

## **ORDINANCE NO. 4 COUNCIL ELECTIONS**

**STATEMENT OF PURPOSE** - An Ordinance to provide for Tribal Council Elections pursuant to Article IV, Section 7 of the Amended Tribal Constitution of November 4, 1986.

**BE IT ENACTED**, by the Saginaw Chippewa Tribal Council as follows:

**SECTION 1. SHORT TITLE.** This Ordinance may be cited as the Tribal Council Election Ordinance of the Saginaw Chippewa Indian Tribe of Michigan.

**SECTION 2. ELECTIONS.** Elections will be conducted as follows:

- (a). **GENERAL ELECTIONS.** The first Tuesday after the first Monday in November of odd numbered years shall be the date for general elections of the Tribal Council.
- (b). **REMOVAL AND REFERENDUM ELECTIONS.** Unless subsection 3(d)(4) of this Ordinance applies, removal elections shall be called by the Tribal Council within thirty (30) calendar days of the date of receipt by the Tribal Council of notification from the Tribal Clerk that a Removal Petition has been determined to be valid or, if a review of the final determination regarding the validity of a Removal Petition has been initiated pursuant to subsection 3(d)(7) of this Ordinance, the date all review proceedings have concluded. Referendum elections shall be called by the Tribal Council within thirty (30) calendar days of the receipt of a petition meeting the Constitutional requirements for such petitions.
- (c). **PRIMARY ELECTIONS.** Shall be held prior to the General Election in accordance with Section 13 of this Ordinance.
- (d). **RUN-OFF ELECTIONS.** Shall only be called when necessary to break a tie in a voting district after any General Election or Special Election is held in accordance with Section 18.
- (e). **SPECIAL ELECTIONS.** Shall include any elections other than Primary or General Elections, which are lawfully called pursuant to the Tribal Constitution and this ordinance.
- (f). **TRIBAL CLERK'S OFFICE.** Shall remain open during the hours that the election polling occurs on election days, from 8am to 8pm.

**SECTION 3. PETITIONS SEEKING REMOVAL.** The following requirements and procedures shall apply to petitions for the removal of members of the Tribal Council pursuant to Article IV, Section 14, of the Amended Constitution of November 4, 1986.

- (a). **DEFINITIONS.**

- (1). "Adulterated Result". An Adulterated Result is a drug test result which indicates that an impurity has been created by the addition of inferior, alien, or less desirable materials or elements.
- (2). "Applicant". An applicant is a Registered Voter on the date that the petition is issued who requests a Removal Petition form from the Tribal Clerk's Office and returns a completed Removal Petition to the Tribal Clerk's Office.
- (3). "Circulator". A Circulator is a person who presents the Removal Petition to registered voters for their signature.
- (4). "Eligible Voter". Is an enrolled member of the Saginaw Chippewa Indian Tribe who is eighteen (18) years of age or more.
- (5). "Illicit Drug". Illicit Drug refers to any drug or controlled substance, which is not legally obtainable, or has been legally obtained but is being used in a manner inconsistent with the prescribed dosage or being used by an individual other than the person to whom the medication was originally intended or prescribed.
- (6). "Negative Result". A Negative Result is a drug test result which indicates no presence of illicit drugs in a person's body system.
- (7). "Petitioner". A petitioner is a registered voter who signs a Removal Petition
- (8). "Petition" and "Removal Petition". Petition and Removal Petition are a Removal Petition form issued by the Tribal Clerk to an Applicant for circulation to registered voters seeking signatures to petition for the removal of a member of the Tribal Council pursuant to Article IV, Section 14, of the Tribal Constitution.
- (9). "Positive Result". A Positive Result is a drug test result which indicates the presence of illicit drugs or other alien elements found by the testing facility to be by-products of illicit drugs in a person's body system.
- (10). "Registered Voter". Is an enrolled member of the Saginaw Chippewa Indian Tribe who is eligible to vote and who has filed a completed voter registration form with the Tribal Clerk's office no less than thirty (30) days before the election.
- (11). "Removal Petition form". Removal Petition form is the form(s) made available by the Tribal Clerk to Applicants for circulation to eligible voters for the purposes described in this Section.

- (12). "Tribal Clerk". The term Tribal Clerk refers to the Tribal Clerk and to the staff in the Tribal Clerk's Office.

(b). REQUIREMENTS FOR PETITIONS SEEKING REMOVAL.

- (1). An Applicant for a Removal Petition must be a registered tribal voter residing in the tribal voting district represented by the member of the Tribal Council whose removal from the Tribal Council is being sought, both at the time of the application and at least 30 calendar days before the election that elected the Tribal Council member whose removal is being sought through the circulation of a Petition.
- (2). A Circulator of a Removal Petition must be a registered tribal voter residing in the tribal voting district represented by the member of the Tribal Council whose removal from the Tribal Council is being sought throughout all circulation activities and at least 30 calendar days before the election that elected the Tribal Council member whose removal is being sought through the circulation of a Petition. A Circulator may also be an Applicant and a Petitioner.
- (3). A Removal Petition must be signed by at least thirty percent (30%) of the registered tribal voters who were registered to vote on the date the petition was taken out and who reside in the tribal voting district represented by the Tribal Council member to be removed. . A Removal Petition may not call for the removal of more than one member of the Tribal Council.
- (4). A Removal Petition shall contain the following information handwritten in ink by each Petitioner: (I) the printed name of the Petitioner; (ii) the signature of the Petitioner; (iii) the date the Petitioner signed the Petition; (iv) the complete tribal membership number of the Petitioner; and (v) the residential address of the Petitioner. A post office box number is not valid as a residential address.
- (5). The name, signature and all other information provided by each Petitioner must be consistent with the information contained in the tribal voter registration records .
- (6). The Removal Petition must include a complete statement of cause for removal and certification by the Circulator on each page of the Petition. All information required on the Removal Petition form shall be complete, accurate and legible.
  - (i) The statement of cause for removal must be handwritten in ink on each page of the Removal Petition by the Applicant prior to the

release of the Removal Petition by the Tribal Clerk. The Tribal Clerk shall make a copy of the first page of the Removal Petition to file until the petition is returned with the cause for removal prior to releasing it to the Applicant. No other cause for removal, other than the original cause for removal written by the Applicant and copied by the Tribal Clerk, shall be added to the Removal Petition.

- (ii) When the petition form is completed and subsequently returned to the Tribal Clerk, it shall contain the exact same cause for removal as when the form was originally released from the Tribal Clerk.
  - (iii) Signatures contained on the Removal Petition must be signatures of Registered Voters.
  - (iv) Each Registered Voter may only sign the same Removal Petition once. If the Registered Voter signs the same Removal Petition multiple times, only one signature shall be valid.
  - (v) Any Petitioner may voluntarily withdraw his or her signature from the petition. A request to withdraw a signature must be done in writing and presented to the Tribal Clerk's office. To remove his or her signature a person must contact the Tribal Clerk's office before the deadline as indicated on top of the petition page noted, "Final Date for Return by Applicant." No voluntary withdrawals by a petitioner will be permitted after that deadline.
  - (vi) Any signature obtained by fraud, intimidation, duress or from an incapacitated person is prohibited.
  - (vii) No conservator or power of attorney may sign a petition on behalf of the registered voter. The Registered Voter must sign the petition in order for the signature to be valid.
- (7). Removal Petition forms shall only be valid for a period of sixty days from the date issued to an Applicant by the Tribal Clerk. The Tribal Clerk shall date stamp each such form on the date issued and indicate on the form in the designated space the final date the form must be returned to the Tribal Clerk. The petition must be filed with the Clerk's office by 3 p.m. on a regular non-holiday workday on or before the due date.
- (8). A Removal Petition must be returned to the Tribal Clerk by the Applicant who first obtained the Removal Petition form from the Tribal Clerk. Only the original Removal Petition form issued to the Applicant by the Tribal Clerk will be accepted for review by the Tribal Clerk.

(c). FORM OF REMOVAL PETITION.

- (1). Removal Petitions must be on a form issued by the Tribal Clerk. The Tribal Clerk shall prepare a Removal Petition form that meets all requirements of tribal law. The Removal Petition form shall contain such number of pages as will accommodate the signatures of at least sixty percent of the registered tribal voters residing in the tribal voting district represented by the member of the Tribal Council whose removal from the Tribal Council is being sought.
- (2). Each page of the Removal Petition form shall be consecutively numbered and shall include a place for two date stamps by the Tribal Clerk, one for the date of issuance of the Removal Petition form and one for the date of receipt upon return of the Removal Petition form to the Tribal Clerk. The Removal Petition form shall also include on the first page a space for the Tribal Clerk to indicate the date the Removal Petition form must be returned to the Tribal Clerk.
- (3). Each Removal Petition form shall include designated spaces for all information required by tribal law and the following statement shall appear at the top of each page of the Removal Petition form:

PETITION FOR REMOVAL OF A TRIBAL COUNCIL MEMBER  
FOR THE \_\_\_\_\_ DISTRICT

We, the undersigned registered voters of the Saginaw Chippewa Indian Tribe residing in Voting District No. \_\_\_\_, petition for the removal of \_\_\_\_\_ from the Tribal Council pursuant to Article IV, Section 14 of the Saginaw Chippewa Constitution. Pursuant to subsection 10(a) of Ordinance 19, a Tribal Council member may be removed for neglect of duty, misconduct in office, an offense involving dishonesty or if found guilty of any offense against the Tribal Code involving moral turpitude. The specific act(s) or omission(s) of said Council member that provide the cause for removal is stated as follows:

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**NOTICE:** You must be registered to vote pursuant to tribal law and you must reside in the voting district represented by the Tribal Council member named in this petition on the date you sign this petition. If you fail to provide complete, accurate and legible information for each of the five categories of required information, your signature will be invalid and will not be counted. By signing this petition, you certify that you meet all the requirements under tribal law for signing a Removal Petition. If you sign this petition and it is later determined that you are not qualified to sign this petition, your signature will be invalid and criminal and civil charges may be brought against you. Any person who signs this petition may voluntarily remove his/her name from the petition by making such request in writing to the Tribal Clerk's office before the deadline provided on the top of the petition page noted, "Final Date for Return by Applicant."

- (4). Each Removal Petition form shall include on the bottom of each page the following statement:

The undersigned Circulator of this petition certifies that each Petitioner named on this page signed this petition of his/her own free will in his/her presence on the date indicated next to each signature and that to his/her knowledge and belief each Petitioner was a registered tribal voter for the tribal voting district represented by the Tribal Council member whose removal is being sought on the date of each such Petitioner's signature.

Signature of Circulator: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Address: \_\_\_\_\_

Membership No.: \_\_\_\_\_ Date: \_\_\_\_\_

(d). REVIEW OF THE REMOVAL PETITION BY THE TRIBAL CLERK

- (1). The Tribal Clerk shall make Removal Petition forms available upon request during normal business hours to Applicants who are registered voters of the Tribe.
- (2). Once submitted to the Tribal Clerk for review, Removal Petitions shall be the property of the Saginaw Chippewa Indian Tribe of Michigan. Upon submission of a Removal Petition by an Applicant to the Tribal Clerk's office for review, the Tribal Clerk shall provide one complete copy of the Petition to the Applicant and shall make two additional copies for use in the review process. No marks or notes shall be made on the original and the original shall be secured by the Tribal Clerk until the review process is completed. After a Removal Petition is returned to the Tribal Clerk for review, no person, including members of the Tribal Council, the Tribal Clerk, the Circulator, the Petitioners and tribal members, shall have any right to make any changes, alterations, deletions or additions to the Petition, including removing Petitioner's names from the Petition or adding Petitioner's names to the Petition. The rights of the Applicant, the Circulator and the Petitioners regarding the Petition are limited to those rights expressly stated in tribal law. The Tribal Clerk will immediately notify Tribal Council in writing of its receipt of Removal Petitions and will include in such notification the stated cause for removal contained on the petition as well as the name(s) of the Council Members who are the subject of the petition(s).
- (3). Removal Petitions shall be considered confidential documents and the information contained in the Petition shall be considered confidential except as provided in Section 3(d)(2) of this Ordinance until the Tribal Clerk makes a final determination regarding the validity of the Petition. Once a Removal Petition is submitted to the Tribal Clerk's office for review, the Tribal Council shall not be entitled to a copy of the Petition, to examine the Petition or a copy of the Petition, or to obtain information contained in the Petition except as provided in Section 3(d)(2) until the Tribal Clerk makes a final determination as to the validity of the Petition. The Tribal Clerk may request the assistance of the Tribal Attorneys regarding legal questions involved in the review of the Removal Petition.

- (4). In the event that such number of Removal Petitions submitted to the Tribal Clerk for review and subsequently determined to be valid by the Tribal Clerk creates the possibility of six or more Tribal Council members being removed through simultaneous or consecutive Removal Elections, thereby depriving the Tribal Council of a quorum of members necessary to conduct business, the Tribal Council shall stagger the Removal Elections in order to prevent the possibility of a loss of a quorum of members on the Tribal Council. Removal Elections shall not be staggered more than 30 calendar days apart.
- (5). The Tribal Clerk shall promptly review any Removal Petition submitted by an Applicant shall issue a final written determination regarding the validity of such Petition to the Tribal Council and the Applicant within 12 business days from the date of receipt of the Petition.
- (6). The Tribal Clerk shall review the validity of the Petition and Petitioner signatures through a comparison of the Petition with the requirements of Sect. 3(b) of this Ordinance and with tribal voter registration records in accordance with the following procedures:
  - (i). The Tribal Clerk's office shall ensure that the voter registration records list for the tribal voting district represented by the Tribal Council member named for removal in the Removal Petition has been updated.
  - (ii). Compare the names and information of Petitioners on the Removal Petition with the names and information of voters on the voter roster printed at the time the petition is taken out. The signatures of Petitioners are invalid if: their names are not included in the voter roster; if the names and information of the Petitioner stated in the Petition is inconsistent with the name and information contained in the voter roster for the Petitioner.
  - (iii). The Tribal Clerk may seek the assistance of the Caucus Committee members for petition review, provided all Caucus Committee members who signed the petition shall be recused from assisting in the review of such petition.
- (7). The determination of the validity or invalidity of a Removal Petition by the Tribal Clerk shall be a final determination subject to the exclusive review of the Tribal Council, which review shall occur within fourteen (14) business days of:
  - (i) the date of filing of a written request with the Tribal Clerk's office by the Applicant, which request must be filed within seven (7)

business days of the date of receipt by the Applicant of the final written determination of the Tribal Clerk regarding the validity of such Petition; or,

- (ii) where such review is on the initiative of the Tribal Council, the date of receipt by the Tribal Council of the final written determination of the Tribal Clerk regarding the validity of such Petition. The Tribal Clerk shall provide or make available to Tribal Council its entire administrative record developed in its review including a copy of the original Removal Petition. The original Removal Petition shall be made available to Council upon written request of the Tribal Chief or in his/her absence the Tribal Sub-Chief or by formal motion of Council. Such administrative record shall be delivered or made available at the time the Tribal Clerk delivers its final written determination to Council.

Where the final determination of validity of a Removal Petition is under review by the Tribal Council, the Tribal Council member named for removal in such Petition shall have the right to review such Removal Petition but shall be recused from the review proceedings conducted by Tribal Council for his or her own Removal Petition. Any Tribal Council Member may participate in the review proceedings of Removal Petitions of any other Council members. The Tribal Council shall conduct its review in the same manner as the Tribal Clerk under the procedures for review established by this Ordinance.

**SECTION 4. PETITIONS SEEKING REFERENDUM.** Pursuant to Article V, of the Tribal Constitution, Referendum Petitions shall meet the following requirements:

- (a). Each petition signature page must contain a statement that the purpose of the petition is to submit to referendum election an enacted or proposed ordinance, resolution or other regulative act of the Tribal Council. The petition must clearly identify the specific enacted or proposed ordinance, resolution or other regulative act that the petitioners wish submitted for referendum. Each signature page of the petition must contain the same statement of purpose for the proposed referendum election as the other pages written in ink.
- (b). The petition from each of the Tribe's three voting districts must clearly set forth in writing on each petition signature page the specific voting district the petition is from.
- (c). Each petition signature page must contain the signature and the last current residential address on file with the Tribal Clerk's office of each petition signer. Each petition signer must sign only their own name, and each signer must affix the date at the time of signing. All signatures must be in ink.



- (d). Only signatures of persons validly registered in the voting district that appears on the face of each petition signature page will count as a valid signature in satisfaction of the requirements of Article V of the Tribal Constitution. Referendum Petitions will fall under the same process for verification by the Tribal Clerk as prescribed for the review of Removal Petitions in this Ordinance.
- (e). A petition that is not in compliance with all of the requirements set forth above will be considered legally insufficient, and a referendum election will not be scheduled.

**SECTION 5. VOTING DISTRICTS.** Pursuant to Article IV, Section 2 of the Amended Tribal Constitution of November 4, 1986, there shall be three respective voting districts and the number of Tribal Council Members elected from each shall be as follows:

- (a). ISABELLA DISTRICT. Ten Tribal Council members shall be elected from this district. This district shall encompass the Isabella Reservation as established by the Treaty of 1864, and any other lands within or without such boundaries which are continuous or adjacent to this reservation and have been or may hereafter be added thereto.
- (b). SAGANING DISTRICT. One Tribal Council Member shall be elected from this district. This district shall encompass Arenac County, Michigan.
- (c). AT LARGE DISTRICT. One Tribal Council Member shall be elected from this district. This district shall encompass the lands within or without the State of Michigan which are outside the Isabella and Saganing Districts.

**SECTION 6. VOTER REGISTRATION.**

- (a). OFFICE OF THE TRIBAL CLERK. The Tribal Clerk's Office shall be responsible for:
  - (1). Registration of all voters;
  - (2). Maintenance of the voter registration lists for each district; and
  - (3). Maintenance of voter participation records.
- (b). CONTINUITY OF VOTER REGISTRATION LISTS. Once a voter's name is placed on a list, that registration shall be of continuing validity and the voter shall not be required to re-register unless:
  - (1). That voter has moved within the same voting district;
  - (2). That voter has moved into another voting district; or
  - (3). That voter has had a legal change of name.

(c). **QUALIFICATION FOR REGISTRATION.** In order to register as a voter in any election held by the Saginaw Chippewa Indian Tribe of Michigan an individual must meet the following standards:

- (1). Must be a Saginaw Chippewa Indian Tribe of Michigan member;
- (2). Must be 18 years of age on or before the date of the election (a member may apply for voter registration not more than 30 days before his/her 18th birthday);

(d). **REGISTRATION PROCEDURE.**

(1). The Tribal Clerk's office shall prepare voter registration forms and make such forms available upon request so that members may register to vote either by mail or in person.

(2). Upon receipt of the voter's completed registration form the Tribal Clerk's office shall compare the address on the form with the address on the computerized Tribal Roll:

(aa). If both agree, the Clerk's office shall ascertain the member's voting district and place that individual's name on the list for that district.

(ab). If the addresses on the form and the Roll do not agree, the Clerk's office shall cause a notice to be sent to the applicant requesting verification of proper address (i.e. copy of Michigan or other state voter card or copy current driver's license, or state ID card).

(3). Upon completion of the change of address form, the Tribal Clerk's Office shall distribute a Saginaw Chippewa voter's registration card to eligible members. The cards shall contain the following information:

(aa). Voter's membership number, correct name, address and voting district;

(ab). Information boldly stating that if the voter either moves or has a name change, that they will be required to re-register.

**SECTION 7. VOTING REQUIREMENTS.** In order to be qualified to vote, an individual must have registered to vote in person or registered to vote in absentee form for the district in which he/she resides at least 30 calendar days prior to the date of election.

(a). **DETERMINATION OF RESIDENCE.** As used in this Section, the term "resides" means the place where the voter has established and maintains his true, fixed and

permanent legal home as distinguished from the place or places a voter may live on a temporary or periodic basis. The residence of a voter shall be determined as set forth below in subsection (b).

- (b). **PROOF OF RESIDENCE.** There shall be a rebuttable presumption that an individual's legal residence for voting purposes is at the address shown on the computerized Tribal Roll based on the most recent annual report filed by such voter. The burden is on the individual to rebut this presumption by clear and convincing evidence in accordance with the following standards of proof:

- (1). A valid state driver's license;
- (2). A valid state identification card;
- (3). A valid tribal membership identification card; or
- (4). A valid tribal voter registration card.

#### **SECTION 8. CAUCUS COMMITTEE.**

- (a). **APPOINTMENT OF CAUCUS COMMITTEE.** A seven member Caucus Committee shall be appointed by the Tribal Council to assist the Tribal Clerk in conducting the General Elections as follows:

- (1). At the Regular Tribal Council Meeting in June of odd number years, the Tribal Council will cause the Tribal Secretary to post a Notice of Openings for Caucus Committee Candidates.
- (2). At the Regular Tribal Council Meeting held in July of odd number years, the Council will select seven Tribal members to act as the Caucus Committee.
- (3). After the Caucus Committee is selected, the Tribal Council shall elect a Chairperson to preside at the Caucus, two (2) clerks for each district, two (2) tellers and two alternates.
- (4). Individual candidates for office shall not serve on the Caucus Committee.
- (5). Caucus Committee will be sworn in by the Tribal Council prior to beginning their duties.
- (6). All Caucus Committee members will be subject to the same drug testing requirements that Tribal Council Candidates are subject to under SECTION (9)(f)(1-3) with Caucus Committee members submitting their drug test results at least 7 calendar days before they are scheduled to be sworn in by Tribal Council.
- (7). All Caucus Committee members shall be registered to vote.

- (8). The term of the Caucus Committee shall be not less than two years in any event, or until the next Caucus Committee is sworn in by Tribal Council.
- (b). CAUCUS COMMITTEE MEETINGS. The Caucus Committee shall meet with the Tribal Clerk no later than ninety (90) calendar days prior to the General Election and no later than thirty (30) calendar days prior to a Special Election . Thereafter the meetings will be held as required or ordered by the Tribal Clerk. The Caucus Committee shall conduct official business and make decisions by a majority vote with a quorum consisting of four members present.
- (c). REMOVAL AND RESIGNATION. The Council shall remove any Caucus Committee Member not performing his/her duties. The Council shall request the resignation of any Caucus Committee member who takes out nomination petition papers. In such cases an alternate will take that individual's place.
  - (1). RECUSAL. If the Tribal Clerk has signed the Removal Petition, the Tribal Clerk shall recuse himself/herself from reviewing that specific petition. The Tribal Deputy Clerk shall review any petition in place of the Tribal Clerk where the Clerk has properly recused himself/herself from the review. If both the Tribal Clerk and the Tribal Deputy Clerk have signed the petition they shall both recuse themselves and Tribal Council shall review any petition in place of the Tribal Clerk or Deputy Clerk.
- (d). DUTIES. The duties of the Caucus Committee shall be as follows:
  - (1). TRIBAL CLERK. Pursuant to Ordinance No. 13, the Tribal Clerk shall be the chief election officer of the Tribe, and the Clerk's office shall have supervisory control over all Caucus Committee members.
  - (2). CHAIRPERSON. The chairperson shall be responsible for the certification of the election, and reporting the election results.
  - (3). CLERKS. In conducting the election the Clerk shall make a record of each eligible voter presenting himself/herself at the polls. The Clerk shall require each voter to sign in and shall be responsible for verifying that the person is in fact the registered voter they claim to be.
  - (4). TELLER. The Teller shall act as secretary for the Caucus Committee. The Teller shall tally all votes in the presence of three (3) disinterested parties at the close of election day.
  - (5). ALTERNATES. Shall replace any Caucus Committee member who resigns.

**SECTION 9. QUALIFICATION OF CANDIDATES FOR TRIBAL COUNCIL.** In order to be elected as a member of the Saginaw Chippewa Tribal Council, an individual candidate must meet all of the following qualifications:

- (a). Must be a member of the Tribe on the day nomination petitions are taken out.
- (b). Must be 25 years of age or over before or on the date of the General Election or Special Election.
- (c). Must be a resident of the district for which he\she will run for at least one year immediately preceding the election, and continue to be a resident of that district for the duration of his/her term.
- (d). Must not be an employee of the Bureau of Indian Affairs.
- (e). Must never have been convicted of a felony.
- (f). Must complete a mandatory drug test and be drug free (negative result), in accordance with the following standards:
  - (1). The type of drug test which is to be administered shall be that of a urinalysis drug test conducted at a facility designated by the Tribal Clerk's office and approved by Tribal Council.
  - (2). In the event the drug test produces a positive result, the candidate must complete a second drug test. If the second drug test shows a positive result, the candidate will be disqualified from the election, unless he/she can show by clear and convincing evidence that the positive result was caused by something other than illicit drugs.
  - (3). In the event the drug test produces an adulterated result, the candidate must complete a second drug test. If the second drug test shows an adulterated result, the candidate shall be disqualified from the election process in the same manner as if a positive drug test result had been obtained.
  - (4). It is the obligation of the candidate to schedule his/her drug test in a timely manner. Drug test results must be submitted to the Tribal Clerk no later than one (1) business day prior to the approved date for the posting of the candidate list for the Primary Election. For Special Elections, drug test results must be submitted to the Tribal Clerk no later than one (1) business day prior to the approved date for the posting of the candidate list for the Special Election.

**SECTION 10. NOMINATING PETITIONS; FILING; NUMBER OF SIGNATURES AND FORMS.** Any member meeting the qualifications set out in Section 7 of this ordinance may take out nominating petitions from the District in which he\she resides. The nominating petition shall be submitted as follows:

- (a). By obtaining a form from the Tribal Clerk or the Election Caucus Clerk of the District in which the petitioner resides, after August 5<sup>th</sup> and prior to September 5<sup>th</sup> in the year of the election;
- (b). Filling in the appropriate blanks on the petition.

- (c). Obtain the signatures of at least ten registered voters from the District in which the candidate resides.
- (d). Sign and date the Petition.
- (e). Submit the Petition to the Tribal Clerk or the Election Caucus Clerk of the District on or before September 5<sup>th</sup> of the election year.
  - (1). A registered voter may only sign a nominating petition for a person seeking nomination in the voting district in which the voter is registered;
  - (2). A registered voter may sign an unlimited number of nominating petitions;
  - (3). Persons seeking nomination may sign their own nominating petition.

**SECTION 11. CANDIDATE LIST.** The Tribal Clerk will prepare a candidate's list to be posted no later than September 15<sup>th</sup> of the year of the General election.

**SECTION 12. CAMPAIGN FINANCE.** The financing of any Tribal Council candidacy or campaign in any election shall be conducted in accordance with the following:

- (a). Tribal Council candidates shall not receive or solicit services or financial contributions at any time from any non- Saginaw Chippewa Indian Tribal member, person, group, organization, association, business or similar entity for the funding or reimbursement of any campaign expense.
- (b). Shall not receive or solicit any funds from any person as a candidate for council for the candidates own personal use.
- (c). Receiving or soliciting such contributions or funds under this subsection shall result in the disqualification of the candidate from the election and shall be deemed a violation of election laws pursuant to Sec. 29 of this Ordinance.

**SECTION 13. PRIMARY ELECTIONS.**

- (a). ISABELLA DISTRICT. In the event that the Isabella District shall have more than twenty candidates for the office of Tribal Council, a primary election will be held on the second Tuesday of October to determine twenty eligible candidates for the General Election. The twenty eligible candidates shall be the twenty candidates who receive the highest number of votes in the Isabella District Primary election.
- (b). SAGANING DISTRICT. In the event that the Saganing District shall have more than two candidates for the office of Tribal Council, a primary election will be held on the second Tuesday of October to determine two eligible candidates for the General Election. The two eligible candidates shall be the two candidates who receive the highest number of votes in the Saganing District Primary election.
- (c). AT LARGE DISTRICT. In the event that the at Large District shall have more than two candidates for the office of Tribal Council, a primary election will be held on the second Tuesday of October to determine two eligible candidates for the

General Election. The two eligible candidates shall be the two candidates who receive the highest number of votes in the At Large District Primary election.

- (d) In the event of a tie between the twentieth placed candidates in the Isabella district or the second place candidates in the At Large or Saganing districts the Tribal Clerk shall list the tied candidates as candidates in the General Election. There shall be no Run-Off elections following the Primary election, and preceding the General Election under any circumstances.
- (e) In the event that no candidate chooses or qualifies to run for either the Saganing or At-Large district Council member positions the Tribal Council elected in the subsequent General Election shall be responsible for appointing a Council member to represent those unrepresented districts or district.

**SECTION 14. PREPARATION OF BALLOTS.** At or prior to the third Tuesday of October the Tribal Clerk shall cause to be prepared a list of candidates for each voter district.

**SECTION 15. POLLS.** The designated polling sites shall be as follows:

- (a). Isabella District-Tribal Center or other site designated by the Tribal Council.
- (b). Saganing District-The Indian Church or other site designated by the Tribal Council.
- (c). At Large District-By United States Mail or by a commercial mail carrier on mail-in ballots provided by the Caucus Committee. All at large votes must be received by the closing of the polls at 8:00 pm the night of the election to be counted. At Large members may also vote in person at the Isabella or Saganing polling places, but only if they relinquish their mail-in-ballot to the Tribal Clerk or a Caucus Committee member immediately before voting in person.

**SECTION 16. VOTING.**

- (a). GENERAL VOTING. All registered voters shall be entitled to vote by secret ballot on election day.
- (b). ABSENTEE VOTING. For purposes of this Ordinance, the term absentee voter shall be construed to mean any registered voter who:
  - (1). Cannot without another's assistance attend the polls on the day of the election.
  - (2). Due to the tenets of religion, cannot attend the polls on the day of the election.
  - (3). Is 55 years of age or more.
  - (4). Is absent or expects to be absent from the district in which he or she resides during the entire period the polls are open for voting on election day.

- (5). Is serving in the United States Military Service, or is attending college at a site other than the District in which he or she resides.
- (6). All absentee ballots must have arrived by the close of voting for the General Election in order to be counted, as set out in SECTION 17.

**SECTION 17. GENERAL ELECTION.** The General Election shall be held on the first Tuesday after the first Monday in the month of November, in odd number years, under the following conditions:

- (a). The polls shall open at 8:00 a.m. and shall remain open until 8:00 p.m.
- (b). When all else is in readiness for the opening of the polls, the Clerks shall open the ballot box in view of an impartial observer, turn it top down to show no ballots are in it, and lock the box and return the key(s) to the possession of the Caucus Chairperson until the polls are closed and until the time when ballot counting begins.
- (c). There shall be an impartial observer at each poll during the entire time the polls are open.
- (d). At 8:00 p.m. the Caucus Chairperson shall announce that the polls are closed.
- (e). Beginning at 8:15 p.m. the Caucus Clerks for the Isabella and the At-Large Districts shall open their respective ballot boxes in full view of an impartial observer. Thereafter the Caucus Clerk shall assist the Teller in tallying all votes. After the votes are tallied the Caucus Chairperson shall certify the votes and the Teller shall cause a list to be made in order of voting to be certified by the Caucus Committee Chairperson. Upon the arrival of the locked Saganing District ballot box the same procedure shall be used to count those ballots.

**SECTION 18. RUN-OFF ELECTIONS.** If it shall appear on the canvass of the votes polled at the General Election or a Special Election, that two or more persons have received an equal number of votes within the same district, and seating both or all tied Tribal Council candidates will result in more than the Constitutionally authorized number to be seated for that voting district; the Tribal Clerk shall announce that a tie has occurred, and shall thereafter schedule a run-off election. The run-off election shall be held for the purpose of breaking the tie in the affected district or districts. Said run-off election shall be scheduled for no later than the last Tuesday in November immediately following the election. After adequate notice of the run-off election is given to the registered voters of the affected district or districts, the Tribal Clerk shall conduct the run-off election pursuant to the procedures and provisions enumerated in this Ordinance.

**SECTION 19. PROHIBITION AGAINST INTERFERENCE WITH ELECTIONS.** On election day for any Council election, including any Primary, General, Special, Run-Off or Removal Election, a person, including any Tribal official, employee or representative, shall not:



- (a) on any land owned by the Tribe or held in trust for the Tribe, excluding property leased for residential use:
  - (i) post, display, or distribute, any material that directly or indirectly makes reference to an election, a candidate, or a ballot question (this subsection does not apply to official material that is required by law to be posted, displayed, or distributed in a polling place on election day);
  - (ii) solicit, persuade or endeavor to persuade, intimidate or threaten a person to vote for or against any particular candidate or for or against any ballot question that is being voted on at the election;
  - (iii) either directly or indirectly, for the person's own benefit or on behalf of any other person, receive, agree, or contract for valuable consideration for voting or agreeing to vote, or inducing or attempting to induce another to vote, or for refraining or agreeing to refrain, or inducing or attempting to induce another to refrain, from voting; or
  - (iv) either directly or indirectly, give, lend, or promise valuable consideration, to or for any person, as an inducement to influence the manner of voting by a person relative to a candidate or ballot question, or as a reward for refraining from voting; or
- (b) loiter within a building where a polling place is located or within 500 feet of any entrance to such building, including any parking areas adjacent or appurtenant to such building; or
- (c) directly or indirectly utter or addresses any threat or intimidation to an election official or other person authorized to administer or enforce election laws, or to conduct, oversee or monitor an election, or to assist in the carrying out of such duties, with the intent to induce such person to do any act not authorized by law or to refrain or delay in the performance of any duty imposed by law.

**SECTION 20. SAFEKEEPING OF BALLOTS.** Ballots and other election materials shall be kept by the Tribal Clerk under lock and key for at least ten (10) business days in the event of any protest or order for recount.

**SECTION 21. CONTESTING BALLOT COUNT.** Any member of the Saginaw Chippewa Indian Tribe voting in the election may contest the results of the election for the district in which he/she is a registered voter within seven (7) calendar days following the posting of the election results. A member contesting the results of the election shall prepare a written statement giving reasons for his contest and file the statement with the Caucus Committee at the Office of the Tribal Clerk. The Caucus Committee shall consider the request of the contesting member and may order a recount of ballots should it be deemed justifiable under the circumstances. The Caucus Committee shall decide whether a recount is justifiable based on the request of the contesting member not more than three (3) business days after receipt of the request by the

Caucus Committee. The Caucus Committee or Tribal Clerk shall send written notice to all Candidates in the election for which the recount was requested not more than one (1) business day after the decision by the Caucus Committee that a recount was or was not justifiable. The Tribal Clerk shall post a written notice at the Tribal Clerk's Office of a decision of the Caucus Committee to either conduct a recount or not conduct a recount. Such notice will be posted not more than one (1) business day after the decision of the Caucus Committee and shall include the date and time when the Caucus Committee will conduct its recount, or shall state the decision of the Caucus Committee that no recount was justified. All recounts of ballots shall be by hand and will be conducted by the Caucus Committee with no less than a quorum present during the recount of ballots.

Recounts shall be closed to the public but shall be open to all Candidates of the election that is the subject of the recount provided and to the extent that the Candidate(s) do not interfere, obstruct or participate in the recount process. There shall be an impartial observer present throughout the entire recount process. The Caucus Committee shall complete its recount of ballots not later than three (3) business days after its decision to conduct a recount. The Caucus Committee shall post the results of the recount at the Tribal Clerk's Office and shall send written notification to each Candidate of the election subject to the recount not later than one (1) business day after completion of the recount. If a recount results in a count that is different than the count previously certified by the Caucus Committee and would change the outcome of the election then the Caucus Committee shall issue a Revised Certification for the results of the election that is the subject of the recount and the prior Certification shall be deemed invalid. Any Candidate or member who voted in the election may challenge the Revised Certification for their district by filing an election protest with the Election Appeals Court no later than three (3) business days after the issuance of the Revised Certification. Election protests filed under this provision shall be made in compliance with the procedures of Section 22 of this Ordinance.

## **SECTION 22. ELECTION PROTEST.**

- (a). **ELECTION APPEALS COURT.** The Election Appeals Court is a separate court system created by the Tribal Council pursuant to its authority under Article VI, Section 1(t) of the 1986 Tribal Constitution.
- (b). **ELECTION APPEALS JUDGE.** The Tribal Council shall appoint an Election Judge and an Alternate Election Judge no later than thirty (30) calendar days following the posting of the Election Announcement for either the General or a Special Election. Such appointments shall be deemed effective for all subsequent elections and appeals thereto unless otherwise provided by Tribal Council or until resignation by the Election Judge or Alternate Election Judge. If the Election Appeals Judge becomes unable or unwilling to serve, the Alternate Election Appeals Judge shall serve. The Election Appeals Judge and Alternate Election Appeals Judge shall have a thorough understanding of both this Ordinance and applicable Tribal and federal laws. The qualifications and compensation of the Election Appeals Judge and Alternate Election Appeals Judge shall be left to the discretion of the Tribal Council. The Election

Appeals Judge shall perform the duties described in this Ordinance for the election that is the subject of the Announcement. Persons holding office in the Tribal Government or Tribal enterprises, candidates for such offices running in the election which is the subject of the Election Announcement, and immediate family members of such officeholders or candidates shall be ineligible to serve as an Election Appeals Judge.

- (c). **ELECTION PROTESTS.** General Elections or Special Elections may be protested only by candidates for office or voters in the election being protested and only for the voting district in which such voter or candidate is registered. Unless otherwise provided by this subsection, a candidate or voter protesting an election shall prepare a written Notice of Protest stating the specific reasons for the protest and shall file the Notice of Protest with the Office of the Tribal Clerk by 5:00 p.m. of the third business day following the day of the election. If the protest is made to a Revised Certificate of Election issued pursuant to Section 21 then such protest must be filed with the Office of Tribal Clerk by 5:00pm of the third business day following the issuance of the Revised Certificate of Election. Except as provided in subsection (d) hereunder, a hearing before the Election Appeals Judge regarding the Protest shall be held within five business days following the last day an election Protest may be filed. The hearing shall be open to all members of the Tribe.
- (d). **PROCEDURES FOR ELECTION PROTEST HEARINGS.** The following procedures shall apply to Election Protest hearings:
  - (1). The hearing shall be styled "*In re. the Election held on [DATE].*" The Election Caucus Committee shall be considered an interested and necessary party to the proceeding and may be assisted by legal counsel for the Tribe. The Protester may be represented by an advocate at the hearing, provided that the Protester notifies the Election Appeals Judge in writing at least two business days prior to the date of the hearing of the name, address and telephone number of such advocate.
  - (2). The right of the Protester to obtain documents or other evidence shall be determined in the sole discretion of the Election Appeals Judge following a showing by the Protester that such documents support the reasons for the Protest as stated in the Notice of Protest and that the presentation of such evidence to the Election Appeals Judge will materially assist in the rendering of a decision on the Protest. The Election Appeals Judge shall consider appropriate restrictions and limit discovery where confidential or privileged information is involved.
  - (3). The Election Appeals Judge may order the submission of evidence and further explanation of the reasons supporting the protest as the Election Appeals Judge deems necessary or desirable.

- (4). The Election Appeals Judge shall maintain order and decorum during the hearing and shall have authority to eject from the hearing any person that shows disrespect for the proceeding, or the Election Appeals Judge.
  - (5). No formal rules of evidence shall apply to the proceeding; however, the Election Appeals Judge shall have authority to restrict the scope of testimony or the introduction of evidence which is irrelevant or excessively cumulative.
  - (6). The Protester shall proceed first in any hearing to present evidence and arguments. To the extent that the Election Caucus Committee deems necessary or helpful, the Committee shall respond to the evidence and arguments presented by the Protester by presenting evidence and calling witnesses. All witnesses shall be sworn in prior to testifying.
  - (7). The Tribal Clerk shall maintain all records of proceedings and hearings on Notices of Protest for a period ten years from the date a final decision is rendered.
- (e). STANDARDS REGARDING NOTICES OF PROTEST. All Notices of Protest shall be subject to a rebuttable presumption that the election was conducted fairly and honestly in accordance with applicable law. The Protester bears the full burden of proof to rebut the presumption by clear and convincing evidence that the alleged irregularities actually and materially affected the outcome of the election. Substantial non-compliance with mandatory provisions of election laws which would not actually and materially affect the outcome of the election shall be insufficient to invalidate an election in the absence of evidence of fraud or coercion. The allowable claims supporting a Notice of Protest shall be limited to the following:
- (1). the ineligibility of a candidate or a voter based on age, residency, or membership status, provided that any Protest based on claims concerning a candidate's or a voter's ineligibility for membership with the Tribe shall be disallowed and rejected without a hearing;
  - (2). fraud or coercion in the election process; or
  - (3). a violation of the election procedures set forth in this Ordinance.
- (f). REMEDIES. If the Protester meets the burden of proof by rebutting the presumption in favor of the validity of the election and its results by clear and convincing evidence, the Election Appeals Judge shall apply the following remedies in numerical order:
- (1). First, the Election Appeals Judge shall make every reasonable effort to apply remedies that would avoid the invalidation of the election result certified by the Election Caucus Committee or the election result provided by a Revised Certification of Election issued by the Caucus Committee under section 21 of this Ordinance.

- (2). Second, the Election Appeals Judge may declare the outcome of the election if it can be determined with reasonable certainty what the outcome should have been.
- (3). Third, the Election Appeals Judge may invalidate the election only if no other remedy would eliminate the effects of irregularities on the election , provided however that invalidation of the election shall not be a remedy if the protest is made to a Revised Certification of Election issued under Section 21 of this Ordinance.
- (g). **FINAL DECISION.** The Election Appeals Judge shall make a final decision on the Protest by 3:00 p.m. of the first business day following the date of the hearing. Such decision shall be in writing and shall include findings of fact and conclusions of law. The Election Appeals Judge shall promptly notify the Protester of the decision. The decision of the Election Appeals Judge shall may be final for the Tribe , and shall not be subject to appeal to any other court. This Section shall not be construed to be either a waiver of the Tribe's sovereign immunity from suit or consent to the jurisdiction of the Tribal Court over decisions of the Election Appeals Judge.

**SECTION 23. INSTALLATION OF NEW COUNCIL.** The Tribal Council elected shall be sworn in at the regular December meeting and shall assume office thereafter.

**SECTION 24. ELECTION OF EXECUTIVE COUNCIL.** Upon being sworn in, the Tribal Council shall then proceed to elect an Executive Council made up of the Chief, Sub-Chief, Tribal Secretary, and Tribal Treasurer. This election shall proceed as follows:

- (a). The Chief Judge or the Associate Judge of the Community Court shall call for nominations for Tribal Chief. When nominations are closed, the Chief Judge or Associate Judge shall call for a vote by secret ballot.
- (b). Upon the election of the Chief, the Chief will conduct nominations and voting for the Sub-Chief, Tribal Secretary and Tribal Treasurer. The Chief shall vote only in the event of a tie.

**SECTION 25. COUNCIL OFFICERS.** After the Executive Council has been elected, the Tribal Council shall elect the Sergeant-at-Arms and the Chaplain of the Council by the same method of nomination and secret ballot.

**SECTION 26. OATH OF OFFICE.** Upon completion of election, the new officers and Executive Council shall take the special oath of office and be sworn in.

**SECTION 27. COMMISSION APPOINTMENTS.** After the Tribal Council has elected the Executive Council and Council Officers, the Tribal Council shall then proceed to appoint members or order posting for appointments for all Tribal commissions that exist.

**SECTION 28. REPEAL OF CONFLICTING ORDINANCES.** All other ordinances, amendments and provisions which may be inconsistent or in conflict with this Ordinance are hereby repealed.

**SECTION 29. VIOLATION OF ELECTION LAWS.** In the event that any candidate for office should be in violation of this Ordinance, in addition to the penalties set forth below, that person may be disqualified from holding the office of Tribal Council.

- (a). **CRIMINAL VIOLATIONS.** Any Indian who willfully violates or willfully fails to comply with any provision of this Ordinance shall be guilty of a crime and shall be subject to a maximum fine of \$5,000 or 1 year imprisonment, or both. Each day during which such violation or failure to comply continues shall constitute a separate violation of this Code.
- (b). **CIVIL VIOLATIONS.** Any person who willfully violates or willfully or recklessly fails to comply with any provision of this Code shall be guilty of a civil infraction and be liable for a civil fine not to exceed \$10,000 for each such violation or failure to comply. The amount of any such civil fine may be recovered in a civil action in the Tribal Court. All civil fines accruing under this Code shall be cumulative and a suit for the recovery of one fine shall not bar or affect the recovery of any other fine, judgment, penalty, forfeiture, or damages, nor bar the power of the Tribal Court to punish for contempt, nor bar any subsequent criminal prosecution.

**SECTION 30. SEVERABILITY CLAUSE.** If any section, subsection, paragraph sentence, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

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### Legislative History

Enacted August 7, 1939, Resolution No. \_\_\_\_\_ (app'd BIA \_\_\_\_\_); amended June 1, 1987, Resolution No. \_\_\_\_\_; amended May 15, 1989, Resolution No. \_\_\_\_\_; amended July 23, 1991, Res. No. \_\_\_\_\_; amended January 16, 1992, Resolution No. 92-019; amended March 22, 1994, by oral motion; amended September 11, 1997, Resolution No. 97-089; amended January 13, 1999, by oral motion; amended March 11, 1999, by oral motion; amended July 13, 1999, Res. No. 99-101; amended July 16, 1999, Resolution No. 99-104; amended August 13, 1999, Resolution No. 99-208; amended September 2, 1999, Resolution No. 99-225; amended October 26, 1999, Resolution No. 00-016; Section 3a and Section 9f amended July 27, 2005 by Resolution No. 05-162; Section 3b amended July 27, 2005 by Resolution No. 05-192. Section 3b and 9f amended August 3, 2005 by Resolution No. 05-193. Section 9(f)(1) amended April 26, 2006 by Resolution No. 06-045; comprehensive revision on August 8, 2007 by Resolution No. 07-121; Section 10(a) and (e) and Section 11 amended on June 18, 2008 by Resolution 08-113; Section 21 and 22 amended on November 10, 2009 by Resolution 10-016.