

CONSTITUTION AND BYLAWS
OF THE
SAULT STE. MARIE TRIBE OF CHIPPEWA INDIANS

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HISTORY NOTE:

Effective Date: November 13, 1975

The modern governmental organization of the Tribe traces to the Sugar Island Group of Chippewa Indians and Their Descendants, which was incorporated under Michigan law on December 24, 1953. The name of the corporation and of the Tribe was changed to the Original Bands or the Sault Ste. Marie Chippewa Indians and Their Heirs on February 28, 1959, and it was as the Original Bands that the group sought federal recognition as an Indian tribe.

The Tribe was accorded federal recognition by memorandum of the Commissioner of Indian Affairs on September 7, 1972. Land was first taken in trust for the Tribe by deed dated May 17, 1973, and approved by the Area Director for the Bureau of Indian Affairs on March 7, 1974. The Commissioner of Indian Affairs formally declared the trust land to be a reservation for the Tribe on February 20, 1975, with notice published in the Federal Register on February 27, 1975. (40 Fed. Reg. 8367).

The Tribe sought organization of its tribal government under a constitution adopted pursuant to Section 16 of the Indian Reorganization Act, 25 U.S.C. s. 476. An election on a constitution supervised by the Secretary of the Interior pursuant to that statute was ordered on May 30, 1975. The Tribe submitted its present constitution and bylaws for approval by Secretarial election by Resolution No. 6-27-75A, adopted June 18, 1975. The constitution and bylaws were adopted by the tribal membership at an election conducted on October 9, 1975.

The Constitution and Bylaws were approved by the Acting Deputy Commissioner of Indian Affairs on November 13, 1975, and went into effect on that date.

Amendments:

The Constitution and Bylaws have been amended once, replacing Article IV, Section 3 which previously read "The members of the board shall be qualified voters of the tribe, eighteen (18) years of age or over." This amendment was voted on and approved by the members of the Tribe on May 1, 2007.

Amendment II, adopted and approved on April 7, 2010, amends Article II, Sec. 1, of the Bylaws in the Constitution by removing the duties as the chief executive officer from the Tribal Chairperson.

Cases:

City of Sault Ste. Marie v. Andrus, 458 F Supp 465 (D DC 1978) Action by City to challenge US taking of land within city in trust for the Tribe; motion to dismiss granted in part and denied in part.

City of Sault Ste. Marie v. Andrus, 532 F Supp 157 (D DC 1980) Tribe was properly organized under the Indian Reorganization Act; city land use regulations do not

apply on tribal trust land

United States v. Michigan, 471 F Supp 192 (WD Mich 1979) Tribe is a political successor in interest to the Chippewa signatories to the Treaty of 1836; Treaty of 1855 did not dissolve the Tribe.

CONSTITUTION

PREAMBLE

We, the members of the tribe known as the Sault Ste. Marie Tribe of Chippewa Indians, in order to provide for the perpetuation of our way of life and the welfare and prosperity of our people, to preserve our right of self-government, and to protect our property and resources, do ordain and establish this constitution and bylaws.

ARTICLE I - NAME

The name of this organization shall be the Sault Ste. Marie Tribe of Chippewa Indians. Its members trace their ancestry to the six historical bands of the Sault Ste. Marie Chippewa Indians.

ARTICLE II - TERRITORY AND JURISDICTION

Section 1. The territory of the tribe shall encompass all lands which are now or hereafter owned by the tribe or held in trust for the tribe by the United States.

Sec. 2. The jurisdiction of the tribe shall extend to all of the lands of the tribe to the extent not inconsistent with Federal law and, further, for the purpose of exercising and regulating the rights to fish, hunt, trap and other usual rights of occupancy, such jurisdiction shall extend to all lands and waters described in the Treaty of March 28, 1836 (7 Stat. 491), and to all lands and waters described in any other treaties which provide for such rights to the extent such jurisdiction is not inconsistent with Federal law.

ARTICLE III - MEMBERSHIP

Section 1. The following persons shall be entitled to membership in the Sault Ste. Marie Tribe of Chippewa Indians, provided that such persons possess Indian blood and are not currently enrolled with any other tribe or band of North American Indians, and provided further that such persons are citizens of the United States of America:

- (a) All persons descended from the six historical bands (Grand Island, Point Iroquois, Sault Ste. Marie, Garden River, Sugar Island, and Drummond Island Bands) of the Sault Ste. Marie Chippewa Indians whose names appear on any historical roll, census or record made by officials of the Department of the Interior or Bureau of Indian Affairs.
- (b) All persons enrolled on the membership roll of the organization, known as the Original Bands of the Sault Ste. Marie Chippewa Indians who are alive on the date of approval of this constitution and who are descendants of the original bands.
- (c) All persons who may hereafter be adopted into the tribe in accordance with any ordinance enacted for that purpose by the board of directors;
- (d) All lineal descendants of such persons as are described in (a), (b) or (c) above.

Sec. 2. The board of directors shall have the power to enact ordinances consistent with this article to govern future membership, loss of membership and adoption.

ARTICLE IV - GOVERNING BODY

Section 1. The governing body of the Sault Ste. Marie Tribe of Chippewa Indians shall consist of a board of directors.

Sec. 2. A chairperson shall be elected at large by the voters of the tribe and shall serve as a member of the board of directors. The voters of each of the five (5) election units shall elect from within their qualified membership one member to the board to represent each five hundred (500) members or fraction thereof. Following each election, the board of directors shall select from within its membership a vice-chairperson, a treasurer and a secretary.

Sec. 3. The members of the board shall be qualified voters of the Tribe, eighteen (18) years of age or over. 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.

Sec. 4. For the purpose of the first election held after adoption of this constitution, the chairperson and other members of the board of directors comprising fifty percent of those elected who have received the highest number of votes shall serve for a term of four years, or until their successors are duly installed in office. All other members shall serve a term of two years, or until their successors are duly installed in office. Thereafter, the term of office of the chairperson and directors shall be four years, or until their successors are duly installed in office.

ARTICLE V - NOMINATIONS AND ELECTIONS

Section 1. Within ninety (90) days after the approval of this constitution, the board of directors shall cause to be made a division of the eastern portion of the Upper Peninsula of the State of Michigan into five (5) election districts known as units, and shall conduct a census to determine the number of tribal members in each such unit. The boundaries shall be located with due regard to the historical location of each of the historical bands of the Sault Ste. Marie Chippewa Indians. At four year intervals beginning four years from the year of adoption of this constitution, the board of directors shall cause to be made a census and voter registration of the membership within each unit and shall publish no less than three (3) months in advance of the next general election the results thereof.

Sec. 2. The first election of the chairperson and the board of directors shall be held within ninety (90) days after the creation of the election units under the arrangements and supervision of the present board of directors and the local Superintendent of the Bureau of Indian Affairs.

Sec. 3. The officers and members of the board of directors of the organization known as the Original Bands of Sault Ste. Marie Chippewa Indians holding office at the time of the adoption of this constitution shall continue in office and carry out the functions of the officers and board of directors of the tribe as prescribed by this constitution until the chairperson and board of directors are elected and duly installed in office pursuant to this article.

Sec. 4. Any person eighteen (18) years of age or over who is a member of the tribe shall be eligible to vote in tribal elections.

Sec. 5. In any general election called pursuant to this constitution, each eligible voter shall vote within his unit of residence. Voters residing outside of any unit shall register not less than three months prior to any election and vote in the unit of their choice.

Sec. 6. The board of directors shall enact appropriate ordinances to implement nominations and the holding of elections.

ARTICLE VI - VACANCIES AND REMOVAL FROM OFFICE

Section 1. If any tribal official shall die, resign, or be removed from office, the board of directors shall declare the position vacant.

Sec. 2. The board shall, by a majority vote, fill vacancies by appointment of a voting member of the tribe to fill the unexpired term of the departed official. Persons so appointed shall reside within the election unit from which the departed official was elected.

Sec. 3. Removal of the tribal chairperson or any member of the board of directors may be initiated by means of filing charges against such person with the board of directors in the

form of a petition signed by at least one hundred (100) eligible voters which alleges specific facts which, if shown to be true, would establish that the official has engaged in conduct which constitutes a violation of this constitution and bylaws or any duly enacted tribal ordinance or resolution.

Sec. 4. All officials so charged shall be accorded the protection of the following procedure:

- (a) The accused shall be served with a written notice of the charges against him or her within fifteen (15) days after receipt of the petition by the board of directors. Such notice shall state the date, time and place of the hearing provided for in subsection (b), but no such hearing shall be held less than fifteen (15) days from the date that notice is served.
- (b) The accused shall have the right to be heard before a hearing board created by the board of directors for the specific purpose of hearing the charges and evidence against the accused. The hearing board shall decide whether the accused shall be removed from office within sixty (60) days after receipt of the petition. The decision of the hearing board shall be final.

Sec. 5. Any member of the board of directors who willfully fails to attend three (3) consecutive regular meetings of the board of directors may be removed from office by a majority vote of the board of directors only after such accused member has been given an opportunity to appear before the board of directors in his own defense. Persons so accused shall be noticed and afforded those protections as set forth in Section 4 of this article.

ARTICLE VII - POWERS

Section 1. The board of directors shall exercise the following powers, subject to any limitations imposed by the laws of the United States and subject further to all express restrictions upon such powers contained in this constitution and bylaws:

- (a) To employ legal counsel, subject to the approval of the Secretary of the Interior;
- (b) To negotiate and consult with the Federal, State and local governments on behalf of the tribe;
- (c) To advise the Secretary of the Interior with regard to all appropriation estimates of Federal projects for the benefit of the tribe;
- (d) To expend funds for public purposes of the tribe and to regulate the conduct of trade and the acquisition, use and disposition of property;
- (e) To regulate the inheritance or testamentary disposition of real and personal property, other than property held in trust, of the members of the tribe;
- (f) To provide for the commitment of incompetents and for the appointment and regulation

of guardians for minors and incompetents, subject to review by the Secretary of the Interior;

- (g) To promulgate and enforce ordinances governing the conduct of persons within the jurisdiction of the tribe, to establish a reservation court and define its duties and powers;
- (h) To exclude and remove from the tribal lands any person not legally entitled to be there;
- (i) To adopt resolutions, ordinances and a code, subject to the review of the Secretary of the Interior, providing for the licensing, regulation and control of nontribal persons coming upon or being within the territory or jurisdiction of the tribe as defined in ARTICLE II of this constitution, for the purpose of recreational boating, hunting, fishing, trapping, gathering wild rice or other fruits of the earth or other usual rights of occupancy;
- (j) To adopt resolutions, ordinances and a code, subject to review by the Secretary of the Interior, providing for the regulation and control of tribal members who hunt, fish, trap, gather wild rice or exercise other usual rights of occupancy upon or within the territory or jurisdiction of the tribe as defined in ARTICLE II of this constitution;
- (k) As authorized by law, to manage, lease, sell, acquire or otherwise deal with the tribal lands, interest in lands and water or other tribal assets;
- (l) To prevent the sale or disposition of any tribal lands, or other tribal assets;
- (m) To manage any and all economic affairs and enterprises of the tribe and to engage in any business not contrary to Federal law that will further the economic development of the tribe or its members, and to use the tribal funds or other tribal resources for such purposes;
- (n) To establish and delegate to subordinate boards, organizations, cooperative associations, tribal officers, committees, delegates or other tribal groups, any of the foregoing powers, reserving the right to review any action taken by virtue of such delegated power or to cancel any delegation.

Sec. 2. Any resolution or ordinance which by terms of this constitution is subject to review by the Secretary of the Interior shall be presented to the Superintendent of the designated Indian agency for this region within ten (10) days of its enactment, who shall, within ten (10) days after its receipt by him, approve or disapprove the same. If the Superintendent shall approve any ordinance or resolution it shall thereupon become effective, and the Superintendent shall transmit a copy of the same, bearing his endorsement, to the Secretary of the Interior, who may within ninety (90) days from the date of approval, rescind the said ordinance or resolution for any cause, by notifying the board of directors of such decision. If the Superintendent shall refuse to approve any resolution or ordinance submitted to him within ten (10) days after its receipt, he shall advise the board of directors of his reasons

therefore. If these reasons appear to the board of directors to be insufficient, it may, by a majority vote, refer the ordinance or resolution to the Secretary of the Interior, who may, within ninety (90) days from the date of its receipt by him, approve or reject the same in writing. Failure by the Secretary of the Interior to act within ninety (90) days from his receipt of the ordinance or resolution shall constitute approval of the resolution or ordinance.

ARTICLE VIII - BILL OF RIGHTS

All members of the Sault Ste. Marie Tribe of Chippewa Indians shall be accorded equal protection of the law under this constitution. No member shall be denied any of the rights or guarantees enjoyed by citizens under the Constitution of the United States, including but not limited to freedom of religion and conscience, freedom of speech, the right to orderly association or assembly, the right to petition for action or the redress or grievances, and due process of law. The protection guaranteed to persons by Title II of the Civil Rights Act of 1968 (82 Stat. 77) against actions of an Indian entity in the exercise of its powers of self-government shall apply to members of the tribe.

ARTICLE IX - RIGHT OF REFERENDUM

Any enacted or proposed ordinance or resolution of the board of directors shall be submitted to a popular referendum upon an affirmative vote of a majority of the board or when so requested by a petition presented to the board bearing the signatures of at least one hundred (100) eligible voters of the tribe. Such referendum must be held within sixty (60) days after receipt by the board of a valid petition. A vote of a majority of the eligible voters voting in such referendum shall be conclusive and binding upon the board of directors provided, however, that at least thirty (30) percent of those entitled to vote shall vote in such referendum conducted pursuant to tribal ordinance.

ARTICLE X - AMENDMENTS

This constitution and bylaws may be amended by a majority vote of the eligible voters of the tribe 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 the receipt of a resolution passed by a majority of the board of directors, the chairperson having the right to vote thereon.

ARTICLE XI - ADOPTION

This constitution and bylaws when ratified by a majority vote of the adult members of the organization known as the Original Bands of the Sault Ste. Marie Chippewa Indians, 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, shall be submitted to the Secretary of the Interior and, if approved, shall become effective from the date of approval.

BYLAWS

ARTICLE I - MEETINGS OF THE BOARD OF DIRECTORS

Section 1. The board of directors shall meet once each month at such place, time and date as is designated by the board at the meeting immediately preceding. The place, time and date of the meeting shall be at the discretion of the board of directors, provided that at least one meeting per year shall be held in each of the five election units established pursuant to ARTICLE V, Section 1 of the tribal constitution.

Sec. 2. Special meetings may be called from time to time by the chairperson or by a majority vote of the board of directors. Written notice of such special meetings shall be given to all members of the board at least five (5) days in advance of such meeting. At special meetings, the board shall have the same power to transact business as at regular meetings.

Sec. 3. Both regular and special meetings of the board of directors shall be open to the membership of the tribe.

Sec. 4. All regular meetings shall be publicized at least ten (10) days in advance by some appropriate and effective means such as newspaper advertisements or radio announcements. Special meetings require such publicity as is reasonable under the circumstances, provided that all members of the board of directors receive notice as provided in Section 2 of this Article.

Sec. 5. No business at any regular or special meeting shall be transacted unless a quorum is present, a quorum being a majority of the board of directors.

Sec. 6. No member of the board of directors shall cast a vote on any matter in which the board determines by a majority vote that said member may have a personal interest in the matter.

Sec. 7. The duties of all appointed boards, committees or employees of the tribe shall be clearly defined by resolutions or the board of directors at the time of their creation or appointment. Such boards, committees or employees shall report from time to time, as required, to the board of directors, and their activities and decisions shall be subject to review by that board.

Sec. 8. It shall be the duty of each member of the board of directors to make monthly reports to the unit from which they are elected concerning the proceedings of the board.

Sec. 9. All ordinances, resolutions and minutes of meetings of the board of directors shall be

kept on file in the tribal office and shall, upon reasonable request, be open for inspection by tribal members at such office during regular office hours.

ARTICLE II - DUTIES OF OFFICERS

Section 1. The chairperson shall preside over all meetings of the board of directors and exercise any other lawful authority delegated the chairperson by the board of directors. The chairperson shall vote only in case of a tie unless otherwise provided by the tribe's constitution and bylaws.

Sec. 2. The vice-chairperson of the board of directors shall assist the chairperson when called upon to do so, and in the absence of the chairperson shall preside at all meetings of the board of directors. When so presiding the vice-chairperson shall have all of the rights, privileges, duties and responsibilities of the chairperson.

Sec. 3. The treasurer shall, under the direction of the board of directors, conduct all of the fiscal affairs of the tribe. The treasurer or a person designated by the board of directors shall accept, receive, receipt for, preserve and safeguard all funds in custody of the board of directors, whether the same be tribal funds or special funds for which the board is acting as trustee. The treasurer shall be bonded in an amount to be determined and furnished by the board of directors and shall deposit all funds in financial institutions as directed by the board of directors. The treasurer shall make and preserve a faithful record of such funds, and shall cause to be reviewed internally at least once every six months the books of tribal funds, and shall in writing report the results of this review to the board of directors. The treasurer shall, when called upon by the board of directors, give a status report on the fiscal condition of the tribe at any regular meeting. Once each fiscal year the treasurer shall cause the tribal funds to be subject to an independent audit. The treasurer shall, in addition, be party to each and every transaction of the tribe involving real estate and shall not pay out or otherwise disburse any tribal funds, except when properly authorized to do so by resolution or ordinance duly adopted by the board of directors, which ordinance or resolution may be of a continuing nature, and countersigned by the chairperson.

Sec. 4. The secretary or such person as the secretary may designate shall conduct all tribal correspondence, including the noticing of meetings. The secretary shall keep an accurate record of all matters transacted at meetings of the board of directors and shall see that all ordinances and resolutions adopted by the board of directors are reduced to writing in the proper format and shall further see that a book maintaining copies of all current resolutions and ordinances is maintained and is accessible to all tribal members. Further, it shall be the duty of the secretary or such person as the secretary may designate to submit promptly to the appropriate office of the Bureau of Indian Affairs copies of all minutes of meetings of the board of directors and copies of all resolutions and ordinances adopted by the board.

ARTICLE III - TRIBAL RECORDS

Section 1. All books, records and financial accounts of the Sault Ste. Marie Tribe of Chippewa Indians, including the tribal roll, shall be open to inspection by tribal members upon reasonable request to the board of directors.

Sec. 2. All books, records and financial accounts kept by officers or employees of the tribe in connection with their tribal duties or employment are the property of the tribe and shall be maintained in the tribal office. Upon leaving office or employment, it shall be the duty of each tribal officer or employee to turn over such books, records and financial accounts to the appropriate successor.