

Prairie Band Potawatomi Nation



Location: Kansas

Population: 1200

Date of Constitution: Newest approved December 6, 2007

PREAMBLE

We, the Prairie Band Potawatomi Nation, in order that our rights: inherent, United States Constitutional, treaty rights and other rights which arise from statutory law, Executive Order, tribal or other law and judicial administration be fully protected, exercised, and preserved, to insure justice and our security, to maintain Potawatomi traditions and customs, to promote harmony, the common good, social and general welfare and to secure the blessings of spiritual, educational, cultural, and economic development for ourselves and our posterity, do ordain and establish this constitution.

ARTICLE I - TERRITORY AND JURISDICTION

SECTION 1. The authority and jurisdiction of the Prairie Band Potawatomi Nation shall extend to the fullest extent possible, including, without limitation,

- (a) to any and all persons, including non-members and members of the Prairie Band Potawatomi Nation and including any corporation, other entity or any person located or doing business on the Nation's Reservation and
- (b) to all surface, subsurface or other territory or real or personal property of any nature within the Nation's Reservation.

SECTION 2. The Nation's Reservation means:

- (a) all territory within the exterior boundaries of the area recognized as the Prairie Band Potawatomi Nation's Reservation and
- (b) all other territory i) which is or in the future may be located outside of said boundaries and ii) to which it is possible to extend the Nation's jurisdiction or authority, including, without limitation, territory within the exterior boundaries of Indian country of the Nation or of its members and all property held by the United States in trust for the Prairie Band Potawatomi Nation or in trust for a member of the Prairie Band Potawatomi Nation.

ARTICLE II. LAND

SECTION 1. Recognition. We, the Prairie Band Potawatomi Nation, do not accept a diminishing of our sovereign status as a nation and of our vested or inherent rights by the act of adopting this constitution.

SECTION 2. The Tribal Council shall establish a standing Committee vested with the responsibility of protecting and preserving our land rights in accordance with the land policies of the Nation which are hereby declared to be:

- (a) The Potawatomi Indian Reserves, under a treaty, have a right paramount and superior to any grant of land to states or others. Until our collective or individual title shall be fully extinguished in compliance with treaty law, the grants or assignments of our land to others by executive or legislative action, in whatever form, cannot operate. We, the Potawatomi, maintain our inherent and sovereign right to negotiate with the United States for just compensation for unlawful removal of our lands or property from the jurisdiction of the Potawatomi Nation without just compensation. We maintain our right to sue for lands of individual reserves under treaty law.
- (b) We thereby claim, by treaty law, all Potawatomi lands granted to religious orders or educational institutions, which parties failed as agreed to adequately educate Potawatomi members in exchange for the rights to occupy and possess such lands.

SECTION 3. It shall be the duty of the Tribal Council to protect and preserve the individual members' rights and ownership of trust lands, including the right of inheritance under applicable law. Further, the Tribal Council shall have the duty to protect and preserve all tribal lands and to prevent the loss of such lands from tribal ownership.

ARTICLE III. MEMBERSHIP

SECTION 1. The membership of the Prairie Band Potawatomi Nation shall consist of the following persons:

- (a) All persons born prior to February 19, 1976 (date of approval of this constitution) who qualified for membership under the previous membership requirements of the Prairie Band Potawatomi Nation.
- (b) All persons of Prairie Band Potawatomi Indian blood born on or after February 19, 1976 (date of approval of this constitution) who possess at least one-fourth (1/4) degree Indian blood, who are descendants by blood of Prairie Band Potawatomi allottees of Prairie Band Potawatomi Indian blood and whose membership application has been received by the Nation's enrollment office on or before May 13, 2000, the date of adoption of this amendment.
- (c) All persons whose membership applications are received by the Nation's enrollment office after the adoption of this amendment who possess at least one-fourth (1/4) degree Prairie Band Potawatomi Indian blood.
- (d) The blood degrees shown on the Prairie Band of Potawatomi 1940 Census Roll shall be used in all cases for computing the degree of Potawatomi Indian blood.

SECTION 2. Any person who has shared in any land or money by virtue of having been enrolled as a member of another Indian tribe shall not be enrolled as a member of the Prairie Band of Potawatomi Indians following the effective date of this amendment.

SECTION 3. Any person who meets the eligibility criteria in Section 1 but is enrolled as a member of another Indian tribe may be enrolled as a member of the Prairie Band Nation provided that they have not shared in any land or money by virtue of their enrollment with the other tribe and provided further that they execute a relinquishment of membership from all other tribes.

SECTION 4. The Tribal Council shall have the power to adopt ordinances consistent with this constitution governing future membership, loss of membership, and the adoption of members into the Prairie Band Potawatomi Nation.

ARTICLE IV. GOVERNING BODY

SECTION 1. The General Council of the Prairie Band Potawatomi Nation shall consist of all enrolled members of the Nation who are eighteen (18) years of age or older meeting in a general council.

SECTION 2. Specific Powers. The General Council shall have the responsibility for oversight and regulation of the Nation's government with the power:

- (a) To expend available funds or incur debts of more than \$500,000.00 (adjusted for inflation from the date of adoption);
- (b) To review the salaries of officials elected or appointed under the terms of this constitution;
- (c) To audit the Nation's finances;
- (d) To review the annual operating budget;
- (e) To audit and investigate allegations of misconduct by government officials in the absence of a duly constituted Ethics Commission;
- (f) To approve any intergovernmental agreements implicating the Nation's jurisdiction;
- (g) To review any waiver of the Nation's sovereign immunity; and
- (h) To review any land sales and leases longer than seven (7) years.

SECTION 3. The General Council of the Prairie Band Potawatomi Nation shall elect from its eligible voters by secret ballot a seven (7) member governing body, called the Tribal Council, composed of a Chairperson, Vice-Chairperson, Secretary, Treasurer, and three Council Persons empowered to act on behalf of the Nation as provided in this constitution.

SECTION 4. Reserved Powers. No provision of this constitution shall be construed as a limitation of the inherent residual sovereign powers of the Prairie Band Potawatomi Nation. Any such powers not delegated to the Tribal Council by this constitution are retained for direct exercise by the General Council of the Nation through referendum as provided for herein, or for exercise by the Tribal Council following amendment of the constitution.

ARTICLE V. ENUMERATED POWERS OF TRIBAL COUNCIL

SECTION 1. Tribal Council Powers. The Tribal Council shall have the responsibility for lawmaking and shall have the power:

- (a) To regulate and conduct government administration and personnel management;
- (b) To promote law and order by regulating or prohibiting harmful conduct by any person;
- (c) To regulate domestic relations;
- (d) To acquire or lease land and regulate land use by all persons, including but not limited to zoning and prohibiting trespass;
- (e) To protect natural resources and regulate hunting, fishing, trapping, and plant gathering;
- (f) To provide for the education of Nation members and residents;
- (g) To protect and strengthen language, culture and traditional knowledge;
- (h) To make laws to administer elections;
- (i) To expend from available funds or incur debts of not more than \$500,000.00 adjusted for inflation from the date of adoption), except in the event of an emergency when waiting until the next General Council meeting for approval may threaten the health and welfare of the Nation;
- (j) To approve an annual operating budget;
- (k) To levy and collect taxes, including but not limited to taxes on businesses;
- (l) To establish procedures governing resolution of disputes and non-dispute proceedings;
- (m) To recommend the establishment of independent governmental boards and commissions;
- (n) To make expenditures from available funds for services authorized and rendered for tribal purposes, including salaries of tribal officials and employees
- (o) To grant business charters and recognize foreign chartered organizations;
- (p) To enter into contracts and intergovernmental agreements on behalf of the Nation;
- (q) To implement the provisions of this Constitution;
- (r) To administer tribal government personnel;
- (s) To give special recognition to the Nation's Veterans and other valued organizations and individuals; and
- (t) To promote and protect the peace, health, education, morals, and welfare of the Nation and its members.

All actions by the Tribal Council shall take the form of a statute, code, or resolution. All expenditures of tribal funds by the Tribal Council shall be made in accordance with a budget approved by a majority vote of the Tribal Council.

SECTION 2. Duties of Tribal Council Members. Tribal Council Members acting in their individual capacity shall have the responsibility to develop policies and legislation on behalf of the Nation. Included within this responsibility is the obligation to serve on committees and in organizations representing all of Indian Country, with such service subject to the approval of the Tribal Council on recommendation of the Chairperson. No Tribal Council Member shall have any authority to officially represent or obligate the Nation in any way when acting in their individual capacity except when so authorized by the Tribal Council.

ARTICLE VI. DISPUTE RESOLUTION SYSTEM

SECTION 1. Establishment. There is established a separate and independent branch of government, a Judicial Council of the Prairie Band Potawatomi Nation. The Judicial Council shall possess all judicial authority and no branch of government shall exercise the authority of another branch of government. The Judicial Council shall be comprised of a judge of a District Court, justices of a Court of Appeals, and magistrates of an Employment Disputes Tribunal. A separate mediating branch known as Peacemakers Circle shall also be established. The District Court shall be comprised of at least one (1) judge, and more than one if the need arises, and shall have the responsibility for deciding all but government employment related disputes. The Court of Appeals shall be comprised of three (3) justices and shall have the responsibility for reviewing appealed decisions of the District Court. The Employment Disputes Tribunal shall be comprised of five (5) magistrates and shall have the responsibility for deciding all government employment related disputes. Peacemakers shall be of such number as may be determined by the General Council and shall have the responsibility for mediating disputes voluntarily submitted to them by the parties.

SECTION 2. Appointment and Removal. Judges of the District Court and justices of the Court of Appeals shall be nominated by the Tribal Council Chairperson and approved by at least six (6) Tribal Council Members. Candidates for the offices of Judge of the District Court and Justices of the Court of Appeals must be a citizen or member of an Indian nation, a graduate of an accredited law school, and be admitted to the practice of law. All Judicial Council members shall have four (4) year terms. Two (2) magistrates of the Employment Disputes Tribunal shall be appointed by the Tribal Council, two (2) magistrates shall be appointed by the Nation's employees, and one (1) magistrate shall be appointed by the other four (4) members of the Tribunal. Peacemakers shall be selected by the Nation's members at a General Council Meeting.

Judges and justices may be removed by the Tribal Council upon the affirmative vote of at least six (6) members for moral turpitude, nonfeasance or malfeasance in office, gross neglect of duty, misconduct reflecting on the dignity and integrity of the Nation or embezzlement of tribal property or assets. Magistrates and peacemakers may be removed by their appointing authority.

SECTION 3. Powers. The District Court shall have such power as may be necessary to decide all disputes and other proceedings that arise under its criminal and civil jurisdiction, except election disputes and government employment related disputes. The Court of Appeals shall have such power as may be necessary to review appealed decisions rendered by the District Court. The District Court and the Court of Appeals shall have the power to review legislative and executive actions for consistency with this Constitution. The Employment Disputes Tribunal shall have such power as may be necessary to decide all government employment related disputes. The Peacemakers shall have such power as may be necessary to mediate disputes. The procedures governing actions in the Nation's courts, tribunals, and peacemaking process shall be as defined by Nation law.

ARTICLE VII. ELECTIONS AND NOMINATIONS

SECTION 1. All enrolled members of the Prairie Band Potawatomi Nation who are 18 years of age or older, or any eligible person 18 years of age or older who has made application for enrollment, shall be entitled to vote in the first tribal election. Thereafter only enrolled members 18 years of age or older shall be entitled to vote in any tribal election.

SECTION 2. Within 15 days after the approval of this constitution the Commissioner of Indian Affairs shall give notice of the Tribal Council election and within sixty (60) days thereafter assist the Nation in the conduct of an election for members of the first Tribal Council under this constitution. The form of the first Tribal Council election shall be by mail only. The Commissioner of Indian Affairs shall make the necessary regulations in conformity with this constitution for the first election. In the event there are five (5) or more candidates for any one office, the Commissioner may make provisions for a run-off election between the two candidates receiving the highest number of votes. Any qualified member of the Nation who desires that his name be placed on the ballot as a candidate for the office of Chairperson, Vice-Chairperson, Secretary, Treasurer or Council Person shall file a declaration of candidacy with the Superintendent of the Horton Agency for the first election under this constitution showing their name and the office for which they desire to become a candidate. Such statement must be filed thirty (30) days prior to the election date.

SECTION 3. Conduct of all elections after the first election shall be pursuant to the provisions of this constitution and an ordinance enacted by the Tribal Council within nine (9) months from date of adoption of the constitution.

SECTION 4. In order to be qualified for office and seek election to a seat on the Tribal Council a person must:

- (a) Be an enrolled member of the Prairie Band Potawatomi Nation.
- (b) Candidates for the offices of Chairperson, Vice-Chairperson, Secretary, and Treasurer must be 25 years of age or older.
- (c) Candidates for the offices of Council Person must be 21 years of age or older.
- (d) No person convicted of a felony within the past 5 years shall be a candidate for any office.

SECTION 5. Tenure of Office. Beginning with the first regular election following approval of this amendment the Chairperson, Secretary, and 1 Council Person shall be elected for a term of four (4) years and the Vice-Chairperson, Treasurer and 2 Council Persons shall be elected for a term of two (2) years and shall serve until their successors are elected and installed in office. Thereafter, Tribal Council members elected in regular elections shall serve four (4) year terms or until their successors are elected and installed in office.

The Term "Tribal Council members", as used in this constitution, shall mean all officers and Council Persons.

SECTION 6. A general election shall be held on the fourth Saturday of July every two (2) years in accordance with such procedures as shall be defined by Nation law. Such law shall provide for method of voting, secret balloting and absentee voting. Successful candidates for elective office must receive the support of at least fifty percent (50%) plus one vote of those voting. If no candidate receives the support of at least fifty percent (50%) plus one

vote of those voting, then there shall be a run-off election for that position between the two (2) candidates receiving the highest number of votes four (4) weeks after the general election. Any tie for the first and second highest vote count shall be decided by a fair and formal coin toss; or drawing of straws if more than two (2) candidates tie votes, to determine the winner in the presence of the candidates or their appointed representatives(s) within 48 hours. Election results shall be certified by the Election Board three (3) days following the general election and/or run-off election. The Election Board has the authority to review all election and recall disputes. Successful candidates shall swear an oath to uphold the Nation's Constitution and laws following the certification of the results of their election. The Nation's courts shall have no authority to suspend an election or otherwise interfere with the electoral or recall procedures set forth in this Constitution.

ARTICLE VIII. OFFICERS OF THE TRIBAL COUNCIL

SECTION 1. The Chairperson shall preside over all meetings of the Tribal Council and of the General Council, except as otherwise provided in this constitution and bylaws, and shall perform the administrative duties of a Chairperson and exercise only the authority delegated to the Chairperson by the Tribal Council. The Chairperson may be a cosigner on all negotiable instruments executed on behalf of the tribe. The Chairperson shall not vote except in the case of a tie and during regular and special elections of the tribal council members.

SECTION 2. The Vice-Chairperson of the Tribal Council shall assist the Chairperson when called upon to do so. In the absence of the Chairperson, the Vice-Chairperson shall have all the rights, privileges, duties, as well as the responsibilities of the Chairperson.

SECTION 3. The Secretary shall be responsible for the recording of all meetings and prompt and efficient handling of all correspondence pertaining to the business of the Tribal Council and General Council. The Secretary, under the direction of the Chairperson, shall notify all committees of their appointments and shall maintain custody of the records and all papers of the Tribal Council and the Nation. The Secretary shall maintain a correct list of all members of the Council, and shall authenticate all accounts or orders of the Council. In the absence of the Chairperson and Vice-Chairperson, shall call the meetings to order until a Chairperson pro-tempore is selected, and shall issue notices of all meetings and conduct all general correspondence, as directed by the General Council and the Tribal Council. At the expiration of the term of office the records and all papers in the Secretary's possession shall be turned over to the newly elected Secretary.

SECTION 4. The Treasurer shall keep an accurate account of receipts and disbursements of all funds belonging to the tribe which may come into his or her hands and make appropriate report to the Tribal Council and to the General Council at the annual meeting. Disbursements of 20% program funds from judgment awards shall be made only according to approved programs and budgets. An annual accounting of the judgment funds expenditures and use shall be submitted to the Horton Agency Superintendent according to the provisions of the Code of Federal Regulations. The accounts and records of the Tribal Council and the General Council shall be available at all times for inspection. An audit by the Bureau of Indian Affairs of the accounts and records may be made upon request by the

Tribal Council or upon petition by thirty percent (30%) of the eligible voters. Any tribal funds entrusted to the care of the Treasurer shall be kept in a special account and all disbursements therefrom shall be made by check or other commercially appropriate means. The treasurer shall file a surety bond satisfactory to the Tribal Council. The cost of such bond may be paid from tribal funds. The Treasurer shall be cosigner on all negotiable instruments executed or issued on behalf of the tribe and shall have the authority to disburse funds when so authorized by the Tribal Council. The Tribal Council shall have the authority to appoint a temporary acting treasurer from within the Tribal Council only in the event the elected treasurer is incapacitated for any reason, in the interim period before a vacancy in the Treasurer's position is filled according to Article X, Section 1, or whenever the Treasurer shall refuse to execute or be unavailable to execute a document approved by the Tribal Council.

ARTICLE IX. ETHICAL RESPONSIBILITIES OF OFFICIALS

SECTION 1. Ethics Commission. There is established an Ethics Commission. Beginning with a first election following approval of this amendment the Chairperson and Secretary shall be elected for a term of four (4) years. The Vice Chair and one (1) other officer shall be elected for a term of three (3) years. Two (2) other members shall be elected for a term of two (2) years. Thereafter, it shall be comprised of six (6) members who shall be elected for three (3) year terms by the General Council every year through an annual election process conducted by the Election Board. Voting may be in person or by mail-in ballot. Ethics Commission members shall serve until their successors are elected and installed in office. Successful candidates must receive the support of at least fifty percent (50%) plus one vote of those voting. If no candidate receives the support of at least fifty percent (50%) plus one vote of those voting, then there shall be a run-off for that position between the two (2) candidates receiving the highest number of votes. Any tie shall be decided within two (2) days by a fair and formal coin toss; or the drawing of straws if more than two (2) candidates tie votes to determine the winner in the presence of the candidates or their appointed representatives within 48 hours. Election results shall be by the Election Board three (3) days following the annual election and/or run-off election. Successful candidates shall swear an oath to uphold the Nation's Constitution and laws following the certification of the results.

SECTION 2. In order to be qualified and seek election to a seat on the Ethics Commission a person must:

- (a) Be an enrolled member of the Prairie Band Potawatomi Nation.
- (b) Candidates for the offices of Chairperson, Vice-Chairperson, Secretary and the Commissioner position having an initial 3 year term must be 25 years of age or older.
- (c) Candidates for the two other Commissioner positions must be 21 years of age or older.
- (d) No person convicted of a felony within the past 5 years shall be a candidate for any office.

SECTION 3. Five (5) affirmative votes shall be necessary in order to conduct the business of the Commission. All meetings and hearings of the Commission shall be open to nation

members only, provided that the Commission may meet in closed executive session to review investigatory reports and other privileged and confidential information. The purpose of the Commission shall be: (i) to develop the Code of Ethics; (ii) to formulate rules and regulations implementing provisions of this Article and the Code of Ethics; and (iii) to hear all complaints against nation officials arising under the Code of Ethics. For purposes of this Article, "officials" are officers elected or appointed under the terms of this constitution. The Commission shall have an Executive Director and such other staff, including legal counsel, that it may deem necessary.

The Tribal Council shall fund the Commission at a level sufficient to satisfy its Constitutional and statutory obligations. Commissioners shall not be paid for their service, but may receive reimbursement of expenses incurred in performing their official duties. Commissioners shall be subject to the Code of Ethics and may not run for any other Nation office for four (4) years after their term expires or ends.

SECTION 4. The Commission shall have the power: (i) to investigate and hear complaints against Nation officials that may arise under the Code of Ethics; (ii) to provide informal advice or written advisory opinions to nation officials to assist them in complying with the Code of Ethics; (iii) to issue rules and regulations implementing provisions of this Article Of the Code of Ethics; (iv) to administer oaths and issue subpoenas to compel attendance and testimony of witnesses or production of documents; and (v) to recommend sanctions for violations of the Code of Ethics to the General Council, including but not limited to a recommendation that a Nation official be recalled using the regular recall process described in this constitution.

SECTION 5. Code of Ethics. Within one (1) year of the effective date of this Amendment, the Ethics Commission shall develop a Code of Ethics governing the conduct of all Nation officials. The proposed Code of Ethics shall address the following types of potential official misconduct; dereliction of duty; conflict of interest; appearance of impropriety; misuse of confidential information; unauthorized compensation or benefits; unauthorized use of Nation property, funds, or staff; acceptance of solicitations and excessive gifts; misuse of official position; misuse of travel funds and leave; harassment; and such other matters as the Commission may deem necessary. The proposed Code of Ethics, as well as any amendments in the future, shall be submitted to the General Council for its consideration and approval.

The Code of Ethics shall not supersede existing federal laws or regulations that govern the Gaming Compact.

ARTICLE X. MEETINGS

SECTION 1. General Council Meetings. The General Council shall have Regular meetings on a quarterly basis on the third Saturday of January, April, July, and October at such time and place as may be determined by the Tribal Council. In the event that the meeting cannot be held on that date, the Tribal Council shall set a new date within thirty (30) days of the scheduled date provided that at least twenty (20) days notice is given. Meetings shall be held within the Nation's territory. Reports shall be given by the Chairperson, the Vice-

Chairperson, the Treasurer, and the Secretary. The agenda for General Council Meetings shall be prepared by the Chairperson and posted for review by the Nation's members twenty (20) days in advance of the meeting. The posted agenda shall be final and no matter not on the agenda may be taken up at the meeting unless three-quarters (3/4ths) of the members who sign-in at the beginning of the meeting vote to do so. Special Meetings of the General Council may be called by the Tribal Council or upon the written request of sixty-five (65) members that is filed with the Secretary. At least fourteen (14) days notice of the Special Meeting shall be given to the Nation's members which shall state the specific purpose for which the meeting is being called. Meetings of the General Council shall be conducted by such procedures as it may determine.

SECTION 2. Tribal Council Meetings. The Tribal Council shall have regular meetings on a monthly basis on the third Saturday of the month at a time and place determined by the Tribal Council Chairperson and on such other published dates, as he or she deems necessary from time to time. Special Meetings of the Tribal Council may be held at the request of the Tribal Council Chairperson or any four (4) Tribal Council Members. At least twenty-four hour notice of a Special Meeting shall be given to Tribal Council Members except in the case of an emergency. The Tribal Council may only conduct official business on behalf of the Nation in accordance with the provisions of this Article.

SECTION 3. Meeting Accessibility. All Tribal Council Meetings shall be open to the Nation's members, provided that meetings may be closed to discuss personnel matters, negotiation strategy, litigation strategy, or such other matters in which confidentiality is essential upon the affirmative vote of at least five (5) Tribal Council Members. All Nation meetings shall be closed to non-members unless necessary for the conduct of business.

SECTION 4. Quorum and Vote Requirements. Quorum for taking official action at a meeting of the General Council shall be sixty-five (65) eligible voters. The General Council may take official action upon the majority vote of the members in attendance. Quorum for a meeting of the Tribal Council shall be five (5) members. The Tribal Council may take official action only upon the affirmative vote of at least (4) members.

ARTICLE XI. POPULAR PARTICIPATION IN GOVERNMENT

SECTION 1. Initiative. Upon receipt of a valid petition signed by at least three hundred (300) adult enrolled tribal members, it shall be the duty of the Election Board to call and conduct within sixty (60) days, an initiative election to be conducted at a special meeting of the General Council. Such meeting shall be for the purpose of presenting to the qualified voters for their determination any issue or question, except recall, and as otherwise provided by this constitution.

If the Election Board refuses to notify the petition spokesman of the validation, or invalidation of the petition, within 15 days or refuses to call and conduct an initiative election, the petition spokesman shall be empowered to do so. If the Election Board determines that the petition is invalid because of minor errors that can be corrected, the petition spokesman shall be officially notified and given at least one opportunity to bring the petition up to validation according to the petitioning provisions of the Election Ordinance.

A decision by the majority of those voting shall be binding on the Tribal Council until it expires by its own terms or is otherwise changed by action of the voters. A quorum must be present to validate such action. Once an initiative issue has been submitted to the voters and rejected, the same issue shall not again be considered for such action for at least six (6) months.

SECTION 2. Referendum. Upon receipt of a valid resolution supported by an affirmative vote of at least four (4) members of the Tribal Council, the Election Board shall refer to the voters for their determination, such issue requested by the Tribal Council. The Election Board shall decide whether the referendum will be conducted by mail or at an annual or special meeting of the General Council provided a quorum is present. Except for special meetings called for referendum purposes, it shall not be necessary to give prior notice of the matter being referred to the voters. The vote of the General Council shall decide the issue and such decision shall be binding on the Tribal Council until otherwise changed by the voters; provided, a quorum is present.

ARTICLE XII. VACANCIES AND REMOVAL

SECTION 1. Filling Vacancies. All vacancies in the Tribal Council caused by removal, recall, death or resignation shall be filled as follows:

- (a) If the vacancy occurs during the first half of the term following the regular election for the position vacated, it shall be filled within sixty (60) days by either (1) an election called and conducted by the Election Board in a General Council meeting, with a quorum being required; provided that at least a ten (10) day notice shall be given of the meeting at which the election is to be held, or (2) an election by mail ballot conducted pursuant to the provisions of the Nation's Election Ordinance. The Election Board shall determine which of the above methods shall be used to fill a particular vacancy. Should it be necessary in order to achieve a quorum, the Tribal Council shall have the power to make a temporary appointment pending the completion of the election process.
- (b) If the vacancy occurs during the second half of the term following the regular election for the position vacated, the Tribal Council shall fill the vacancy by appointment after affirming with the proposed qualified appointee of his or her acceptance of the position.

SECTION 2. Removal.

- (a) Any member of the Tribal Council who, during the term for which he or she is elected, is convicted of any felony shall automatically forfeit his or her office effective on the date of the initial court conviction.
- (b) The Tribal Council shall have the power to remove any member of the Tribal Council by affirmative vote of the majority of the council members of a quorum at a meeting called for that purpose if such member is found to be guilty of any of the following: Moral turpitude, nonfeasance or malfeasance in office, gross neglect of duty, misconduct reflecting on the dignity and integrity of the tribal government or embezzlement of tribal property or assets. The member charged with any of these offenses shall be given a written statement detailing the charges at least ten (10) days before the meeting at which the Tribal Council is to

consider the charges. He or she shall be given an opportunity to appear and answer the charges. In no case shall the individual who is subject to the charges preside at the meeting at which the decision is made on the charges. The removal of only one Tribal Council member may be considered at any meeting.

- (c) Failure of any member of the Tribal Council to attend three (3) consecutive meetings of the Tribal Council after having received official notification of the meeting, unless excused by the Tribal Council, shall automatically result in the removal of such officer or Council Person from office.

SECTION 3. Any member of the Tribal Council removed from office pursuant to Section 2 of this Article shall not be eligible to be elected or appointed to serve on the Tribal Council until after the end of the term in which he or she was serving at the time of the removal.

ARTICLE XIII. RECALL

SECTION 1. Upon receipt of a petition signed by at least 300 adult tribal members, and validated by the Election Board, it shall be the duty of the Election Board to call and conduct within thirty (30) days, a special meeting of the General Council to consider the recall of a member of the Tribal Council. Such meeting is subject to quorum provisions. Only one (1) member of the Tribal Council shall be considered for recall at any given recall meeting. Once an individual is subjected to recall proceedings, he or she shall not again be considered for such action during the balance of his or her term of office.

If the Election Board refuses to notify the petition spokesman of the validation or invalidation of the petition within 15 days or to call and conduct such a recall meeting within 30 days, the spokesman for the petitioners shall be empowered to proceed with the call and conduct of the recall meeting. If the Election Board determines that the petition is invalid, the petitioner shall be officially notified and given at least one opportunity to bring the petition up to validation according to the petitioning provisions of the Election Ordinance.

ARTICLE XIV. BILL OF RIGHTS

The protections guaranteed to persons by Title II of the Civil Rights Act of 1968 (82 Stat. 77, 25 U.S.C. 1301 et seq.), against actions of a tribe in exercising its powers of self-government shall apply to the Prairie Band Potawatomi Nation, its officers, and all persons within its jurisdiction. All members of the Prairie Band Potawatomi Nation shall be accorded equal rights pursuant to tribal law. No member shall be denied any of the rights or guarantees enjoyed by citizens under the constitution of the United States, including, but not limited to, freedom of religion and conscience, freedom of speech, the right to orderly association or assembly, the right to petition for action or the redress of grievances, and due process of law. Employment of legal counsel shall be in accord with Title VI of the Civil Rights Act of 1968. It is provided in this constitution that the acceptance of the Indian Civil Rights Act (82 Stat. 77, 25 U.S.C. 1301 et seq.) does not waive the tribe's inherent right of immunity from suit.

ARTICLE XV. AMENDMENTS

This Constitution may only be amended through a majority vote of eligible voters in an election called for that purpose by the Election Board and conducted by mail. It shall be the duty of the Election Board to call an Amendment Meeting of the General Council on a proposed amendment upon petition of three hundred (300) eligible voters or upon request by a majority vote of the Tribal Council.

Proposed amendments initiated by petition shall be subject to the following: within fifteen (15) days of receiving the petition, the Election Board shall review the petition and determine its validity, including a determination as to the required number of signatures, whether the signatures are valid and if they are eligible voters. If the petition is determined to be valid, the Election Board shall call and conduct an Amendment Meeting of the General Council within sixty (60) days of its determination to discuss the proposed amendment. If the petition is determined to be invalid, the petition spokesperson shall be notified and given at least one opportunity to correct any deficiencies. If the Election Board for any reason fails to act upon the petition within fifteen (15) days, it shall be deemed valid and the petition spokesperson shall be empowered to call and conduct the meeting of the General Council to discuss the proposed amendment.

The Election Board shall also call and conduct an Amendment Meeting of the General Council within sixty (60) days to discuss a proposed amendment initiated by the Tribal Council.

Once a proposed amendment is discussed and a majority of those present at the Amendment Meeting vote in favor of the proposed amendment, the proposed amendment shall be mailed out to all eligible voters within thirty (30) days. An amendment is considered approved if a majority votes in favor of the amendment.

After a proposed amendment is mailed out for vote, should it fail, it shall not again be considered for six (6) months. The authority of the Election Board in conducting amendment meetings shall be final and no court shall have any authority to enjoin or interfere with the amendment process.

ARTICLE XVI. REPEAL AND SAVINGS CLAUSE

SECTION 1. All ordinances and resolutions heretofore enacted by the Prairie Band Potawatomi Nation shall remain in full force and effect except to the extent that they are inconsistent with this constitution.

SECTION 2. In the event any sentence, paragraph or section be held unconstitutional or invalid by a Federal Court of competent jurisdiction, the remaining sentences, paragraphs or sections shall remain valid and be presumed consistent with the United States Constitution.

BYLAWS OF THE PRAIRIE BAND POTAWATOMI NATION

ARTICLE I - BYLAWS

The Tribal Council may propose bylaws to this constitution in order to facilitate the operation of tribal government, but such bylaws shall not be in effect until ratified by a majority vote of the General Council. All amendments to the bylaws shall be ratified by the General Council.

ARTICLE II – RATIFICATION

The constitution, when adopted by a majority vote of the qualified voters of the Prairie Band Potawatomi Nation voting at an election called for that purpose by the Secretary of the Interior, provided at least thirty percent (30%) of those entitled to vote shall vote in such election, shall be submitted to the Secretary of the Interior, and if approved shall be effective from the date of such approval.

(Amended February 19, 1979 and August 28, 1985. The 2000 amendments were approved by the General Council on March 29, 2000 and effective May 13, 2000. The 2007 amendments were approved by the General Council on November 30, 2007 and approved December 6, 2007 pursuant to 25 U.S.C. 476.)