

# THE CONSTITUTION OF THE WHITE EARTH NATION

## PREAMBLE

The Anishinaabeg of the White Earth Nation are the successors of a great tradition of continental liberty, a native constitution of families, totemic associations. The Anishinaabeg create stories of natural reason, of courage, loyalty, humor, spiritual inspiration, survivance, reciprocal altruism, and native cultural sovereignty.

We the Anishinaabeg of the White Earth Nation in order to secure an inherent and essential sovereignty, to promote traditions of liberty, justice, and peace, and reserve common resources, and to ensure the inalienable rights of native governance for our posterity, do constitute, ordain and establish this Constitution of the White Earth Nation.

## **CHAPTER 1: TERRITORY AND JURISDICTION**

The White Earth Nation shall have jurisdiction over citizens, residents, visitors, altruistic relations, and the whole of the land, including transfers, conferrals, and acquisitions of land in futurity, water, wild rice, public and private property, right of way, airspace, minerals, natural resources, parks, and any other environmental estates or territories designated by and located within the boundaries of the White Earth Reservation, as established and described in the Treaty of March 19, 1867, and over the reserved rights within the ceded waterways and territories of the Treaty of 1855.

## **CHAPTER 2: CITIZENS OF THE WHITE EARTH NATION**

### **Article 1**

Citizens of the White Earth Nation shall be descendants of Anishinaabeg families and related by linear descent to enrolled members of the White Earth Reservation and Nation, according to genealogical documents, treaties and other agreements with the government of the United States.

### **Article 2**

Services and entitlements provided by government agencies to citizens, otherwise designated members of the White Earth Nation, shall be defined according to treaties, trusts, and diplomatic agreements, state and federal laws, rules and regulations, and in policies and procedures established by the government of the White Earth Nation.

### **Article 3**

The Anishinaabeg and their descendants shall have the right to appeal to the President and to the White Earth Court any decisions that deny citizenship in the White Earth Nation.

### **Article 4**

No person or government has the privilege or power to diminish the sovereignty of the White Earth Nation.

## **CHAPTER 3: RIGHTS AND DUTIES**

### **Article 1**

The White Earth Nation shall make no laws that would establish a religion, or laws that would deny the free expression of religion, speech, or of the press and electronic communication.

### **Article 2**

The White Earth Nation shall make no laws that deny the right of the people to peaceably gather or assemble for any reason, and shall make no laws that prohibit the right to petition the government for restitution, amendments, or redress of grievances, and no person shall be discriminated against for initiating or espousing an untimely or contrary petition about governance.

### **Article 3**

The people shall not be denied the fundamental human rights of citizenship in the White Earth Nation.

#### **Article 4**

The people are equal under the law and no law, government policy, or agency practice shall discriminate in political, economic, social or cultural associations because of race, creed, sex, gender, disability, or social status.

#### **Article 5**

The freedom of thought and conscience, academic, artistic irony, and literary expression, shall not be denied, violated or controverted by the government.

#### **Article 6**

The secrecy of personal communication shall not be violated, and no censorship shall be practiced or maintained by the government.

#### **Article 7**

The right to own and transfer of private property is inviolable. The rights of property shall be protected, and private property expropriated for public use shall be according to due process of law and just compensation.

#### **Article 8**

No person shall be denied or deprived of life or liberty, except certain serious misdemeanors and felony convictions, and no criminal penalties shall be imposed without due process of law and judicial procedures.

### **Article 9**

No person shall be apprehended by law enforcement officers without probable cause and due process of law or by warrant duly issued by a court.

### **Article 10**

The people shall have the right to possess firearms except for convicted felons in accordance with state and federal laws.

### **Article 11**

The people shall be secure in their homes, personal papers and documents, against entries, electronic and material searches, without a specific, descriptive warrant for adequate cause issued by a court. Each search and seizure shall require a separate, specific warrant issued by a court, except in cases of probable threats or potential emergencies.

### **Article 12**

No person shall be obligated to testify or provide evidence in a court against himself or herself, and any confessions obtained under compulsion, torture, or threats, or after arrest and excessive detention, may not be admissible as evidence in court. No person shall be convicted or punished for a crime when the only evidence against him or her is a confession, except in cases of crimes that can be proven by other evidence.

### **Article 13**

No person shall be subject to trial twice for the same criminal indictment or offence.

### **Article 14**

No person shall be denied the right to be duly informed of the nature and cause of a warrant, indictment, or criminal proceeding, and shall not be denied the right to be represented by legal counsel.

### **Article 15**

The people shall have the right to confront and challenge witnesses in a criminal court, and the legal option of a speedy court hearing or public jury trial shall not be refused or contradicted.

### **Article 16**

Citizens shall never be banished from the White Earth Nation.

### **Article 17**

The Constitution of the White Earth Nation is inspired by inherent and traditional sovereignty, and contains, embodies, and promotes the rights and provisions provided in the articles and amendments of the Indian Civil Rights Act of 1968, and the United States Constitution.

## **CHAPTER 4: SOVEREIGN IMMUNITY**

The White Earth Nation declares sovereign territorial, political and cultural rights and powers as an independent government and immunity to civil law suits. The Legislative Council by certain formal policies and procedures shall have the right to waive the sovereign immunity of the government in the best interests of the White Earth Nation.

## **CHAPTER 5: BOARD OF ELECTIONS**

### **Article 1**

Citizens must be at least eighteen years old to vote in government referenda and elections.

### **Article 2**

Election and voting procedures shall be established by an Election Code and managed by an independent Board of Elections appointed by the Legislative Council.

### **Article 3**

The Board of Elections shall consist of five eligible citizen voters of the White Earth Nation. The Chief Judge of the Board of Elections shall administer and supervise election regulations and procedures according to provisions of the Election Code. The Chief Judge shall not vote as a member of the Board of Elections.

### **Article 4**

Members of the Board of Elections shall ensure fair and impartial elections according to the Election Code and the Constitution of the White Earth Nation.

### **Article 5**

The Legislative Council shall resolve any challenges or allegations of impropriety of election laws or procedures.

### **Article 6**

Citizens who become candidates for elected positions in the government shall not be members of the Board of Elections. The Legislative Council shall appoint the Chief Judge and replacements to the Board of Elections.

## **CHAPTER 6: GOVERNANCE**

### **Article 1**

The White Earth Nation shall be governed by a representative and elected Legislative Council.

### **Article 2**

The Legislative Council shall consist of a President, or White Earth Chief, the Secretary Treasurer, and elected Representatives of acknowledged communities of the White Earth Nation.

### **Article 3**

The respective communities shall be entitled to one elected Representative to serve on the Legislative Council.

### **Article 4**



Communities shall be established or changed by petition, by population, historic or totemic associations, and ratified by a simple majority of eligible citizen voters in a general referendum.

#### **Article 5**

The President and the Secretary Treasurer shall be elected at large by eligible citizen voters of the White Earth Nation.

#### **Article 6**

The President, Secretary Treasure, and Representatives of the Legislative Council shall be elected for no more than two four year terms, and staggered elections shall be ordered every two years.

#### **Article 7**

Two citizens of the White Earth Nation shall be elected at large to serve constituencies outside the White Earth Reservation in the State of Minnesota.

#### **Article 8**

The Legislative Council shall have the authority to propose changes in the count of elected Representatives based on changes in population or the number of acknowledged communities. Proposals to change the count of Representatives shall be subject to a majority vote of citizens in a referendum.

#### **Article 9**

Candidates for elected government offices shall be citizens who reside within the treaty boundaries according to the Treaty of March 19, 1867, of the White Earth Nation, except two citizen members of the Legislative Council who shall be elected at large in the State of Minnesota.

### **Article 10**

Citizens who have been convicted of a felony may vote in elections and referenda but shall not be eligible to hold elected offices in the White Earth Nation.

### **Article 11**

Candidates for elected government office shall be at least twenty-five years of age at the time of the election.

### **Article 12**

The Legislative Council shall appoint a new President in the event of the death, resignation, incapacity, or removal of the duly elected President. The appointed President shall serve the remainder of the elected term of the office.

### **Article 13**

The Legislative Council has the power to initiate impeachment proceedings of elected representatives of the government for specific allegations of misconduct, criminal indictments, or felony convictions. To initiate impeachment procedures requires at least a two-thirds vote of the Legislative Council.

### **Article 14**

There shall be two distinct procedures of impeachment. The first is admonition of misconduct but no other action or decree, and the second procedure is impeachment and removal from elected office.

### **Article 15**

The White Earth Nation shall obligate candidates for elected offices not to disburse in campaign services, promotion and advertising more than three times the amount of the annual national family poverty guidelines, for one person in the Contiguous States, established and published in the *Federal Register* by the United States Department of Human Services.

### **Article 16**

Candidates for elected office shall file a formal report no later than thirty days after the election with the Chief Judge of the Board of Elections. The report shall be an affirmation of total election contributions and disbursements of the candidate.

### **Article 17**

The President and Legislative Council of the White Earth Nation shall maintain public records and documents for posterity. The President shall nominate an archive to secure the public records and documents.

## **CHAPTER 7: COMMUNITY COUNCILS**

The Community Councils shall be initiated and established in geographically based communities by citizens of the White Earth Nation. The Community Councils shall provide communal information, guidance, and recommendations to both the Legislative Council and the President on matters of concern to the citizens. The Community Councils shall promote, advance and strengthen the philosophy of *mino-bimaadiziwin*, to live a good life, and in good health, through the creation and formation of associations, events and activities that demonstrate, teach and encourage respect, love, bravery, humility, wisdom, honesty and truth for citizens.

## **CHAPTER 8: COUNCIL OF ELDERS**

The Council of Elders shall be nominated by citizens and designated by the Legislative Council. The Council of Elders shall provide ideas and thoughts on totemic associations, traditional knowledge, cultural and spiritual practices, native survivance, and considerations of resource management, and advice the Legislative Council. The Council of Elders shall consist of twenty citizens of the White Earth Nation who are at least fifty-five years of age at the time of appointment.

## **CHAPTER 9: YOUTH COUNCIL**

The Youth Council shall be nominated by citizens and designated by the Legislative Council. The Youth Council shall provide information about matters that effect young people and advise the President and Legislative Council. The Youth Council shall consist of twenty citizens who are between the ages of twelve and eighteen, and who are residents of the White Earth Nation.

## **CHAPTER 10: SEPARATION OF POWERS**

The White Earth Nation shall be divided into three separate branches of government. The Executive branch is the elected President, the Board of Elections, Council of Elders, Youth Council, and other executive designations. The Legislative branch includes the Representatives elected to the Legislative Council. The Judicial branch of government is the Judiciary and White Earth Courts. The three respective branches of government shall have no authority over any other branch, except for certain nominations and other provisions specified in the Constitution of the White Earth Nation.

## **CHAPTER 11: THE PRESIDENT**

### **Article 1**

The President, or White Earth Chief, shall be the official national and international elected representative of the White Earth Nation.

### **Article 2**

The President shall have the authority to secure and accept grants, negotiate agreements with associations, foundations, organizations, institutions, corporations, municipal, state, federal, and local governments, and other states and nations in the world with the ratification of the Legislative Council.

### **Article 3**

The President shall be responsible for the administration and management of the government, and shall implement and execute the laws, ordinances, resolutions, and other enactments of the Legislative Council.

### **Article 4**

The President shall approve by signature the laws, ordinances, measures, resolutions and appropriations of the Legislative Council.

### **Article 5**

The President shall have the power to veto proposed laws, ordinances, measures, and resolutions initiated by the Legislative Council.

### **Article 6**

The President shall return within five days vetoed or rejected proposed laws, ordinances and measures with a required statement of objection.

### **Article 7**

The Legislative Council may overcome any veto of proposed laws, ordinances and resolutions by a two-thirds vote of the elected Representatives.

### **Article 8**

The President shall have the authority to appoint executive branch administrators and other officials to serve the White Earth Nation.

### **Article 9**

The President shall have the power to schedule and preside over sessions of the Legislative Council.

### **Article 10**

The President shall not vote except in the case of a tie vote of the Legislative Council.

### **Article 11**

The President shall deliver an annual address dedicated to the State of the White Earth Nation.

### **Article 12**

The President shall be bonded as an elected official.

### **Article 13**

The President may serve no more than two four year elected terms.

### **Article 14**

The President shall promote, protect, and defend cultural and political sovereignty and the Constitution of the White Earth Nation.

### **Article 15**

The President shall have the authority to nominate honorary ambassadors, consuls, citizens, and to initiate and establish embassies of the White Earth Nation to serve the national and international concerns of native survivance and moral equity.

## **CHAPTER 12: THE LEGISLATIVE COUNCIL**

### **Article 1**

Representatives of the Legislative Council shall propose and enact laws, codes, ordinances, resolutions, and statutes of the White Earth Nation.

### **Article 2**

The Legislative Council shall have the authority to raise general revenue, levy and collect taxes for government services and operations, establish license and service fees, and initiate other specific levies and taxes for the welfare of the citizens of the White Earth Nation.

### **Article 3**

The Legislative Council shall have the authority to borrow money, issue public bonds, appropriate funds for the operation of the government, and to initiate other monetary policies in the interests of the White Earth Nation.

### **Article 4**

The Legislative Council shall promote and protect the health, public welfare, safety, education, and the cultural and political sovereignty of the citizens of the White Earth Nation.

### **Article 5**



The Legislative Council shall establish subordinate and secondary boards, appoint delegates, and reserves the right to review the initiatives and actions of the delegates and boards.

#### **Article 6**

The Legislative Council shall be responsible for the proper management of government programs, land, waterways, resources, commerce, public housing, transportation, casino operations, business enterprises, and other assets of the White Earth Nation.

#### **Article 7**

The Legislative Council shall have the authority to control the distribution and sale of alcoholic beverages within the treaty boundaries of the White Earth Nation.

#### **Article 8**

The Legislative Council shall not establish, support, or embody any covert political, military, or intelligence operations, without due process of law and legal warrants, against peaceable citizens of the White Earth Nation.

#### **Article 9**

The Legislative Council shall have residual powers, and the powers of governance provided, specified and entrusted in the Constitution shall not be construed as the limitation of legislative power or authority. The powers of the government not specifically expressed or entrusted to the Legislative Council shall be reserved to the citizens of the White Earth Nation.

## **CHAPTER 13: THE SECRETARY TREASURER**

### **Article 1**

The Secretary Treasurer shall be bonded and responsible for monetary and financial matters, resources, documents and records of the Legislative Council. Government records shall be available for public inspection and review.

### **Article 2**

The Secretary Treasurer shall schedule an annual audit of funds, monetary transactions and records, deposits and expenditures by a duly certified independent auditor.

### **Article 3**

The Secretary Treasurer shall carry through official duties and responsibilities of the President and the Representatives of the Legislative Council.

### **Article 4**

The Secretary Treasurer shall be a voting member of the Legislative Council.

### **Article 5**

The Secretary Treasure shall provide and publish an annual fiscal report and accounting of the White Earth Nation.

## **CHAPTER 14: THE JUDICIARY**

### **Article 1**

The Judiciary shall consist of the White Earth Court, Court of Appeals, and other courts established by the Legislative Council.

### **Article 2**

The White Earth Court shall have the power of judicial review and jurisdiction over any legal matters, disputes, civil procedures and criminal laws, ordinances, regulations, codes and customs of family relations, protection, and dissolution, adoption, domestic violence, juvenile justice, and probate, housing and property, conservation, taxation, governance, the corporate code, election disputes, and constitutional issues of the White Earth Nation.

### **Article 3**

The Court of Appeals shall have original and appellate jurisdiction. The Court of Appeals shall hear case appeals and issues initiated by the Legislative Council. Decisions of the Court of Appeals are conclusive.

## **CHAPTER 15: POWERS OF THE WHITE EARTH COURTS**

### **Article 1**

The Courts shall have the authority to interpret and construe the laws, ordinances, and regulations of the Legislative Council and the Constitution of the White Earth Nation.

### **Article 2**

The Courts shall issue legal decisions, injunctions, reviews, writs of mandamus, extradition, certiorari, writs of habeas corpus, and other legal orders, instruments and documents.

### **Article 3**

The Courts shall establish procedures, rules, legal forms, and review by formal requests of citizens the specific and comprehensive constitutional validity of laws, ordinances and codes initiated and passed by the Legislative Council.

### **Article 4**

The Courts shall ensure and practice restorative justice in civil actions, minor criminal offences, juvenile and family matters, whenever appropriate to resolve complaints and disputes of the White Earth Nation.

### **Article 5**

The Courts shall establish and publish a code of judicial ethics.

## **CHAPTER 16: THE WHITE EARTH JUDGES**

### **Article 1**

The White Earth Court shall consist of a Chief Judge and Associate Judges. The Chief Judge shall be elected by a majority plus one of the eligible votes in a duly called election.

### **Article 2**

The Chief Judge shall appoint the necessary number of Associate Judges for five-year terms with the consent of the Legislative Council.

**Article 3**

The Court of Appeals shall consist of three judges and shall be appointed by the Legislative Council in consultation with the Chief Judge.

**Article 4**

The Chief Judge shall not be a member of the Court of Appeals.

**Article 5**

Judges of the Court of Appeals shall serve for five-years, and may otherwise practice law or be associated with a law firm.

**Article 6**

The judges of the courts shall be at least twenty-five years of age, of proven moral character, and who have not been convicted of a felony.

**Article 7**

The judges shall be graduates of a law school accredited by the American Bar Association.

**Article 8**

The judges shall be admitted to the bar to practice law in native communities, state, or federal courts.

**Article 9**

The judges shall be experienced lawyers, magistrates, or judges.

**Article 10**

The judges shall have knowledge of Anishinaabe culture, traditions, and general history.

**Article 11**

The judges shall recuse themselves, an assertion of judicial disqualification, as unsuitable to perform legal duties where there are possible conflicts of interest, or the appearance of personal interests, or potential challenges of partiality.

**Article 12**

The judges shall be impeached by the Legislative Council and removed from judicial practice for abuses of impartiality, bribery, political impropriety, or felony conviction.

**CHAPTER 17: LEGISLATIVE COUNCIL MEETINGS****Article 1**

The Legislative Council shall meet at least once each month to conduct government business. The time and place of each session shall be posted in advance.

**Article 2**

Citizens of the White Earth Nation have the right to attend sessions of the Legislative Council.

### **Article 3**

The President has the authority to schedule special and emergency sessions of the Legislative Council.

### **Article 4**

The Legislative Council by a majority vote and written request shall have the authority to schedule a special session.

### **Article 5**

The President shall be obligated to schedule a special session of the Legislative Council by an official petition of thirty percent of eligible citizen voters of the White Earth Nation.

### **Article 6**

The President may schedule an emergency session of the Legislative Council without written notice to consider urgent matters, services, protection of the health, welfare and safety of the citizens and communities of the White Earth Nation.

### **Article 7**

The Legislative Council shall conduct no other business than the specific stated purpose of an emergency session.

### **Article 8**

The Legislative Council shall have the authority to meet in closed executive sessions with the President to discuss matters of litigation, proposed and discreet negotiations, and other concerns of confidentiality.

### **Article 9**

The Legislative Council shall not decide actions on matters of litigation or confidentiality in closed executive sessions except when the outcome of the session has been fully reported in subsequent public sessions of the Legislative Council. The results of executive sessions shall be decided by vote at a public meeting.

### **Article 10**

Legislative Council motions, votes, resolutions and decisions shall be noted and preserved in the official minutes of the sessions.

### **Article 11**

Legislative Council actions, decisions, and enactments of record shall be available for inspection by citizens during normal business hours of the government.

### **Article 12**

The Legislative Council shall date and number each and every resolution, ordinance, law and statute, and cite the appropriate authority of the Constitution of the White Earth Nation.

### **Article 13**

The Legislative Council shall prepare a certificate for each resolution, ordinance, and statute that confirms the presence of a quorum and indicates the number of members voting for or against each enactment.



#### **Article 14**

The Legislative Council shall constitute a quorum by a simple majority of fifty-one percent of the elected members at a duly schedule session.

### **CHAPTER 18: ETHICS AND IMPEACHMENT**

#### **Article 1**

Elected members of the government may be impeached or removed from office by a recorded two-thirds vote of the entire Legislative Council.

#### **Article 2**

The Legislative Council may impeach or remove from office an elected member of government for a felony conviction in a court of competent jurisdiction.

#### **Article 3**

The Legislative Council may impeach or remove from office an elected member of the government for two misdemeanor convictions, including driving while intoxicated, but not including ordinary traffic violations.

#### **Article 4**

Elected officials of the government may not be suspended or removed from office without due process of law.

### **Article 5**

The Legislative Council may impeach for cause an elected member of the government. The impeachment may be a form of admonition, a warning or legal statement of charges, or the impeachment may be based on an indictment or conviction for a felony, and the forcible removal of an official of the government.

### **Article 6**

The White Earth Nation shall provide for a recall election of an elected official of the government. Citizens have the right to initiate a petition to recall an elected official. The petition shall secure at least two-thirds of the eligible voters for a recall election. The petition may be political and may include allegations, grievances, complaints and assertions of misconduct, nonfeasance, or mismanagement by an elected official of the government.

## **CHAPTER 19: PETITIONS AND REFERENDA**

### **Article 1**

The Legislative Council may initiate a referendum by a vote of two-thirds of the elected Representatives.

### **Article 2**

Citizens of the White Earth Nation may initiate a referendum by evidence of a vote of thirty percent of the eligible citizen voters.

### **Article 3**

The Legislative Council and eligible citizens may present proposed laws, ordinances, and initiatives to a referendum vote of the electorate, according to certified evidence of the constitutional process.

#### **Article 4**

The referendum vote shall be held within one hundred and eighty days from the official receipt of the petition, unless the scheduled date of the referendum is within six months of a general election, in that event the referendum would be presented to the eligible voters in the general election.

#### **Article 5**

Scheduled referenda shall be conducted according to the rules and regulations of the Board of Elections and the Election Code.

### **CHAPTER 20: AMENDMENTS TO THE CONSTITUTION**

The Constitution of the White Earth Nation may be amended by two-thirds of the recorded eligible votes in a duly called election or referendum to amend the Constitution. Eligible voters must be formally informed by written and published notices of the proposed amendment to the Constitution of the White Earth Nation.

### **RATIFICATION OF THE CONSTITUTION**

The sworn delegates to the White Earth Constitutional Convention hereby duly ratify for a citizen referendum the Constitution of the White Earth Nation. The Constitution of the White Earth Nation was duly ratified on April 4, 2009, at the Shooting Star Casino Hotel, Mahanomen, Minnesota. The ratification was by secret ballots of twenty-four delegates present. Sixteen delegates voted for ratification, and eight delegates votes against ratification.

Gerald Vizenor, Distinguished Professor of American Studies at the University of New Mexico, was a delegate to the Constitutional Convention and the Principal Writer of the proposed Constitution of the White Earth Nation.

The Constitution Proposal Team included Erma Vizenor, President of the White Earth Nation, Jill May Doerfler, Assistant Professor, Department of Indian Studies, University of Minnesota, Duluth, Jo Anne E. Stately, Vice President of Development for the Indian Land Tenure Foundation, and Anita Fineday, Chief Tribal Court Judge, White Earth Nation.

David E. Wilkins, Professor of American Indian Studies, University of Minnesota, was a Special Consultant to the Constitutional Convention and the Proposal Team.

Anton Treuer, Professor, American Indian Resource Center, Languages and Ethnic Studies, Bemidji State University, was the translator of the Preamble to the Constitution.