

CONSTITUTION

of the

Chaubunagungamaug Band of Nipmuck Indians

PREAMBLE

We, the Nipmuck Indians of the Chaubunagungamaug Band of Nipmuck Indians (or “Tribe”), in order to preserve and protect our ancestral traditions, language and heritage, more clearly establish our tribal organization, conserve our tribal property, develop our common resources, promote justice, promote the welfare of ourselves and our descendants, and guide our Tribal Council in its deliberations, do hereby ordain and establish this Constitution.

ARTICLE I. MEMBERSHIP

Section 1. Eligibility. Membership shall be comprised exclusively of persons who provide adequate documentary evidence or acceptable/additional evidence described in Section 5.d.of the Enrollment Code of direct lineal descent from a person or persons identified as a Chaubunagungamaug Nipmuck Indian on either the 1861 Earle Report, excluding any amendments or supplements thereto, or the 1890 Disbursement List, excluding any amendments or supplements thereto, persons who are on the Base Roll described in Section 3 of this Article.

Section 2. Enrollment Committee. In order to ensure that membership in the Chaubunagungamaug Band of Nipmuck Indians is afforded only to those persons who are properly qualified and recognized by the Band:

a. Establishment. The Tribal Council of the Chaubunagungamaug Band of Nipmuck Indians, with the approval of at least seven members of the Council, shall establish an Enrollment Committee. The Enrollment Committee shall:

1. reasonably represent the several families comprising the Chaubunagungamaug Band of Nipmuck Indians;
2. be comprised of no more than five and no fewer than three persons; and
3. be comprised of duly qualified members of the Chaubunagungamaug Band of Nipmuck Indians.

b. Review of Applications. The Enrollment Committee shall have the power and responsibility to take all actions necessary to evaluate and make findings

regarding membership consistent with Article I, Section 1. Each completed membership application shall be reviewed and acted upon within 120 days of the date of receipt for accuracy and compliance with the requirements of Article I, Section 1.

c. Recommendations to Tribal Council. If an application receives the approval of at least a majority of the members of the Enrollment Committee, the Committee shall recommend to the Tribal Council that such application be approved. If the application does not receive the approval of at least a majority of the members of the Enrollment Committee, the Committee shall recommend to the Tribal Council that such application be denied. The Enrollment Committee shall report its recommendations to the Tribal Council of the Chaubunagungamaug Band of Nipmuck Indians at a regular meeting of the Tribal Council for its approval or disapproval of the application. All approvals shall be final and not subject to appeal.

d. Appeal of Disapproval. Any person whose application has been denied by the Tribal Council shall have the right to appeal the denial to the Tribal Council.

Section 3. Membership and Tribal Rolls. Membership in the Tribe shall be limited to those persons certified to meet the standards of Article I, Section 1, persons descended from those Members. Applications presenting acceptable documentary evidence of qualification for membership must be submitted to the Enrollment Committee.

a. Rolls. The Enrollment Committee shall compile and certify to the Tribal Council:

1. a Base Roll comprising persons who meet the standards of Article I, Section 1 and shall include all persons enrolled as members on the date of adoption of this Constitution; and
2. a Tribal Roll, comprising living members on the Base Roll, children and descendants of members listed on the Base Roll who have been approved for membership.

b. Children of Members. Any child born to a person or persons on the Base Roll or the Tribal Roll of the Chaubunagungamaug Band of Nipmuck Indians shall become a member of the Chaubunagungamaug Band of Nipmuck Indians upon application of the parent or legal guardian before the child reaches the age of eighteen. If such application is not made before the child reaches the age of eighteen, such person seeking membership may then apply to the Enrollment Committee for membership.

c. Base Roll Limited. The Base Roll of persons who meet the standards of Article I, Section 1 shall be limited to:

1. those persons whose qualifications are certified by the Enrollment Committee and the Tribal Council no later than 180 days following the date on which federal recognition of the Chaubunagungamaug Band of Nipmuck Indians becomes effective; and

2. those persons whose application for membership is delivered to the Enrollment Committee no later than 180 days following the date on which federal recognition of the Chaubunagungamaug Band of Nipmuck Indians becomes effective, provided that such application is subsequently approved and certified by the Enrollment Committee and the Tribal Council as meeting the standards of Article I, Section 1 and pursuant to the procedures in Article I, Section 2.

Section 4. Dual Enrollment. No person whose name appears on the Base Roll of the Chaubunagungamaug Band of Nipmuck Indians shall be a member of any other federally recognized Indian tribe. Any person whom the Enrollment Committee demonstrates to be listed on the roll of any other federally recognized Indian tribe may be required to relinquish such membership as a condition of continued membership in the Chaubunagungamaug Band of Nipmuck Indians.

ARTICLE II. TRIBAL GOVERNMENT

Section 1. Governing Bodies. The government of the Chaubunagungamaug Band of Nipmuck Indians shall consist of a Tribal Sachem/Elders Council and a Tribal Council. The Tribal Sachem/Elders Council shall provide continuity on the heritage, language and spiritual roots of the Chaubunagungamaug Band of Nipmuck Indians. The Tribal Council shall administer the business affairs and property of the Tribe in a manner consistent with our traditions and heritage.

Section 2. Tribal Sachem/Elders Council. The leaders of the Chaubunagungamaug Band of Nipmuck Indians with utmost honor and respect shall forever be the Tribal Sachem which includes the Chief for Life, Subchief, and Clan Mother for Life. The Tribal Sachem shall lead an Elders Council made up of no more than six additional elders representing traditions of the various families of the Chaubunagungamaug Band of Nipmuck Indians. The Tribal Sachem/Elders Council will sit with the Tribal Council and provide prayer, advice and guidance and, although they hold no vote in matters of the Tribal Council, their advice shall be held in the highest respect. The duties of the Tribal

Sachem/Elders Council shall be for spiritual and ceremonial affairs and to preserve traditions, language and heritage of the Chaubunagungamaug Band of Nipmuck Indians. After the cycle is complete, the Subchief will become Chief for Life. The new Chief shall then reflect and, at a seasonal gathering of the Tribe, shall bring forward a person then deemed worthy as successor Subchief. Upon hearing the blessing of the Clan Mother and acclamation of the members, the successor Subchief shall be seated with the Tribal Sachem/Elders Council. The Clan Mother for Life shall also designate a successor, and shall guide and instruct the successor. At a season of her choosing the Clan Mother shall bring her successor to the Tribal Sachem/Elders Council and the Tribe for blessing and acclamation. When the cycle is completed, the successor Clan Mother shall be seated with the Tribal Sachem/Elders Council.

Section 3. Tribal Council. The governing body under this Constitution shall be a Tribal Council composed of nine (9) members of the Chaubunagungamaug Band of Nipmuck Indians who shall elect annually from among themselves a Chair, a Vice Chair, a Secretary, a Treasurer, and a Moderator. Additional offices may be created by the Tribal Council as deemed necessary.

Section 4. Elections. The Tribal Council shall enact a Tribal code regarding elections.

Section 5. Election of Tribal Council. The Tribal Council shall be comprised of nine (9) persons who shall be elected to the Council in a manner which seeks to fairly represent the several families that comprise the enrolled members of the Tribe. The term of office for each seat on the Tribal Council shall be for three years, except that in the initial year of election under this Constitution, three (3) seats on the Tribal Council shall have a term of office of two (2) years and another three (3) shall have a term of office of one (1) year. Council Members may be elected to consecutive terms. Membership on the Tribal Council shall include no more than three (3) members from any one of three families which traditionally comprise the Chaubunagungamaug Band of Nipmuck Indians. If any family does not have three (3) members that seek election, those seats shall be filled by the highest vote getter from the membership at large.

Section 6. Qualifications for Tribal Council.

a. Eligibility. Any person elected to the Tribal Council must be an Enrolled Tribal Member of the Chaubunagungamaug Band of Nipmuck Indians, and at least eighteen (18) years of age at the time of the election.

b. Felony Disqualification. No person previously convicted of felony shall be elected to the Tribal Council.

c. Tribal Council Determines Qualifications. The Tribal Council shall be the sole judge of the qualifications of its own members.

Section 7. Removal from Office. A member of the Tribal Council may be removed upon the following terms:

- a. Absence. If any officer or member of the Tribal Council shall be absent from any three (3) consecutive regular or special meetings without sufficient reason, or shall otherwise neglect or fail to perform the reasonable duties of office, the other members may declare the office vacant by vote of at least seven (7) members of the Council.
- b. Conviction of Felony. Any officer or member of the Tribal Council convicted of a felony while in office shall be removed from office by a vote of at least seven (7) members of the Tribal Council.
- c. Recall. Any person elected to a tribal office by the Chaubunagungamaug Band of Nipmuck Indians is subject to recall from such office upon petition of 50% or more of Tribal Members registered and eligible to vote for such office. No person subject to a recall petition shall be eligible to vote on that recall.

Section 8. Vacancies. If a vacancy occurs in the membership of the Tribal Council through resignation, recall, impeachment, or death, the Tribal Council shall appoint a new Member to finish the remaining term of the vacant seat.

ARTICLE III. TRIBAL COUNCIL DUTIES

Section 1. Powers of Tribal Council. The Tribal Council shall have all lawful powers necessary or appropriate to govern and to preserve and protect the traditions, language, heritage, property and general welfare of the Chaubunagungamaug Band of Nipmuck Indians and its members, including the power to:

- a. Establish laws and regulations consistent with this Constitution regarding the membership and property of the Tribe;
- b. Approve or disapprove any sale, disposition, lease or encumbrance of tribal lands, interests in land, any trust property, or other tribal assets;
- c. Purchase, lease or otherwise acquire, manage, sell or otherwise dispose of real or personal property or any interest therein, by any lawful means;
- d. Administer any funds, real or personal property within the control of the Tribe and make expenditures from available funds for public purposes, including salaries or other remuneration of tribal officials or employees. Such salaries or remuneration shall be paid only for services actually authorized in a regular and legal manner and actually rendered. All expenditures from the Tribal Council fund shall be by Resolution duly passed by the Tribal Council to that effect and

- the amount so paid shall be a matter of public records at all times;
- e. Promote commerce with the Tribe and its members;
 - f. Acquire invest, secure, encumber, pledge or sell stocks, bonds, or any negotiable instruments;
 - g. Borrow and lend funds, and encumber tribal assets to secure such borrowing;
 - h. Establish such administrative, regulatory or judicial structures as may be or become necessary to the political, economic and social development of a cohesive Chaubunagungamaug Band of Nipmuck Indians;
 - i. Preserve law and order;
 - j. Establish the terms of compensation of officers and employees;
 - k. Establish the terms to employ accountants, legal counsel and other professionals for the advancement and protection of the rights of the Chaubunagungamaug Band of Nipmuck Indians and its members;
 - l. Negotiate agreements, compacts, contracts, and any other matter with the Federal, State, and local Governments;
 - m. Confer with the Secretary of the Interior and officials of other federal agencies upon all appropriations or Federal projects for the benefit of the Tribe;
 - n. Present and prosecute any claims or demands of the Chaubunagungamaug Band of Nipmuck Indians in any court of competent jurisdiction;
 - o. Assert or waive the sovereign immunity of the Tribe;
 - p. At the sole discretion of the Tribal Council, assist or decline to assist members of the Tribe in presenting their claims and grievances before any court or agency of government, and retain or provide attorneys to appear on behalf of members in any court of competent jurisdiction;
 - q. Select subordinate boards, officials, and employees not otherwise provided for in this Constitution; provide their tenure and duties; establish committees; and authorize and establish such corporation, association or organization having for its purpose and sole object the benefit of the members of the Chaubunagungamaug Band of Nipmuck Indians or its members. Such corporation, association or organization shall have the right to purchase and disburse real and personal property, the Tribal Council reserving the right to establish laws governing the

activities of such corporation, association or organization, and to enforce the observance of such;

r. Create and maintain a tribal treasury; accept donations from any person, state or the United States; raise revenue through taxation, and regulate commerce;

s. Provide, by Resolution, for removal or exclusion from the territory of the Chaubunagungamaug Band of Nipmuck Indians of any non-members whose presence may be injurious to the members of the Tribe morally or criminally;

t. Promulgate Codes for the purpose of safe-guarding the peace and safety of members of the Chaubunagungamaug Band of Nipmuck Indians, and establish courts for the adjudication of claims or disputes arising among or affecting any member of the Chaubunagungamaug Band of Nipmuck Indians or any Indian present on the lands of the Chaubunagungamaug Band of Nipmuck Indians and for the trial and punishment of Indians charged with the commission of offenses prescribed by tribal law. Decisions of the Tribal Court may be appealed to the Tribal Appellate Court, if any, but shall not be subject to review by the Tribal Council;

u. Enter into contracts; and

v. Regulate the inheritance of property, real and personal, within the territory of the Chaubunagungamaug Band of Nipmuck Indian Reservation.

Section 2. Reserved Powers. The enumeration of powers in Section 1 of this Article shall not be construed to limit the powers of the Tribal Council, but all powers of local government not expressly entrusted to the Tribal Council by this Constitution shall be reserved to the enrolled members of the Chaubunagungamaug Band of Nipmuck Indians. Such powers may be exercised through appropriate constitutional amendments.

Section 3. Non-Impairment of Obligations. Neither the tribal membership nor the Tribal Council shall enact any law impairing the obligations of binding and valid contracts approved by the Tribal Council prior to, or following, federal recognition including obligations of binding and valid contracts entered into in furtherance of the development, construction, operation and promotion of any business project on tribal lands. No tribal committee, agency, board or other official body, and no officer or official of the Tribe shall act to impair the obligations of binding and valid contracts approved by the Tribal Council prior to, or following, federal recognition including the obligations of binding and valid contracts entered into by the Tribe, any agency of the Tribe, or any group or body acting under the authority of the Tribe or other parties in furtherance of the development, construction, operation and promotion of any business project on tribal lands.

ARTICLE IV. TRIBAL COURT AND LAW ENFORCEMENT

Section 1. Establishment. The Tribal Council shall enact a Code establishing a Tribal Court upon the lands of the Chaubunagungamaug Band of Nipmuck Indians.

a. Jurisdiction. The Tribal Court shall have jurisdiction to the maximum extent permitted by law.

b. Legislation to Define Duties. The duties and jurisdiction of the Tribal Court shall be more fully prescribed by appropriate Codes enacted by the Tribal Council.

Section 2. Tribal Police Force. The Tribal Council may enact legislation for the establishment of a tribal police force which shall have jurisdiction to the maximum extent permitted by law upon the reservation. The authority and duties of this police force shall be determined by the Tribal Council.

ARTICLE V. TRIBAL LAND CLAIMS

The Tribal Council shall make a thorough survey, research, investigation, and study of the history and title of all lands which are now tribal in character or that have been tribal in character in times past and shall endeavor to reestablish the tribal equity, if any, in such lands so as to obtain through proper channels just compensation for such lands, which it shall find to have been unlawfully removed from the present jurisdiction of the Tribe and without just compensation.

ARTICLE VI. GUARDIANSHIP

The Tribal Council shall pass all necessary laws whereby the rights of minors and incompetents shall be properly safeguarded, and shall see that the administration of such funds and other assets shall be for the exclusive benefit of such minors or incompetents.

ARTICLE VII. LEGISLATION AND RESOLUTIONS

Every statute or Code adopted by the Tribal Council shall begin with the words "Be it enacted by the Tribal Council of the Chaubunagungamaug Band of Nipmuck Indians" and every Resolution adopted by the Tribal Council shall begin with the words "Be it resolved by the Tribal Council of the Chaubunagungamaug Band of Nipmuck Indians."

ARTICLE VIII. AMENDMENT

This Constitution may be amended upon the affirmative vote of at least seven (7) members of the Tribal Council and a majority of the enrolled members voting in an election convened for that purpose.