

CHAPTER 1-1
CONSTITUTION (7/14/1982)

FOREST COUNTY POTAWATOMI COMMUNITY CONSTITUTION

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**CONSTITUTION
OF THE
FOREST COUNTY POTAWATOMI COMMUNITY
WISCONSIN**

PREAMBLE

We, the Wisconsin Potawatomes residing on lands reserved by the United States for Wisconsin Potawatomes in Wisconsin, grateful to Almighty God for his fostering care, in order to continue our tribal organization, to conserve and develop our common resources and to promote the welfare of ourselves and our descendants, do hereby ordain and establish this Constitution for the Forest County Potawatomi Community. The Constitution and Bylaws approved by the Secretary of the Interior on February 6, 1937, amended, are hereby superseded by this Constitution which will govern the Forest County Potawatomi Community from its effective date.

ARTICLE I - TERRITORY AND JURISDICTION

The territory and jurisdiction of the Forest County Potawatomi Community shall embrace lands purchased by the United States for the occupancy and use of the Wisconsin Potawatomes residing in Wisconsin, and any additional lands acquired by the Federal Government or the Community under any law of the United States, except as otherwise provided by law.

ARTICLE II -MEMBERSHIP

Section 1. The membership of the Forest County Potawatomi Community shall consist of:

- (a) All persons of Indian blood whose names appear on the official census roll of the Wisconsin Potawatomes as of April 1, 1934, as supplemented to January 1, 1936, who were residing on lands reserved by the United States for the Wisconsin Potawatomes in Wisconsin, on February 6, 1937 and their descendants who were residing on such lands on February 6, 1937.
- (b) All those persons who have been enrolled as members of the Forest County Potawatomi Community under the February 6, 1937, Constitution of the Community, as amended, since February 6, 1937, and prior to the effective date of this Constitution.
- (c) All persons of one-fourth (1/4) degree or more Potawatomi Indian blood born to any member of the Community.
- (d) No person who becomes enrolled as a member of another tribe, band, or group of Indians may be enrolled with the Community after the date of adoption of this Constitution unless he or she shall first relinquish in writing all rights to membership in such other tribe, band, or group of Indians.

Sec. 2. The General Council shall have the power to enact and make known ordinances, subject to approval by the Secretary of the Interior, covering future membership, loss of membership and the adoption of new members.

Sec. 3. Any person who has been rejected for enrollment as a member of the Community by the General Council shall have the right to appeal that decision to the Secretary of the Interior within six (6) months from date of written notice of rejection, and the decision of the Secretary on such appeal shall be final.

ARTICLE III – GOVERNING BODY

Section 1. The governing body of the Forest County Potawatomi Community shall be the General Council, which shall be composed of all qualified voters of the Community as defined in Sec. 4 of this Article.

Sec. 2. The General Council shall meet on the second Saturday of February, May, August and November of each year. Its annual meeting shall be held at the November meeting.

Sec. 3. The Chairman may call a special meeting of the General Council, and shall call and hold a special meeting within fifteen (15) days from receipt of a written request signed by at least ten (10) qualified voters. Written notice shall be posted at least ten (10) days in advance of the meeting. Such notice shall include the date, time, place and purpose of the meeting.

Sec. 4. Any enrolled member of the Community who is at least one-fourth (1/4) degree Potawatomi Indian blood and is eighteen (18) years of age or over shall be qualified to vote at all General Council meetings.

Sec. 5. At its annual meeting, the General council shall determine the number of qualified voters constituting fifteen (15) percent of the qualified voters of the Community. The number of qualified voters so determined shall constitute a quorum for the next annual meeting and all intervening regular and special meetings.

Sec. 6. The General Council shall elect from its membership a Chairman, Vice-Chairman, Secretary, Treasurer and two (2) Council members. Candidates for these offices shall be twenty-five (25) years of age or over, shall have at least one-fourth (1/4) degree Forest County Potawatomi Indian blood and shall not have been previously removed from tribal office under the provisions of Article VIII, Section 2(a)(2) or (5). Election of these officers shall be by secret ballot. The six (6) offices so elected shall constitute the Executive Council, which shall exercise those powers enumerated in this Constitution and such powers as may be delegated to it by the General Council.

ARTICLE IV - POWERS OF THE GENERAL COUNCIL

Section 1. Enumerated Powers. The General Council of the Forest County Potawatomi Community shall exercise the following powers, subject to any limitation imposed by Federal Law, the Constitution of the United States or by the provisions of this Constitution:

(a) To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior.

(b) To manage, lease, permit, grant easements, or otherwise deal with tribal lands, waters, mineral rights, interests in lands or other tribal assets; provided, that any mining-related activity

shall not be authorized by the General Council until it is approved in a special election called for that purpose by a two-thirds (2/3) majority vote of the qualified voters.

(c) To veto any sale, disposition, lease, or encumbrance of tribal lands, waters, interest in lands, or other tribal assets of the Community.

(d) To enact, make known and enforce ordinances: (1) governing the conduct of persons within the jurisdiction of the Community, including the power to establish a Tribal Court and to define its powers, authority, and procedures; (2) providing for the manner of making, holding, and revoking assignments of Community lands or interests therein; (3) providing for the levying of taxes and the appropriation of available tribal funds for public purposes; (4) providing for the licensing of non-members coming upon the reservation for purposes of hunting, fishing, trading, or other business; (5) providing for the exclusion from the territory of the Community, of those persons not so licensed; and (6) establishing proper agencies for law enforcement within the Community.

(e) To charter subordinate organizations for economic purposes and to delegate to such organizations, or to any subordinate boards, committees or officials of the Community, any of the foregoing powers. The General Council reserves the right to review and correct any action taken by virtue of such delegated power.

(f) To adopt resolutions not inconsistent with this Constitution regulating the procedures of the Executive Council, the General Council itself and other tribal agencies, tribal offices or tribal organizations of the Forest County Potawatomi Community.

Sec. 2. Future Powers. The General Council may exercise such further powers as may in the future be delegated to the General Council by members of the Community or by the Secretary of the Interior or any duly authorized official or agency of the State or Federal Government.

Sec. 3. Reserved Powers. Any rights and powers heretofore vested in the Wisconsin Potawatomes, but not expressly referred to in this Constitution, shall not be abridged by this Article, but may be exercised by the people of the Forest County Potawatomi Community through the adoption of appropriate amendments to this Constitution.

ARTICLE V – POWERS OF THE EXECUTIVE COUNCIL

Section 1. The Executive Council may exercise any of the following powers, subject to any limitations imposed by Federal Law, the Constitution of the United States or by any provisions of this Constitution:

(a) To consult, negotiate, contract and conclude agreements on behalf of the Community with Federal, State, or local governments and corporations, associations, legal organizations, or individuals, on matters within the powers contained in this Article or any other powers delegated to the Executive Council by the General Council.

(b) To advise the Secretary of the Interior with regard to all appropriation estimates or Federal projects for the benefit of the Forest County Potawatomi Community prior to the submission of each estimate to the Office of Management and Budget or its successor.

(c) To manage economic affairs and enterprises of the Forest County Potawatomi Community.

(d) To administer any funds within the control of the Community; to make expenditures from available funds for public purposes including salaries or other remuneration of tribal officials, employees or members. Such salaries or remuneration shall be only for services authorized in a regular and legal manner and actually rendered. All expenditures on the above preceding conditions shall be in accord with a budget previously approved by the General Council and the amount so paid shall be a matter of public record at all times.

(e) To appoint subordinate committees and employees not otherwise provided for in this Constitution.

(f) To develop ordinances, resolutions and other documents for consideration by the General Council.

(g) To develop policies, formulate plans, and set objectives for the consideration of the General Council and promote ways and means to carry them out.

(h) To encourage preservation of Potawatomi arts, crafts, traditions and culture.

Sec. 2. All actions of the Executive Council are subject to review and rescission by the General Council.

ARTICLE VI – ELECTIONS

Section 1. The General Council shall enact an ordinance governing the conduct of elections. Such ordinance shall be consistent with this Constitution and shall include, but not be limited to, the following provisions: (1) nomination of candidates; (2) secret ballots; (3) handling of petitions; (4) conduct of referendum elections; and (5) conduct of recall and removal elections.

Sec. 2. The annual election of those three (3) officers whose terms expire at the Executive Council meeting in November shall be held on the Saturday prior to the regular Executive Council meeting in November.

Sec. 3. Officers and members of the Executive Council shall be elected for a term of two (2) years or until his or her successor is duly elected and installed.

Sec. 4. The offices and members of the Executive Council holding office at the time of approval of this Constitution by the Secretary of the Interior shall hold office until their successors are duly elected and installed. The first election following the effective date of this Constitution shall be held at the next annual election date prior to the regular Executive Council meeting in November. At such time, the qualified voters of the Community shall elect successors to those three officers whose terms expire at the Executive Council meeting in November.

Sec. 5. Any enrolled member of the community who is at least one-fourth (1/4) degree Potawatomi Indian blood and eighteen (18) years of age or over shall be qualified to vote at any

election at which the individual presents himself/herself at the polls on election day during the official voting hours.

ARTICLE VII – REFERENDUM

Upon presentation to the Executive Council of a petition signed by at least twenty (20) percent of the qualified voters of the Community, any enacted or proposed ordinance, resolution or other legislative act of the General Council shall be submitted to a referendum of the qualified voters of the Community. Referendum elections shall be conducted as general elections and may not take place at General Council meetings. The majority of votes cast in such referendum shall be conclusive and binding on the General Council and/or Executive Council; provided, that at least twenty (20) percent of the qualified voters shall cast ballots in the referendum. It shall be the duty of the Executive Council to call such referenda in accordance with the election ordinance enacted pursuant to Article VI, Section 1.

ARTICLE VIII - VACANCIES, REMOVAL AND RECALL FROM OFFICE

Section 1. Vacancies. If any vacancy occurs in the Executive Council through resignation, death, recall or removal, the Executive Council shall declare that position vacant. The vacancy shall be filled in one of the following manners:

- (a) When the office of Chairman is declared vacant and the next regular election for that office is less than three (3) months from the date the vacancy is declared, the Vice-Chairman shall assume the office of Chairman for the Chairman's unexpired term. When the Vice-Chairman is serving as Chairman to fill a vacancy, the office of the Vice-chairman shall not be considered vacant.
- (b) When any other office within the Executive Council is declared vacant and the next regular election for that office is less than three (3) months from the date the vacancy is declared, the Executive Council shall appoint a successor for the unexpired term. Such appointee shall meet the qualifications specified in Article III, Sec. 6.
- (c) When any office within the Executive Council is declared vacant more than three (3) months before the next regular election for that office, the General Council shall elect a successor to fill the unexpired term at the next regular General Council meeting.

Sec. 2. Removal.

- (a) The General Council may remove any elective member of its Executive Council for, but not limited to, any of the following reasons: (1) willful and persistent misconduct reflecting on the dignity and integrity of the Community; (2) conviction of a felony while in office; (3) failure to carry out his or her official duties; (4) absence from two (2) or more successive meetings of the Executive and/or General Councils without valid excuse; (5) or any form of dishonest act against the Community.
- (b) The accused officers shall be served personally with written notice of the charges against him or her at least seventy-two (72) hours prior to the General Council meeting duly called for the purpose of considering his/her removal.

(c) The accused officer may present oral evidence in his/her defense but also must answer in written form the allegations levied against him/her. Testimony for and against the officer by other persons is permitted.

(d) Removal decisions of the General Council shall be final.

Sec. 3. Recall.

(a) Upon receipt by the Executive Council of a valid petition signed by at least twenty (20) percent of the qualified voters, requesting a recall election of a member of the Executive Council, the Executive Council shall conduct a recall election of the officer named in the petition. Recall election shall be conducted pursuant to the election ordinance enacted pursuant to Article VI, Sec. 1.

(b) Recall decisions of the eligible voters of the Community casting ballots in an election called for the purpose of recalling a member of the Executive Council shall be final; provided, that at least twenty (20%) percent of the qualified voters shall have cast ballots in the recall election.

ARTICLE IX - DUTIES OF OFFICERS

Section 1. The Chairman shall preside over all meetings of the General and Executive Council in accordance with "Roberts Rules of Order, Revised," where applicable, and not inconsistent with this Constitution, ordinances, resolutions or procedures enacted by the General Council. He or she shall vote only in the case of a tie.

Sec. 2. The Vice-Chairman shall assist the Chairman when called upon to do so; and in the absence of the Chairman, he or she shall preside. When so presiding, he or she shall have all rights, privileges and duties as well as the responsibilities of the Chairman.

Sec 3. In the absence, inability or refusal to act or both the Chairman and Vice-Chairman at any of its duly called meetings where a quorum is present, the General Council may appoint by majority vote a member of the Community to chair that meeting only. Such appointee shall meet the qualifications specified in Article III, Sec. 6.

Sec 4. The Secretary shall conduct all tribal correspondence and shall keep an accurate record of all matters transacted at General and Executive Council meetings. It shall be his or her duty to submit promptly to the Superintendent of the jurisdiction copies of all minutes of regular and special meetings of the councils. The Secretary may appoint an assistant secretary from the membership of the Community.

Sec. 5. The Treasurer shall accept, receive, receipt for, preserve and safeguard all tribal funds or special funds for which the General or Executive Council is acting as trustee or custodian. He or she shall deposit all funds in such depository as the councils shall direct and shall make and preserve a faithful record of such funds and shall report on all receipts and expenditures and the amount and nature of all funds in his or her possession and custody, at each regular meeting of the General Council, and at such other times as requested by the General or Executive Council.

He or she shall not pay or otherwise disburse any funds in his or her possession or custody, except in accordance with a resolution duly passed by the Executive Council. The Treasurer shall be required to give a bond satisfactory to the General Council.

Sec. 6. The Executive Council shall cause the records and books of the Treasurer and other tribal departments to be audited by an independent Certified Public Accounting firm upon completion of the Community's fiscal year. An itemized written report of the Community's entire financial status shall be issued by that same auditing firm for presentation at the annual General Council meeting and the firm shall be compensated for its services as authorized by General Council resolution.

Sec. 7. The fiscal year of the Community shall begin on the first day of October and end on the last day of September.

Sec. 8. The duties of all appointive boards or officers of the Community shall be clearly defined by resolution of the General Council at the time of their creation or appointment. Such boards and officers shall report to the Councils from time to time as required, and their activities and decisions shall be subject to the review of the General Council upon the petition of any person aggrieved.

ARTICLE X - EXECUTIVE COUNCIL MEETINGS

Section 1. The Executive Council shall meet on the first Monday of each month.

Sec. 2. Special meetings of the Executive Council may be called by the Chairman, and shall be called and held within ten (10) days of receipt of a petition signed by a majority of that Council's members. Notice shall be given at least three (3) days in advance of the meeting and shall state the subject(s) of business to be transacted, where upon the business shall then be limited thereto.

Sec. 3. A majority of the Executive Council members in office shall constitute a quorum to do business at all regular and special meetings of that Council.

ARTICLE XI - RESCISSION OF FORMER DOCUMENTS

Any ordinances, resolutions or any other regulative documents or portions thereof heretofore enacted that are inconsistent with this Constitution are rescinded as of the effective date of this Constitution.

ARTICLE XII – AMENDMENTS

Section 1. This Constitution may be amended by a majority of vote of the qualified voters of the Community voting at an election called for that purpose by the Secretary of the Interior; provided, that at least thirty (30) percent of those entitled to vote shall cast ballots at such election. No amendment of this Constitution shall become effective until it has been approved by the Secretary of the Interior.

Sec. 2. The Secretary of the Interior shall call an election on any proposed amendment to this Constitution upon receipt of a petition signed by at least one-third (1/3) of the qualified voters of the Community.

ARTICLE XIII - ADOPTION

This Constitution, when adopted by a majority vote of the qualified voters of the Community, as defined in Article VI, Sec. 5, voting at a special election called by the Secretary of the Interior in which at least thirty (30) percent of those entitled to vote shall cast ballots shall be submitted to the Secretary of the Interior for his approval, and shall be effective from the date of such approval.

Legislative History:

06/05/1982	Adopted by the qualified voters of the Community by an election held pursuant to Section 16 of the Indian Reorganization Act, 25 U.S. C. §476
06/05/1982	Election certified by the Forest County Potawatomi Community Elections Board
07/14/1982	Approved by John W. Fritz, Deputy Assistant Secretary – Indian Affairs, United States Department of the Interior

Notes:

This Constitution supersedes the Forest County Potawatomi Constitution approved February 6, 1937, as amended in 1975. Article XI of the current Constitution provides that “ordinances, resolutions or any other regulative documents or portions thereof” enacted under the previous Constitution that are not inconsistent with the current Constitution continue in effect.”