

TRIBAL CODE

CHAPTER 12:

REFERENDUM ORDINANCE

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HISTORY NOTE:

Current Ordinance:

Adopted August 11, 1992, Tribal Resolution No. 8-11-92A.

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

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CHAPTER 12:

REFERENDUM ORDINANCE

12.101 Purpose and Authority.

The purpose of this Chapter is to implement the right of referendum as provided for and in accordance with Article IX of the Tribal Constitution. This ordinance is enacted pursuant to Article V, Section 6; Article VII, Section 1 (g) and (n); and Article IX of the Tribal Constitution.

12.102 Findings and Declarations.

The Board of Directors finds and declares that:

(1) Article IX of the Tribal Constitution provides for a referendum on any Tribal ordinance or resolution on submission by the Board of Directors or upon petition by eligible voters after adoption by the board.

(2) Article IX is not self-executing, but specifically provides that such referendums be "conducted pursuant to Tribal ordinance." It is therefore necessary for the Board of Directors to enact an ordinance providing orderly procedures for the conduct of referendums in order to implement the constitutional provision.

(3) Orderly procedures, including a time limit for petition by eligible voters, will promote the transaction of Tribal governmental and commercial business. The Tribe conducts a large amount of its commercial and governmental activities by resolution, and the absence of procedures and a time limit would jeopardize Tribal contractual arrangements, create uncertainty in the conduct of Tribal commercial and governmental business, impair the ability of the Tribe to serve its members, and subject the Tribe to potential liability for breach or impairment of contract.

(4) The procedures set forth in this Chapter protect the right of referendum and are reasonable and necessary to protect Tribal commercial and governmental operations as well.

12.103 Relation to Election Ordinance.

The provisions of this Chapter shall govern the conduct of referendum elections. Referendum elections shall also be governed by the provisions of the Election Ordinance, Tribal Code Chapter 10, to the extent expressly provided in this Chapter and to the extent that the provisions of the Election Ordinance are not inconsistent with the provisions of this Chapter.

12.104 Definitions.

As used in this Chapter:

(1) "Board of Directors" or "Board" means the board of directors of the Tribe.

(2) "Election unit" or "unit" means one of the five Tribal election units employed for the immediately preceding Tribal general election in accordance with Article V, Section 1 of the Tribal Constitution and the Election Ordinance, Tribal Code Chapter 10.

(3) "Eligible voter" or "those entitled to vote" means any enrolled member of the Tribe eighteen years of age or older who meets either of the following criteria:

(a) Is shown upon the Tribal membership roll to be a resident of an election unit; or

(b) Registered as a voter residing outside of any election unit for the immediately preceding Tribal general election pursuant to Article V, Section 5 of the Tribal Constitution and the Election Ordinance, Tribal Code Chapter 10.

(4) "Secretary" means the Secretary of the Tribe and includes staff acting under the direction of the Secretary.

(5) "Tribe" means the Sault Ste. Marie Tribe of Chippewa Indians.

12.105 Submission by Board of Directors.

(1) The Board of Directors may submit any proposed ordinance or resolution to a popular referendum by resolution adopted by an affirmative vote of a majority of the Board. The resolution shall establish the date of the referendum election and the wording of the referendum question on the ballot.

(2) The date for a referendum election conducted pursuant to this section need not be set within sixty (60) days of the adoption of the Board resolution setting the referendum and may be conducted at the time of a general election. In no event, however, shall the time period between the mailing of ballots and the deadline for the return of ballots be less than twenty (20) days.

12.106 Submission by Petition of Eligible Voters.

(1) An ordinance or resolution enacted by the Board of Directors shall be submitted to a popular referendum upon petition of at least one hundred (100) eligible voters of the Tribe presented to the Board in accordance with this section.

(2) The petition submitted shall be in substantially the following form:

"WE, THE UNDERSIGNED ELIGIBLE VOTERS OF THE TRIBE, REQUEST A REFERENDUM ON [NAME OF ORDINANCE AND NUMBER OF RESOLUTION ENACTING ORDINANCE, OR NUMBER OF RESOLUTION] ENACTED BY THE BOARD OF DIRECTORS ON [DATE OF ENACTMENT]."

The petition shall bear the name and address of each signatory in legible form. The name and address of the person circulating the petition shall also be included.

(3) All petitions must be received at the main administrative office of the Tribe, 523 Ashmun Street, Sault Ste. Marie, Michigan, by no later than the close of business of the next business day following the expiration of thirty (30) calendar days from the date of enactment of the ordinance or resolution of the Board of Directors which is the subject of the petition. This provision is mandatory and jurisdictional. Each petition submitted must contain the original signatures; no copies, duplications or facsimiles may be submitted.

(4) As soon as practicable after receipt of a petition, the Secretary shall consult with the Enrollment Department and review Tribal voter registration records to determine whether the petition contains the requisite number of signatures. The Secretary shall report to the Board of Directors on the matter at its next regular meeting or a special meeting called for that purpose.

(5) The Board of Directors shall determine whether the petition is valid not later than thirty (30) days after receipt of the petition. If the petition is determined to be valid, the Board of Directors shall establish a deadline for the mailing of ballots to eligible voters of not less than forty (40) days after receipt of the petition and shall provide for not less than twenty (20) days thereafter until the deadline for receipt of ballots. In no event shall the deadline for receipt of ballots exceed sixty (60) days from the receipt of the petition.

(6) The referendum question on the ballot shall be worded substantially as follows:

"DO YOU APPROVE OR DISAPPROVED OF [NAME OF ORDINANCE OR NUMBER OF RESOLUTION]?"

_____ APPROVE

_____ DISAPPROVE"

(7) The Board of Directors may, in its sole discretion, suspend the ordinance or resolution which is the subject of the referendum petition pending the referendum election. If the Board does not act affirmatively to suspend such ordinance or resolution, it shall continue in effect during the pendency of the referendum election.

12.107 Conduct of Referendum Election.

(1) The referendum election shall be conducted by the Tribal Election Board by first class mail in accordance with the procedures established in the Election Ordinance, Tribal Code Chapter 10.

(2) The Tribal Election Board may develop a short, objective explanatory statement of a referendum question and may place such statement directly on the ballot or as a separate insert accompanying the ballot.

12.108 Election Contest.

Any eligible voter may contest the results of a referendum election in the manner and within the time limits for election contests set forth in the Election Ordinance, Tribal Code Chapter 10.

12.109 Referendum Result.

(1) In the event that less than thirty percent (30%) of the eligible voters cast ballots in the referendum election, such election shall be null and void and of no consequence or effect. The result of any referendum election in which at least thirty percent (30%) of the eligible voters cast ballots shall be valid and binding and conclusive upon the Tribe.

(2) The effective date of the result of a valid referendum election shall be upon the expiration of the period for filing an election contest, if no such contest is filed or, if such contest is filed, upon the disposition of the election contest by the Tribal Election Board.

(3) Any ordinance or resolution enacted by the Board of Directors which shall be disapproved at a valid referendum election by a majority of eligible voters voting in such referendum shall be repealed upon the effective date of the result of the referendum election.

(4) Any proposed ordinance or resolution submitted for referendum by the Board of Directors pursuant to Section 12.105 which shall be approved at a valid referendum election by a majority of eligible voters voting in such referendum shall be enacted upon the effective date of the referendum election or on the date provided in such ordinance or resolution, whichever is later.

12.110 Effective Date.

This Chapter shall take effect immediately upon its enactment by resolution of the Board of Directors. The provisions of this Chapter shall apply to a referendum by petition of eligible voters on this Chapter and the resolution enacting this Chapter.