

Proposed: Pending comments and election

Mendas Cha-Ag

Constitution

Of The

Healy Lake Tribe

Healy Lake Village, Alaska

The Healy Lake Tribal Council has been working on proposed updates to the Healy Lake Constitution in a series of meetings since July 2015. The Council is currently taking membership comments and concerns on this proposed draft. The Council will hold an election after the comment period ends and they have taken the comments into consideration.

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PREAMBLE

We, the Mendas Cha-Ag people, have lived at Healy Lake for more than 10,000 years in one of the oldest continuously inhabited places in the Americas. We exercise our freedom and sovereign powers in creating our written Constitution in recognition of our ancestors and to support the well-being and unity of this and succeeding generations. In writing this Constitution we assert our fundamental Native rights and traditions in supporting our Tribe's social, cultural, economic and political progress, and to protect our people, land, and natural resources now and into the future. We adopt this Constitution as a federally recognized Tribe, under our inherent sovereign authority. We adopted our first written Constitution in 1977, the "Constitution and Bylaws of the Village of Healy Lake," which we replaced in 1997 with the "Traditional Constitution of the Mendas Cha-Ag Tribe." This Constitution shall amend and supersede the Constitutions of 1977 and 1997 upon adoption by the Healy Lake tribal voters.

ARTICLE 1 - NAME

Our Athabascan name is 'Mendas Cha-Ag' meaning the 'place of a body of water with an outlet,' our Healy Lake. The name of our Tribe on the list of federally recognized tribes published by the United States Department of Interior is 'Healy Lake Village.' Our Tribe has been referred to in the past as the 'Healy Lake Band.' It is sometimes referred to as the 'Healy Lake Tribe.' All of these names refer to the one federally recognized Tribe. In this Constitution, our Tribe shall be referred to as the Healy Lake Tribe, and the governing body as the 'Healy Lake Tribal Council.'

ARTICLE 2 – JURISDICTION

The Healy Lake Tribe shall have all the jurisdiction, immunities and privileges available to federally recognized Indian tribes, in our government-to-government relationship with the

United States and other governments, as well as the responsibilities, powers, limitations and obligations of such tribes.

ARTICLE 3 - MEMBERSHIP

Section 1. Base Membership Roll. The base membership roll of the Healy Lake Tribe was identified as the residents residing in Healy Lake in 1977 according to the first written constitution of our Tribe, the “Constitution and Bylaws of the Village of Healy Lake.” That Constitution was substantially amended in 1997 by the adoption of the “Traditional Constitution of the Mendas Cha-Ag Tribe,” which simply identified the base membership as being the names on the “base membership roll adopted by the Mendas Cha-Ag Traditional Council at the passage of this Constitution, provided that the Council may correct the base membership roll within two years following the adoption of this Constitution.” The roll compiled for the Mendas Cha-Ag village corporation, pursuant to the Alaska Native Claims Settlement Act most clearly identified the residents of Healy Lake in 1977 when the “Constitution and Bylaws of the Village of Healy Lake” was passed. That roll was the foundational roll for recognition under the Alaska Native Claims Settlement Act and subsequently the formal recognition of Healy Lake Village as a federally recognized tribe, and inclusion on the federal list as such. To clarify the base roll for our federally recognized Tribe, the roll developed for the Mendas Cha-Ag village corporation formed pursuant to the Alaska Native Claims Settlement Act shall be the Base Membership Roll for our Tribe. The Alaska Native tribal members on that list are:

1. Beaver, Josephine
2. Chapman, Ada Margaret
3. Erickson, Linda
4. Fifer, Michael Dwayne
5. Fifer, Monte Lee
6. Fifer, Robert Ray
7. Gorrod, Sarah Ann
8. Healy, Gary Wayne
9. Healy, Jenny
10. Henry, Agnes
11. Joe, David Alexander

12. Kirsteatter, Dorothy
13. Kirsteatter, Freddie
14. Kirsteatter, Margaret
15. Lee, Gary Dean
16. Lee, Richard Dale
17. Lee, Robert Edward
18. Lee, Wayne Joseph
19. Luke, Frank
20. Luke, Gary Lee
21. Luke, Louise
22. Luke, Lucy
23. Polston, Joann Lorry
24. Saylor, Benjamin Louis
25. Saylor, Patrick Charles
26. Saylor, Stella Healy
27. Thomas, Lena

Section 2. Descendants of Base Roll Members. All lineal descendants of base roll members shall be automatically eligible for membership and enrollment in the Healy Lake Tribe. Persons under 18 who are lineal descendants of base roll members shall be tribal members regardless of whether or not they are formally enrolled into the Healy Lake Tribe or enrolled into another tribe. Lineal descendants 18 and older, who are not formally enrolled, shall be considered automatically eligible for membership in the Healy Lake Tribe and may submit applications for enrollment.

Section 3. Dual Enrollment. Dual enrollment is prohibited for adult members of the Tribe, 18 years of age and older. Dual enrollment is permitted for children. Children who are lineal descendants of base roll members are tribal members even if they are not enrolled, or if they are enrolled to another tribe. Children include biological and Adopted Alaska Native or American Indian Children. Children's enrollment or eligibility for enrollment may not be relinquished from the Healy Lake Tribe by any person for any reason.

Section 4. Adoption of New Members. The Tribal Council shall have the option to adopt Alaska Natives or American Indians with at least 1/4th Alaska Native or American Indian blood under the provisions of the Healy Lake Membership and Enrollment Code.

Section 5. Restrictions of Membership Qualifications. Any restrictions to membership qualifications such as a blood quantum requirement for lineal descendants shall only be made by amendment to this Constitution and shall affect future tribal members only.

Section 6. Membership and Enrollment Code. The Tribal Council shall adopt and implement a revised Membership and Enrollment Code subsequent to the adoption of this Constitution which shall be consistent with this Constitution and prescribe tribal law governing membership, including application and appeal procedures, maintenance of the membership roll, loss of membership, disenrollment, relinquishment of membership, honorary membership and adoption of new members.

ARTICLE 4 - GOVERNING BODY

Section 1. Name and Powers. The governing body of the Healy Lake Tribe shall be the 'Healy Lake Tribal Council,' also referred to as the 'Council' or 'Tribal Council' in this Constitution. The Council shall represent the Tribe and shall exercise the powers of the Tribe cited in this Constitution unless otherwise provided by this Constitution or by Tribal code.

Section 2. Number of Council Members, Officers, and Voting. The Healy Lake Tribal Council shall consist of 5 members, at least 2 of whom shall be full-time residents of Healy Lake and include the President. The Officers shall be the President, Vice President, and Secretary/Treasurer. The President shall be a resident of Healy Lake. The Officers shall be decided among the Council members annually after the Council elections in July. All 5 members shall be entitled to vote, except on matters involving a conflict of interest as defined in this Constitution or by tribal code.

Section 3. Qualifications for Serving on the Tribal Council. The qualifications for serving on the Healy Lake Tribal Council shall be:

1. Enrolled tribal members who are 18 years of age or older
2. Not enrolled into another tribe
3. Not have been convicted of a felony of moral turpitude within the past 10 years, or a crime involving sexual assault, embezzlement, or theft, conversion or misuse of tribal funds or property ever in their lives

While it is the goal of the Healy Lake Tribe that all tribal council members be residents of Healy Lake, it is not practical to make residency a requirement for all tribal council members. A minimum of 2 council members shall be residents of Healy Lake. The President of the Healy Lake Tribal Council shall be a resident of Healy Lake.

Section 4. Quorum. Three Tribal Council members shall constitute a quorum for the transaction of business at any meeting of the Tribal Council unless a larger number is specifically required by this Constitution or by Tribal code. The council members may meet either in person or be telephonically connected to meetings. A quorum established at the beginning of a meeting remains established for the remainder of the meeting.

Section 5. Terms of Office and Time of Election. The 5 members of the Tribal Council shall hold office for a term of 2 years, provided that shorter terms may be used temporarily to begin or restore the staggering of terms. Two seats shall be up in even numbered years and 3 seats in odd numbered years. A record shall be kept in the tribal office of when each seat was elected and when each seat is up for re-election.

Section 6. Conflict of Interest. No Council member shall vote on any matter, including but not limited to employment hiring and termination, project funding, provision of services, or appointments to tribal committees in which he or she has a direct, significant personal interest. A personal interest includes the involvement of his or her

spouse or significant other, or children. Healy Lake Council members shall not vote on any matter in which they cannot be fair, for any reason. Council members present when such an issue is decided shall reveal such conflict prior to any vote. They may discuss the matter but shall abstain from voting.

ARTICLE 5 - DUTIES OF OFFICERS OF THE COUNCIL

Section 1. Assuming Duties. Newly elected Council members shall assume their duties upon certification of election results, taking an oath of office, and signing a roles and responsibilities information packet.

Section 2. Decision Making and Chain of Command. During meetings, the Council shall make decisions by consensus when possible and by majority vote when consensus is not possible. The chain of command for chairing Council meetings shall be the President, Vice President, and Secretary/Treasurer. When the Council is not meeting, the President shall generally represent the Tribe, subject to any limitation that might be provided by tribal law.

Section 3. Signature Authority of the Tribal Council. No member of the Council shall have the authority to sign resolutions, contracts, funding allocations, or make major commitments of tribal resources without an affirmative vote of at least 3 Tribal Council members. Provided, however, that a higher number of affirmative votes may be required by this Constitution or by Tribal codes in specific circumstances.

Authorized check signers shall be designated by resolution of the Council, as well as anyone permitted to use tribal credit cards.

Section 4. President. The President shall be the first in command to preside over meetings of the Council and of the Tribe. The President shall provide general

supervision for the affairs of the Council with the assistance of the Vice President and Secretary/Treasurer, subject to any limitation that might be provided by tribal law or resolution.

Section 5. Vice President. The Vice President shall preside over meetings of the Council and of the Tribe in the absence of the President. The Vice President shall assist at the direction of the President providing general supervision over the affairs of the Tribe and Tribal Council, subject to any limitation provided by tribal law.

Section 6. Secretary/Treasurer. The Secretary/Treasurer shall be familiar with tribal finances and may be requested to give financial reports to the Council. The Secretary/Treasurer shall take or delegate the taking of minutes for all meetings. The Secretary/Treasurer shall issue or delegate the duty of issuing notices for all meetings and elections.

ARTICLE 6 - REMOVAL, RECALL, FORFEITURE, AND VACANCIES

Section 1. Removal. Any Council member found guilty by the Council of neglect of duty or gross misconduct in office may be removed from office by the Council. Council members who are the subject of removal shall be given notice 14 days in advance of a Council meeting. The notice shall state the reason for considering the removal and the date, time, and place of the Council meeting where the matter shall be deliberated. The person shall be given an opportunity to answer such charges before the Council in executive session. If the person subject to removal fails to appear before the Council, the Council may proceed in making a decision. A minimum of 4 Council members shall vote in favor of the removal for it to be valid. No person shall preside over a meeting at which his or her removal is being considered. All questions concerning removal under this Section shall be resolved by the Council and the decision of the Council shall be final.

Section 2. Recall. Healy Lake Tribal Council members may be recalled by the tribal voters through a petition and election process. A petition requesting such recall shall be signed within a 30 day period by at least 40% of the qualified tribal voters. The petition shall be presented to the Healy Lake tribal administrator or to the Council at any regular or special meeting of the Council. The Council shall call a special election to consider the recall of the named Council member or members within 60 days upon receiving the petition, in accordance with Article 8, Section 4 of this Constitution. If the majority of the voters vote in favor of the recall, the Council member or members shall be recalled.

If the Council fails to call a special election to consider the recall within 60 days after the receipt of a valid petition, the tribal membership may hold a tribal membership meeting to conduct such business. Circulating a new petition to call such a meeting shall not be required, but notice shall be posted in at least 2 public places in Healy Lake and may be posted on the Tribe's website, on the Tribe's social media, and emailed or mailed to the adult tribal members. A quorum of 40% of the qualified tribal voters shall be established in order to conduct the election. The recall takes effect upon an affirmative majority vote where at least 40% of the qualified tribal voters have participated.

No Council member may be subjected to recall proceedings for the same incident more than once in the course of his or her term.

Section 3. Forfeiture. A Tribal Council member who submits a written resignation or is convicted of a felony or misdemeanor offence against a person or involving embezzlement, or theft, conversion or misuse of funds while in office shall automatically forfeit his or her seat. Council members may be tested for illegal methamphetamines and narcotics, and shall forfeit their seat if they refuse to take the test or test positive for those drugs. When a Council member is absent, either in person or telephonically, from three consecutive regular meetings of the Tribal Council without notifying the Tribal Council administrator or President with a valid excuse prior to the meetings, the Council

may declare his or her seat forfeited after a warning is issued upon the second unexcused absence.

Section 5. Vacancies on the Tribal Council. Vacancies on the Tribal Council shall be filled by appointment by the remaining members of the Council, provided that there are at least 3 affirmative votes to support the appointment. If for some reason there are less than 3 tribal council members remaining on the Council, there shall be a special tribal election to fill those vacancies. A Council member appointed or elected to fill a vacancy shall serve until the term of that seat expires. Vacancies in the Officer positions shall be appointed by the majority vote of the Council until the next election. Clear records of any appointments to fill vacancies shall be kept in the Tribal office files.

ARTICLE 7 - MEETINGS

Section 1. General Meeting Rules. Meetings of the Tribal Council and Tribal membership shall be held under Roberts Rules of Order. Minutes shall be taken at all regular and special meetings of the Council, except when the Council is in executive session and shall be available for tribal members to see. Notice for all meetings, except for emergency meetings, shall be posted in at least 2 public places in Healy Lake and may be posted on the Tribe's website, on the Tribe's social media, and emailed or mailed to the adult tribal members. Council members may be present telephonically for Tribal Council meetings. All meetings shall be open to the tribal membership except when the Council is in executive session.

Section 2. Regular Meetings of the Tribal Council. Regular meetings of the Council shall be held monthly, on a date, time, and place to be determined by majority vote of the Council. Notice shall be posted at a minimum of 7 calendar days prior to regular meetings.

Section 3. Special Tribal Council Meetings. The President, or Vice President may call for a special meeting of the Council with an affirmative vote of at least two other council members. Notice shall be posted at a minimum of 7 calendar days prior to special meetings and shall specify what the special meeting is about.

Section 4. Emergency Tribal Council Meetings. The Council may meet for an emergency meeting without notice when emergency circumstances warrant such a meeting. Only emergency business may be taken up at emergency meetings, and decisions of a temporary nature made.

Section 5. Executive Session of the Tribal Council. The Healy Lake Tribal Council may move to meet in a closed executive session during regular, special or emergency meetings of the Council when the subject matter concerns child welfare, enrollment, personnel, litigation, and other matters made confidential by tribal code. The Council shall not go into executive session until the end of a meeting, and all other business for the meeting is complete.

Section 6. Tribal Membership Meetings.

A. Annual Tribal Membership Meeting: An annual tribal membership meeting shall be held in July. The date, time and place shall be determined by the Council. The meeting shall be used to inform the members about the goals, accomplishments, and business of the Tribe, including a financial report. Tribal elections may be conducted at the meeting. Notice shall be posted a minimum of 30 days before tribal membership meetings in at least two public places in Healy Lake, and may be posted on the Tribe's website, on the Tribe's social media, and emailed or mailed to the adult tribal members.

B. Council Calling Special Tribal Membership Meetings: General tribal membership meetings other than the annual meeting may be called by an

affirmative vote of at least 3 tribal council members, provided that the President or Vice President is among the 3. Notice shall be posted a minimum of 30 days before tribal membership meetings in at least two public places in Healy Lake, and may be posted on the Tribe's website, on the Tribe's social media, and emailed or mailed to the adult tribal members. The notice shall describe what the special tribal membership meeting is about.

C. Tribal Members Calling Tribal Membership Meetings: Tribal members have the freedom of assembly at any time as guaranteed by the Indian Civil Rights Act. In order to conduct official business of the Tribe, 40% of the qualified tribal voters must sign a petition calling for a tribal membership meeting within a 30 day period. The petition shall be presented to the Tribal Council either through the tribal administrator or at a Council meeting. Tribal members shall then post notice 30 days in advance of when and where the meeting will take place in at least 2 public places in Healy Lake and may be posted on the Tribe's website, on the Tribe's social media, and emailed or mailed to the adult tribal members.

D. Quorum of Tribal Membership Meetings: A quorum for tribal membership meetings where elections, business decisions or policy is being set shall be 40% of the qualified tribal voters.

ARTICLE 8 - ELECTIONS

Section 1. Voter Qualifications. Enrolled tribal members 18 years of age or older and who are not enrolled into another tribe shall be qualified to vote.

Section 2. General Guidelines for Elections. Tribal elections may be held through the use of meetings, polling hours, and/or mail out ballots according to the provisions of the Mendas Cha-Ag Tribal Election Ordinance which shall be amended pursuant to the adoption of this Constitution.

Section 3. Elections for Tribal Council Seats.

A. Elections for Council Seats: Elections for Tribal Council seats shall be held each year in July. The Council shall determine where and how the election shall be held.

B. Failure of the Council to hold Elections: If the Council fails to hold elections for tribal council positions within 4 months (by the end of November) the tribal membership may meet to conduct an election under the terms of Article 7, Section 6 (C) of this Constitution.

Section 4. Special Elections. The Council may, by an affirmative vote of at least 5 Council members, call a special election for the purposes of deciding a referendum, initiative, or recall, upon giving at least a 30 calendar day notice to the qualified voters. Notice shall be posted in two places in Healy Lake, and may be posted on the Tribe's website, on the Tribe's social media, and emailed or mailed to the tribal voters. Notices shall contain information concerning what the special election is about. Special elections may take place either through a meeting format, polling hours, or mail out ballots. A minimum of 40% of the tribal voters must cast ballots for a valid special election.

Section 5. Election Code. An amended Healy Lake Election Code, consistent with this Constitution, shall be adopted by the Council subsequently to the adoption of this Constitution which shall set forth the procedures to be followed in conducting each of the various types of elections called for in this Constitution.

ARTICLE 9 - POWERS OF THE HEALY LAKE TRIBAL COUNCIL

Section 1. General Powers. Except as specifically limited by this Constitution or by tribal code, the Council shall exercise the sovereign powers of the Tribe. The powers shall include all the inherent powers of a federally recognized tribal government which do not violate federal law, including but not limited to those specified in this Article.

Section 2. Internal Procedures. Consistent with this Constitution, the Council may adopt codes and policies to govern its internal affairs, domestic relations, procedures and organization.

Section 3. Tribal Council Powers. The Council shall exercise the following powers by appropriate action, motion, code, policy, or resolution subject to any limitations imposed by this Constitution, codes, or applicable laws of the United States:

- A.** To consult, negotiate, contract, oversee, make agreements with and make recommendations to federal, state, foreign, local, tribal, for-profit, and non-profit organizations regarding activities that may affect the Healy Lake Tribe.
- B.** To manage the internal affairs and procedures of the tribal government including regulating the conduct of the Tribal Council, membership, elections, and establishment of committees.
- C.** To promote and protect the peace, health, education, and general welfare of the members of the Tribe and to administer services that contribute to the social and economic development of the Tribe and its members.
- D.** To provide for the maintenance of law and order, domestic relations, health and safety, and the administration of justice, including the establishment of appropriate tribal courts or other judicial bodies.

- E.** To protect, encourage, and foster Tribal cultural practices of the Healy Lake people, including the arts, crafts, religion, singing, dancing, language and customs.
- F.** To protect artifacts, archaeological sites, and sacred places of the Healy Lake people.
- G.** To protect and preserve the wildlife and natural resources within the area under the jurisdiction of the Tribe or upon which its members rely for subsistence.
- H.** To manage tribal property, and to prevent the sale, disposition, lease or encumbrance of tribal lands, interest in lands, or other tribal assets without the consent of the Healy Lake Tribe.
- I.** Except as limited by Article 10 of this Constitution, to manage, lease, acquire, exchange, or otherwise deal with tribal or other property.
- J.** To zone, exercise the power of eminent domain and otherwise regulate all land use within those areas under the jurisdiction of the Tribe.
- K.** To make assignments of land or water areas of the Tribe for use and occupancy of the tribal members in accordance with the customs and codes of the Tribe.
- L.** To exclude persons who are a danger to tribal members from the village.
- M.** To acquire property and receive gifts.
- N.** To protect members' rights in personal property.

- O.** To manage and regulate all financial matters of the Tribe including assets, income, expenditures, appropriating funds, budgeting, reporting, and bank accounts.
- P.** To engage in tribal economic development enterprises for the benefit of tribal members and the Village.
- Q.** To secure bank loans up to \$50,000 without a vote of the qualified tribal voters.
- R.** To levy and collect taxes, fees, and assessments for Tribal purposes.
- S.** To charter enterprises, corporations, and associations for the benefit of tribal members.
- T.** To employ legal counsel and fixing of fees.
- U.** To join and/or charter housing authorities.
- V.** To manage tribal personnel and adopt personnel policies to govern tribal employment practices.
- W.** To adopt codes and resolutions necessary to give effect to any provision of this Constitution and to exercise any power not prohibited by federal law or reserved to the tribal voters.

Section 4. Omissions. Any rights and powers vested in the Healy Lake Tribe but not expressly referred to in this Constitution shall not be lost by reason of their omission, but may be exercised by the Council unless expressly prohibited by this Constitution or by tribal code.

ARTICLE 10. POWERS RESERVED TO MEMBERSHIP

Section 1. Tribal Lands. No lands or interests in lands owned by the Tribe may be sold or otherwise disposed of without an affirmative vote of the qualified tribal voters in an election where at least 75% of the qualified voters have voted. Nothing in this Section shall prohibit the Tribal Council from placing tribal land into federal trust or establishing and administering a tribal land assignment program for its members as set forth by tribal code.

Section 2. Tribal Sovereign Immunity. Healy Lake tribal voters reserve the right to vote on waivers of sovereign immunity from claims by a non-governmental entity over \$50,000 in value or any claim by any entity seeking execution against tribal lands. A minimum of 75% of the qualified voters shall vote in such an election for it to be valid.

ARTICLE 11 - POPULAR PARTICIPATION IN GOVERNMENT

Section 1. Initiative. The qualified voters of the Healy Lake Tribe shall have the right to amend this Constitution, and to propose amend, and repeal codes not inconsistent with this Constitution, through a valid petition and election process. A valid petition requesting such an initiative shall be signed by at least 40% of the enrolled tribal members who are 18 years of age or older and gathered within a 30 day period. The petition shall be presented to the Council either by filing it with the Healy Lake tribal administrator or at a meeting of the Healy Lake Tribal Council. The Council shall call a special election to consider the initiative within 60 days upon receiving the petition, in accordance with Article 8, Section 4 of this Constitution.

If the Council fails to act on the petition, the proposed constitutional amendment or code proposal may be brought before a tribal membership meeting under the terms of Article 7, Section 6 (C). A majority vote where a quorum of 40% of the tribal voters is

established shall be required to amend this Constitution, or to adopt, amend or repeal codes.

Section 2. Referendum. The Council, by an affirmative vote of at least 4 of its members, which must include either the President or Vice President, may refer issues to the tribal membership in a tribal election. Such an election shall be conducted under the terms for special elections governed by Article 8, Section 4 of this Constitution and by the Healy Lake Election Code.

Section 3. Initiative and Referendum Decisions. The decision of the voters in initiative and referendum elections shall be binding on the Council and the Tribe and shall remain in full force until amended or rescinded by subsequent action of the voters or expires by its own terms.

ARTICLE 12 - RIGHTS OF MEMBERS

Section 1. Access to Tribal Records. Tribal members shall have the right to review all tribal records, including financial records and meeting minutes, during tribal office hours in accordance with procedures established by the Council, except in child welfare cases, tribal enrollment records, litigation, personnel and other matters made confidential by tribal code. A list of the names of current tribal members shall be made available to tribal members upon request.

Section 2. Open Tribal Council Meetings. Tribal members have the right to be present at all Council meetings and work sessions except during executive sessions of the Council. Tribal members shall have the right to express their opinions on all tribal business in an orderly fashion under the direction of the person chairing a Council meeting.

Section 3. Indian Civil Rights. The Healy Lake Tribal Government shall provide to all persons within its jurisdiction the rights guaranteed by the Indian Civil Rights Act of 1968 as amended, enforceable by the Healy Lake Tribal Court. In summary, the tribal government shall:

- A.** Not prohibit the free exercise of speech, press, religion, or rights of the people to assemble peacefully or file grievances against the tribal government.
- B.** Not allow unreasonable search and seizure or issue search warrants without probable cause.
- C.** Not try anyone in the Healy Lake Tribal Court for the same offense twice.
- D.** Not make any person testify against himself in a criminal matter.
- E.** Not take private property for public use without paying the owner the fair market value.
- F.** Not deny a person the right to a speedy public trial. An accused person shall be informed of the nature of the crime he is accused of, told about the witnesses against him, be allowed to have witnesses testify in his favor and be allowed a lawyer at his own expense.
- G.** Not impose excessive bail or fines, nor impose cruel or unusual punishments. The Healy Lake tribal court shall not impose a penalty greater than, or, incarcerate anyone longer than is allowed under federal law.
- H.** Give all persons equal protection under tribal laws.

- I. Not pronounce anyone guilty of a crime or civil violation without a fair trial. The tribal government shall not pass an ordinance and charge a person with a violation of that ordinance or change penalties, after an incident (Ex Post Facto).
- J. Provide anyone accused of an offense punishable by jail time the right to a trial by jury of no less than six persons.

ARTICLE 13 - SOVEREIGN IMMUNITY OF THE HEALY LAKE TRIBE

The Council may adopt resolutions to waive immunity from suit or execution of judgement subject to this Article. This Article shall be strictly construed and ambiguities as to the scope of any waiver shall be construed in favor of finding immunity of the Tribe.

Section 1. Waivers of Sovereign Immunity and the Indian Civil Rights Act.

Nothing in this Constitution shall be deemed, interpreted, or construed to be a waiver of immunity from suit or execution of judgement against tribal property under tribal, state or federal law. Provided, however, that persons subject to the jurisdiction of the Tribe may bring claims arising under the Indian Civil Rights Act against the Healy Lake Tribal Council in the Healy Lake Tribal Court.

Section 2. Waivers of Sovereign Immunity for Grants and Contracts.

The Council may waive tribal sovereign immunity for the purposes of entering into a government grant or contract. Any waiver of sovereign immunity must specify that tribal lands shall not be included within the scope of the waiver. A resolution waiving immunity from suit or execution of judgement shall be passed by an affirmative and contemporaneous vote of at least 4 Council members voting in favor of passage.

Section 3. Claims by Non-Governmental Entity over \$50,000 or over Tribal Lands

Any resolution waiving any immunity from suit for claims by a non-governmental entity over \$50,000 in value, or claim by any entity seeking execution against tribal lands,

shall be approved by a majority vote of the qualified tribal voters, provided that at least 75% of the qualified tribal voters have voted in such an election.

Section 4. Waivers shall be specific.

Waivers of immunity shall not be general, but must specify the parties who may bring an action against the Tribe, duration for bringing a cause of action, the amount of funds or other property upon which execution may be had, the nature of the transaction giving rise to claims, and any other limitations deemed appropriate by the Council.

ARTICLE 14 - SEVERABILITY

If any provision of this Constitution shall, in the future, be declared invalid by a court of competent jurisdiction, the invalid provision shall be severed and the remaining provisions shall continue in full force and effect.

ARTICLE 15 – SAVINGS

All tribal legislation enacted prior to adoption of this Constitution shall remain in effect unless inconsistent with this Constitution.

ARTICLE 16 - AMENDMENTS OR REPEAL

This Constitution may be amended or repealed by a majority vote of the qualified voters of Healy Lake Tribe voting in an election called for that purpose. A minimum of 40% of the qualified tribal voters shall vote in such election. Notice shall be posted in at least 2 public places in Healy Lake for a minimum of 30 days prior to the election, posted on the Healy Lake Tribal Website, posted on the Tribe's Social Media, and emailed or mailed to tribal voters.

ADOPTION OF THIS CONSTITUTION

This Constitution shall be adopted by a majority vote in an election called for that purpose. According to Article 14, Amendments or Repeal of the Traditional Constitution of the Mendas Cha-Ag Tribe of 1997, “at least 50% of those entitled to vote shall vote in such election, and that notice has been posted for a minimum of 2 weeks in public places in Healy Lake.” This Constitution shall be effective from the date of certification of such tribal membership approval.