

**CONSTITUTION AND BY-LAWS OF THE  
KEWEENAW BAY INDIAN COMMUNITY  
- MICHIGAN -**

**APPROVED DECEMBER 17, 1936  
AMENDED**

**PREAMBLE**

We, the L'Anse, Lac Vieux Desert and Ontonagon Bands of Chippewa Indians, residing within the original confines of the L'Anse Reservation, in order to organize as a tribe for the common welfare of ourselves and our posterity, to insure domestic tranquility, to conserve and develop our natural resources, to form business and other organizations, to establish a credit system, to enjoy certain rights of home rule, do ordain and establish this Constitution and Bylaws, for our community which shall be known as the Keweenaw Bay Indian Community.

**ARTICLE I - TERRITORY**

The territorial jurisdiction of this Constitution shall embrace the land within the original boundary lines of the L'Anse Reservation as defined pursuant to treaty dated September 30, 1854, (10 Stat. 1109), and any and all future additions of land acquired within or without said boundary line by the Secretary of the Interior or by the Tribe, except as otherwise provided by law.

**ARTICLE II - MEMBERSHIP**

**Section 1.**

The membership of the Keweenaw Bay Indian Community shall consist of the following:

- (a) Those persons listed on any of the allotment rolls of the L'Anse, Lac Vieux Desert or Ontonagon Bands of the Chippewa Indians as an enrolled member, their siblings of Indian blood, and their descendants who were residing within the limits of the L'Anse Reservation as of June 1, 1934; and
- (b) Any other Chippewa Indian or their descendents of one quarter degree or more of Indian blood who demonstrates, by reliable documentation, ancestral ties to the Keweenaw Bay Indian Community, and who were residing within the limits of the territory as described and ceded in the Treaty between the United States and the Chippewa Indians of October 4, 1842, as of June 1, 1934; and
- (c) Any person of at least one-quarter degree Indian blood who is descended from a member; and
- (d) Any person descended from a member of the Keweenaw Bay Indian Community who has resided within the L'Anse Reservation and who desires to affiliate with the Community may be adopted by a majority vote of the voting membership. Members who have been adopted before the enactment of this Amendment shall retain their right to vote, but shall not have the right to hold office, to receive monetary distributions or exercise on-reservation treaty rights. Members who are adopted subsequent to the enactment of this Amendment shall have the right to exercise on-reservation treaty rights, but shall not have the right to vote, hold office, to receive monetary distributions or exercise off-reservation treaty rights.

## **Section 2.**

There is established for the Community an Enrollment Board with such powers and duties as are necessary to implement this Article. Determinations, rulings and decisions of the Enrollment Board shall be made in accordance with an Enrollment Ordinance.

## **Section 3.**

Any member enrolled subsequent to the enactment of this Amendment shall be disenrolled upon a finding that such member was enrolled based upon fraudulently presented or erroneous information, or upon a finding that such member is enrolled in another federally recognized Indian nation, tribe, band or group. Disenrollment proceeding shall be conducted in accordance with the Enrollment Ordinance. Any person who is a member of the Community on the date of the enactment of this Amendment shall not be subject to disenrollment proceedings.

## **Section 4.**

Any member of the Community age eighteen (18) and over may relinquish their membership or the membership of their minor children. Persons relinquishing their membership shall be eligible to reapply for enrollment five (5) years after the date of their relinquishment. Any minor whose membership has been relinquished shall be eligible to reapply for enrollment at any time. Relinquishment proceedings shall be conducted in accordance with the Enrollment Ordinance.

*History: The foregoing language of Article II was submitted to the qualified voters of the Keweenaw Bay Indian Community and duly adopted on October 8, 2002; being designated "Amendment Number 1" to the Constitution and Bylaws of the Keweenaw Bay Indian Community," Amendment Number 1" was approved by the Secretary of the United States Department of the Interior on October 23, 2002.*

*This article formerly read:*

### *Section 1.*

*"The membership of the Keweenaw Bay Indian Community shall consist of the following:*

- (a) The bona fide enrolled members of the L'Anse, Lac Vieux Desert and Ontonagon Bands of Chippewa Indians as shown on any of the allotment rolls of the L'Anse, Lac Vieux Desert and Ontonagon Reservations, and their descendents who were residing within the limits of the L'Anse Reservation of June 1, 1934.*
- (b) Every child of one-quarter or more Indian blood, born hereafter to any member of the Keweenaw Bay Indian Community, provided such member is a resident of the Reservation at the time of birth of said child, and every child both of whose parents are members of the Community."*

### *Section 2.*

*The Tribal Council shall have the power to enact ordinances subject to review by the Secretary of the Interior governing the adoption of members for the Keweenaw Bay Indian Community. Other Indians not now members of this Reservation who desire to affiliate with the Community may upon written application be admitted by a majority vote of the membership, and shall thereupon have a right to vote on matters pertaining to the Community, but shall be excluded from participating in any rights or claim arising out of treaties, and from the right to hold office in the Community. The same limitations are to be extended to the children of adopted members, except where one parent is a member by birth of the Community.*

## **ARTICLE III - GOVERNING BODY**

### **Section 1.**

The governing body of the Keweenaw Bay Indian Community shall be the Tribal Council.

### **Section 2.**

The Tribal Council shall consist of twelve councilmen to be elected by popular ballot as follows: Six councilmen from the L'Anse district and six councilmen from the Baraga district.

### **Section 3.**

The Tribal Council shall have power to change the districts and the representation from each district based on community population, such change to be made by ordinance, but the total number of delegates as provided for in Section 2, Article III, of this Constitution, shall not be changed.

### **Section 4.**

After each popular election the Tribal Council shall elect from within its own number a President, a Vice-President, a Secretary, an Assistant Secretary, a Treasurer and such other officers and committees as may be deemed necessary. The five officers named and so elected from the Tribal Council shall be known as the Executive Council.

### **Section 5.**

The Tribal Council of the Keweenaw Bay Indian Community shall be the sole judge of the qualifications of its members.

## **ARTICLE IV - NOMINATIONS AND PROCEDURES**

### **Section 1.**

The first election of a Tribal Council under this Constitution shall be called and supervised by the present business and advisory committee within thirty days after the ratification and approval of this Constitution and thereafter elections shall be held each year, on the third Saturday prior to the expiration of office of the members of the Tribal Council.

### **Section 2.**

At the first election four councilmen shall be elected for a period of one year, and four councilmen for a period of two years, and four councilmen for a period of three years; and after the first election each councilman shall be elected for a period of three years.

### **Section 3.**

The Tribal Council or an election board appointed by the Tribal Council shall determine rules and regulations governing elections.

### **Section 4.**

The L'Anse and Baraga districts shall formulate their own rules and regulations regarding nominations and candidates for the Tribal Council, such nominees being elected by a majority vote of the entire tribe. Each district will be required to file the names of proposed candidates with the Tribal Secretary at least fifteen days prior to election. It shall be the duty of the Secretary of the Tribal Council to post at least ten days before election the names of all candidates for the Council.

## **Section 5.**

The Tribal Council or a board appointed by the Council shall certify to the election of the members of the Council immediately after the election returns.

## **Section 6.**

Any member of the Keweenaw Bay Indian Community who is eighteen years of age or over and maintains residence on the reservation shall be entitled to vote in the district in which he or she resides.

*History: The foregoing language of Article IV, Section 6 was submitted to the qualified voters of the Keweenaw Bay Indian Community and duly adopted on May 2, 2006; being designated "Amendment Number II" to the Constitution and Bylaws of the Keweenaw Bay Indian Community. "Amendment Number II" was approved by the Secretary of the United States Department of the Interior on June 15, 2006. This section formerly read:*

*"Any member of the Keweenaw Bay Indian Community who is twenty-one years of age or over and who maintains residence on the reservation, and presents himself at the polls on election day, shall be entitled to vote in the district in which he resides."*

## **Section 7.**

Any enrolled member of the Keweenaw Bay Indian Community, twenty-five years of age or over and who is at least one-fourth degree Indian blood and shall have resided within the district from which elected for at least one year immediately preceding this nomination, shall be eligible for election to the Tribal Council.

# **ARTICLE V - VACANCIES AND REMOVAL FROM OFFICE**

## **Section 1.**

If a councilman or official shall die, resign, permanently leave the reservation, or be removed from office, the Council shall declare the position vacant and appoint a successor from the district which has lost a representative to fill the office until the next general election, when a successor shall be elected for the unexpired term, provided that the person chosen to fill such vacancy shall be qualified.

## **Section 2.**

Any councilman who is proven guilty of improper conduct or gross neglect of duty, may be expelled from the Council under the following procedure:

Should a complaint in writing from fifty members of the Tribe against a member of the Tribal Council be presented to the Council, it shall be the duty of the Tribal Council, if the grounds for such complaint is considered of sufficient merit, to appoint a committee of five members of the Tribe, independent of its own membership and those making such complaints, to hold a public hearing and make written report to the Tribal Council of its findings, a copy of such report to be furnished the accused. Upon receipt of such report by the Tribal Council, it shall meet in executive session to consider such report, grant a hearing and hear testimony of the accused. The Tribal Council may expel a member found guilty of gross neglect of duty or improper conduct by a two-thirds vote.

## **ARTICLE VI - POWERS AND DUTIES OF THE TRIBAL COUNCIL**

### **Section 1.**

The Tribal Council shall have the power, subject to any limitations imposed by the Statutes or the Constitution of the United States, and subject to all express restrictions upon such powers contained in this Constitution and attached By-laws:

- (a) To regulate the uses and disposition of tribal property, to protect and preserve the tribal property, wild life and natural resources of the Community, to cultivate Indian arts, crafts and culture, to administer charity, to protect the health, security, and the general welfare of the Keweenaw Bay Indian Community.
- (b) To employ legal counsel for the protection and advancement of the rights of the Keweenaw Bay Indian Community and its members, the choice of council and fixing of fees to be subject to the approval of the Secretary of the Interior.
- (c) To negotiate with the Federal, State, and local governments on behalf of the Community and to advise and consult with the representatives of the Departments of the Government of the United States on all matters affecting the affairs of the Keweenaw Bay Indian Community.
- (d) To approve or veto any sale, disposition, lease or encumbrance of tribal lands, and tribal assets, which may be authorized or executed by the Secretary of the Interior, the Commissioner of Indian Affairs, or any other agency of the Government, provided that no tribal lands shall be sold or encumbered, or leased for a period in excess of five years, except for governmental purposes, and except that mineral leases, and leases to associations, or members, may be made for such longer periods as may be authorized by law.
- (e) To advise with the Secretary of the Interior with regard to all appropriation estimates, or Federal projects, for the benefit of the Keweenaw Bay Indian Community, prior to the submission of such estimates to the Bureau of the Budget and to Congress.
- (f) To manage all economic affairs and enterprises of the Keweenaw Bay Indian Community in accordance with the terms of a charter to be issued by the Secretary of the Interior.
- (g) To make assignments of tribal lands to members of the Keweenaw Bay Indian Community in conformity with Article VII of this Constitution.
- (h) To appropriate for tribal use any available tribal funds, provided, that any appropriation in excess of \$500,000 at any one time shall be of no effect until approved by referendum vote.
- (i) To promulgate and enforce ordinances, subject to review by the Secretary of the Interior, which would provide for taxes, assessments, or license fees upon non-members doing business within the reservation, or obtaining special rights or privileges, and such ordinances may also be applied to members of the Keweenaw Bay Indian Community, without such review, provided such ordinances have been approved by a referendum of the Keweenaw Bay Indian Community.
- (j) To exclude from the restricted lands of the Reservation persons not legally entitled to reside thereon, under ordinances which shall be subject to review by the Secretary of the Interior.
- (k) To enact resolutions or ordinances not inconsistent with Article II of this Constitution governing adoptions and abandonment of membership, subject to review by the Secretary of the Interior.
- (l) To promulgate and enforce ordinances, which shall be subject to review by the Secretary of the Interior, governing the conduct of members of the Keweenaw Bay Indian Community, and providing for the maintenance of law and order and the administration of justice by establishment of an Indian Court, and a definition of its powers and duties.
- (m) To purchase land from members of the Keweenaw Bay Indian Community for public purposes under condemnation proceeding in courts of competent jurisdiction.
- (n) To promulgate and enforce ordinances which are intended to safeguard and promote the peace, safety, morals, and general welfare of the Keweenaw Bay Indian Community by regulating the conduct of trade and the use and disposition of property upon the reservation,

providing that any ordinance directly affecting non-members shall be subject to review by the Secretary of the Interior.

(o) To charter subordinate organizations for economic purposes, and to regulate the activities of such organizations by ordinances which shall be subject to review by the Secretary of the Interior.

(p) To regulate the inheritance of real and personal property, other than allotted lands, within the Keweenaw Bay Indian Community, subject to review by the Secretary of the Interior.

(q) To regulate the domestic relations of members of the Keweenaw Bay Indian Community.

(r) To recommend and provide for the appointment of guardians for orphans, minor members of the Keweenaw Bay Indian Community, and mental incompetents, subject to review by the Secretary of the Interior, and to administer tribal and other funds or property which may be transferred or entrusted to the Tribe or Tribal Council for this purpose.

(s) To create and maintain a Community fund by accepting grants or donations from any person, State, or the United States, or by tribal enterprises.

(t) To delegate to subordinate boards or to cooperative associations which are open to all members of the Keweenaw Bay Indian Community, any of the foregoing powers, reserving the right to review any action taken by virtue of such delegated power.

(u) To adopt resolutions or ordinances to effectuate any of the foregoing powers.

## **Section 2.**

Any resolution or ordinance, which, by the terms of this Constitution, is subject to review by the Secretary of the Interior, shall be presented to the Superintendent of the Reservation, who shall, within ten days thereafter, approve or disapprove the same, and if such ordinance or resolution is approved, it shall thereupon become effective, but the Superintendent shall transmit a copy of the same, bearing his endorsement, to the Secretary of the Interior, who may, within ninety days from the date of enactment, rescind said ordinance or resolution for any cause, by notifying the Council of such action. If the Superintendent shall refuse to approve any resolution or ordinance submitted to him, within ten days after its enactment, he shall advise the Council of his reasons therefor, and the Council, if such reasons appear to be insufficient, may refer it to the Secretary of the Interior, who may within ninety days from its enactment, approve the same in writing, whereupon the said ordinance or resolution shall become effective.

## **Section 3.**

The Council of the Keweenaw Bay Indian Community may exercise such further powers as may in the future be delegated to it by the Federal Government, either through order of the Secretary of the Interior, or by Congress, or by the State Government, or by any member of the Keweenaw Bay Indian Community.

## **Section 4.**

Any rights and powers heretofore vested in the L'Anse, Lac Vieux Desert, and Ontonagon Bands of Chippewa Indians, residing within the original confines of the L'Anse Reservation, but not expressly referred to in this Constitution shall not be abridged by this article but may be exercised by the members of the Keweenaw Bay Indian Community through the adoption of appropriate By-laws and constitutional amendments.

*History: The foregoing language of Article VI, Section 1, Subparagraph (h) was submitted to the qualified voters of the Keweenaw Bay Indian Community and duly adopted on April 26, 2016; being designated "Amendment Number III" to the Constitution and Bylaws of the Keweenaw Bay Indian Community. "Amendment Number III" was approved by the Secretary of the United States Department of the Interior on May 18, 2016. Article VI, Section 1, Subparagraph (h) formerly read:*

*“To appropriate for tribal use any available tribal funds, provided, that any appropriation in excess of \$10,000 in any one fiscal year shall be of no effect until approved at a popular referendum.”*

## **ARTICLE VII - LAND**

### **Section 1.**

*Allotted lands.* – Allotted lands, including heirship lands, within the L'Anse Reservation shall continue to be held as heretofore by their present owners. It is recognized that under existing law such lands may be condemned for public purposes, such as roads, public buildings, or other public improvements, upon payment of adequate compensation, by any agency of the Federal or State Government, or by the Community itself. It is further recognized that under existing law such lands may be inherited by the heirs of the present owner, whether or not they are members of the Community. Likewise, it is recognized that under existing law the Secretary of the Interior may, in his discretion, remove restrictions upon such land, upon application by the Indian owner, whereupon the land will become subject to State taxes and may then be mortgaged or sold. The right of the individual Indian to hold or to part with his land, as under existing law, shall not be abrogated by anything contained in this Constitution, but the owner of restricted land, may with the approval of the Secretary of the Interior, voluntarily convey his land to the Keweenaw Bay Indian Community either in exchange for a money payment or in exchange for an assignment covering the same land or other land, as hereinafter provided.

### **Section 2.**

*Tribal lands.* – The unallotted lands of the Community, and all lands which may hereafter be acquired by the Community or by the United States in trust for the Community shall be held as tribal lands, and no part of such land shall be mortgaged or sold. Tribal lands shall not be allotted to individual Indians but may be assigned to members of the Community, or leased, or otherwise used by the Community, as hereinafter provided.

### **Section 3.**

*Leasing of tribal lands.* – Tribal lands may be leased by the Tribal Council, with the approval of the Secretary of the Interior, for such periods of time as are permitted by law. In the leasing of tribal lands preference shall be given first, to Indian cooperative associations, and secondly, to individual Indians who are members of the Community. No lease of tribal lands to non-members shall be made by the Tribal Council unless it shall appear that no Indian cooperative association or individual member of the Community is able and willing to use the land and to pay a reasonable fee for such use.

All action of the Tribal Council in the regulation and leasing of tribal land shall be consistent with the rules and regulations prescribed by the Secretary of the Interior in accordance with Section 6 of the Act of June 18, 1934.

### **Section 4.**

*Grant of "standard assignments."* – In any assignment of tribal lands which are now owned by the Community or which hereafter may be acquired for the Community by the United States or purchased by the Community out of tribal funds, preference shall be given, first, to heads of families which are entirely landless and secondly to heads of families which have no allotted lands or interests in allotted lands but shall have already received assignments consisting of less than an economic unit of agricultural land, or other land or interests in land of equal value, such economic unit to be determined from time to time by the Tribal Council.

No allotted member of the Community who may hereafter have the restrictions upon his land removed and whose land may thereafter be alienated shall be entitled to receive an assignment of land as a landless Indian. The Tribal Council, may, if it sees fit, charge a fee of not to exceed five dollars (\$5.00) on approval of an assignment made under this section.

Assignments made under this section shall be for the primary purpose of establishing homes for landless Indians, and shall be known as standard assignments.

If any member of the Community holding standard assignment of land shall for a period of one year fail to use the land so assigned or shall use such land for any unlawful purpose such assignment may be cancelled by the Tribal Council after due notice and an opportunity to be heard, and the said land may be reassigned in accordance with the provisions of section 4, of this article.

Upon the death of any Indian holding a standard assignment his heirs or other individuals designated by him, by will or written request, shall have a preference in the reassignment of the land, provided such persons are members of the Community who would be eligible to receive a standard assignment.

## **Section 6.**

*Grant of "exchange assignments."* – Any member of the Community who owns an allotment or any share of heirship land or deeded land may voluntarily convey his interest in such land to the Community exchange for an assignment to the same land or other land of equal value. If the assignee prefers he may receive, in lieu of a specific tract of land, a proportionate share in a larger unit of land or other interest.

Assignments under this section shall be known as exchange assignments.

## **Section 7.**

*Leasing of exchange assignments.* – Exchange assignments may be used by the assignee or leased by him to Indian cooperative associations, to individual members of the Keweenaw Bay Indian Community, or, if no individual Indian or Indian cooperative association is able and willing to rent the land at a reasonable fee, such assignments may be leased to non-Indians in the same manner as allotted lands.

## **Section 8.**

*Inheritance of "exchange assignments."* – Upon the death of the holder of any exchange assignment, such land shall be reassigned by the Tribal Council to his heirs or devisees, subject to the following conditions:

- (a) Such lands may not be reassigned to any heir or devisees who are not members of the Keweenaw Bay Indian Community, except that a life assignment may be made to the surviving widower or widow of the holder of an assignment.
- (b) Such lands may not be reassigned to any heirs or devisee who already holds more than an economic unit of land or interests in land, such unit to be determined from time to time by the Tribal Council.
- (c) Such lands may not be subdivided into units too small for economic use as may be determined by the Tribal Council, except that land used for buildings or other improvements may be divided to suit the convenience of the parties. Where it is impossible to divide the land properly among the eligible heirs or devisees, the Tribal Council shall issue to the eligible heirs or devisees, interests in tribal lands of the same value as their interests in the assignment of the decedent.
- (d) If there are no eligible heirs or devisees of the decedent, the land shall be eligible for reassignment in accordance with the provisions of Section 4 of this article.



## **Section 9.**

*Use of unassigned community land.* – Community land which is not assigned, including community timber reserves, shall be managed by the Tribal Council for the benefit of the members of the entire Community, and any cash income derived from such land shall accrue to the benefit of the Community as a whole.

## **Section 10.**

*Inheritance of improvements.* – Improvements of any character made upon assigned land may be bequeathed to and inherited by members of the Community or otherwise disposed of under such regulations as the Tribal Council shall provide. No permanent improvements shall be removed from the land without the consent of the Tribal Council.

## **Section 11.**

*Exchange of assignment.* – Assignments may be exchanged between members of the Community by common consent in such manner as the Tribal Council shall designate.

## **Section 12.**

*Use of community funds.* – Community funds may be used with the consent of the Secretary of the Interior, to acquire land, under the following conditions:

- (a) Land within the L'Anse Reservation or adjacent to the boundaries thereof which is not in Indian ownership may be purchased by or for the Community.
- (b) Restricted land, which is in heirship status at the time of the adoption and approval of this Constitution, may be purchased by or for the Community, with the consent of all adult heirs, and the legal guardians of minor heirs, payment thereof to be made as may be agreed upon.
- (c) Land owned by any member of the Keweenaw Bay Indian Community who is over the age of 60 years, or who is physically incapacitated, may be transferred by its owner to the Keweenaw Bay Indian Community in exchange for a pension of not more than twice the annual rental value of the land for the life of the pensioner, to be paid out of available tribal funds.
- (d) Land in excess of an economic unit as determined by the Tribal Council owned by any member of the Keweenaw Bay Indian Community may be purchased by or for the Community with the consent of the owner, payments to be made under such terms as may be agreed upon.
- (e) Land owned by any member of the Keweenaw Bay Indian Community who desires to leave the reservation permanently may be purchased by the Keweenaw Bay Indian Community, under such terms as may be agreed upon.

## **Section 13.**

*Methods of making assignments.* – Applications for assignments shall be filed with the Secretary of the Council, and shall be in writing, setting forth the name of the person or persons applying for the land and as accurate a description of the land desired as the circumstances will permit.

Notices of all applications received by the Secretary shall be posted by him in the agency office and in at least three conspicuous places in the district in which the land is located for not less than twenty (20) days before action is taken by the Council. Any member of the Community wishing to oppose the granting of an assignment shall do so in writing, setting forth his objections, to be filed with the Secretary of the Council, and may if he so desires appear at or before the Council to present evidence. The Secretary of the Council shall furnish the Superintendent or other offices in charge of the agency a complete record of all action taken by the Council on applications for assignment of land, and a complete record of assignments shall be kept in the agency office and shall be open for inspection by members of the Community.

The Tribal Council shall draw up one or more forms for standard and exchange assignments, which shall be subject to the approval of the Secretary of the Interior.

## **ARTICLE VIII -AMENDMENTS**

### **Section 1.**

This Constitution and By-laws may be amended by a majority vote of the qualified voters of the community voting at an election called for that purpose by the Secretary of the Interior provided that at least thirty (30) percent of those entitled to vote shall vote in such election, but no amendment shall become effective until it shall have been approved by the Secretary of the Interior. It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment upon presentation of a petition signed by two-thirds of the eligible voters of the Community.

## **ARTICLE IX – JUDICIAL BRANCH**

### **Section 1.**

The purpose of this article is to provide a separate branch of government free from political interference and conflicts of interest for the development and enhancement for the fair administration of justice.

### **Section 2.**

The judicial power of the Keweenaw Bay Indian Community will be vested in a Tribal Court system. The Tribal Court System will be composed of a court of general jurisdiction referred to as the "Tribal Court", an appellate court referred to as the "Appellate Court" and such lower courts as the Tribal Council may establish upon written recommendation from the Tribal Court.

### **Section 3.**

The judicial power will extend to all cases arising under this Constitution, ordinances, resolutions, regulations, or judicial decisions of the Keweenaw Bay Indian Community and will be exercised to the fullest extent consistent with self-determination and the sovereign powers of the Tribe. This jurisdiction is based on the Tribe's inherent sovereignty, traditional custom, and Federal law.

### **Section 4.**

The Tribal Court will consist of two Judges, one of whom will be the Chief Judge and one of whom will be the Associate Judge.

The Chief Judge will be the presiding Judge of the Tribal Court and will be the Chief administrator of the Court.

### **Section 5.**

Any enrolled member of the Keweenaw Bay Indian Community that has resided within the territorial jurisdiction for at least one (1) year immediately preceding his nomination and has attained the age of twenty-five (25) years or older on or before the date when their term is to commence will be eligible for election as the Chief or Associate Judge and will have graduated from high school or attained an equivalency degree. No person can serve as Chief Judge or Associate Judge within five (5) years after completion of a sentence or probation upon being convicted of a felony or crime of fraud, unless such conviction has been vacated or overturned. No person will serve as the Chief Judge or Associate Judge who is presently a Tribal Council member or running to become a Tribal Council member.

## **Section 6.**

Both the Chief and Associate Judges of the Tribal Court will be elected to Tribal Court office for staggered terms, which will be arranged so as to expire during different years. The Chief Judge and Associate Judge will be elected to hold office for a period of three (3) years. There will be no limitation on the number of terms a Judge may be elected to hold office.

Upon approval of this Article, the staggered terms of the current Chief Judge and Associate Judge will remain and future elections will coincide with the popular election.

Tribal Court Judges will otherwise be elected in accordance with the rules and regulations governing elections.

## **Section 7.**

If a Judge on the Tribal Court dies, is removed, resigns, is permanently incapacitated or actually unable to carry out their office or permanently leaves the reservation, the Tribal Council will declare that position vacant and will within thirty (30) days appoint a qualified successor residing within the territorial jurisdiction to fill the office until the next popular election when a successor will be elected for the unexpired term. In such instances where the Chief Judge position is the one vacated, the Associate Judge will assume the specific duties and powers assigned to the Chief Judge until such time as a successor Chief Judge is elected in the popular election and the Associate Judge position will be filled as described herein.

## **Section 8.**

If both Judges of the Tribal Court anticipate becoming deceased, are temporarily unable to act, or disqualified from acting, then the Chief Judge, if able, will have the power and authority to appoint a Judge first from a Tribal Court of another federally recognized Indian Tribe or an attorney licensed to practice within the Keweenaw Bay Tribal Court to preside over the judicial business of the Keweenaw Bay Tribal Court to the extent, and for the period of time required. If the Chief Judge, or the Associate Judge assuming the Chief Judge's duties, is unable, then the Tribal Council will have the power and authority to appoint a Judge first from a Tribal Court of another federally recognized Indian Tribe or an attorney licensed to practice within the Keweenaw Bay Tribal Court to preside over the judicial business of the Keweenaw Bay Tribal Court to the extent, and for the period of time required.

If neither the Chief nor Associate Judge meets the qualifications to hear a case to maintain jurisdiction or allows for maximum prosecution to occur, a temporary appointment of a judge from another federally recognized Indian Tribe or an attorney licensed to practice within the Keweenaw Bay Tribal Court by the Chief Judge of the Tribal Court may occur so that the case may be heard in Tribal Court.

## **Section 9.**

The Tribal Court System may remove any Judge or Justice by an affirmative vote of a majority of all other Judges and Justices of the Tribal Court System for:

- (a) Unethical conduct, as defined by the General Provisions Ordinance that governs Tribal Court;
- (b) Physical or mental disability which prevent the performance of judicial duties;
- (c) Persistent failure to perform duties;

- (d) Gross misconduct that is clearly prejudicial to the administration of justice; or
- (e) Ineligibility, under Section 5 of this Article for a Judge and Section 12 for a Justice, to serve as a member of the Tribal Judiciary.

## **Section 10.**

The Appellate Court will have the jurisdiction to hear and decide appeals, both final and interlocutory, from any order, sentence or judgment, whether civil or criminal in nature, of the Tribal Court. The Appellate Court will be the Supreme Court of the Keweenaw Bay Indian Community and its decisions will be final in any matter of interpretation of the Tribal Constitution, interpretation of the provisions of Tribal ordinances, resolutions, regulations, or the rules governing judicial proceedings.

Any party to an action or suit will have the right to appeal a final order, sentence, or judgment of the Tribal Court. All other appeals may be taken by leave of the Appellate Court.

## **Section 11.**

A Justice of the Appellate Court must be a citizen or legal resident of the United States, who has attained the age of thirty (30) years or older, and must not have been convicted of a felony. The following persons are eligible to serve as Justices of the Appellate Court:

- (a) Any former Judge of the Tribal Court, or
- (b) Any lawyer, who is in good standing and admitted to practice in the highest court of any federally recognized Indian Tribe, any State, or any territory of the United States.

## **Section 12.**

(a) The Appellate Court will consist of one (1) Chief Justice and two (2) Associate Justices.

(b) A person qualified to serve as a Justice of the Appellate Court may be appointed to serve as a Justice of the Appellate Court by the President, subject to the approval of the appointment by the majority of the Tribal Council.

(c) The Justices of the Appellate Court will be appointed to the Appellate Court office for staggered terms, which will be arranged so as to expire during different years. The Justices will be appointed to hold office for a period of three (3) years. There will be no limitation on the number of terms a Justice may serve.

Upon approval of this Article, the staggered terms of the current Justices will remain.

Upon death, removal, or resignation of a Justice, the next Justice appointed to the Appellate Court by the President, and approved by the Tribal Council, will serve out the remainder of the term of the Justice.

(d) A Chief Justice will be selected by majority vote of the Justices for a one year term. In the event of a tie, the Justices will vote again. In the event of a second tie, the Tribal Council will select the Chief Justice by majority vote.

(e) In the event that the Appellate Court notifies the President that a Justice is not able to participate in a decision on any particular case or cases on appeal due to illness, temporary disability or disqualification, the President will appoint, subject to the approval of the Tribal Council, a person qualified to serve as a Justice to the Appellate Court, to serve as a substitute Justice of the Appellate Court for the purposes of hearing such cases as may be necessary due to such illness, temporary disability or disqualification.

### **Section 13.**

The Tribal Council will have the power and responsibility to establish reasonable levels of compensation for all Judges and Justices, the amount of which will not be reduced during such persons' term of office.

*History: Amendment IV added Article IX in its entirety on August 10, 2018, thereby creating a separate judiciary through the Constitution.*

## **BY-LAWS OF THE KEWEENAW BAY INDIAN COMMUNITY**

### **ARTICLE I - DUTIES OF OFFICERS**

#### **Section 1.**

The President of the Tribal Council shall preside at all meetings of the Council. He shall at all times have general supervision of the affairs of the Tribal Council and such matters as naturally pertain to the general welfare of the Community. It shall also be the duty of the President to countersign all checks drawn against any funds of the organization by the Treasurer. He shall be ex-officio member of all subordinate boards and committees.

#### **Section 2.**

In the absence of the President, the Vice-President shall preside at all meetings of the Tribal Council and shall act in his stead in all manners pertaining to the office of President.

#### **Section 3.**

The Secretary shall keep an accurate record of all proceedings of the Tribal Council and furnish copies thereof to the Superintendent of the jurisdiction. He shall attend to the keeping of the official records of the Tribal Council and shall be responsible for the prompt and efficient handling of all correspondence pertaining to the business of the Tribal Council. All official records of the Tribal Secretary shall be open to inspection by the members of the Community at all times. The Secretary shall be ex-officio member of all subordinate boards and committees.

#### **Section 4.**

The Assistant Secretary shall perform all duties that pertain to the office of the Secretary whenever the Secretary needs assistance.

#### **Section 5.**

The Treasurer of the Tribal Council shall accept, receive, receipt for, preserve, and safeguard all funds in the custody of the Council, whether they be Tribal funds or such funds for which the Council is acting as trustee or custodian. He shall deposit all funds in such depository as the Council shall direct, and shall make and preserve a faithful record of such funds and shall report on all funds in his possession and custody at each regular meeting of the Tribal Council, and at such times as required by the Tribal Council, or the Executive Council. He shall not pay out or otherwise disburse any funds in his possession or custody except in accordance with a resolution passed by the Council.

The Treasurer shall be required to give a bond satisfactory to the Council and to the Commissioner of Indian Affairs. The books of the Treasurer shall be audited at least once a year by direction of the Tribal Council.

#### **Section 6.**

The subordinate officers, boards and committees of the Tribal Council shall perform such duties as the Tribal Council shall, by resolution, from time to time provide.

## **ARTICLE II - OATH**

### **Section 1.**

All officers when elected shall be duly installed and subscribe to an oath of office to support the Constitution of the United States and this Constitution. Such officers may be sworn in by any officer qualified to administer an oath.

## **ARTICLE III - MEETINGS**

### **Section 1.**

Stated meetings of the Tribal Council shall be held the first Saturday of January, April, July, and October, and at such other times as the Council may by ordinance provide. Called meetings shall be held at the discretion of the President, or upon request of three members of the Tribal Council. Three (3) days' written notice shall be given to all Council members.

### **Section 2.**

Seven members shall constitute a quorum.

### **Section 3.**

The Tribal Council shall prescribe such rules of order for its meetings as it desires.

### **Section 4.**

The meetings of the Tribal Council except executive sessions shall be public to the Community.

## **ARTICLE IV - ADOPTION OF CONSTITUTION AND BY-LAWS**

This Constitution and By-laws, when ratified by a majority vote of the qualified voters of the L'Anse, Lac Vieux Desert, and Ontonagon Bands of Chippewa Indians, residing within the original confines of the L'Anse Reservation, voting at a special election called for the purpose by the Secretary of the Interior, provided that at least thirty percent (30%) of those entitled to vote shall vote in such election, shall be submitted to the Secretary of the Interior, and if approved, shall be effective from the date of the approval.

## **CERTIFICATION OF ADOPTION**

Pursuant to an order, approved October 15, 1936, by the Secretary of the Interior, the attached Constitution and By-laws was submitted for ratification to the L'Anse, Lac Vieux Desert, and Ontonagon Bands of Chippewa Indians, residing within the original confines of the L'Anse reservation, and was on November 7, 1936, duly adopted by a vote of 239 for, and 18 against, in an election in which over 30 per cent of those entitled to vote cast their ballots, in accordance with section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 378).

*John E. Thomas*

Chairman of Election Board.

*William Curtis*

Secretary of Election Board

*J.C. Cavill*

Superintendent

I, Harold L. Ickes, the Secretary of the Interior of the United States of America, by virtue of the authority granted me by the act of June 18, 1934 (48 Stat. 984), as amended, do hereby approve the attached Constitution and By-laws of the Keweenaw Bay Indian Community.

All rules and regulations heretofore promulgated by the Interior Department or by the Office of Indian Affairs, so far as they may be incompatible with any of the provisions of the said Constitution or By-laws are hereby declares inapplicable to these Indians.

All officers and employees of the Interior Department are ordered to abide by the Provisions of the said Constitution and By-laws.

Approval recommended December 9, 1936.

*William Zimmerman, Jr.*

Assistant Commissioner of Indian Affairs

*Harold L. Ickes*

Secretary of the Interior

(SEAL)

Washington, D.C., December 17, 1936.