

KEWEENAW BAY INDIAN COMMUNITY

Councilmember Toni J. Minton introduced the following ordinance.

ORDINANCE 2008 – 04

An ordinance of the Keweenaw Bay Indian Community adopted under the authority of Article IV, Section 3 of the Constitution and By-laws of the Keweenaw Bay Indian Community to establish procedures for fair elections, to ensure the secrecy and sanctity of the ballot and to repeal a prior ordinance.

TITLE 22

ELECTION ORDINANCE

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SECTION ONE
DEFINITIONS

§22.101 DEFINITIONS.

As used in this Ordinance, the following words and phrases shall have the following meanings:

1. “Absentee Voter” means a Registered Voter who meets the following qualifications:
 - A. The Registered Voter is physically incapacitated and unable to go to the polls on Election Day; or
 - B. The Registered Voter will not be on the Reservation on Election Day due to business obligations, a full-time student attending college, vacation, or medical condition.
2. “Ballot Proposal” means an Initiative Proposal, Referendum Proposal or a Tribal Council Initiative Proposal.
3. “Baraga District” means that portion of the reservation lying westerly of Keweenaw Bay, Baraga County, Michigan.
4. “Candidate” means a Member seeking nomination to an Office in a Primary Election.
5. “Constitution” means the Constitution and By-laws of the Keweenaw Bay Indian Community.
6. “District” means either the Baraga District or the L’Anse District.
7. “Election Notice” means the official notice that an election will be held on a specific date established by the Election Board.
8. “Election Board Alternate” means a Member of the Community who is appointed by the Tribal Council as an alternate for a member of the Election Board.
9. “Election Board Worker” is a Member, who is not a member of the immediate family of a Candidate, and who is appointed by the Election Board to provide services to the Election Board in connection with a designated election.
10. “Eligible Voter” means any Member who will be at least 18 years of age on Election Day and who maintains continuous residence on the reservation for 30 days immediately preceding the election.
11. “Eligible Signer(s)” means any Member who will be at least 18 years of age on Election Day and who maintains continuous residence on the reservation for 30 days immediately preceding

signing a petition for Ballot Proposal or a petition to amend the Constitution and By-laws of the Community.

12. “General Election” means the election of Tribal Council Members which shall be held on the 3rd Saturday prior to the expiration of the Office of the Members of the Tribal Council.

13. “Immediate Family” means spouse or an individual whom they are living in an unmarried spousal relationship with, son, mother, father, sister, or brother.

14. “Initiative Proposal” means a ballot proposal to enact a law.

15. “Judicial Office” means the Office of Judge on the Tribal Court.

16. “L’Anse District” means that portion of the reservation lying easterly of Keweenaw Bay, Baraga County, Michigan.

17. “Majority” means the most voters cast for a particular office, measure, etc.

18. “Member” means a person who is enrolled as a Member of the Keweenaw Bay Indian Community.

19. “Nominee” means a Candidate who is nominated as a result of the Primary Election for an Office at the General Election.

20. “Office” means a position on the Tribal Council and/or a position on the Tribal Court.

21. “Petition” shall mean a Petition for a Ballot Proposal.

22. “Petitioner” means an Eligible Voter who submits a Ballot Proposal to the Election Board.

23. “Poll Official” means a member of the Election Board or Election Board Alternate who is appointed by the Chairman of the Election Board to serve at the polls on Election Day.

24. “Polling Place” means a location designated by the Election Board where balloting takes place.

25. “Primary Election” means an intra-district election enabling Registered Voters to select Nominees to run for Office, which shall be held six Saturdays prior to the General Election.

26. “Referendum Proposal” means a proposal to repeal a law enacted by the Tribal Council.

27. “Register of Voters” means the official Election Board list of Registered Voters.

28. “Registered Voter” means an Eligible Voter who has registered to vote as required by the provisions of this Title.

29. “Registrar” means the Tribal Enrollment Director designated by the Election Board to act as Registrar for the purpose of this Title.

30. “Reside/Residency” means the address where a Member lives and which is the Member’s true, fixed home and principle place of living, and to which a Member has the intention of returning whenever temporarily absent; and therefore requires two (2) elements:

- A. Physical address in a unit; and
- B. The intent to make that unit home.

For the purposes of this Election Ordinance, a Member has only one Residency, regardless of the number of houses maintained by the Member. In determining which of a Member’s house is their true residence, attention must be given to the Member’s conduct by the Election Board.

31. “Spoiled Ballot” means an incorrectly marked ballot.

32. “Tribal Council Initiative Proposal” means an Initiative Proposal adopted by Resolution of the Tribal Council.

33. “Tribal Police” means a Law Enforcement Officer of the Community who is not a member of the immediate family of a Candidate or Nominee assigned to Election detail.

34. “Voter” means a Registered Voter who has been issued a ballot by a Polling Official.

SECTION TWO
ELECTION BOARD

§22.201 Establishment of the Election Board; Selection of the Chairman; Responsibilities of the Election Board.

1. There is hereby established an Election Board which shall be composed of seven (7) members, who shall be Members, and each of which shall be appointed for a three (3) year term by the Tribal Council provided, however, the initial members of the Election Board shall be appointed to service staggered terms as follows:

- A. Two (2) members shall be appointed to serve a term of one (1) year:
- B. Two (2) members shall be appointed to serve a term of two (2) years;
- C. Three (3) members shall be appointed to serve a term of three (3) years.

Thereafter, each member shall serve a term of three (3) years, except that upon retirement or removal of a member from the Election Board, the Member appointed by the Tribal Council to fill the vacancy shall serve out the remainder of the term of the Member who retired or was removed.

2. The Election Board shall annually select a Chairperson, from its own membership.
3. The Board shall be responsible for screening Candidates, calling and conducting elections, settling any election disputes, and submitting election results to the Tribal Council for certification of the election results.
4. The Board shall establish its own rules of procedure which shall be approved by the Tribal Council.
5. Members of the Board shall receive fair payment to be set by the Tribal Council for performance of their duties.
6. The Board may levy and collect filing fees from Candidates and Nominees to help defray any costs of recounts or such actions as an election protest may require. Such fees may be refunded if the aggrieved party's protest is sustained.
7. At least three Poll Officials shall be available at the polls on Election Day.
8. The Election Board shall have custody and responsibility for records and materials relating to each and every election, except as otherwise specifically provided for by this Title.
9. The Election Board shall have overall responsibility for the conduct of all elections. These duties shall include, but not be limited to, the following:
 - A. Publication of Election Notice. The Election Board shall publish an Election Notice for each election at least 30 days before the date of any election. All Election Notices shall contain the date, time, place and purpose of each election and shall be posted at the Polling Places, and at various other public places throughout the area served by the established District Polling Place. Each local newspaper that provides useful coverage of the Keweenaw Bay Indian Community shall be furnished a copy of the Election Notice for carrying as a public service announcement.
 - B. Election Supplies. At the direction of the Chairperson, the Election Board shall arrange for all election supplies including the printing of all ballots and for the printing or other reproduction of tally lists or lists of Registered Voters, and shall arrange for the delivery of the same to the Polling Officials before the opening of the polls.
 - C. Ruling on Qualifications of Voters. The Election Board shall have the final authority to determine any claim as to the right of any person, listed or not listed on the "Register of Voters" to vote as prescribed in this Title.

D. Posting Lists of Qualified Candidates. Upon completion of review and determination of candidacy qualifications, it shall be the duty of the Election Board to post in public places in each District, the names of all the Candidates who have met qualifications and have been approved for the office of which they have filed for election. The list of approved Candidates shall be posted at least ten (10) days prior to the pending election.

10. Internal Procedure of Election Board.

A. Quorum: A quorum of the Election Board shall consist of four Members.

B. Meetings: Meetings may be called at any time by the Chairperson upon proper notification to the members of the Election Board of the date and time of the meeting or by the written request of four (4) members of the Election Board delivered to the Chairperson at least 7 days before the proposed meeting date and upon receipt of such request the Chairperson shall give proper notification to the members of the Election Board of the date and time of the meeting.

C. Proper Notification: Proper notification shall be at least four (4) days preceding the date of the meeting by mail or two (2) days prior by telephone. The Chairperson may waive the notification period as he or she may, from time to time, determine necessary.

11. Election Board Alternates.

Election Board Alternates. If any member of the immediate family of an Election Board Member is an approved Candidate or Nominee for Office, the Election Board Member shall be replaced during the election by an Election Board Alternate appointed by the Tribal Council until the election is concluded. Election Board Alternates shall be chosen by the Tribal Council from Members of the Community. Election Board Alternates shall meet the same requirements as regular Board Members in order to be eligible to serve on the Election Board.

SECTION THREE

VOTER QUALIFICATIONS, REGISTRATION AND VOTING LIST

§22.301 Duly Registered Voter.

Any Member of the Keweenaw Bay Indian Community who will be at least eighteen (18) years of age on Election Day shall be entitled to vote at any election, provided the Member has been registered to vote by the Registrar.

§22.302 Registrar.

The Registrar shall register Eligible Voters for registration as Registered Voters and shall serve as Registrar for Absentee Voters.

§22.303 Registration Record.

The Registrar shall maintain the Official Registry of Registered Voters of the Members of the Community which shall be contained in binders designated as “Register of Voters” arranged alphabetically and designed to record all necessary information. A duplicate set of current registration records shall be maintained by the Chairperson of the Election Board as a “Central File”.

§22.304 How to Register as a Voter.

An Eligible Voter may register with the Registrar to vote either in person or by mail, by completing the voter registration forms approved by the Election Board. The voter registration forms may be obtained from the Enrollment Office.

§22.305 Registration Period.

An Eligible Voter may register to vote at any time up to the closing of voter registration, which is 30 days prior to any election. Voter registration shall reopen on the day following every election.

§22.306 Re-register

If a Registered Voter has moved outside either the Baraga District or the L’Anse District, to the other District, the Member, if an Eligible Voter, must re-register during any registration period to become a Registered Voter. If a Registered Voter moves outside of the Reservation the Members registration is automatically cancelled. Upon moving back to the Reservation, a Member, if an Eligible Voter, must re-register to vote at the next election.

§22.307 Preparation and Posting List of Registered Voters

Upon the close of voter registration, the Registrar shall prepare a list of all Registered Voters. At least ten (10) days prior to any election, the Registrar shall post the list of Registered Voters at the Tribal Center. A current voting list of Registered Voters shall be furnished by the Registrar to the Tribal Council before each election.

SECTION FOUR
ABSENTEE VOTING

§22.401 Obtaining an Absentee Ballot.

1. Registered Voters who are eligible to vote by Absentee Ballot must request an Absentee Ballot, in writing as required by this Title. A Registered Voter may submit a request for an Absentee Ballot by submitting a written request to the Election Board stating Registered Voter's qualification for an Absentee Ballot. All requests for Absentee Ballots shall be submitted to the Election Board by the deadline date established therefore by the Election Board. The deadline date shall be no later than twenty (20) days preceding the election and shall be published in a newspaper of general circulation in the Community and posted at public places in the Community. In medical emergencies a Registered Voter may request, and the Election Board may grant, a waiver of the requirement that the request for an Absentee Ballot be submitted to the Election Board by the deadline date. After the deadline date, the Election Board shall review all applications for Absentee Ballots to determine if the applications meet the requirements for an Absentee Voter established by this Title. The Election Board shall notify any Registered Voter who requests an Absentee Ballot if the Registered Voter does not meet the requirements for issuing an Absentee Ballot.

§22.402 Mailing of Absentee Ballots.

1. The Election Board shall mail an Absentee Ballot Package by U.S. Mail to all Registered Voters who are found by the Election Board to be qualified to be an Absentee Voter. Contents of Absentee Ballot Package shall include:

- A. Absentee Ballot;
- B. Inner Envelope marked "Absentee Ballot";

- C. Plain outer Envelope;
- D. Pre-paid/Pre-Addressed Priority Envelope; and
- E. Instructions for Completing Absentee Ballot.

2. The Election Board will receive “Delivery Confirmation” from the U.S. Post Office for all Absentee Ballots mailed. The Absentee Voter shall complete the Absentee Ballot in the manner described in the Instructions for Completing Absentee Ballot which will be included in the Absentee Ballot Package. The Absentee Voter shall mail the Pre Paid/Pre Addressed Priority Envelope containing the Absentee Ballot to the Election Board at the Post Office Box identified by the Election Board on the Priority Envelope. The Tribal Police will hold the keys for this Post Office Box.
3. If the request for the Absentee Ballot was for medical reasons, an Election Worker, together with a Tribal Police Officer, shall deliver the Absentee Ballot Package to the Voter’s home or the hospital, as the circumstances warrant.
4. In medical emergencies, where the Registered Voter could not obtain an Absentee Ballot within twenty (20) days prior to an election, the Absentee Ballot shall be made available to the Registered Voter by two (2) Election Board members in the presence of a Tribal Police Officer. The Registered Voter must sign an acknowledgement identifying the nature of the medical emergency and that the Absentee Voter has received the Absentee Ballot. After completing the Absentee Ballot, the Registered Voter shall immediately place the sealed outer envelope containing the Absentee Ballot into the locked box provided by the Election Worker for Absentee Ballots.
5. Only one ballot will be issued to each Voter for the election in process.
6. Registered Voters requesting an Absentee Ballot will not be permitted to vote at the polls.

§22.403 Homebound and Marquette Trust Land Voters Execution and Return of Absentee Ballots.

1. Registered Voters who are Elders and/or physically handicapped may submit a request to the Election Board to be placed on the Homebound Voter List.
2. All Registered Voters who are placed on the Homebound Voter List will automatically be brought an Absentee Ballot Package by an Election Worker before each election, unless the

Election Board is notified by the Registered Voter, in writing, to remove the Registered Voter's name from the Homebound Voter List.

3. Registered Voters living on the Marquette Trust Land will receive the Absentee Ballot Package at the Community Center, Marquette Trust Land, from an Election Worker on a date and time scheduled therefore by the Election Board.

4. After completing the Absentee Ballot, the Marquette Trust Land Voter and the Homebound Voter shall immediately place the sealed outer envelope containing the Absentee Ballot into the locked box provided by the Election Worker for Absentee Ballots.

SECTION FIVE

ELECTIONS

§22.501 Types of Elections

The following types of elections shall be conducted by the Election Board as provided for in this Title.

§22.502 Primary Election

1. The purpose of a Primary Election is to determine a District's Nominees for Tribal Council and the Tribal Court as may be required. The Primary Election shall reduce the number of Candidates for any Office so that the number of Nominees from each District for each Office shall be no more than twice the number of Offices to be filled in the General Election. Only Registered Voters residing in Baraga District shall vote in Baraga District's Primary Election and only Registered Voters residing in the L'Anse District shall vote in the L'Anse District's Primary Election. The Nominees elected at the Primary Election will be placed on the ballot of the General Election.

2. Candidates seeking nominations to the General Election shall submit letters of intent to run for Office to the Secretary of the Tribal Council in order to have their names placed on the ballot for the Primary Election.

3. In the event that the number of eligible Candidates in the District, as determined by the Election Board, for any Office exceeds twice the number of Offices to be filled, the Election Committee shall schedule a Primary Election for those Offices in that District. In the event that

the number of Candidates in a District for any Office does not exceed twice the number of Offices to be filled, a Primary Election shall not be held for those Offices.

4. If the Election Board schedules a Primary Election in a District, the Primary Election shall be held in the District, as follows:

A. Tribal Council. In the event a Primary Election is required in a District for Tribal Council positions, the number of Candidates in the Primary Election for a position on the Tribal Council, which is equal to twice the number of positions on the Tribal Council to be filled in the General Election, who receive the greatest number of votes in the Primary Election, shall be named as the Nominees from the District for those positions on Tribal Council on the General Election ballot.

B. Judicial Offices. In the event a Primary Election is required for Judicial Office there will be a combined Primary Election for the Baraga District and the L'Anse District and, the number of Candidates for the Judicial Office in the Primary Election, which is equal to twice the number of positions on the Tribal Court to be filled in the General Election, who receive the greatest number of votes, shall be named as the Nominees from the District for those positions on the Tribal Court on the General Election ballot.

5. If a Primary Election is scheduled to be held in a District, and the number of Candidates falls below twice the number of elected positions to be filled at General Election then write in votes will be permitted in the Primary Election only. In such a case, the Election Board shall allow space for one or more write in votes on the ballots for the Primary Election. A Voter may cast a vote for a write in Candidate by writing the name of a Member who has the qualifications for that office.

§22.503 Primary Election: Candidate Filing Procedures; Candidate Qualifications; Determination of Qualifications.

1. Candidates Filing Procedure. At least thirty (30) days prior to the Primary Election, Candidates for positions on the Tribal Council shall file a letter of intent with the Secretary of the Tribal Council, no later than 4:00 p.m., on the thirtieth (30th) day prior to the Primary Election, which shall describe the Candidate's qualifications for that position.

2. Qualifications for Tribal Council Candidates. Candidates for a position of the Tribal Council must have the qualifications for that position, as prescribed by the Constitution, Article IV, Section 7, as follows:

- A. An enrolled Member of the Keweenaw Bay Indian Community;
- B. At least twenty-five (25) years of age by the date of the General Election;
- C. At least one-fourth (1/4) degree Indian blood; and
- D. Physically resided within the District from which elected for at least one year immediately preceding the Primary Election;

3. Qualifications of Candidates for Judicial Office. Candidates for a position of Judge on the Tribal Court must have the following qualifications for that position:

- A. Candidates must be an enrolled Member of the Keweenaw Bay Indian Community.
- B. Candidates shall meet the qualifications for Judicial Service set forth in §1.110 of the Tribal Code; and
- C. Candidates must complete a Criminal Security Background form.

4. Procedure for Review and Determination of Candidacy Qualifications.

- A. Within twenty-nine (29) days prior to the Primary Election, the Tribal Council Secretary shall forward all letters of intent to the Chairperson of the Election Board.
- B. Within twenty-nine (29) days prior to the Primary Election, the Election Board shall request that the Tribal Attorney review the background checks on any Candidate for Judicial Office.
- C. The Tribal Attorney shall make a timely response to the Election Board as to whether any Candidate for Judicial Office is not qualified to be a Judge on the Tribal Court due to the Candidates criminal record.
- D. Within twenty eight (28) days prior to the Primary Election, the Election Board shall meet to review the qualifications of the Candidates for Office designated in their respective letters of interest and, thereafter, the Election Board shall make its recommendation concerning the qualifications of the Candidates to the Tribal Council. The Tribal Council shall then meet in Public Session and make the final determination on the qualifications of all the Candidates.

E. A Candidate who is determined not qualified for Office shall be immediately notified by certified U.S. Regular Mail by a letter from the Secretary of the Tribal Council stating the reasons for the Candidates disqualification.

F. Immediately after completion of final determination of the Candidates qualification, the Election Board shall proceed to approve the ballot for the impending election. The ballot shall contain all approved Candidates and Ballot Proposals to be voted on in the impending election. Final action on the ballot will take place at this meeting.

5. Disqualification Proceedings. Within twenty-four (24) hours after receiving the notification of disqualification the disqualified Candidate may request, in writing addressed to the President of the Tribal Council, a hearing before the Tribal Council to contest the disqualification decision of the Tribal Council. The hearing shall be held by the Tribal Council within forty-eight (48) hours after the date the President receives the request for the hearing, after which the Tribal Council will render a decision on the Candidates request within twenty-four (24) hours. Election Board Members, including Election Board Alternates, who have replaced Election Board Members, shall attend the hearing and shall participate as witnesses only, provided however, Members of the Election Board who have been replaced by Election Board Alternates may only attend the hearing as observers. The decision of the Tribal Council shall be final.

§22.504 General Election.

1. The General Election shall be held on the third Saturday prior to the expiration of Office of the Tribal Council Members as prescribed in the Constitution, in Article IV, Section 1. Any Nominee for an Office who at a General Election receives a majority of the votes cast for that Office shall be elected to such Office.

Write-in votes are not allowed and will not be counted during the General Election.

§22.505 Filling Vacancies Due to Death, Resignation, or Removal.

If any member of the Tribal Council or Judge on the Tribal Court shall die, resign, permanently leave the reservation or be removed from Office, the Tribal Council shall declare the position vacant. The Tribal Council shall appoint a successor to the vacant Office, if the vacancy is on the Tribal Council, from the District which has lost a representative, and if the vacancy is on the Tribal Court, from the Reservation at large. The successor appointed by the Tribal Council must

meet all applicable qualifications for the Office that the successor is appointed to fill. The successor shall serve in that Office until the next General Election, when a successor shall be elected at General Election for the unexpired term.

§22.506 Ballot Proposals: Referendum Proposals and Initiative Proposals.

1. A Petitioner may submit to the Election Board a Petition for a Referendum Proposal or an Initiative Proposal to be put on the ballot at an election. The Tribal Council may submit a Tribal Council Initiative Proposal to the Election Board to be put on the ballot at an election.

2. Contents of the Petition; Requirements.

The Petition for an Initiative Proposal or Referendum Proposal must meet the following requirements to qualify for placement on the ballot at an election:

A. Each page of the Petition must include a declaration as to who carried the Petition which will include the carrier's signature, complete mailing and residential address, and the date the Petition was first put into circulation.

B. A Petition must specifically state whether the Petition is for an Initiative Proposal or a Referendum Proposal. A Petition for an Initiative Proposal must describe in not more than 500 words in the first section of the Petition the law that is proposed to be adopted and in a second section of the Petition the reasons for adopting the law. A Petition for a Referendum Proposal shall include a statement in not more than 250 words setting forth the specific ordinance of the Tribal Code which is proposed to be repealed and the reasons for repealing the ordinance. The wording of the proposal must be approved by the Election Board before circulation. It is also recommended that the wording of the Petition be checked by an attorney engaged by Petitioner before submitting the Petition to the Election Board.

C. Petitions may consist of as many pages, numbered consecutively, as are necessary for the signatures of the Eligible Signers. However, all pages of the Petition must set forth the exact words of the Ballot Proposal as approved by the Election Board.

3. Approval of the Election Board; Contents of Petition.

Prior to circulation of any Petition, the Petitioner shall submit the proposed Petition to the Election Board for approval of its content and the language of the Ballot Proposal. If the Election Board determines that the Petition contains the required content and that the Ballot

Proposal meets the standards required by this §22.506, the Election Board will notify the Petitioner, by US Mail of the Election Board's approval or disapproval of the Petition. If the Election Board approves the content of the Petition for placement on the Ballot, the Chairman shall mark the Petition "approved" and cause the approved Petition to be placed in the files of the Election Board. If the Election Board determines that the Petition does not meet the requirements of the section for placement on the ballot, the Election Board shall notify the Petitioner of the defects in the Petition.

4. Circulation of Petition; Requirements.

Petitions for Ballot Proposals must meet the following requirements for circulation~~s~~ for signatures by Eligible Signers:

- A. Upon receiving the Elections Board's notice of approval of the Petition, the Petitioner may proceed to circulate the Petition for signature.
- B. Only an Eligible Voter shall be eligible to initiate, collect signatures and submit a Petition to the Election Board.
- C. A Petition must be signed by Eligible Signers within 180 days from the date of the Petition.
- D. Only Eligible Signers shall be entitled to sign a Petition and each Eligible Voter who signs a Petition shall, at the time of signing such Petition, also personally affix to the Petition, the Member's date of signing, place of residence, and Tribal Enrollment Number.
- E. A Petition shall not be circulated or signed within 100 yards of any election booth, Polling Place, or place where Registration of Voters is being conducted.
- F. In order to be placed on the ballot a Petition for a Ballot Proposal must be signed by a number of Eligible Signers that is at least equal to two-third (2/3) of the number of Registered Voters immediately prior to the last General Election.
- G. An eligible signer may submit a request in writing to the Election Board to remove their name from a Petition before the Petition is officially filed.

5. Filing the Petition; Approval of Signatures by Election Board.

- A. When the Petitioner believes that they have obtained sufficient signatures of Eligible Signers on a Petition for the Petition to be placed on the ballot, the Petitioner shall submit all signed copies of the Petition to the Chairman of the Election Board, together with a

written statement that the Petitioner wishes to make an official filing of the Petition with the Election Board.

B. Upon receipt of the notification from the Petitioner, the Chairman shall call, notice, and convene a meeting of the Election Board so that the Petition may be officially filed with the Election Board. This meeting shall be held not more than seven (7) working days after the date of receipt of the request from the Petitioner to officially file the Petition by the Chairman. The Petitioner shall be notified in writing of the date, time and place of the meeting not less than four (4) days before the meeting is to take place.

C. In order to conduct the necessary examination of the Petition, only members of the Election Board and no more than three (3) Official Spokesmen for the Petition, including the Petitioner will be allowed to attend this meeting.

D. When the meeting has been called to order, the Spokesman for the Petitioners shall officially present the original of the Petition to the Election Board.

E. The Chairman shall immediately designate thereon the date of receipt and shall inform the Spokesman submitting the Petition that no additional signatures may be added to the Petition.

F. Upon receipt of the Petition in the above manner, the Election Board shall immediately review the Petition for valid signatures of Eligible Signers. In the event an individual's signature appears on a Petition more than once, all but one of his signatures shall be stricken. The Election Board shall then determine whether the required number of signatures of Eligible Signers has been affixed to any Petition and whether those signing the Petition are Eligible Signers.

G. When the review of the Petition has been completed by the Election Board, the Chairman of the Election Board shall acknowledge in writing, to the person submitting the Petition, receipt of the Petition, stating the exact number of valid signatures of Eligible Signers which were affixed to the Petition.

H. In the event that the Petition contained the required number of valid signatures of Eligible Signers, it shall then be the duty of the Election Board to put the Ballot Proposal contained in approved Petition on the ballot at the next election.

6. Tribal Council Initiative Proposal.

Upon receipt of a Tribal Council Initiative Proposal, the Election Board shall conduct an election on the Ballot Proposal within forty five (45) days after its receipt of the Ballot Proposal.

7. Ballot Proposal; Effect Upon Adoption or Rejection.

A. If the Ballot Proposal is an Initiative Proposal, either by Petition or by the Tribal Council, and receives a majority vote of the Voters at an election the Council shall be bound by that decision and the Tribal Council shall enact an ordinance implementing the Ballot Proposal.

B. If the Ballot Proposal is a Referendum Proposal and receives a majority vote of the Voters at an election, the law repealed by the proposal shall be deemed to have been repealed for all purposes effective as of the date of the election during which the Ballot Proposal was adopted.

8. Should a Ballot Proposal not receive an approval by a majority vote of the Voters, it cannot be reconsidered until at least one (1) year after the date it was rejected by the Voters. A Ballot Proposal shall be deemed rejected in the event of a tie vote.

§22.507 Special Run-Off

In the event of a tie vote between Nominees, a run-off election shall be held with-in forty-five (45) days after the General Election, §22.902 shall apply. The Election Board shall conduct the run-off election using the same rules and procedures followed in the General Election.

§22.508 Constitutional Amendments.

1. Amendments to the Constitution and By-laws may be proposed in accordance with the Constitution, Article VIII, Amendments, Section 1. Which states:

“Section 1. This Constitution and By-laws may be amended by a majority vote of the qualified Voters of the Community 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 presentation of a Petition signed by two-thirds of the eligible Voters of the Community.”

2. Voting on the proposed amendment shall follow the procedure for amendments to Constitutions set forth in 25 CFR § 1300h-7 (Pub. L. 100-420, as amended by Pub. L 101-301).

§22.509 Scheduling Elections by the Election Board.

1. The Election Board shall only schedule one election of any type at any given time, unless the existing circumstances require another type of election to be scheduled at the same time.
2. If an election is scheduled by the Election Board and subsequent circumstances make conducting the election impossible or impracticable, the Tribal Council may cancel the election and designate an alternate time to conduct the cancelled election.

SECTION SIX

VOTING HOURS ON ELECTION DAY

§22.601 Voting Hours

All elections shall be held between the hours of 10:00 a.m. and 6:00 p.m. Any persons waiting in line to vote at closing time will be permitted to vote, but those presenting themselves after the hour of closing of the polls will not be permitted to vote.

§22.602 Electioneering and Loitering.

No person shall electioneer within 100 yards of the building where the election is in progress. No person shall loiter in the Polling Place during voting hours. It shall be the duty of the Poll Officials at the Polling Place to obtain such assistance as may be required to maintain order about the building during the progress of the election.

SECTION SEVEN

BALLOTS AND THE USE OF VOTING MACHINES

§22.701 Form of Ballot.

The ballot shall be printed with an official election board seal which will indicate the date of the election.

§22.702 Number of Ballots.

Ballots shall be supplied by the Election Board in sufficient quantity to assure that each Voter whose name appears in the “Register of Voters” may receive a ballot.

§22.703 Delivery and Receipt for Ballots.

The Chairman of the Election Board along with a Tribal Police Officer shall cause to be delivered to the Polling Place printed blank ballots and other election material including the ballot box with a lock and key and fitted with one opening, and not more, of sufficient size to admit a single folded ballot. The Poll Official shall count all ballots delivered and shall be responsible for an accounting of all ballots and other election materials until turned over to the Chairman of the Election Board as provided in this Title.

§22.704 Optical Scan Voting Machines.

Optical Scan Voting Machines, such as the Accu-Vote Voting Systems, may be used at each Polling Place. In the event that they are utilized, the Election Inspectors’ Guide will be followed.

SECTION EIGHT
POLL OFFICIALS

§22.801 Duties of the Chairman of the Election Board.

It shall be the duty of the Chairman of the Election Board to see that the balloting and the canvassing of the election are carried out in the manner prescribed in this Title. However, when Optical Scan Voting Machines are used, the Election Inspectors’ Guide will be followed.

§22.802 Duties of Poll Officials and Voters.

1. Only those lists of Registered Voters required to conduct the election as provided by this Title will be kept or maintained while the election is in process. No separate handwritten list shall be kept by any Polling Official in the Polling Place. Sufficient privacy areas shall be provided for the Voters to mark their ballots in secrecy. At least three (3) Polling Officials shall be present at all times at the designated Polling Place on election day to permit voting to begin when the polls open and the Polling Officials shall remain until the polls close, all ballots have been counted,

the tally properly recorded and reported, and the ballot boxes and the ballots turned over to the Chairman of the Election Board as provided in this Title.

2. Before the balloting begins, the Polling Officials shall open and inspect the ballot box to determine that it is empty. The ballot box shall then be locked and shall remain locked until the time to count the ballots. The Absentee Ballot box shall be locked by the Polling Officials on the date the first Absentee Ballot are issued or mailed. Keys to the ballot boxes shall be placed in sealed, signed, and dated envelopes at the time the boxes are locked by the Tribal Police.

3. After opening of the Polling Place, each Registered Voter shall provide to the Polling Officials his name, address, enrollment number, and signature on the application to vote. Any Registered Voter who signs with an "X" or a thumb print shall have his mark witnessed by two Polling Officials.

4. The Polling Official shall determine by checking the Registered Voter list whether the Voter has received an Absentee Ballot for the pending election. If the Voter has been issued an Absentee Ballot, under no condition shall he/she be issued another ballot.

5. Upon determining that all of the above conditions have been met, the Polling Officials shall issue a ballot to the Registered Voter.

6. Upon receipt of a ballot, the Voter shall retire to one of the private voting areas and therein mark the ballot in secrecy. Only one person shall occupy a voting area at one time. The Voter shall mark his ballot using the instrument provided by the Polling Official. The mark, to be valid, must be identifiable with the appropriate square or place on the ballot for which it is intended. After the ballot is so marked, the Voter in the presence of the Polling Official shall deposit the ballot into the ballot box.

7. In the event a person appears at the polls to vote and the Polling Official finds that the persons name does not appear on the Register of Voters, the Polling Official shall determine by contacting the Election Board Chairman, whether that person is, in fact, a Registered Voter. Should the Chairman of the Election Board determine that the person is a duly Registered Voter; the person shall be issued a ballot. Should the Chairman determine that the person is not a duly Registered Voter, the Chairman's decision shall be final.

8. When any Voter states that this Voter, because of physical disability or infirmity, is unable to mark the ballot, one of the Poll Officials shall administer the following oath to the Voter:

"Do you solemnly swear (or affirm) that you are unable to

mark your ballot for voting because of physical disability or infirmity?”

9. Should the Voter so swear or affirm, it shall be the duty of the Poll Official to give the Voter such assistance as the Voter needs to mark the ballot, but in all such instances the Voter must state without suggestion from the Poll Official the way the Voter wishes to vote, and in no instance shall a Poll Official by word, action, or expression attempt to influence the Voter as to how the Voter should vote. Such assistance shall be given in privacy and all persons, other than the Poll Official or, if requested by the Voter, an immediate Member of the affirmed Voter’s family, shall be kept sufficiently distant so that they will not hear or know how such affirmed Voter voted.

SECTION NINE
HANDLING OF SPECIAL CIRCUMSTANCES

§22.901 Spoiled Ballot.

Should any Voter spoil the ballot in the Voter’s effort to vote, the Voter shall, in the presence of Poll Officials, fold the Spoiled Ballot and place the Spoiled Ballot, which shall be signed by the Voter in indelible ink, into an envelope, which shall then be sealed and be marked Spoiled Ballot, and then placed in the ballot box. The Poll Officials shall then provide such Voter with another ballot in the same manner that the first one was provided to the Voter.

§22.902 Tie votes.

1. Primary Election – Tribal Council. If a tie vote occurs during the Primary Election between two or more of the Candidates relative to the fourth (4th) position to be filled on the Tribal Council or, if a vacant position is to be filled on the Tribal Council and a tie vote occurs during the Primary Election between two or more Candidates relative to the vacant position to be filled on the Tribal Council a recount will be conducted for the District. If the tie vote for the Nominees continues to exist after the recount those number of Candidates receiving the highest number of votes, including the Candidates in the tied position, if applicable, equal to the required number of Nominees for Tribal Council from the District will advance to the General Election.

2. Primary Election – Judicial Offices. If a tie vote occurs between two or more of the Candidates during the Primary Election for the Baraga District and L’Anse District, for one or more of the Nominee position to be filled, a recount will be conducted for both Districts. If the tie vote for the Nominees continues to exist after the recount those number of Candidates receiving the highest number of votes, including the Candidates in the tied position, if applicable, equal to the required number of Nominees for Judicial Office from both Districts will advance to the General Election.

3. General Election – Tribal Council. If a tie vote occurs during the General Election a recount will be conducted limited to the Nominees receiving the tie vote. Should a tie exist after the recount a Special Run-Off election will be held between the Nominees receiving the tie vote.

4. General Election – Judicial Offices. If a tie vote exists for a Judicial Office, a recount will be conducted. If a tie exists after the recount a Special Run-Off Election will be held.

§22.903 Poll Watchers.

In elections to vote on Ballot Issues, the Election Board may designate two (2) poll watchers to observe the counting of the ballots; one to represent each side of the question under consideration. No poll watcher shall in any way interfere with or hinder the Poll Officials in exercising their responsibilities in counting the ballots. If interference occurs, the Election Board Chairman shall call for a suspension in the count of the votes until the individual or individuals responsible for the interference are removed from the room. Poll watchers shall not be seated at the Election Board table when the count is taking place. Poll watchers must remain a distance of at least ten feet (10’) from this table.

SECTION TEN

CANVAS OF ELECTION RESULTS

§22.1001 Canvas of Election Results.

The Election Board will count and record the votes as soon as the polls close. When canvas of election results has been completed, all marked and unmarked ballots will be turned over to the Tribal Police who will have the marked ballots sealed and locked in the lock box for a period of

two (2) years and then shall be destroyed. Before being destroyed, marked ballots and unmarked ballots shall be available for inspection by the Election Board.

§22.1002 Counting the Ballots.

After the polls have closed, the Chairman, in the presence of the Tribal Police and the Election Board and any poll watchers, shall unlock the locked box containing the executed ballots. The number of applications to vote shall be counted and the number of applications must conform with the number of executed ballots. The Election Board shall record the unofficial results information on forms provided by the Election Board for such purpose. Upon completion of the vote count, the Election Board shall note on their forms the number of votes cast by those voting.

§22.1003 Absentee Ballots; Opening and Counting Ballots.

1. On Election Day a Tribal Police Officer and two (2) Election Workers shall collect Absentee Ballots from the Post Office Box and place the absentee votes in a locked ballot box. The locked box containing the Absentee Ballots shall be delivered by the Tribal Police to the Chairman of the Election Board. The Wednesday following the election, a Tribal Police Officer and two (2) Election Board Members shall go to the Post Office to empty the box and any ballots located in the box will be sealed in an additional absentee envelope and will be locked with the remaining ballots, but shall not be counted.
2. After the vote count has been completed of those ballots executed in person, the Chairman, in the presence of the Tribal Police and Election Board and any poll watchers, shall unlock the Absentee Ballot box.
3. The list of voters who have voted by Absentee Ballot shall be compared by the Election Board to the envelopes in the ballot boxes to confirm that the ballots have been returned in accordance with Absentee Voter requirements in this Title. The Election Board shall review all Absentee Ballot envelopes. Should any Absentee Ballot envelope not conform to the requirements of this Title, it will remain unopened and shall be marked “spoiled”. Each Member of the Election Board shall initial the “spoiled” envelope and the envelopes marked “spoiled” shall be sealed and preserved along with other executed ballots at the end of the count.
4. Upon completion of the review of the envelopes, the outer envelopes shall be opened and the inner envelopes containing the ballots removed. The outer envelopes from those ballots

determined to have been properly returned, shall at this point be set aside until after the count, at which time they will be placed in the election file cabinet with other materials from the election.

§22.1004 Improperly Marked Ballots.

Should a portion of any ballot be improperly marked, it shall not be excluded from the tally, but only the part which is correctly executed shall be included in the applicable tally of votes. Any ballot, on which the intent of the Voter cannot be determined, shall be preserved and filed with ballots submitted to the Election Board Chairman for safekeeping with the notation placed on the face of the ballot indicating it was not counted.

§22.1005 Announcement of Results.

The Election Board shall post in public places an unofficial statement announcing the election results within three (3) days following completion of the canvas of the election. However, such results shall be posted no later than 5:00 p.m., three (3) days immediately following the election. The Official Certified Statement of the election results will be issued by the Tribal Council.

SECTION ELEVEN
CONTEST OF ELECTION RESULTS

§22.1101. General and All Other Elections, Grounds for Contest.

1. Any Voter may contest any election result for any of the following causes:

- A. Any member of the Election Board has committed an act that cannot be legally justified or that conflicts with the law which, for purposes hereof, is hereinafter referred to as “misconduct”.
- B. A person who has been declared elected to an Office was not, at the time of the election, qualified for election to that Office.
- C. Any Candidate or Nominee has given to any Member or member of the Election Board any bribe or reward for the purpose of procuring that persons election.
- D. Illegal votes were cast at the election for a specified Candidate, Nominee or Ballot Proposal.

E. The Election Board, in conducting the election or in the canvassing of the returns, made errors sufficient to change the results of the election as to any person who has been declared elected to an Office or as to the adoption or rejection of a Ballot Proposal.

F. There was an error in the vote counting or summation of ballot counts.

2. The Voter contesting an election under this Section shall file a written statement with the Election Board stating:

A. The Voter's name, address and enrollment number;

B. The names of the Candidate, Nominee or Ballot Proposal as to which the Registered Voter is contesting the election; and

C. The particular grounds of contest for the election results.

The Voter's written statement, together with a contest fee in the amount of \$500.00 must be delivered to the Election Board no later than 5:00 p.m. on the third (3) day following the election. The contest fee shall be refunded to the contesting Voter if the Tribal Council issues a decision to set aside the election for the reason(s) stated in the Voter's written statement.

3. Upon receipt of a Voter's written statement and the contest fee, the Election Board shall review the allegation and shall conduct a hearing where the contesting Voter and any Candidate, Nominee or Petitioner for a Ballot Proposal may present evidence relevant to the issue, after which the Board shall issue a written decision, containing its findings on the issue presented at the hearing, prior to the posting of the Tribal Council's Official Certification of Election Results. The Election Board shall present its findings to the Tribal Council. The Tribal Council shall consider the findings of the Election Board and render a decision on the contested election. The decision of the Tribal Council to set aside or not set aside the election shall be final.

A. When any election is contested on account of the misconduct of the Election Board, or any member thereof, the election shall not be annulled or set aside upon any proof thereof, unless the misconduct caused a change in the result of the election being contested.

B. An election shall not be set aside on account of illegal votes, unless it is established that the number of illegal votes given to the Candidates or Nominees which would have been elected or tied for election to that Office being contested or to a Ballot Proposal which would have been adopted or rejected, and if the illegal votes are subtracted from the total, would reduce the number of legal votes cast for that person or Ballot Proposal

below the number of votes necessary for the Candidate or Nominee to be elected to that Office or for the adoption of the Ballot Proposal.

4. If the Tribal Council issues a decision to set aside the contested election, a new election shall be conducted by the Election Board, within forty five (45) days after the date of the Tribal Council's decision, in accordance with the provisions of this Title that governed the election that was set aside.

§22.1102 Vote Recount.

1. Any Candidate, Nominee or Petitioner for a Ballot Proposal may request a recount of votes cast in an election involving that Candidate, Nominee or Ballot Proposal, for any of the following causes:

- A. The Election Board, in conducting the election or in canvassing the returns, made errors sufficient to change the results of the election as to any person who has been declared elected to an office or as to any Ballot Proposal that was adopted or rejected; or
- B. There was an error in the vote counting or summation of ballot counts.

2. The person authorized to contest an election under this section shall file a written statement with the Election Board stating:

- A. The person's name, address and enrollment number;
- B. The names of the Candidates, Nominees or Ballot Proposal for which a recount is requested; and
- C. The reasons for the recount.

The written statement, together with a contest fee in the amount of \$150.00 must be delivered to the Election Board no later than 5:00 p.m. on the third (3) day following the election. The recount fee shall be refunded to the person requesting the recount if the Election Board decides not to conduct a recount.

3. Upon receipt of written statement requesting a recount and the recount fee, the Election Board shall hold a meeting, at which a quorum of the Board shall be required, to determine whether or not to conduct a recount based upon the statements made in the persons written statement and such other information as may have come to the attention of the Election Board during the course of the election. If a majority of the Members of the Election Board at the meeting determine that a recount should be conducted, the Election Board shall proceed to conduct a recount of the

votes for the particular Office or Ballot Proposal. The provisions of this Title applicable to the counting and recording of the votes for the original election shall apply to a recount pursuant to this section. All recounts shall be completed within three (3) days following the Election Board's receipt of the person's written statement requesting the recount and recount fee.

4. The Election Board shall conduct a recount of the votes in any election when three (3) votes or less determines the outcome of any election for an Office or Ballot Proposal. The provisions of this Title applicable to the counting and recording of the votes for the original election shall apply to a recount pursuant to this section. The Election Board shall complete the recount within three (3) days following the election.

§22.1103 Official Certification of Election Results.

The Tribal Council shall post the Official Certification of the Election Results. Copies of the certification will be mailed to the Bureau of Indian Affairs.

SECTION TWELVE INSTALLATION OF SUCCESSFUL NOMINEES

§22.1201 Notification and Installation.

Successful Nominees to Office shall be immediately notified by the Election Board by mail and, if possible, by telephone that they will be installed in Office. Installation of any Nominee elected to any particular position may be postponed, however, until such time as there is a determination of any dispute over the election for that Office.

§22.1202 Oath of Office – Tribal Council.

Each successful nominee elected to Tribal Council shall take an oath of Office prior to assuming the duties of such position, by which oath he or she shall pledge him or herself to support the Constitution of the United States and the Constitution of the Keweenaw Bay Indian Community.

The following oath of Office shall be administered by any Officer of the Tribal Council:

“I, _____, do solemnly swear (or affirm) that I will carry out faithfully and impartially the duties of my Office to the best of my ability, that I will promote and protect the best interests of my Tribe, and

support the Constitution of the United States and the Constitution of the Keweenaw Bay Indian Community.”

§22.1203 Oath of Office – Tribal Judge.

Each Nominee elected for Tribal Judge shall take an oath of Office prior to assuming the duties of such position, by which oath he or she shall pledge him or herself to support the Constitution of the United States and the Constitution of the Keweenaw Bay Indian Community. The following oath of Office shall be administered by any Officer of the Tribal Council:

“I, _____, do solemnly swear (or affirm) that I will carry out faithfully and impartially the duties of my Office to the best of my ability and will uphold the Constitution of the United States and the laws and Constitution of the Keweenaw Bay Indian Community.”

SECTION THIRTEEN
ELECTION RECORDS

§22.1301 Election Records.

The Registrar shall maintain on a permanent basis all files on each election, which shall include the following material from each election:

- A. Election notices posted and placed in newspapers.
- B. Candidacy papers and reports from the Election Board’s attorney as to qualifications of Candidates for Judicial Office.
- C. Unofficial election results and the Official Certification of an election.
- D. Register of Voters for an election.
- E. Outer envelopes used in absentee voting.
- F. Written statements contesting the results of any election.
- G. Written statements requesting a recount of the vote of any election.
- H. Written decisions of the Election Board on any issue pertaining to any election.

SECTION FOURTEEN
INCOMPATIBILITY OF OFFICE

§22.1401 Incompatibility of Office.

No person may concurrently hold the Office of Tribal Judge and the Office of Tribal Council Member. Any person holding the Office of Tribal Judge who shall be elected or appointed to the Office of Tribal Council Member shall, before assuming the Office of Tribal Council Member, relinquish the Office of Tribal Judge. Any person holding the Office of Tribal Council Member who shall be elected or appointed to the Office of Tribal Judge shall, before assuming the Office of Tribal Judge, relinquish the Office of Tribal Council Member.

SECTION FIFTEEN
SEVERABILITY

§22.1501 Severability.

If any provision of this Title is, for any reason, held to be unconstitutional by a court having competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Title. The Tribal Council hereby declares that it would have enacted this Title, and each provision thereof, irrespective of the fact that any one or more provisions of this Title would be declared unconstitutional.

SECTION SIXTEEN
PUBLICATION

§22.1601 Publication.

The Office of Tribal Attorney is hereby ordered and directed to cause a notice of this ordinance to be published in a newspaper of general circulation.

SECTION SEVENTEEN
PRIOR ORDINANCE REPEALED

§22.1701 Prior Ordinance Repealed.

Election Ordinance 2006-3 and all amendments thereto are hereby repealed.

SECTION EIGHTEEN

EFFECTIVE DATE

§22.1801 Effective Date.

This ordinance shall take immediate effect from and after the date of its adoption. The reading of the minutes of the meeting of the Tribal Council at which this ordinance was adopted is hereby waived.

Motion by: Toni Minton Seconded by: Susan LaFernier

Ayes 7 Nays 2 Abstained 2

Adopted X (Yes) _____ (No)

Date: September 11, 2008