

TRIBAL CODE
CHAPTER 10:
ELECTION ORDINANCE

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HISTORY NOTE:

Current Ordinance:

Resolutions 2006-02 through 2006-08, adopted January 17, 2006, collectively adopts and restates Tribal Code Chapter 10: Election Ordinance, and rescinds all earlier Election Ordinances.

Interpretive Guidance:

On January 31, 2006, the Board of Directors clarified that, consistent with the referendum dated January 25, 2006, “No individual may run for election to office who is currently a Defendant in Chippewa County Circuit Court Case No: 04-7606-CC...” as provided in §10.110(2).

On January 17, 2006, the Board of Directors clarified that §10.109(5) shall be interpreted to include that any tribal member who is registered to vote at the time of passing Resolution 2006-08, adopted January 17, 2006, shall continue to be registered to vote as provided in §10.109(5).

On January 17, 2006, the Board of Directors clarified that, consistent with the referendum dated November 10, 2005, the term “Returned Ballot,” as defined in §10.103(24), shall be what is considered for purposes of determining satisfaction of the 30% requirement for a valid referendum pursuant to Article IX of the Tribal Constitution and Tribal Code §12.109(1).

On January 13, 2006, Legal Opinion 2006-01, concluded that the voter registration procedures of §10.108, as adopted by Resolution 2003-175, which was rescinded and replaced by §10.109 adopted by Resolution 2006-08, are unconstitutional and invalid. Legal Opinion 2006-01 is not applicable to the current voter registration requirements.

Prior Ordinances:

Resolution 2003-175, adopted December 16, 2003, adopts Tribal Code Chapter 10: Election Ordinance, effective December 16, 2003, and rescinds all earlier Election Ordinances.

Resolution 98-18, adopted February 18, 1998, adopts Tribal Code Chapter 10: Election Ordinance, effective February 18, 1998, and rescinds all earlier Election Ordinances.

Enacted January 15, 1996, Resolution 96-06, effective 12:00 a.m. January 16, 1996.

Reenacted in Tribal Code format as part of the Tribal Code on July 5, 1995, Resolution No. 95-89, effective immediately.

Enacted February 22, 1978. Resolution 2-22-78B, effective immediately.

Amendments:

Resolution 2011-175, adopted July 26, 2011, amends § 10.112 by adding (14), Elder Candidate Forums.

Resolution 2011-105, adopted May 24, 2011, amended the following §§10.107, 10.109(2), 10.111(3)(5), 10.119(2).

Resolution 2009-186, adopted September 1, 2009, amended the following §§10.106 Election Units, 10.109 Registrations of Voters, 10.120 Conduct of Contests and Complaints, 10.124 Oath of Office, and added 10.125 Resignation and Surrender.

Resolution 2007-72, adopted May 2, 2007, amended §10.103 (22) Residency.

Resolution 2005-60, adopted May 3, 2005, repealed Subsection (5) of §10.109 and enacted in place thereof a new Subsection (5) of §10.109 (overruled by referendum dated July 29, 2005).

Resolution 2003-114, adopted September 2, 2003 amends Election Ordinance by adding Subchapter II, Special Advisory Elections.

Resolution 2-20-80A, adopted February 20, 1980, amended §§10.106(2), 10.107(1) and 10.107(2)(j). §10.104(1) was first amended to add the quarter blood requirement by Board motion on December 15, 1982. The current provision was adopted by Board motion on April 24, 1984.

Resolution 2-5-82A, adopted February 24, 1982, amended §§10.103(1) and (2), 10.015(1), 10.107(2)(a), and 10.108(2).

Tribal Resolution 11-17-87, adopted November 17, 1987, amended §§10.104(2), by adding the last sentence.

Resolution 96-38, adopted February 20, 1996, amended §10.109(6) by changing the word certification to intent.

Resolution 96-74, adopted April 16, 1996, amended §10.108 Candidates for Election.

Resolution 98-58, adopted April 21, 1998, amended §10.111 (e), replaced §10.109 (7) and added §10.109 (8).

Resolution 2000-11, adopted February 9, 2000, amended §10.111 (2) Campaigning.

Resolution 2003-6, adopted January 21, 2003, repealed § 10.109 and enacted in place thereof a new §10.109, effective immediately.

Resolution 2003-7, adopted January 21, 2003, repealed §10.114 and enacted in place thereof a new §10.114 and repealed §10.115 and enacted in place thereof a new §10.115, effective immediately.

TRIBAL CODE

CHAPTER 10:

ELECTION ORDINANCE

10.101 Purpose and Authority.

(1) The purpose of this Chapter is to establish authority for holding tribal elections. The regulations and procedures contained in this Chapter shall be administered in such a way as to accomplish this purpose and intent. The authority for this Chapter is Article V, Section 6 of the Constitution.

(2) Each of the numbered sections and subsections of this Chapter shall be deemed to be discrete and severable. If any provision of this Chapter shall be held to violate the Constitution and/or By-laws of the Tribe, the validity of each and every other provision shall be unaffected thereby and all such other provisions shall remain in full force and effect.

10.102 Scope.

This Chapter shall govern all tribal elections pursuant to Articles IV and V of the Constitution. This Chapter shall be subordinate to the Constitution and By-laws. There shall be no amendments to this Chapter within the period of six (6) months prior to date of the general election held pursuant to this Chapter except by Positive Majority vote.

10.103 Definitions.

For the purpose of this Chapter, certain terms are defined in this Section. When not inconsistent with the context, words used in the present tense include the future, words in the singular number, include the plural number, words in the plural include words in the singular, and words in the masculine gender include the feminine gender. The word shall is always mandatory and not merely discretionary.

(1) “Adult” shall mean a Member of the Sault Ste. Marie Tribe of Chippewa Indians who is at least the age of 18 years on the date of election as determined in Section 10.105.

(2) “Ballot” shall mean the official form issued by the Tribe listing Candidates running for various positions from which Members may choose.

(3) “Board of Directors” shall mean the governing body of the Tribe.

- (4) “Campaigning” shall mean all efforts designed to influence Members to support or reject a particular Candidate, including without limitation, advertising, rallying, public speaking, or other communications with Members.
- (5) “Candidate” shall mean a person seeking tribal elected office.
- (6) “Complaint” shall mean a complaint alleging a violation of the Election Ordinance by a Candidate or any other Member, filed with the Election Committee pursuant to Section 10.120.
- (7) “Constitution” shall mean the Constitution of the Sault Ste. Marie Tribe of Chippewa Indians.
- (8) “Contest” shall mean a challenge to the results of an election or to a decision of the Election Committee raised pursuant to Section 10.118.
- (9) “Contribution” shall mean money or In-kind Donations other than voluntary personal services.
- (10) “Designated Office” shall mean the office located on tribal trust property of each Designated Representative.
- (11) “Designated Representative” shall mean the person(s) in each Unit designated by the Election Committee as noticed in the Election Announcement who is responsible for receiving filings and reports from Candidates.
- (12) “Election Committee” shall mean the governing body over tribal elections which derives its duties and responsibilities from this Chapter.
- (13) “Election Cycle” shall mean the period beginning with the mailing of the Election Announcement and ending with the expiration of the contest period following the general election.
- (14) “Election Units” shall mean the five (5) Units as described by Article IV of the Constitution and particularly defined by Section 10.106.
- (15) “Immediate Family Member” shall mean, for the purposes of this Chapter, a parent, step-parent, spouse, sibling, step-sibling, child, grandparents, cohabitants, and those individuals residing in common. Cohabitant shall mean an individual who has taken up residence with another and with whom there exists a personal intimate relationship. An individual residing in common shall mean an individual residing at a residence, shared with another individual, and with whom there exists no personal intimate relationship.

- (16) “In-kind Donation” shall mean the donation of services, materials or items other than cash to a Candidate; value of which shall be assessed at fair market value.
- (17) “Letter of Intent” shall mean the letter a person submits stating his intent to become a Candidate for an elected position on the Board of Directors.
- (18) “Marked Ballot” shall refer to a Ballot which has been marked by a Registered voter with an expression of that voter’s preference for a Candidate or for a proposed resolution of an issue.
- (19) “Member” shall mean a person enrolled in the Tribe as certified by the Tribal Registrar.
- (20) “Non-Candidate Registrants” shall mean individuals who expend money on campaigning.
- (21) “Non-Resident” shall mean those Members of the Tribe who do not maintain a permanent Residency within the Service Area.
- (22) “Registered” shall mean certification from the Election Committee that a Member may participate as a voter in the election.
- (23) “Residency” shall mean the address at which a Member has his or her true, fixed home and principal establishment, and to which he or she has the intention of returning whenever absent. Residency therefore requires two elements: (a) physical presence in a Unit and (b) the intent to make that Unit home. For the purposes of this Election Code, a Member has only one residency, regardless of the number of houses maintained. In determining which of a Member’s houses is their true residence, attention must be given to the Member’s intent, which requires an examination of the entire course of the Member’s conduct.
- (24) “Resident” shall mean those Members of the Tribe who maintain a permanent Residency within the Service Area.
- (25) “Returned Ballot” shall refer to a Ballot which has been returned by the voter to the Election Committee prior to the deadline for the election.
- (26) “Service Area” shall mean the area in which the Tribe provides direct services in the eastern portion of the Upper Peninsula of Michigan, consisting of the counties: Chippewa, Mackinac, Luce, Schoolcraft, Marquette, Delta and Alger.
- (27) “Spoiled Ballot” shall refer to a Returned Ballot that is (1) a blank Ballot; (2) a Ballot that does not clearly express a choice or preference; or (3) a Ballot that does not comply with security measures adopted by the Election Committee.

(28) “Spoiled Choice” shall refer to each position, when the Ballot contains position choices for both Chairperson and member(s) of the Board of Directors, where the position is blank or the voter has not otherwise clearly expressed a choice or preference for that position.

(29) “Tie” shall mean a situation where, upon the completion of Vote counting immediately following an election, the Election Committee determines that two or more possible choices received an equal number of Votes.

(30) “Tribal Offices” shall mean the offices of the Tribe, located at:

Unit 1: 523 Ashmun St., Sault Ste. Marie, MI 49783

Unit 2: 3355 Nopaming Drive, Hessel, MI 49745

Unit 3: 225 Waseh Dr., St. Ignace, MI 49781

Unit 4: 5698 W. Hwy. US-2, Manistique, MI 49854

Unit 5: 622 West Superior Street, Munising, MI 49862

(31) “Tribe” shall mean the Sault Ste. Marie Tribe of Chippewa Indians.

(32) “Unit of Government” shall mean (1) any State or its political subdivisions; (2) the governing body of any other Native American Nation; or (3) the Federal Government or its executive agencies.

(33) “Vote” shall refer to an unspoiled choice that satisfies the requirements of both a Marked Ballot and a Returned Ballot.

10.104 Computation of Time.

In computing a period of time for purposes of this Chapter, days shall refer to calendar days. The last day of the period is counted unless that day is a Saturday, a Sunday, legal holiday or a holiday in which the Tribal Offices are otherwise scheduled to be closed. In that event, the period runs until 5 p.m. on the next day that is not a Saturday, a Sunday, legal holiday or a day in which the Tribal Offices are otherwise scheduled to be closed.

10.105 Date of Election.

Elections for the Board of Directors of the Tribe shall be held on the fourth Thursday in June of each election year at intervals as provided in Article IV, Section 4 of the Constitution.

10.106 Election Units.

The Service Area shall be divided into five (5) Election Units.

10.107 Notice of Election.

The Board of Directors shall cause to be posted at each Tribal Office a Notice of Election which shall give the date of election, the manner by which the Vote is to be taken, the officers to be elected, the procedures for the nomination of Candidates, the time limit for each stage of the election procedure and the voting information for the election. The Notice of Election shall be publicized in the tribal newspaper, on the Tribe's official website, and posted at all Tribal Offices on the last Friday in January in the year in which a general election occurs.

10.108 Tribal Election Committee.

(1) All elections held pursuant to this Chapter shall be administered by the Election Committee. The Board of Directors shall appoint each member of the Election Committee. The Election Committee shall consist of thirteen (13) members. The Board of Directors shall appoint a chairperson of the Election Committee from the Committee's own membership. No person shall be appointed who is currently holding elective office. Any member of the Election Committee shall be ineligible for tribal elective office unless he resigns from the Election Committee at least six (6) months before the election deadline. The Election Committee shall establish its own administrative procedures subject to the approval of the Board of Directors and may not delegate its authority. The Committee may assign specific tasks or duties as necessary to carry out ministerial tasks or duties, consistent with the Constitution and this Chapter.

(2) Members of the Election Committee serve staggered terms of four (4) years. Six (6) members of the initial committee shall serve two (2) year terms. The remaining seven (7) members shall serve a term of four (4) years. Each member of the Election Committee is eligible for reappointment.

(3) If an Immediate Family Member of an Election Committee member files as a Candidate, that Committee member shall be disqualified from participating in any action of the Election Committee relating to the office for which the Immediate Family Member has filed.

(4) In the event of a vacancy on the Election Committee, the Board of Directors shall appoint a qualified replacement for the remainder of the term of service.

(5) It shall be the duty of the Election Committee to conduct all tribal elections held pursuant to this Chapter. The Election Committee shall:

- (a) Register eligible Members to participate as voters in tribal elections.

- (b) Prepare a roll of Registered voters and make available for inspection at least ninety (90) days prior to the election, indicating the name, address and Election Unit of each.
 - (c) Prepare blank nominating petitions and verify completed petitions.
 - (d) Prepare and post at each Tribal Office a list of eligible nominated Candidates at least sixty three (63) days prior to the election.
 - (e) Prepare Ballots and distribute them to all Registered voters in accordance with Section 10.115, and account for all Ballots both before and after the election.
 - (f) Receive Ballots from the United States Postal Service at the close of voting.
 - (g) Conduct all Contest and Complaint proceedings in accordance with this Chapter.
 - (h) Certify the results of the election to the Board of Directors in person or by certified mail after all Contests have been resolved.
 - (i) Retain the Ballots securely for a period of the latter of ninety (90) days following an election or until all Contests and Complaints have been finally resolved. All records including but not limited to complaints, contests, and financial records, shall be maintained for a period of not less than four (90) days.
- (6) All Election Committee members shall refrain from making any public comment regarding the election procedures unless authorized by the Election Committee. Election Committee members shall refrain from campaigning on behalf of, or in opposition to, any Candidate or referendum issue. It shall be cause for removal from the Election Committee by the Board of Directors if any member violates this Chapter.
- (7) The Election Committee shall meet as often as necessary to conduct its business. A majority of the members of the Election Committee shall constitute a quorum for the transaction of business. Meetings of the Election Committee shall be governed by the bylaws of the Election Committee. The Election Committee shall keep complete and accurate records of all meetings and actions taken.
- (8) All books and records of the Election Committee shall be open to inspection by Members upon reasonable request to the Board of Directors pursuant to Article III, Section 1 of the Tribal Bylaws.

10.109 Registration of Voters.

- (1) Any Member, eighteen (18) years of age or older on the date of the election as determined in Section 10.105 shall be eligible to register to participate as a voter in tribal elections.
- (2) The Election Committee shall publicize non-registered voters in the tribal newspaper each June in a year prior to the Chairperson's election cycle. Registration forms shall be publicized and members encouraged to register throughout the year prior to all election cycles.
- (3) The Election Committee shall maintain open voter registration at all times. Voter registration forms shall be available in the tribal enrollment office for unregistered Members who are within six (6) months of being an Adult and who will be Adults on or before the next regularly scheduled election. Registration forms shall also be available on the official tribal website.
- (4) Resident Members shall automatically be registered within the election unit in which they maintain residency. Non-resident members shall select the election unit in which they will participate for election purposes. Registration forms must be filled out completely to become registered.
- (5) Once a Member has Registered, the Member's registration status is permanent and shall not change, subject to Subsection (4) and Subsection (6).
- (6) A resident member who loses their resident members status by moving out of an election unit must register pursuant to subsection (4) above.
- (7) In order to be eligible to participate as a voter in an upcoming election, the Member must be Registered at least ninety (90) days prior to the election. Only Registered voters shall receive Ballots.
- (8) Voter registration rolls shall be certified by the Election Committee and maintained by the Tribal Registrar.

10.110 Candidates for Election.

- (1) To be eligible for election to the Board of Directors or the office of Tribal Chairperson, each Candidate must:
 - (a) Be a qualified voter of the Tribe.
 - (b) Be eighteen years of age or over.
 - (c) Comply with Section 10.124.

- (d) Any Person elected or appointed to a position on the board who is either an employee or independent contractor of the Tribe shall voluntarily resign his or her employment position and/or surrender any rights under any contract with the Tribe prior to assuming the duties of office or taking the oath of office. Failure to voluntarily resign and/or terminate the contractual relationship with the Tribe shall bar the elected or appointed individual from assuming the duties of office or taking the oath of office.
 - (e) have established Residency within the Election Unit the Candidate seeks to represent, or any Election Unit if seeking the position of Tribal Chairperson, at least one (1) year prior to the election;
 - (f) as a member of the Board of Directors, maintain Residency within the Election Unit he/she represents, or, as Tribal Chairperson, maintain Residency within an Election Unit;
 - (g) not take or assume office as a member of the Board of Directors or as Tribal Chairperson if holding an elected office or appointed position to which an oath of office is required in another Unit of Government;
 - (h) if the Candidate seeks the position of Tribal Chairperson and is elected, resign from the Candidate's current position on the Board of Directors prior to assuming office as Tribal Chairperson;
 - (i) have no record of conviction of election fraud (or other similar classification substantially corresponding to election fraud), any misdemeanor involving gambling, theft, dishonesty or fraud, or any felony in any tribal, state, federal, or local jurisdiction;
 - (j) have not been previously removed from office as a member of the Board of Directors; and
 - (k) file a background investigation disclosure report signed under oath and penalty of perjury with the Designated Representative at the Designated Office within seven (7) days of filing a Letter of Intent on forms provided by the Election Committee, notarized and containing information, releases and consents deemed necessary by the Election Committee to verify satisfaction of the eligibility requirements of this Section.
- (2) The Election Committee shall compile a complete list of eligible nominated Candidates. This list shall be posted in each Tribal Office and shall be available for inspection at least sixty three (63) days prior to the election.

10.111 Nomination of Candidates.

(1) Each Candidate shall submit to the Designated Representative at the Designated Office, a Letter of Intent and background investigation disclosure report prior to receiving nominating petitions to run for a particular office. The Letter of Intent must be received by the Designated Representative at the Designated Office at least ninety (90) days prior to the date of election and shall include the following:

- (a) The full name of the Candidate along with the Candidate's date of birth, social security number, and the office(s) which is being sought.
- (b) The Election Unit in which the Candidate maintains Residency.
- (c) A specific statement indicating the intent to seek an elected position within tribal government.
- (d) The physical and mailing address and phone number where the Candidate can be reached.
- (e) A certification under oath and penalty of perjury, that the Candidate meets the requirements contained in Section 10.110.
- (f) A signed statement consenting to jurisdiction of the Sault Ste. Marie Tribe of Chippewa Indians for enforcement of any violations of this Chapter in substantially the following form:

“I, [Candidate's Name], hereby consent to personal jurisdiction of the Sault Ste. Marie Tribe of Chippewa Indians for the enforcement of any violations of Tribal Code and the imposition of any civil fines and/or other equitable remedies, including injunctive relief.”
- (g) Release of information for background investigation purposes.

(2) No Candidate may file a Letter of Intent until after the Election Announcement is posted pursuant to Section 10.107. Candidates may submit a Letter of Intent for both a position as a member of the Board of Directors and Chairperson, but shall only proceed with one position of the Candidate's choice in writing submitted to the Designated Representative at the Designated Office no later than the end of the contest period for the primary election held pursuant 10.117.

(3) After receipt of a complete Letter of Intent and background investigation disclosure report, the Election Committee shall, within fourteen (14) days, determine whether the Candidate is eligible and issue the Candidate a Letter of Certification of eligibility which shall be mailed return receipt. The 10.125(4)(d) notice shall be included with the Letter of Certification.

- (4) A Candidate may receive a list of Registered voters for the respective Election Unit(s) from the Election Committee upon presenting the Candidate's Letter of Certification. The Committee shall establish a fee per page to be charged for copies of each list.
- (5) To be nominated to office, the Candidate must pick up at designated office and submit separate completed nomination petitions for each elected position being sought on forms provided for that purpose by the Election Committee containing the following information:
- (a) one hundred (100) valid names, a tribal I.D. number shall be required, addresses and signatures of Registered voters if seeking the office of Chairperson.
 - (b) fifty (50) valid names, a tribal I.D. number shall be required, addresses and signatures of Registered voters if seeking the office for members of the Board of Directors for Election Unit I or Election Unit III;
 - (c) forty (40) valid names, a tribal I.D. number shall be required, addresses and signatures of Registered voters if seeking office for members of the Board of Directors for Election Unit II, Election Unit IV or Election Unit V;
 - (d) each page clearly stating the full name of the Candidate, to include Jr., Sr., I, II or III, etc., the office being sought, the Election Unit which the office represents, if applicable, and the name of the person circulating the petition.
- (6) Nominating petitions shall not be accepted by the Election Committee unless correctly completed. Unacceptable nominating petitions shall be immediately returned to the Candidate.
- (7) A Registered voter may only sign nominating petitions for Candidates for members of the Board of Directors from the Unit in which he or she is Registered to participate as a voter. No Registered voter shall sign more nominating petitions for the Board of Directors than there are seats to be elected from his or her Election Unit, nor more than one petition for Chairperson. In the event that any Registered voter shall sign more than the allowed number of petitions, his or her name shall be struck from all petitions.
- (8) All completed nomination petitions must be received by the Designated Representative at the Designated Office at least seventy (70) days prior to the election.
- (9) The Designated Representative shall forward all Letters of Intent, background investigation disclosure reports and nominating petitions to the Election Committee.

10.112 Campaigning.

- (1) No Campaigning shall take place prior to Notice of Election.
- (2) No Campaigning shall take place in any of the tribal offices, tribal enterprises or majority owned subsidiaries, tribally owned property, or tribally sanctioned events or functions, or those areas reasonably required as access to any of the forgoing locations, except as allowed in Subsections (5) and (6).
- (3) Candidates and their supporters who are tribal employees shall not engage in Campaigning at their work site. Employee Candidates and their supporters may only engage in Campaigning outside of their normal work hours or during days which they have taken leave. Candidates may file any letters, forms or reports required by this Chapter during lunch breaks.
- (4) No tangible or intellectual property of the Tribe may be used for any Campaigning purposes including without limitation computers, photocopying, telephones, fax machines, database information and office supplies.
- (5) A Candidate may post one (1) campaign sign on each designated public bulletin board at the various tribal offices and enterprises. No sign placed on a tribal bulletin board may exceed eight and one-half (8 1/2) inches in width and eleven (11) inches in length. Any sign not meeting the requirements of this Section shall be removed.
- (6) Campaign signs may not be posted or erected on any tribal property except for signs on residential property with the owner/tenants permission.
- (7) Outdoor signs on residential tribal property may not exceed five (5) feet in width or five (5) feet in height.
- (8) All campaign signs or advertisements must be removed within thirty (30) days following the election.
- (9) All campaign advertisement material must have placed upon its face in a conspicuous manner the endorsement of the Candidate or the Non-Candidate Registrant responsible for the advertisement. Any campaign advertisement that endorses or opposes more than one Candidate must be endorsed by the Candidates or the Non-Candidate Registrants responsible for the advertisement as well as by any other Candidates endorsed by the campaign advertisement. The endorsement shall specifically state:

“[Candidate’s or Non-Candidate Registrant’s name] endorses this advertisement.”
- (10) Express endorsements or express statements of opposition to a Candidate in unit reports or the Chairperson’s report distributed by the Tribe are prohibited. During Election

Cycles, Candidates' unit reports distributed by the Tribe shall be limited to space equivalent to ¼ page.

(11) The Tribe shall provide to each Candidate, at no cost to the Candidate, the opportunity to submit a campaign statement or advertisement equivalent to a one fourth (1/4) page in the tribal newspaper for publication prior to date set for the primary election pursuant to Section 10.117. Additionally, the Tribe shall provide to each Candidate, at no cost to the Candidate, the opportunity to submit a campaign statement or advertisement equivalent to a one half (1/2) page in the tribal newspaper for publication prior to date set for the election pursuant to Section 10.105. Each Candidate's campaign statements or advertisements pursuant to this Section shall be solely for self promotion purposes of the Candidate and shall not address any other Candidate.

(12) Candidates and Non-Candidate Registrants may campaign by telephoning Registered voters, however in any such telephone calls, the representative of the Candidate or Non-Candidate Registrant must clearly state the name of the person on whose behalf the telephone call is being made, and must also include a telephone number that Registered voters may call to speak to the Candidate or Non-Candidate Registrant directly.

(13) Campaigning shall be monitored by the Election Committee. Any infraction of the campaign regulations by any person shall be subject to penalties as provided by this Chapter.

(14) The Elder Advisory Committee, and its subcommittees, are hereby authorized to conduct a Candidate forum or forums and such forum shall not violate any subsection here in except:

(a) Subsection (1) shall remain in force.

(b) Subsection (6) shall not apply to any signage posted inside the room in which the forum is being conducted.

10.113 Campaign Financing.

Any person expending money on a campaign must first file as 1). Candidate or as a 2). Non-Candidate Registrant, with the exception of contributions pursuant to subsection 1 of this section.

(1) Solicitation of Contributions by Candidates.

(a) Candidates shall not solicit Contributions until after submitting a Letter of Intent pursuant to Section 10.111.

(b) Candidates shall only accept Contributions from individuals.

- (c) Candidates shall not solicit Contributions in any tribal office or enterprise, including wholly or partially owned subsidiaries.
 - (d) Candidates shall not directly solicit Contributions from Tribal employees.
 - (e) Candidates shall not solicit or accept aggregate Contributions from any single individual over two hundred fifty dollars (\$250.00).
 - (f) Candidates shall not accept total aggregate Contributions in excess of the Candidate's respective campaign spending limit.
- (2) Campaign spending by Candidates.
- (a) Candidates shall spend Contributions only on campaign related expenditures, including without limitations, advertising, materials and supplies, travel expenses, fundraising expenses, and postage.
 - (b) Candidates for Chairperson shall not spend more than fifty thousand dollars (\$50,000), aggregated, including In-kind Donations for campaign activities.
 - (c) Candidates for the Board of Directors shall not spend more than twenty thousand dollars (\$20,000) aggregated, including In-kind Donations for campaign activities.
 - (d) Candidate's may spend his or her own funds, provided the Candidate does not exceed the respective campaign spending limit, and the source of the funds is properly reported.
- (3) Non-Candidate Registrants:
- (a) Only Members may register as Non-Candidate Registrants. Members must register by submitting information, on forms provided by the Election Committee for that purpose, to the Designated Representative at the Designated Office declaring them to be a Non-Candidate Registrant and include the following:
 - (1) The full name of the Non-Candidate Registrant;
 - (2) The name of the Candidate(s) for which the Non-Candidate Registrant will campaign;
 - (3) The physical and mailing address and phone number where the Non-Candidate Registrant can be reached;
 - (4) A certification under oath and penalty of perjury, that the Non-Candidate Registrant shall abide by all requirements of this Chapter; and

(5) A signed statement consenting to jurisdiction of the Sault Ste. Marie Tribe of Chippewa Indians for this Chapter or any other Chapter in substantially the following form:

“I, [Non-Candidate Registrants Name], hereby consent to personal jurisdiction of the Sault Ste. Marie Tribe of Chippewa Indians.”

- (b) Non-Candidate Registrants are prohibited from soliciting Contributions for use by the Non-Candidate Registrant.
 - (c) Non-Candidate Registrants may only spend funds supporting or opposing Candidates for office representing the Election Unit in which the Non-Candidate is registered to vote and which have been specifically identified and disclosed in the Non-Candidate Registrant’s registration letter.
 - (d) Non-Candidate Registrants shall not spend more than one thousand dollars (\$1,000) per Election Cycle, including direct Contributions to the Candidate.
- (4) All Candidates and Non-Candidate Registrants shall accurately account for and report all campaign Contributions and expenditures pursuant to Section 10.114.
- (5) All Candidates shall remit to the Designated Representative any unobligated Contributions at the end of the election cycle.

10.114 Reports and Report Filing.

- (1) Each Candidate and Non-Candidate Registrant shall file reports under oath and penalty of perjury with the Designated Representative at the Designated Office detailing all Contributions and expenditures, including without limitation, advertising, flyers, postage, fundraising expenses, phone bank charges, and other campaign costs, in accordance with this Section.
- (2) An initial report shall be filed within five (5) days of registering as a Non-Candidate Registrant or submitting a Letter of Intent as a Candidate. Interim reports shall be filed monthly no later than the fifth (5th) day following the end of each month. A final report shall be filed no later than the deadline set for Contests.
- (3) All reports shall itemize all Contributions and expenditures and include:
 - (a) the name and address of each individual making the Contribution;
 - (b) the amount of each Contribution;
 - (c) the date each Contribution was made;

- (d) the amount of each expenditure;
 - (e) the date each expenditure was made;
 - (f) the purpose of each expenditure;
 - (g) the receipt from each expenditure; and
 - (h) copies of all ads and advertising materials endorsed by the Candidate or Non-Candidate Registrant.
- (4) Materials acquired prior to submitting a Letter of Intent or registering as a Non-Candidate Registrant, must be disclosed and accounted for in the report.
- (5) Failure to report Contributions and expenditures as required shall result in prosecution in accordance with this Chapter.

10.115 Election Procedures.

- (1) The following procedures are applicable to all elections.
- (a) All elections will be conducted by first class mail. Ballots will be mailed to all Registered voters by the Election Committee at least twenty-one (21) days prior to the election deadline as determined in Section 10.105.
 - (b) Each Registered voter may mark a choice on the Ballot for a Candidate for as many positions on the Board of Directors as there are to be filled from the voter's Election Unit, or for any lesser number. Additionally, during applicable Election Cycles, a Registered voter may only mark a choice for one (1) Candidate for Chairperson.
 - (c) Returned Ballots must be received in the mail at the designated United States Post Office Box, as indicated on the Ballot, by the time of closing of the Post Office on the day of the election.
 - (d) The Election Committee shall be responsible for picking up all Returned Ballots at the designated Post Office following the close of business on the day of the election and for delivery of the Returned Ballots to the designated site for counting Votes.
 - (e) The Election Committee shall be responsible for organizing and implementing all security measures for handling Ballots and counting Votes to insure the integrity of the election.

- (f) The Election Committee shall inspect each Returned Ballot. If a Returned Ballot is determined to be a Spoiled Ballot by the Election Committee, the Spoiled Ballot shall be accounted for separately. Spoiled Ballots shall not be counted as Votes for purposes of the election.
 - (g) If the Returned Ballot contains a Spoiled Choice, the Spoiled Choice shall not be counted as a Vote, but the remaining portions of the Returned Ballot shall be counted.
 - (h) If the Election Committee determines that a Returned Ballot is a Marked Ballot, the Marked Ballot shall be tallied as a Vote and counted for purposes of the election.
 - (i) Candidate representatives and other observers shall not be allowed to participate in the count. Any disturbance from either may result in that person being dismissed from the count room.
- (2) In the event of a Tie for any office, the Election Committee shall conduct a recount of the Votes for each Candidate receiving the same number of Votes pursuant to Section 10.119. Any recount conducted shall be the only recount allowed for the Tied Candidates.
- (a) If there remains a Tie after the recount, the Election Committee shall decide the result of the election by drawing lots.
- (3) In the event of a Tie in a referendum election, the Election Committee shall conduct a recount pursuant to Section 10.119(2). In the event of a Tie after a recount, the original Board of Directors action that is the subject of the referendum shall be upheld.

10.116 Write-In Candidates.

Write-In Votes are not permitted in any election.

10.117 Primary Elections.

- (1) In the event that the number of eligible nominated Candidates for any office exceeds twice the number of offices to be filled, the Election Committee shall conduct a Primary Election for that office. The purpose of the Primary Election shall be to reduce the number of Candidates so that the number of Candidates for each office shall be no more than twice the number of offices to be filled.
- (2) Primary Elections shall be conducted under the procedures generally applicable to elections conducted under this Chapter.
- (3) Only the Candidates who appear on the list of eligible Candidates by the Election Committee pursuant to Section 10.110(2) shall be listed on the Ballot for Primary Elections.

(4) Primary Election Ballots shall be mailed to Registered voters not later than fifty six (56) days before the date set for the general election. Returned Ballots must be returned to the designated Postal Service and received by the Election Committee not later than the close of business thirty five (35) days before the date of the date set for the general election.

(5) The Candidates in the Primary Election equal in number to twice the number of offices to be filled in the general election, which receive the greatest number of Votes, shall be named as Candidates on the general election Ballot.

(6) If only one Candidate is eligible at the time of the expiration of the contest period following the posting of eligible Candidates pursuant to Section 108(5) (d), that Candidate shall be declared elected for purposes of the general election.

10.118 Election Contests.

(1) Any Member may Contest the results of an election or decisions of the Election Committee as provided in this Section. All Contests must be submitted to the Designated Representative at the Designated Office in writing setting forth the grounds for the Contest. The Designated Representative shall forward all Contests to the Chairperson of the Election Committee.

(2) All Contests regarding voter registration, nominating petitions, or the nomination and eligibility of Candidates must be submitted within three (3) days of the list of eligible nominated Candidates being posted in accordance with Section 10.110(2).

(3) All Contests relating to the tabulation of Votes or the results of an election must be submitted within three (3) days of the posting of the uncertified results in accordance with Section 10.122(1).

10.119 Election Complaints.

(1) Any Member may submit a Complaint regarding alleged violations of the Election Ordinance as provided in this Section. All Complaints must be submitted to the Designated Representative at the Designated Office in writing setting forth the grounds for the Complaint. The Designated Representative shall forward all Complaints to the Chairperson of the Election Committee. Allegations of criminal conduct shall be referred to Tribal Police or the Tribal Prosecutor.

(2) All Complaints must be submitted within six months of the occurrence of the conduct alleged to be in violation of the Election Ordinance.

10.120 Conduct of Contests and Complaints.

- (1) The Chairman of the Election Committee shall convene a meeting of the Election Committee within seven (7) days of receipt of a Complaint or a Contest to review the grounds for the Complaint or Contest.
- (2) The Election Committee shall at the meeting called pursuant to subsection (1):
 - (a) Dismiss the Complaint in writing as being without merit; or
 - (b) Conduct further investigation of the allegations; or
 - (c) Render a decision in writing and once all appeals have been exhausted according to Subsection (7), publish the decision.
 - (d) Convene a hearing on the matter and render a written decision.
- (3) Any further investigation conducted pursuant to subsection (2)(b) shall be concluded within fourteen calendar days unless an extension is granted by the Election Committee and such extension may be granted by vote taken via any media so long as said vote is reaffirmed at the next duly called meeting of the Election Committee.
- (4) Upon conclusion of any further investigation conducted pursuant to subsection (2)(b) the Election Committee shall convene a meeting and comply with subsection 2 and said meeting shall occur no later than thirty days after the receipt of the original Contests or Complaint.
- (5) Any hearing held pursuant to this Section shall be conducted in accordance with rules and procedures promulgated by the Election Committee for that purpose.
- (6) Hearings under this Section are civil administrative proceedings and imposition of any fines or penalties under this Subsection does not preclude prosecution and imposition of penalties for any crime in violation of Tribal Code Chapter 71.
- (7) A decision issued pursuant to subsection (2)(c) may be appealed to the Sault Tribe Chippewa Tribal Court of Appeals pursuant to Chapter 82.

10.121 Election Recounts.

- (1) Any Candidate may request a recount of the tabulation of Votes in any primary or general election provided:

- (a) the margin between the requesting Candidate's Vote total and Vote total for an unofficial winner was within two percent (2%) of the total Votes for the office being sought or fifty (50) Votes, whichever is greater;
 - (b) a request for recount is submitted in writing, signed by the requesting Candidate, to the Chairperson of the Election Committee within three (3) days of posting the unofficial results of the election; and
 - (c) a payment of twenty-five dollars (\$25.00) is submitted with the request, refundable only if a change in the outcome of the election occurs.
- (2) In the event the Vote tabulation results in a Tie, the Election Committee will conduct an automatic recount if needed to determine the official results.
- (3) Any recount conducted shall be the only recount allowed for any affected Candidates.

10.122 Certification of Election Results.

- (1) The Election Committee shall post the uncertified election results on site and submit the uncertified results to the designated person for posting at each Tribal Office and on the Tribe's official web site immediately following the tabulation of Votes.
- (2) The Election Committee shall certify the election results to the Board of Directors at the next special or regular meeting, provided the period for Contests has lapsed and all Contests have been finally resolved. If a special or regular meeting does not occur within seven (7) days following resolution of all Contests, the election results shall be deemed certified.

10.123 Notification and Installation.

- (1) Elected Candidates shall immediately be notified of the election by mail and/or telephone, if possible.
- (2) Elected Candidates shall assume the duties of office at the first special or regular Board of Directors meeting following the certification of the election results pursuant to Section 10.122. If a special or regular meeting does not occur within seven (7) days following certification of results, the elected Candidates shall be installed into office. The Board of Directors shall hold a special or regular meeting for the purpose of officer elections on the second Tuesday in July following the election.

10.124 Oath of Office.

- (1) Prior to assuming office a candidate elect, or an appointee, shall take an oath of office.

2. Failure to take the oath of office shall prevent the candidate elect, or appointee, from assuming office.
3. The oath shall be administered by the Chairperson of the Election Committee.
4. The oath shall not be given unless this Chapter has been fully complied with.

10.125 Resignation and Surrender.

(1) Any Candidate elected or an individual appointed to a position on the Board of Directors who is either an employee or independent contractor of the Tribe shall voluntarily resign his or her employment position or surrender any rights under any contract with the Tribe prior to being installed in office or taking the oath of office as further defined in subsection (3)(a).

(a) For purposes of this Section the Tribe shall mean the Sault Ste. Marie Tribe of Chippewa Indians, its governmental instrumentalities, wholly owned subsidiaries or any corporation formed under any State or Tribal law in which the Tribe has an ownership interest.

(b) For purposes of this Section an employment position shall mean any exempt or hourly position.

(c) For purposes of this Section an independent contractor shall mean a person who performs services for the Tribe under an express or implied agreement and who is not subject to the Tribe's control, right to control, the manner and means of performing the services.

(d) For purposes of this Section a contractual right shall mean any right owed a Candidate or individual by the Tribe, whether vested or not, that exist by operation of an express or implied contract.

(2) Failure to voluntarily resign from an employment position or surrender any contractual rights pursuant to subsection (1) above shall bar the Candidate or individual from assuming the duties of office or taking the oath of office.

(3) Any resignation or surrender shall be accomplished by a Candidate or individual voluntarily executing a written document to the Tribe's satisfaction wherein a Candidate or individual:

(a) For employment positions releases any and all rights and claims a Candidate or individual may have based upon their employment position with the Tribe.

(b) For contractual rights release any and all rights and claims a Candidate or individual may have based upon their contractual relationship with the Tribe.

- (c) For both employment positions and contractual rights any other releases, indemnifications, waivers or other securities deemed appropriate by the Tribe.
- (4) Implementing procedures for Candidates.
- (a) Within seven (7) days of a Candidate submitting a Letter of Intent a Candidate shall cause to be submitted a Disclosure of Professional Relationship. The Disclosure of Professional Relationship shall state:
 - (i) any and all employment positions; and
 - (ii) any and all contractual rights; and
 - (iii) the Candidate attests to the accuracy and completeness of their disclosure and that any inaccuracies or incompleteness may be a violation of this Chapter 10 or Chapter 71.
 - (iv) the Candidate agrees that any inaccuracies or incompleteness shall prevent the Candidate from assuming the duties of office or taking the oath of office.
 - (b) Within one (1) day of a Candidate filing a Letter of Intent the Election Committee shall provide a copy to the Tribal Attorneys Office.
 - (c) Within seven (7) days of receiving the Disclosure of Professional Relationship the Tribal Attorneys Office shall meet with the Election Committee and within that same seven (7) days thereafter provide the Election Committee an opinion stating whether or not any disclosures made on the Disclosure of Professional Relationship requires a Candidate to perform a resignation or surrender pursuant to Section (1) above.
 - (d) The Election Committee shall immediately after receiving the subsection (c) opinion notify a Candidate in writing that they will be required to perform a resignation or surrender pursuant to Section (1) above.
 - (e) Before a Candidate is installed in office or takes the oath of office, whichever occurs first, the Election Committee and shall certify in writing to the Board of Directors that:
 - (i) the Election Committee attests that the Candidate taking the office or being installed in office has complied fully with this Section; and
 - (ii) that the Tribal Attorneys Office has certified in writing to the Election Committee that the Candidate has complied fully with subsection

(3) above.

(5) Implementation procedures for appointed individuals.

(a) Within three (3) days of an individual being appointed to the Board of Directors but before installation or the oath of office the individual shall cause to be submitted a Disclosure of Professional Relationship. The Disclosure of Professional Relationship shall state:

(i) any and all employment positions; and

(ii) any and all contractual rights; and

(iii) the individual attests to the accuracy and completeness of their disclosure and that any inaccuracies or incompleteness may be a violation of this Chapter 10 or Chapter 71.

(iv) the individual agrees that any inaccuracies or incompleteness shall prevent the Candidate from assuming the duties of office or taking the oath of office.

(b) Within one (1) days of receipt of the Disclosure of Professional Relationship the Election Committee shall provide a copy to the Tribal Attorney Office.

(c) Within three (3) days of receiving a Disclosure of Professional Relationship the Tribal Attorneys Office shall meet with the Election Committee and within one (1) day thereafter provide the Election Committee an opinion stating whether or not any disclosures made on a Disclosure of Professional Relationship requires the individual to perform a resignation or surrender pursuant to Section (1) above.

(d) Within three (3) days of the Election Committee receiving the subsection (c) opinion the Election Committee shall notify an individual in writing that they will be required to perform a resignation or surrender pursuant to Section (1) above.

(e) Before an individual is installed in office or takes the oath of office, whichever occurs first, the Election Committee and shall certify in writing to the Board of Directors that:

(i) the Election Committee attests that the individual taking the oath of office or being installed in office has complied fully with this Section; and

(ii) that the Tribal Attorneys Office has certified in writing to the Election Committee that the individual has complied full with subsection

(3) above.

SUBCHAPTER II: SPECIAL ADVISORY ELECTIONS

10.201 Purpose and Authority.

Article VI, Section 2 of the Constitution provides that the Board of Directors shall, by majority vote, fill Board vacancies by appointment of a voting Member to fill the unexpired term of the departed official. The Board of Directors has determined to conduct Special Advisory Elections to assist it in performing its responsibilities under Article VI. The results of any Special Advisory Election conducted pursuant to this Subchapter are advisory only and are not binding on the Board of Directors. The purpose of this Subchapter is to establish procedures for conducting Special Advisory Elections. The regulations and procedures contained in this Chapter shall be administered in such a way as to accomplish this purpose and intent.

10.202 Scope.

This Subchapter shall govern Special Advisory Elections for the Board of Directors conducted by the Board of Directors to assist it in filling vacant Board seats.

10.203 Date of Election.

The Board of Directors shall establish a date for any Special Advisory Election. The date of the election shall not be earlier than ninety (90) days after the Election Announcement. No Special Advisory Election shall be held if the election date shall be later than six (6) months prior to the posting of the Election Announcement for the next general election.

10.204 Election Announcement.

The Board of Directors shall prepare and post at each tribal office an Election Announcement which shall explain the purpose of the Special Advisory Election, give date of election, the manner by which the Vote is to be taken, the office to be filled, the procedures for the nomination of Candidates, the time limit for each stage of the election procedure and the voting requirements for the elections. It shall provide information on the election to eligible voters by means of letter, and shall also publicize the election information throughout the election unit affected.

10.205 Applicability of General Election Rules.

All other Sections of this Chapter are applicable to Special Advisory Elections except as specifically indicated in this Subchapter.