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CHAPTER 1
CONSTITUTION AND BYLAWS
OF THE
RED CLIFF BAND OF LAKE SUPERIOR CHIPPEWA INDIANS
OF
WISCONSIN

1 **PREAMBLE**

We the members of the Red Cliff Band of Lake Superior Chippewa Indians in the State of Wisconsin, in order to re-establish our tribal organization; to conserve our tribal property; to develop our common resources; to promote the welfare of ourselves and our descendants; to form business and other organizations; to enjoy certain rights of home rule; and to provide for our people education in vocational and trade schools and institutions of higher learning, do ordain and establish this constitution and by-laws. When adopted by the membership and approved by the Secretary of the Interior, this constitution shall supersede the previously adopted and approved Indian Reorganization Act Constitution of June 1936.

1.1 **ARTICLE I - TERRITORY AND JURISDICTION**

Section 1. Territory

The territory of the Red Cliff Band shall consist of all the land and water within the original confines of the Red Cliff Reservation as defined pursuant to the Treaty of September 30, 1854 (10 Stat.1109), as well as such other lands and water as have been added or may here after be added thereto under the laws of the United States, except as provided by Federal law.

Section 2. Jurisdiction

The jurisdiction of the Red Cliff Band shall extend to all the land and water areas within the territory of the Band and to dependent Indian communities in Bayfield County, as may exist, and further, for the purpose of exercising and

regulating the exercise of rights to hunt, fish, trap, gather wild rice and other usual rights of occupancy, such jurisdiction shall extend to Lake Superior and to all lands and waters described in treaties providing such rights, to which the Lake Superior Chippewa were a party, except as provided by Federal law.

1.2

ARTICLE II - MEMERSHIP

Section 1. Constitutional Entitlement

The following shall be members of the Red Cliff Band:

Persons of Indian blood whose names appear on the official Allotment Roll of 1896 and Census Roll of 1934 of the Red Cliff Band of Lake Superior Chippewa Indians of Bayfield, Wisconsin.

All children born to any member of the Red Cliff Band after the effective date of this Article II, as amended, PROVIDED, that they have been duly registered with the Tribal Council through the Membership Committee within one year from their birth.

Section 2. Dual Membership

Dual membership is prohibited. No person shall become enrolled with the Red Cliff Band who is an enrolled member of any other Tribe, Band, or Federally recognized Indian community. In the event a member of the Red Cliff Band becomes an enrolled member of any other recognized Indian community, he may be removed from the membership rolls under a procedure provided by ordinance, permitting the opportunity for a hearing.

Section 3. Adoption and Reinstatement

Adoption or reinstatement of Indians, not members of the Red Cliff Band, shall be initiated by written application to the Membership Committee, which shall, upon proper investigation, make recommendations to the Tribal Council for its consideration and determination. The Council

shall submit names of persons recommended for adoption to tribal members for a referendum vote.

Section 4. Membership Ordinances

The Tribal Council shall have the power to promulgate ordinances governing future membership, including adoption and the loss of membership.

Section 5. Property Rights

No property rights shall be acquired or lost through membership in the Band, except as provided herein.

1.3 Article III - Governing Body

Section 1. The governing body of the Red Cliff Band of Lake Superior Chippewa Indians shall be a Tribal Council composed of nine (9) members who shall be chosen at an election as herein provided.

Section 2. Nine (9) candidates shall be elected to serve on the Tribal Council at the first election after the effective date of this amendment. The offices of Tribal Chairperson, Tribal Vice-Chairperson, Tribal Secretary and Tribal Treasurer shall be indicated as such on the ballot, and shall be popularly elected. The remaining five (5) Council seats shall be elected at large. The Tribal Chairperson, Treasurer and the three (3) at large candidates receiving the highest number of votes shall serve two (2) year term beginning with the first election. The Tribal Vice Chairperson, Secretary and the two (2) at large candidates receiving the next highest number of votes shall serve a one year term beginning with the first election. Thereafter, the Tribal Vice Chairperson, Secretary and the two (2) at large Council members receiving the next highest number of votes shall serve two (2) year terms beginning with the second election.

Section 3. There shall be a primary election for the offices of Tribal Chairperson, Tribal Vice Chairperson, Tribal Secretary and Tribal Treasurer sixty (60) days prior to the general election. Candidates for each of these positions shall notify the Tribal Secretary of their desire to have their names placed on the primary ballot ninety (90) days prior to the general election.

At the primary election the two (2) candidates for each of the offices listed above who receives the highest number of votes shall be listed on the ballot as candidates for their respective office in the general election. Candidates who do not survive the primary election shall be eligible for an at large seat on the Council. There shall be no write in candidates for the offices referred to in this section.

1.4

ARTICLE IV - NOMINATIONS AND ELECTIONS

Section 1. Elections shall be held every year on the first Tuesday after the first Monday in July.

Section 2. Any qualified member of the Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin may announce his or her candidacy or be nominated for the Council. Candidates shall specify the office which they seek to hold. The Secretary of the Tribal Council shall be notified in writing of all candidacies and nominations. Candidates for the offices of Tribal Chairperson, Tribal Vice Chairperson, Tribal Secretary and Tribal Treasurer shall notify the Tribal Secretary at least thirty (30) days prior to the primary election; candidates for at large Council positions shall notify the Tribal Secretary at least fifteen (15) days prior to the general election. It shall be the duty of the Secretary of the Tribal Council to post, at least ten (10) days before the election, the names and office sought by each candidate for the Council who meets these requirements.

Section 3. Any member of the tribe who eighteen (18) years of or is over and who presents himself at the polls on Election Day shall be entitled to

vote.

Section 4. The Tribal Council shall determine rules and regulations governing all elections by proper ordinance.

Section 5. The Tribal Council, or a board appointed by the Tribal Council, shall certify to the election of the members of the Council within three (3) days after the election returns.

Section 6. The Tribal Council, or a board appointed by the Tribal Council, shall designate the polling places and appoint all election officials.

1.5

ARTICLE V - VACANCIES AND REMOVAL FROM OFFICE

Section 1. Upon receipt of a petition signed by one-third (1/3) of the eligible voters calling for the recall of any member of the Council, it shall be the duty of the Council to call an election on such recall petition. No member may be recalled in any such election unless at least thirty percent (30%) of the legal voters shall vote at such election.

Section 2. The Tribal Council may by an affirmative vote of six (6) members expel any member for neglect of duty or gross misconduct PROVIDED that the accused member shall be given full and fair opportunity to reply to any and all charges at a designated Council meeting. It is further stipulated that any such member shall be given a written statement of the charges against him at least five (5) days before the meeting at which he is to appear. Impeachment shall result in disqualifying a member of the Council from holding any office of trust in the Red Cliff Band.

Section 3. The Tribal Council shall have the power to fill vacancies caused by death, removal, resignation, or otherwise, such appointment to be in force and effect until the next general election. Vacancies shall be filled by appointing the candidate who is not elected, but

receives the next highest number of votes for that particular Council seat.

1.6

ARTICLE VI - POWERS

Section 1. The Tribal Council shall exercise the following powers, subject to any limitations imposed by the Constitution or statutes of the United States, and subject further to all express restrictions upon such powers contained in this constitution and by-laws.

- (a) To negotiate with the Federal, State and local Governments on behalf of the tribe and to advise and consult with the representatives of the Interior Department on all activities of the Department that may affect the Red Cliff Band.
- (b) To employ counsel for the protection and advancement of the rights of the tribe and its members, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior as long as such approval is required by Federal law.
- (c) To approve or veto any sale, disposition, lease, or encumbrance of tribal lands and tribal assets which may be authorized or executed by the Secretary of the Interior, the Commissioner of Indian Affairs, or any other agency of the government: PROVIDED, that no tribal lands shall be sold or encumbered or leased for a period in excess of five (5) years, except for governmental purposes and except that mining leases may be made for such longer periods as may be authorized by law.
- (d) To advise with the Secretary of the Interior with regard to all appropriation estimates or Federal projects for the benefit of the tribe prior to the submission of such estimates to the Office of Management and Budget and to Congress.
- (e) To manage all economic affairs and

enterprises of the tribe.

- (f) To appropriate for public purposes of the Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin available Council funds, and any other available tribal funds.
- (g) To levy taxes upon members of the tribe and to require the performance of labor in lieu thereof, and to levy taxes or license fees, upon non-members doing business within the reservation: PROVIDED, however, that any such assessment upon members of the Tribe shall have the approval of the majority of the voters at the next annual or at a special election called for this purpose at which thirty percent (30%) of the eligible voters vote.
- (h) To purchase lands for public purposes, under condemnation proceedings in courts of competent jurisdiction.
- (i) To safeguard and promote the peace, safety, morals and general welfare of the tribe by regulating the conduct of trade and the use and disposition of property upon the reservation.
- (j) To regulate the inheritance of property, real and personal, other than allotted lands within the territory of the Red Cliff Reservation, subject to review by the Secretary of the Interior.
- (k) To regulate the manner of making nominations and holding elections for tribal officers.
- (l) To adopt resolutions regulating the procedure of the Tribal Council itself and of other tribal agencies and tribal officials.
- (m) To encourage and foster the arts, crafts, traditions, and culture of the Red Cliff Band, and to protect and preserve the wildlife and natural resources of the

reservation.

- (n) To charter subordinate organizations for economic purposes and to regulate the activities of all cooperative associations.
- (o) To delegate to subordinate boards, or tribal officials, or to cooperative associations, which are open to all members of the tribe, any of the foregoing powers, reserving the right to review any action taken by virtue of such delegated powers.
- (p) To promulgate and enforce ordinances governing the conduct of persons subject to the jurisdiction of the tribe, and providing for the maintenance of law and order and the administration of justice by establishing a reservation court and defining its duties and powers.
- (q) To provide for the appointment of guardians for minors, aged persons and mental incompetents by ordinance or resolution.

Section 2. Any resolution or ordinance, which by the terms of this constitution is subject to review by the Secretary of the Interior, shall be presented to the Superintendent of the reservation, who shall within ten (10) days thereafter, approve or disapprove the same. If the Superintendent shall approve any ordinance or resolution, it shall thereupon become effective, but the Superintendent shall transmit a copy of the same, bearing endorsement, to the Secretary of the Interior, who may, within ninety (90) days from the date of its enactment, rescind the said ordinance or resolution for just cause by notifying the Tribal Council of such decision.

If the Superintendent shall refuse to approve any resolution or ordinance submitted to him, within ten (10) days of its enactment, he shall advise the Tribal Council of his reasons therefore. If these reasons appear to the Tribal Council insufficient, it may, by a majority vote, refer

the ordinance or resolution to the Secretary of the Interior, who may, within ninety (90) days from the date of its enactment, approve the same in writing, whereupon the said ordinance or resolution shall become effective.

Section 3. Future Powers. The Tribal Council may exercise such further powers as may in the future be delegated to the tribe by the Secretary of the Interior, or by any duly authorized official, or agency of the State or Federal Government, or by individual members of the Band.

Section 4. Reserved Powers. Any rights and powers heretofore vested in the Red Cliff Band, but not expressly referred to in this constitution, shall not be abridged by this article, but may be exercised by the people of the Red Cliff Band of Lake Superior Chippewa Indians, through the adoption of appropriate by-laws and constitutional amendments.

1.7 ARTICLE VII - REFERENDUM

Section 1. Any exercise of enumerated powers lodged in the Tribal Council shall be subject to referendum vote to the people upon a written petition signed by not less than percent twenty-five (25%) percent of the total number of voters in the last annual election, PROVIDED that not less than thirty (30%) percent of the eligible voters shall participate in any such referendum.

1.8 ARTICLE VIII - LAND

Section 1. Allotted lands, including lands, within the Red Cliff Reservation, shall continue to be held as heretofore by their present owners. It is recognized that under existing law such lands may be condemned for public purposes, such as roads, public buildings, or other public improvements, upon payment of adequate compensation by any agency of the State of Wisconsin or of the Federal Government or by the tribe itself. It is further recognized that under existing law such lands may be inherited by the heirs of the present owner, whether or not

they are members of the Red Cliff Tribe. Likewise, it is recognized that under existing law, the Secretary of the Interior may, in his discretion, remove restrictions upon such land, upon application by the Indian owner, whereupon the land will become subject to State taxes and may then be mortgaged or sold. The right of the individual Indian to hold or dispose of his land, as under existing law, shall not be abrogated by anything contained in this constitution, but the owner of restricted land may, with the approval of the Secretary of the Interior, voluntarily convey his land to the Red Cliff Band either in exchange for a money payment or in exchange for an assignment covering the same land or other land as hereinafter provided.

Section 2. Tribal lands of the Red Cliff Band of Lake Superior Chippewa Indians and all lands which may hereafter be acquired by the Red Cliff Band of Lake Superior Chippewa Indians, or by the United States in trust for them, shall be held as tribal lands, and no part of such lands shall be mortgaged or sold.

Section 3. Tribal lands shall not be allotted to individual Indians but such tribal lands as are not required for school, agency, or other administrative use may be assigned by the Tribal Council to members, or may be leased or otherwise used by the tribe as hereinafter provided.

Section 4. Tribal lands may be leased by the Tribal Council with the approval of the Secretary of the Interior in accordance with law. Preference shall be given, first, to cooperative associations of members of the tribe; and secondly, to individual Indians who are members of the Red Cliff Band of Lake Superior Chippewa Indians. No lease of tribal lands to a non-member shall be made by the Tribal Council unless it shall appear that no cooperative association of members of the tribe or individual member of the tribe is able and willing to use the land and to pay a reasonable fee for such use.

Section 5. In any assignment of tribal lands

which are now owned by the tribe, or which may hereafter be acquired for the tribe by the United States or purchased by the tribe out of tribal funds or which may be designated for the use of the tribe, preference shall be given, first, to heads of families which are entirely landless, and secondly, to heads of families which have no allotted lands, but shall have already received assignments consisting of less than an economic unit of agricultural land, or other land or interests in land of equal value, such economic unit to be determined by the Tribal Council. Assignments under this section shall be for the primary purpose of establishing homes for landless Indians, and shall be known as standard assignments.

No member of the tribe who may hereafter have the restrictions upon his land removed and whose land may hereafter be alienated shall be entitled to receive an assignment of land as a landless Indian.

The Tribal Council may, if it sees fit, levy a service charge not to exceed \$15.00 on approval of all standard assignments made under this section.

Section 6. If any persons holding a standard assignment of land shall for a period of one (1) year fail to use the land so assigned or shall use the land for any unlawful purpose, his assignment may be cancelled by the Tribal Council after due notice and opportunity to be heard. Such land may then be available for reassignment.

Upon the death of any Indian holding a standard assignment his heirs or other individuals designated by him by will or written request shall have preference in the reassignment of the land, PROVIDED such persons are eligible to receive a standard assignment.

Section 7. Any member of the Red Cliff Band of Lake Superior Chippewa Indians who owns an allotment of land or any share in land or any deeded land, may with the approval of the

Secretary of the Interior, voluntarily transfer his interest for such land, to the tribe and receive therefore an assignment in the same land or other land of equal value, or he may receive a proportional share in a larger unit of land.

Assignments made under this section shall be known as "exchange assignments."

Section 8. Exchange assignment may be used by the assignee or leased by him to Indian cooperative associations of members, to individual members of the tribe, or if no individual member or cooperative association of members is able and willing to rent the land, such assignments may be leased to non-Indians in the same manner as allotted land.

Section 9. Upon the death of a holder of an exchange assignment such lands shall be reassigned by the Tribal Council to his heirs or devisees, subject to the following conditions:

- (a) Such lands may not be reassigned to any heir or devisee who is not a member of the Red Cliff Band, except that a life assignment may be made to the surviving spouse or child of the holder of such assignment.
- (b) Such lands may not be reassigned to any heir or devisee who already owns or holds more than an economic unit of agricultural land or other lands of equal value, such unit to be determined from time to time by Council.
- (c) No agricultural land shall be subdivided into units smaller than 2 ½ acres. When interests in assignments shall involve smaller areas than the amount herein set out, the Tribal Council may issue to such heir or devisee a proportionate share in other agricultural units or other interests in land of equal value.
- (d) If there are no eligible heirs or devisees of the decedent, the land shall be eligible for reassignment the same as other tribal

lands.

Section 10. Improvements of any character made upon assigned land are hereby recognized to be the property of the assignee. Such improvements may be willed to and inherited by members of the Red Cliff Band of Lake Superior Chippewas. When improvements are not possible of fair division, the Tribal Council shall dispose of them under such regulations as it may provide to protect the interest of said heirs. No permanent improvements may be removed from any tribal or assigned land without the consent of the Tribal Council.

Section 11. No member of the Red Cliff Band of Lake Superior Chippewas may use or occupy tribal lands except under an assignment or lease.

Section 12. Unassigned land shall be managed by the Tribal Council for the benefit of the members of the entire tribe.

Section 13. Tribal funds may be used by the Council, with the consent of the Secretary of the Interior, to acquire land for the Red Cliff Band.

Section 14. Applications for assignment of land shall be made in writing. Such applications shall be submitted to the Tribal Council at regular or special meetings. The application will be placed in the hands of a proper committee who will call the matter up for action at the next regular meeting of the Tribal Council. Any member of the tribe may object in writing to a proposed assignment. In the event of objection, the Chairman of the Tribal Council shall set a date for a hearing, advising both the applicant and the objector. The action of the Tribal Council shall be final.

Section 15. The Tribal Council shall be empowered to consolidate inherited land holdings by purchase, exchange, transfer, gift, or voluntary relinquishment, including the right to reassign same in the public interest.

Section 16. The Secretary of the Tribal Council shall furnish the Superintendent or other officer in charge of the Agency with a complete record of all actions taken by the Tribal Council on applications for assignment of land, and a complete record of assignments shall be kept in the agency office, and shall be open for inspection by members of the tribe.

Section 17. The Tribal Council shall draw up one or more forms for standard and exchange assignments, which shall be subject to the approval of the Secretary of the Interior.

1.9 **ARTICLE IX - AMENDMENTS**

This constitution and by-laws may be amended by a majority vote of the qualified voters of the Red Cliff Band voting at an election called for that purpose by the Secretary of the Interior, PROVIDED that at least thirty percent (30%) 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 receipt of written resolution of the Council, signed by at least seven (7) members thereof.

1.10 **ARTICLE X - SAVINGS CLAUSE**

All prior laws, ordinances and resolutions enacted by the Red Cliff Band of Lake Superior Indians shall remain in full force and effect to the extent that they are not inconsistent with this constitution until such time as they might be duly rescinded or repealed pursuant to the provisions of this constitution.

1.11 **ARTICLE XI - SEVERBILITY**

If any provision of this constitution shall in the future be declared invalid by a court of competent jurisdiction, the invalid provision or provisions shall be severed and the remaining

provisions shall continue in full force and effect.

1.12

ARTICLE XII - DUTIES OF OFFICERS

Section 1. The duties of the officers of the Tribal Council shall be as follows:

- (a) The Chairman of the Tribal Council shall preside at all meetings of the Council. He shall also be the presiding officer of any General Council meeting. He shall at all times have general supervision of the affairs of the Tribal Council and such matters as naturally pertain to the welfare of the community. He shall execute all the rules, regulations, and orders of the Council, and shall have power to call to his assistance any official or member of the tribe, whenever, he deems it necessary for the proper enforcement of any orders of the Tribal Council, countersign all checks drawn by the Treasurer, and shall perform all other duties that may be provided by the Council and such other duties as pertain to his office.
- (b) The Vice-Chairman shall assist the Chairman when called on to do so, and in the absence of the Chairman shall preside, and when so presiding shall have all the privileges, duties and responsibilities of the Chairman.
- (c) The Secretary shall be the custodian of the official records, books, papers and documents of the tribe; he shall keep a record of all the proceedings, resolutions and of all the actives of the council; shall handle all correspondence; and shall perform all other duties required of his office by the Tribal Council.
- (d) The Treasurer of the Tribal Council shall accept, receive, receipt for, preserve, safeguard all funds in the custody of the Council whether they be tribal funds or special funds for which the Council is acting

as trustee or custodian. He shall deposit all funds in such depository as the Council shall direct and shall make and preserve a faithful record of such funds and shall report on all receipts and expenditures and the amount and nature of all funds in his possession and custody, at each regular meeting of the Tribal Council, and such other times as requested by the Council or the Executive Committee. He shall not pay out or otherwise disburse any funds in his possession or custody, except in accordance with a resolution duly passed by the Council. The Treasurer shall be required to give a bond satisfactory to the Council and the Commissioner of Indian Affairs.

Section 2. It shall be the duty of the Tribal Council to cause the records and books of the Treasurer and other officials to be audited by a competent auditing committee once every year, such committee to make their report under oath, and the same shall comprise an itemized statement of all receipts and disbursements, and for what purposes, and they shall be compensated for such service in such amount as the Tribal Council shall by resolution provide, subject to the approval of the Secretary of the Interior.

Section 3. The Tribal Council shall meet on the first Monday of each month.

Section 4. The meetings of the Tribal Council shall be public, except all executive sessions and the Tribal Council shall provide rules of order for their meeting.

Section 5. Special meetings of the Council may be called by the Chairman when deemed necessary, or by a petition signed by a majority of the Council upon three (3) days notice thereof, giving the reason for such meeting and the nature of the business to be transacted thereat.

Section 6. A majority of the Tribal Council shall constitute a quorum to do business at all regular and special meetings.

1.13 **ARTICLE XIII - QUALIFICATIONS OF OFFICERS**

Section 1. Members of the Council must be at least twenty-five (25) years of age, and residents of the Red Cliff Reservation, and it is further provided that the Tribal Council shall be the judge of the qualifications of its own members.

Section 2. No classified Federal employee under Civil Service shall be eligible to hold tribal office under this constitution.

Section 3. Any person elected to office under this constitution must be at least 25 years of age, a resident member of the tribe for at least one (1) year immediately previous to his election.

1.14 **ARTICLE XIV - OATH OF OFFICE**

All officials, whether elected or appointed, shall be duly installed and subscribe to an oath of office to support the Constitution of the United States and this constitution. Such officers may be sworn in by any officer qualified to administer an oath.

1.15 **ARTICLE XV - SALARIES**

Section 1. Tribal officials shall be paid such salaries from available tribal funds as the Tribal Council shall decide. All proposals for salaried positions by the Tribal Council shall be referred to the Secretary of the Interior for final decision.

Section 2. The members of the Tribal Council, boards and committees shall be paid for expenses incurred in the interest of the community when previously authorized by the Tribal Council.

1.16 **ARTICLE XVI - ADOPTION OF CONSTITUTION AND BY-LAWS**

This constitution and by-laws, when ratified by a majority of the qualified voters of the Red Cliff Band of Lake Superior Chippewa Indians, voting at a special election called for the purpose by the

