

HEARING ON 2008-ORD-002

PROPOSAL OF ORDINANCE, 2008-ORD-002, MASHPEE WAMPANOAG TRIBAL JUDICIARY

Notice is hereby given pursuant to Article IX, §3(2) of the Constitution of the Mashpee Wampanoag Tribe, that the Mashpee Wampanoag Tribal Council is proposing an ordinance, 2008-ORD-002, entitled the Mashpee Wampanoag Tribal Judiciary.

The purpose of the ordinance includes: exerting jurisdiction, establishing a court system which provides for fair and impartial hearings, and to insure the inherent sovereignty of the Mashpee Wampanoag Tribe. The Mashpee Wampanoag Tribal Judiciary will be established through the appointment of three judges to the Tribal Supreme Court by the Tribal Council. The Tribal Judiciary shall consist of a Tribal Supreme Court, a District Court, a Peacemaker Court, and such lower courts and offices as may later be established. The Supreme Court shall consist of three judges and its jurisdiction shall include: appeals from the District Court, cases disputing the final results of a Tribal Council election, petitions necessary or appropriate in aid of its jurisdiction, and other actions as provided by Tribal law. The District Court shall hear and determine all civil and criminal matters arising within the jurisdiction of the Tribe. The Supreme Court shall establish written rules of procedure, evidence, and ethics for all courts of the Tribal Judiciary and may prescribe rules for attorney admissions and a bar association. The Judicial Committee shall advertise vacancies for Tribal Judge positions and recommend Judges for appointment by Tribal Council. Supreme Court Judges shall be appointed to staggered terms of eight years and the District Court Judges shall be appointed to a term of five years. Tribal Judges must meet the following qualifications: (1) be either an enrolled member of the Tribe or another Tribe, (2) be either an attorney, a graduate of an ABA approved law school, or a current or former tribal judge; (3) at least 25 years old; (4) be of ethical character; and (5) have no felony convictions or committed crimes of moral turpitude. Judges may be subject to discipline or removal, and may resign from office.

The Chief Judge of the Supreme Court shall hire a Court Clerk, and this individual must be: (1) at least 21 years old; (2) be of high moral character; (3) have a school diploma or equivalent; and (4) be computer literate. A party to an action before the District Court or Supreme Court shall have the right to an attorney at his or her own expense. The Supreme Court and District Court shall have the authority to admit attorneys to practice before the Judiciary.

The Peacemaker Court may hear civil disputes, but may not hear criminal cases or appeals. The guiding principles of the Peacemaker Court are harmony, non-coercion, community health, and sacred restorative justice. Individuals are requested to participate without an

attorney and participation of the parties is voluntary. Any decision reached by the Peacemaker shall be final and may not be appealed. Peacemakers must meet the following qualifications: (1) be an individual who has the respect of the Tribal community; (2) at least 25 years old; (3) have never been convicted of a felony or crime of moral turpitude; (4) not a member of Tribal Council or a Tribal Judge; (5) and have a high school diploma or its equivalent.

Any person interested in obtaining the ordinance in its entirety, may contact the Mashpee Wampanoag Tribal Council at P. O. Box 1048 Mashpee, MA 02649 or call 508-477-0208.

Comments may be submitted by mail to the Mashpee Wampanoag Tribe, Attention Yvonne Avant, P.O. Box 1048, Mashpee, Ma 02649 or e-mailed to Yvonne Avant at Yavant@mwtribe.com. All comments will be read at the hearing.

A hearing on this ordinance will be held on November 12, 2008 at a regular scheduled Tribal Council meeting at 7:00PM at 483 Great Neck Road South, Mashpee, MA 02649.