

**CHAPTER 1-2**  
**CONTROL AND ASSIGNMENT OF**  
**TRIBAL LANDS (11/06/1938)**

# **CONTROL AND ASSIGNMENT OF TRIBAL LANDS**

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## **CONTROL AND ASSIGNMENT OF TRIBAL LANDS**

### **§ 1. Authority**

1.1. The power is vested in the General Tribal Council by Article V, Section f, of the Constitution of the Forest County Potawatomi Community to promulgate and enforce ordinances regulating Community affairs.

1.2. Said Council is authorized under Section H, Article 5<sup>\*</sup>, of said Constitution to delegate to officials of the Community certain powers, including that of managing the economic affairs of the Community.

1.3. In accordance with the above stated provisions and in the interest of Community welfare, the control and administration of all lands, including improvements thereon, purchased by the United States Government for the Wisconsin Potawatomi Indians shall be subject to and governed by the following measures:

### **§ 2. Previous Selections Nullified**

2.1. All lands purchased under the Act of June 23, 1913<sup>†</sup> are hereby declared to be Community land, and all tentative selections heretofore made in severalty are declared to be of no force or effect.

### **§ 3. Assignment and Use of Land**

The Executive Council of the Community is hereby authorized, under the following prescribed conditions, to effect the appropriate assignment and proper use of these lands, to regulate the exploitation of timber resources thereon and to administer or condemn, after due notice, all unoccupied buildings on said lands for the benefit of the Community:

3.1. Habitable buildings not occupied or not having been in use for a period of five (5) years shall be rented for cash, or for other suitable compensation, and all collections deposited with the Community funds; inhabitable buildings, unsuited for repair, having been abandoned by the original selectee or heir for a period of five (5) years, shall be condemned, torn-down, removed or otherwise disposed of as shall be deemed fitting by the Executive Council: PROVIDED, however, that the occupancy rights of original selectee, heirs or other legitimate claimants shall be recognized if, within thirty (30) days after the Executive Council has given notice of its administration or condemnation of unoccupied buildings, said selectee, heirs or claimants shall assert such rights by taking and maintaining bona fide residence in said buildings.

3.2. All assignments of Community land hereafter made shall be subject to the Executive Council's determination of proper acreage units, its requirements for the proper use thereof, its actions to revoke and reassign, and its adjudication of claims for preference in the reassignment, as a unit, of a deceased assignee's tract. All improvements placed upon an assignment shall belong to the assignee, or upon the death of the assignee, to the heirs and neither the assignee nor

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\* Refers to 1937 Constitution.

† Should be Act of June 30, 1913; See 38 Stat. 77, 102

the heirs shall be deprived of such improvements except upon appropriate compensation therefor.

3.3. Preference in the assignment of a tract of land shall be given to an applicant if he, or she, be the present occupant and the original selectee or heir.

3.4. Preference in the assignment of an unoccupied tract shall be given to an applicant who is the original selectee, heir or nearest relative, if application for assignment is made within one (1) year from date of actual, bona fide residence established thereon.

3.5. Assignments of lands not applied for and assigned under the terms of the foregoing Sections 3.4 and 3.5 may be made, upon receipt of applications, to other eligible members of the Community.

3.6. Permits for timber and wood cutting on unassigned lands may be issued and fair stumpage rates established per four (4) foot cord for hard wood or per five (5) foot cord for pulp wood.

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**Legislative History:**

11/06/1938      Enacted by the General Council.

**Notes:**

This Ordinance provides the legal basis for a communal tribal land base following the Tribe's adoption of a new constitution on February 7, 1937 under the Indian Reorganization Act, 25 U.S.C. §§461 et seq. Under the Act of June 30, 1913, 38 Stat. 77, 102, Congress appropriated \$150,000 from Potawatomi annuity funds "for the purchase of allotments for the individual members of that portion of the Wisconsin Band of Potawatomi Indians now residing in the States of Wisconsin and Michigan, the title of such land to be taken in trust by the Government for the use and benefit of said Indians, said land to be situated in organized school districts and to be purchased in bodies of not more than one section, which said bodies shall not adjoin each other; Provided, That the land so purchased, except such part thereof as may be necessary for administrative purposes, shall be divided equitably among the Indians entitled thereto, and patents therefore shall be issued in accordance with the general allotment laws of the United States. Provided further, That the Secretary of the Interior may, in his discretion withhold allotments from any Indian or Indians belonging to this band, who, owing to advanced age or other infirmities, are deemed by him incapable of making beneficial use thereof, and in lieu of formal allotments to Indians falling within this class, tentative allotments of land may be made to such Indians for occupancy and use during the remainder of their natural lifetime."

In 1913, the "general allotment laws of the United States" provided for the issuance of patents that could not be sold or mortgaged by the allottees for 25 years. The Commissioner of Indian Affairs, however, could, and frequently did, lift the restrictions by issuing "certificates of competency" to allottees. By 1938, the federal government had issued very few patents to individual tribal members. This Ordinance was intended to assure that no more patents would be issued to individual tribal members and that any lands purchased by the government would instead be held in trust for the Tribe. A 1940 letter from a BIA field agent states that the Ordinance was duly enacted at a General Council meeting. A "Notice" to implement the Ordinance indicates that it was approved by General on Council November 6, 1938.

Pursuant to Article XI of the Tribe's current Constitution, adopted July 14, 1982, previous ordinances not inconsistent with the current Constitution remain in effect. The current Constitution also authorizes the General

Council to enact ordinances “providing for the making, holding, and revoking assignments of community lands or interests therein. Const. Art. VI, Section 1(d).