

## **Instructions for Filing and Serving a Petition to Set Aside Controlled Substance – Marijuana Conviction**

1. Determine whether you are eligible to apply to have your marijuana conviction voluntarily expunged (set aside) pursuant to § 82-202 of the KBIC Tribal Code.  
  
Eligible convictions that may be set aside include a violation of the following and is not specific to the distribution of Marijuana or THC products:
  - § 3.1706 Controlled Substances (prior codification)
  - § 10-570 Controlled Substances (current codification)
2. You must file a Petition with the Court, a Court approved fillable form is available for your use.
3. You, the Petitioner, has the burden of establishing that the conviction meets the criteria in § 82- 201(a) of the KBIC Tribal Code by clear and convincing evidence.
4. Find out the exact date of each conviction and each charge from the Court, and get a True Copy of each conviction from the Clerk of the Court and attach it to your Petition. There is a fee for a True Copy, that is payable to the Court Clerk.
5. Collect any document evidence you have to support that your conviction meets the criteria in § 82-202 of the KBIC Tribal Code and attach it to your Petition.
6. Sign and date the Petition in front of a Notary Public.
7. Make three (3) copies of the Petition, True Copy of each conviction, and any document evidence you are providing. Take all copies to the Court Clerk to file the Petition, and pay the civil filing fee.
8. Have a copy of the Petition and attachments personally served or served by certified mail, return receipt requested, to the Tribal Attorney's Office.
9. On both of the remaining two (2) copies of the Petition and attachments, fill in the Certificate of Personal Service or Mailing. After you fill out and sign the Certificate of Personal Service or Mailing, mail or take one (1) of the remaining application packets with the completed Certificate of Personal Service or Mailing to the Court. Keep the other copy of the Petition and attachments for your records.
10. Once you have served the Tribal Attorney's Office, you must provide Proof of Service to the Court that you served the Tribal Attorney's Office. For personal service, please fill out the fillable form and provide to the Court. For certified mail, once you receive the return receipt from the certified mailing, provide that to the Court.
11. If the Tribal Attorney's Office files a response objecting to setting aside the conviction(s) laid out in your Petition, the Court must set the matter for a hearing and mail a copy of a Notice of Hearing to you. You should appear in Court on the date and time set by the Court.
12. If no response objecting to setting aside the conviction(s) laid out in your Petition is filed by the Tribal Attorney's Office within twenty-one (21) days of the date of service of the Petition, the Court will enter an Order and mail a copy to you, the arresting agency, and the Tribal Attorney's Office.

**KEWEENAW BAY INDIAN COMMUNITY TRIBAL COURT  
TRIAL DIVISION  
L'ANSE INDIAN RESERVATION  
472 N. SUPERIOR AVENUE  
BARAGA MICHIGAN 49908**

THE PEOPLE OF THE  
KEWEENAW BAY INDIAN COMMUNITY  
V.

Case Number(s): [Clerk-conviction #'s]  
Hon. [for Clerk]

[Defendant's Name] \_\_\_\_\_<sup>1</sup>  
[Defendant's Address] \_\_\_\_\_  
[Defendant's Telephone Number] \_\_\_\_\_

**PETITION TO SET ASIDE CONTROLLED SUBSTANCE  
MARIJUANA CONVICTION**

1. I request that the Court issue an order to set aside the following misdemeanor marijuana conviction(s)<sup>2</sup> as provided by law at §82-202 of the Keweenaw Bay Indian Community Tribal Code.

	CRIME	CHARGE CODE(S) 3.1706 or 10-570	DATE OF CONVICTION	CASE NUMBER
a.				
b.				
c.				
d.				

2. The reason(s) I am requesting that the charge(s) be expunged (use additional sheet of paper, if needed):<sup>3</sup>

3. I have provided evidenced that is attached to this Petition that my conviction meets the criteria in §82-201.<sup>4</sup>

4. A True Copy of each conviction is attached.

\_\_\_\_\_  
Signature of Petitioner or Petitioner's Attorney & Date

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_, Acting in \_\_\_\_\_ County,  
Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public Signature, My Comm. Expires \_\_\_\_\_

I served a copy of this Petition and attached evidence on the Tribal Attorney's Office<sup>5</sup> by personal service or by certified mail, return receipt requested, to their last-known address, as defined by §30-78 of the KBIC Tribal Code and MCR 2.107(C). I declare under the penalties of perjury that this certificate of service or certified mailing has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

\_\_\_\_\_  
Signature & Date

<sup>1</sup> §82-202 (a)(1) KBIC Tribal Code.  
<sup>2</sup> §82-202 (a)(2) KBIC Tribal Code.  
<sup>3</sup> §82-202 (a)(3) KBIC Tribal Code.  
<sup>4</sup> §82-202 (a)(4) KBIC Tribal Code.  
<sup>5</sup> §82-202 (c) KBIC Tribal Code.