

## RECALL, REMOVAL, AND VACANCIES

### I. Elected or Appointed Officials and Representatives of the Grand Council, Council Central Council, General Assembly, Administration and Supervisory Council, Tradition and Custom Dispute Resolution

#### A. PURPOSE

Elected and appointed officials and representatives are agents of their constituents. This process provides a way for citizens to exercise their authority under Article XXIV Recall, Removal, and Vacancies of the Maamawiinso Anishinaabeg Nation (aka Chippewa) Alliance or the Local Band Constitutions to recall and or remove those officials and representatives for but not limited to those who fail to represent their constituents' best interests, are unresponsive, incompetent, obstructive of voters, convicted of a crime, violates the Code of Conduct, Ethics and Conflict of Interest, or for good cause.

#### B. DEFINITIONS

- (1) **Accused** means an elected or appointed officials and representative of the Maamawiino Anishinaabeg Nation (aka Chippewa), who is the subject of a recall or removal.
- (2) **Convictions**
  - a. Guilty Plea
  - b. A determination of guilt by a Jury
  - c. Unless Expunged- a process that legally destroys, obliterates or strikes out records or information in files, computers, and other depositories relating to criminal charges. Expungement is usually granted when the offense is minor and the person has demonstrated good behavior.
  - d. The following two pleas are also convictions:
    1. No Contest Plea is when the Court treats a criminal charge as an admission of guilt, thereby the judge can sentence.
    2. Alford Plea is a guilty plea, but the defendant maintains their innocence but admits the prosecutor's evidence would likely result in a guilty verdict.
- (3) **Dereliction or neglect of duty** is the failure or refusal to perform an expected duty satisfactorily by non-transparency can be construed as dereliction or neglect of duty and is a failure to conform to one's expectations. It can be willful or neglectful and have severe consequences for the person or the Maamawiino Anishinaabeg Nation (aka Chippewa).
- (4) **Embezzlement** means the misappropriation of funds.

- (5) **Ethics Violation** means that one engages in unethical behaviors as outlined in the Code of Conduct, Ethics, and Conflict of Interest.
- (6) **Failure or refusal to perform** an expected duty satisfactorily. It can also be an omission to do or to perform some work, duty, or act. It can be willful or neglectful and have severe consequences for the person or the Maamawiino Anishinaabeg Nation (aka Chippewa).
- (7) **Good Cause:** A term that means there are sufficient grounds to act on from a legal point of view. It generally means a substantial reason amounting in law to a lawful excuse for failing to perform an act required by law. It is a legally sufficient ground or reason. The burden is placed on a litigant to show why a request should be granted or an action excused. Good cause depends upon the circumstances of individual cases, and findings of its existence lie in the discretion of the Grand Council or the Court to which the decision is committed.
- (8) **Hearing** means the process created to hear the charges alleged against the accused and conducted consistent with the Hearings on Recall and Removal Ordinance.
- (10) **Hearing Officers** means the Grand Council representatives who will preside over the recall and removal hearings.
- (11) **Major Felonies** include murder, sexual assault, human trafficking, and distributing, selling, or trafficking drugs.
- (12) **Malfeasance** in the handling of tribal affairs. The elected official intentionally or unintentionally did something detrimental to others or businesses. These could be illegal, immoral, or work-relatedly wrong. They involve dishonesty, illegality, or knowingly disregarding the citizenship's authority for improper or personal reasons. It can also be an omission to do or to perform some work, duty, or act.
- (13) **Misuse of Office by Elected or Appointed Officials and Representatives.**
- a. Officials and representatives shall not use their public office for their private gain for the endorsement of any product, service, or enterprise or for the personal gain of friends, relatives, or persons with whom they know through a nongovernmental capacity. Individuals shall not use or permit the use of their government position or title or any authority associated with their public office to endorse any product, service, or enterprise except in compliance with agency requirements or standards.
  - b. Officials and representatives must ensure that the performance of their official duties does not give rise to an appearance of use of public office for private gain or of providing preferential treatment to an employee whose duties would affect the financial interests of a friend, relative, or person with whom he is affiliated in a nongovernmental capacity.
  - c. Officials and representatives shall not engage in a financial transaction using nonpublic information nor allow the improper use of nonpublic information to further their private interest or that of another, whether through advice or recommendation or by knowing unauthorized disclosure. Nonpublic information is information they gain because of their position, and they know

- or reasonably should know has not been made available to the general public.
- d. Officials and representatives must protect and conserve tribal property and shall not use this property or allow its use for anything other than authorized purposes.
  - e. Officials and representatives shall use official time in an honest effort to perform official duties and not use it for non-official business.
  - f. Officials and representatives shall not encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required to perform official duties.
  - g. Officials and representatives are prohibited from disclosing contractor bid or proposal information or source selection information to any person other than one authorized to receive such information.
- (14) **Probable cause** is a standard that requires that facts and evidence presented are of the type that would lead any reasonable person to believe that the a person committed or was going to commit the alleged behavior.
- (15) **Obstruction of voter** means intimidations, threatens, coerces, or attempts to intimidate, threaten, or coerce any other person to interfere with the right of such other person to vote or to vote as he may choose or cause such other person to vote for, or not to vote for, any candidate for the office or to approve initiatives
- (18) **Recall** means the process by which an official is removed from office before their term ends. Voters have the power to take back their vote through a recall election. The recall process is designed to provide a check on the sovereign power of elected officials.
- (19) **Removal** means the right or procedure by which officials and representatives maybe removed from office before the end of their term by a majority vote of the people.
- (20) **Secretary** means the Tribal Recording Secretary and staff working under the Tribal Secretary's direction.
- (21) **Unethical behavior includes the following:**
- Lies
  - Taking Credit for Others' Hard Work
  - Verbal Harassment/Abuse
  - Violence
  - Non-Office Related Work
  - Extended Breaks
  - Theft/Embezzlement
  - Sexual Harassment
  - Corrupt Practices
  - Sex for Job/Promotion
  - Late Night Out/Unpaid Overtime
  - Verbal Harassment

- Undue Pressure
- Nepotism
- Unfriendly Work Environment
- Unrealistic Expectations
- Violation of the Code of Conduct, Ethics, and Conflict of Interest

**C. SUBJECT TO RECALL OR REMOVAL**

Elected or appointed Officials and Representatives of the Grand Council, Council Central Council, General Assembly, Administration and Supervisory Council, and Tradition and Custom Dispute Resolution may be subject to recall or removal at any time.

**D. GROUND FOR RECALL OR REMOVAL**

1. Convictions of a Felony
2. Malfeasance in the handling of tribal affairs.
3. Failure or refusal to perform an expected duty satisfactorily
4. Violation of the Code of Conduct, Ethics, and Conflict of Interest
5. Engaging in unethical behavior.
6. Engage in a Major Felony.
7. Dereliction or neglect of duty.
8. Theft or embezzlement from a Nation.
9. Good Cause
10. Commit a Major Felony (i.e., Murder, Sexual Assault, and Human Trafficking, Distributing, selling, or trafficking drugs);
11. Failure to comply with provisions of the Alliance or the local Band Constitution.
12. Failure to uphold the oath of office.
14. Failure to comply with their roles and responsibilities.
13. Violation of Tribal Ordinance, Resolution, or other Tribal laws.
14. More than two (2) unexcused absences from meetings within twelve (12) months.
15. Public drunkenness or being under the influence of illicit drugs while conducting business or activities related to your position or job.

**E. INITIATION OF PROCEEDINGS FOR RECALL**

1. Commencement of the proceedings starts with filing a written notarized Application Seeking a Recall or Removal (**ATTACHMENT #1**)

**F. PROCEDURES FOR RECALL AND REMOVAL.**

1. Consistent with the Recall, Removal, and Vacancies Ordinance, the Grand Council shall:

- a. Accept all applications seeking recall or removal of an elected or appointed official or representative.
  - b. The applications shall be filed with the Secretary of the Grand Council.
2. The Grand Council Representatives shall thoroughly investigate the allegations, including verifying the facts, witness statements, and supporting documents.
3. The Grand Council representatives shall make a preliminary decision, after which they shall notify the accused, who may give a statement, facts, witness statements, and submit supporting documents.
4. In a situation that immediately affects the community's safety, the Grand Council shall call a special meeting to suspend the accused from his duties or take the needed steps for public security.
5. Once the Grand Council representatives make a final decision that there are grounds for a recall or removal, they shall determine how to proceed; this could be, but not be limited to:
  1. Referral to Tradition and Custom Dispute Resolution, which, if the accused does not comply with, the Grand Council shall refer the case for a hearing.
  2. Censure
  3. Removal Hearing
  4. Recall
6. The Grand Council shall make an appeals process available to the person who is the subject of the recall or removal.

## **G. VACANCIES**

The Grand Council shall fill the vacancy by appointment until a successor is duly qualified and elected to office according to the procedures in the Election Ordinance.

**ATTACHMENT 1**

**APPLICATION SEEKING RECALL OR REMOVAL OF AN ELECTED OR APPOINTED OFFICIAL OR REPRESENTATIVE**

Name of the Applicant and contact information: \_\_\_\_\_

\_\_\_\_\_

Name of the person, their contact information, and their position in the Tribe that this application is seeking to recall or remove: \_\_\_\_\_

\_\_\_\_\_

Describe the facts supporting the request for recall or removal of the person named above. Include sufficient facts, dates, times, witnesses, documents, pictures, and recordings.

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Maamawiino Anishinaabeg Nation  
(aka Chippewa)

Band \_\_\_\_\_

Signed and sworn to (or affirmed) before me  
that on (date) \_\_\_\_\_  
by (name of person(s) making statement)

\_\_\_\_\_  
(Signature of Affiant)

\_\_\_\_\_  
(Signature of notarial officer)  
(Seal, if any)

(My commission expires: \_\_\_\_\_ )