their authority.

**Section 4. Suits Against the Council and Council Members.** The Council and individual Council Members acting in their official capacity shall be immune from suit in law and equity. When the Council or Council Member is exercising an Executive function specifically authorized by this Constitution, the Council or Council Member shall not be immune from suit in equity filed exclusively in the Judicial Branch by any party subject to the Jurisdiction of the Tribe.

**Section 5. Suits Against Judges.** Judges and Justices shall be immune from suit in law and equity for actions taken in their official capacity.

## ARTICLE XIII - REFERENDUM AND INITIATIVE

**Section 1. Referendum.** Eligible voters who reside within the Territory shall have the right to demand a Referendum election on any law the legal incidence of which falls exclusively on residents of the Territory, or on any law which disparately impacts residents of the Territory, by submitting to the Election Commission a petition signed by at least five percent of such voters. Eligible voters of the Tribe, regardless of residence, shall also have the right to demand a Referendum election on any law by submitting to the Election Commission a petition

signed by at least five percent of such voters. In either case, a referendum petition must use a form obtained from the Election Commission and such petition must be returned to the Election Commission within sixty days. Once a petition is submitted to the Election Commission, no new names shall be added, and the Election Commission shall make a determination within fifteen days whether all petitioning requirements have been met. Upon making a finding of a valid petition, the Election Commission shall conduct a Special Election on the Referendum within sixty days.

**Section 2. Initiative.** Voters of the Tribe shall have the right to enact a law by Initiative. An Initiative shall not be permitted to enact a budget or budget modification. Eligible voters of the Tribe, regardless of their residence, shall have the right to demand an Initiative election to enact a law by submitting a petition signed by at least ten percent of the number of eligible voters of the Tribe to the Election Commission. A petition for an Initiative election shall include the full text of the proposed law. Once a petition is submitted, the Election Commission shall make a determination within fifteen days whether all petitioning requirements have been met. Upon making a finding of a valid petition, the Election Commission shall conduct a Special Election on the Initiative within sixty days.

**Section 3. Results of a Special Election.** The results of a Special Election for a Referendum or Initiative shall become law immediately unless otherwise specified in the law. Once passed, the results of the Referendum and Initiative shall be binding and shall not be subject to repeal or modification except by a subsequent Special Election or by a three-fourths majority vote of the Council.

## ARTICLE XIV - AMENDMENTS

**Section 1. Request for an Election.**

(a) The Council may by a three-fourths vote of the whole number of seats in the Council call for a Special Election to amend the Constitution.

(b) The voters of the Tribe may call for a Special Election to amend the Constitution by submitting a petition signed by at least ten percent of the number of eligible voters of the Tribe to the Election Commission. Once a petition is submitted, the Election Commission shall verify the signatures on the petition within fifteen days, and if valid, the Election Commission shall conduct a Special Election within sixty days thereafter.

**Section 2. Requirements For Approval.** The Constitution may be amended by a majority vote of the voters who vote in the Special Election, provided, that the amendment is approved by at least seven voting Districts. Any amendment approved by the voters shall become effective immediately unless otherwise stated in the amendment.