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September 12, 2022
Forest County Potawatomi Community of Wisconsin
Membership Ordinance

§1. GENERAL

1.1. Title

This ordinance is entitled, The Forest County Potawatomi Community of Wisconsin Membership Ordinance (the “Membership Ordinance” or “Ordinance”).

1.2. Authority

This ordinance is enacted pursuant to the authority contained in Article II, Section 2, of the July 14, 1982 Constitution of the Forest County Potawatomi Community of Wisconsin (“Constitution”) and any Amendments.

1.3. Purpose

This ordinance governs future membership, loss of membership, and adoption of new members into the Forest County Potawatomi Community of Wisconsin (“FCPC” or “Tribe” or “Community”).

1.4. Jurisdiction

Jurisdiction over matters arising under this ordinance lies solely in the FCPC Tribal Court.

1.5. Definitions

- (A) “Adoption” means either the legal action whereby parental rights of natural parents are terminated by court order and assigned to another, or whose natural parents have voluntarily placed the child for adoption.
- (B) “Adoption Membership” means one of the optional processes available for enrollment in the Tribe.
- (C) “Adult” means any competent person who has reached the age of eighteen (18) years.
- (D) “Applicant” means a person seeking enrollment in the Forest County Potawatomi Community whose name appears on the application form required by the Enrollment.
- (E) “Base Roll” means the list of all persons of Indian blood whose names appear on the official census roll of the Wisconsin Potawatomi 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 including those persons of Indian blood on the Potawatomi Tribe of Crandon Sub-Agency census roll as of January 1, 1937 and those supplements indicating any changes as of February 6, 1937 such as additions, subtractions, births, deaths and transfers.

- (F) "Born to a member" means that, at the time of a person's birth, at least one parent is an enrolled member in the FCPC.
- (G) "Clear and convincing evidence" means clear, explicit, unequivocal, so clear as to leave no substantial doubt, sufficiently strong to command the unhesitating assent of every reasonable man.
- (H) "Committee," except as otherwise indicated, means the Enrollment Committee established under Section 3 of this ordinance.
- (I) "Constitution" means the Constitution of the Forest County Potawatomi Community Wisconsin adopted by the members of the Tribe and approved by the Secretary of Interior on July 14, 1982 and any Amendments.
- (J) "Court" or "Tribal Court" except as otherwise provided, means the Forest County Potawatomi Community Tribal Court.
- (K) "Day" or "Days" – means any reference to ten (10) or fewer days shall mean official business days for the Forest County Potawatomi Tribal government; any reference to more than ten (10) days shall mean actual calendar days.
- (L) "Department," except as otherwise indicated, means the Enrollment Department established under Section 3 of this ordinance.
- (M) "Descendent" means a person whose biological parent, grandparent, great-grandparent, etc., was an eligible member who was enrolled in the Tribe. It does not include collateral relatives who are descended from the same ancestor but not from another. For example, it does not include aunts, uncles, nieces, nephews, brothers, sisters, cousins or other indirect relationships.
- (N) "DNA (Genetic) Test" means a test examines genetic markers present on blood cells, skin cells, bodily fluid cells, or cells of another body material for the purpose of determining the statistical probability of the alleged parents of the applicant.
- (O) "Eligible member" means a person who meets the criteria for membership set forth at Section 2 of this ordinance.
- (P) "Enrollment" means the formal inscription on the membership roll of the names of persons who are determined to satisfy the membership criteria set forth at Section 2 of this ordinance.

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- (Q) “Enrollment record” means any record kept by the Department that relates to a person’s eligibility for membership.
- (R) “Executive Council” means the Executive Council of the Tribe as described in Article III, §6 of the Constitution of the Forest County Potawatomi Community of Wisconsin.
- (S) “Family Services Division” means a Tribal government division that organizes, develops, and supervises family welfare programming. The division encompasses Child Care, Child Support, Community Advocacy, Economic Support, Family Resources Center and Indian Child Welfare.
- (T) “Favorable determination” means a determination by the Enrollment Committee that an applicant meets the criteria for membership set forth at Section 2 of this ordinance.
- (U) “General Council” means the General Council of the Tribe as identified in Article III, §1 through §6 of the Constitution of the Forest County Potawatomi Community of Wisconsin.
- (V) “Indian blood” means blood derived from any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village.
- (W) “Indian Claims Commission 1981 Judgement Fund Per Capita Roll” are then living Base Roll Members and those persons enrolled as members after February 6, 1937 and prior to July 14, 1982 including the 603 persons adopted into membership by the FCPC General Council on February 16, 1980 as certified by the United States Department of Interior Bureau of Indian Affairs, Great Lakes Agency on August 21, 1981 and approved by Bureau of Indian Affairs Minneapolis area office on September 1, 1981 and the associated Per Capita Membership Roll computer printout dated September 5, 1981 for ICC dockets 15k, 29j and 217; and docket 15m, 29k and 146 Forest County Potawatomi Community-Wisconsin
- (X) “Internal administration review” means the review of files available regarding the alleged error, review of sworn statements made by members concerning ancestry, parentages, heritage, or degree of Potawatomi Indian Blood relating to an alleged error, review of the official records on file that were made in connection with applications and all available supporting evidence.
- (Y) “Member,” except as otherwise indicated, means a member of the Forest County Potawatomi Community.

- (Z) “Member benefits” means benefits intended only for eligible members, including, but not limited to, distributions of gaming revenue.
- (AA) “Membership roll” means the official list kept by the Enrollment Department of persons who are members of the Tribe and entitled to member benefits.
- (BB) “Minor/child/children” means any person(s) who has not reached the age of eighteen (18) years.
- (CC) “Minor error” means an error in an enrollment record that does not affect the membership eligibility of a member or a member’s descendants.
- (DD) “Notice” means a letter, by mail or courier service, whose delivery to the recipient is certified.
- (EE) “Potawatomi Indian Blood” means blood derived from any of the historical bands of Potawatomi.
- (FF) “Preponderance of evidence” means evidence that is superior in weight, importance, or strength, and that is more credible and convincing to the mind than the opposing evidence.
- (GG) “Probable cause” means a reason based on credible evidence. Credible evidence is usually sworn testimony but can include circumstantial evidence corroborated by inherently credible evidence such as doctor’s reports, police reports, financial records etc. A probable cause finding is usually based upon sworn testimony by an eyewitness.
- (HH) “Secretary” means the Secretary of the Interior or a designated or authorized representative.
- (II) “Substantial error” means an error in an enrollment record that affects, or could affect, the membership eligibility of a member or a member’s descendants, including, but not limited to an error in the calculation of blood quantum or misidentification of a living or deceased ancestor or relative.
- (JJ) “Substantial Community Ties” for purposes of Adoption Membership means an applicant who has for a period of time of three (3) consecutive years immediately prior to the date of the application for Adoption Membership n been; a resident and domiciliary of the State of Wisconsin or who has been employed by or who does work for FCPC or its enterprises for the same period.

(KK) “Supporting evidence” means any relevant evidence which may be considered including but not be limited to: original birth certificate; certified copies of birth certificates; baptismal records; April 1, 1934 or later census rolls; Bureau of Indian Affairs (BIA) Certification of Degree of Indian or Alaskan Native Blood quantum, allotment or probate records; Indian Health Service records; hospital, clinic, or doctors’ records; records of state Bureaus of Vital Statistics; adoption records; verified statements concerning paternity; testimony of witnesses based on personal knowledge; and testimony of a qualified Potawatomi Tribal elder, historian, or other knowledgeable Tribal representative on a family’s oral history.

(LL) “Unfavorable determination” means a determination by the Enrollment Committee that an applicant for membership does not meet the criteria for membership set forth at Section 2 of this ordinance.

(MM) “Wisconsin Potawatomi Blood” is an undefined term used in the FCPC 1978 Adoption of Non-Members Ordinance.

§2. ELIGIBILITY CRITERIA

2.1. Eligibility

A person may become a member of the Tribe through enrollment or Adoption Membership as defined in the Constitution and this ordinance.

2.2. Enrollment

Membership in the Tribe shall consist of the following:

(A) Base Roll Membership: All persons whose names appears on the Base Roll for the Tribe. (Constitution Article II Section 1 (a)).

(B) Current Membership.

(1) All these persons who have been enrolled as members of the Forest County Potawatomi Community of Wisconsin under the February 6, 1937 Constitution of the Tribe, as amended, after February 6, 1937 and prior to July 14, 1982 including all those persons listed on the Indian Claims Commission 1981 Judgment Fund Per Capita Roll. (Constitution Article II, Section 1 (b)).

(2) All those persons who have been adopted as members of the Tribe pursuant to General Council Ordinance 001, August 28, 1978, after July 14, 1982 and the effective date of the Ordinance.

- (C) Future Membership: All persons of one-fourth (1/4) degree or more Potawatomi Indian blood born to any member of the community. (Constitution Article II, Section 1 (c)).
- (D) Adoption Membership: Any person who is a descendent of a Base Roll member but whose parents are not enrolled with the Tribe may be adopted as a member, provided that such person shall possess one-fourth (1/4) degree or more of Potawatomi Indian blood of which at least one-eighth (1/8) must be from a Base Roll member and further provided that such person has substantial community ties. For example an applicant's parents are not members, but at least one of the applicants grandparents is/was a member. For purposes of this section, the applicant may rely on the eligible Potawatomi Indian blood of ancestors who voluntarily relinquished their membership or were disenrolled. Any adopted member shall have all the same rights and privileges as a member who is born to any member of the Tribe. (Constitution Article II, Section 2.)
- (1) Any adult who was rejected for enrollment prior to the effective date of this ordinance may apply for Adoption Membership within three years of the effective date of this ordinance. Any minor person who was rejected for enrollment prior to the effective date of this ordinance may apply for Adoption within four years of their 18th birthday. Failure to comply with these deadlines will result in the Applicant being ineligible for Adoption.

2.3. Dual Membership Prohibited

Notwithstanding any other provision of this Section 2:

- (A) No person who is enrolled as a member of another tribe, band, or group of Indians may be enrolled with the FCPC unless he or she shall first relinquish in writing all rights to membership in such other tribe, band, or group of Indians. (Constitution Article II, Section 1(d))
- (B) Subject to subparagraph (C), an applicant for membership in the FCPC who is a member of another tribe may submit evidence that his or her tribe will revoke his or her membership in such other tribe upon the applicant's enrollment in the FCPC. The FCPC may approve the applicant's application conditioned on the revocation of the applicant's membership in the other tribe. The applicant's enrollment will be completed only upon proof of the applicant's relinquishment of membership in such other tribe.
- (C) No person shall be eligible for membership in the FCPC who has received one or more per capita payments from another tribe from net gaming revenues pursuant to of the Indian Gaming Regulatory Act, 25 U.S.C. §2710 as amended.

Repayment of said payments shall not qualify the applicant for enrollment with FCPC.

§3. ENROLLMENT ADMINISTRATION

3.1. Enrollment Committee

- (A) The Executive Council shall appoint an Enrollment Committee. The authority of the Enrollment Committee will be as described in this ordinance and the Constitution. (Constitution Article V, Section 1, (e))
- (B) The internal operations of the Enrollment Committee (“Committee”) will be governed by its By-laws which are approved by an Executive Council Resolution.
- (C) Duties and Responsibilities

The Committee shall -

- (1) Accept and examine applications and documentation presented by the Enrollment Department.
- (2) Determine accuracy and sufficiency of research, requiring additional action by the Enrollment Department if necessary
- (3) Make determinations on membership applications under Section 4;
- (4) Make probable cause determinations on disenrollment complaints filed under Section 6;
- (5) Make determinations on requests for correction of an enrollment records under Section 7; and
- (6) Prepare and submit a statistical monthly report to the Executive Council summarizing the Committee’s activities, including matters reviewed and actions taken.
- (7) Prepare recommendations as decisions by a resolution supported by findings of fact explaining the Committee’s decision. A list of eligible applicants and resolutions must be submitted to the Executive Council by the first Thursday of the month before each regular quarterly General Council meeting

3.2. Enrollment Department

- (A) The Executive Council will create an Enrollment Department (“Department”) and approve policies and procedures for the operation of the Department which will

provide day to day administrative support for the Committee and the Executive Council. (Constitution Article V, Section 1, (c), (d), and (g))

(B) Duties and Responsibilities

The Department shall –

- (1) Maintain the confidentiality of enrollment records; and
- (2) Maintain and keep current the Tribe's membership roll; and
- (3) Update the membership roll and members' enrollment record files with information from the following sources:

Name Change –

- (a) Marriage license.
 - (b) Divorce decree.
 - (c) Court order changing name.
 - (d) All known names including Indian names and clans if known will be linked so that an electronic search will retrieve relevant documents for the applicant/member.
 - (e) Address Change - Written statement signed by member or parent or legal guardian.
 - i. Judicial determinations of incompetence.
 - ii. Court orders establishing legal guardianship or powers of attorney.
 - iii. Death certificate.
 - iv. Bureau of Indian Affairs records.
 - v. Mortuary records.
 - vi. Hospital records.
 - vii. Tribal Verification of Death.
- (4) Maintain an electronic database containing the substance of the information compiled under subparagraph (3), above; and
 - (5) Maintain a complete hard copy record, and word-searchable electronic database, of General Council enrollments, including:

- (a) General Council resolutions, minutes and lists of enrollees.
 - (b) Executive Council resolutions, minutes and lists of eligible applicants.
 - (c) Enrollment Committee resolutions, minutes and list of applicants and their status in the enrollment process.
- (6) Correct minor errors, with the approval of the Committee, provided the approval is documented in Committee meeting minutes; and
 - (7) If requested, assist the applicant with completing their enrollment application.
 - (8) Process applications for membership submitted and submit them to the Committee for determination under Section 4; and
 - (9) Process applications for voluntary relinquishment of membership under Section 6; and
 - (10) Investigate disenrollment complaints and provide reports under Section 6; and
 - (11) Provide such additional support as the Executive Council may direct.
 - (12) Retain at least one staff member who has been trained and or certified on DNA protocols and reading DNA results.

§4. ENROLLMENT APPLICATION PROCESS

4.1 Applications

- (A) All persons not listed on the membership roll of the Tribe as of the effective date of this ordinance, who request membership in the Tribe, must file an enrollment application on an approved form supplied by the Department. A parent or legal guardian or other legal representative may file on behalf of a minor or person who has been adjudicated incompetent.
- (B) Application forms may be obtained by oral, written or electronic request to the Department. All enrollment applications must be filed with the Department. The Department will stamp all applications with the date it was received.
- (C) There is no deadline date established for filing enrollment applications.
- (D) No one will be considered for enrollment without a completed application.

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(E) The burden of proof is on the applicant to prove they meet the requirements for enrollment. Any matter required to be proven must be proven by a preponderance of evidence. The Department shall require documentation to support the application, including but not limited to:

- (1) A certified copy of the applicant's original state-issued birth certificate;
- (2) A family tree demonstrating the applicant's eligibility for membership;
- (3) The applicant's Social Security card;
- (4) Original or certified birth records, death certificates, church records, and/or baptismal records proving applicant's relationship to those ancestors upon whom the applicant relies to meet blood quantum requirements;
- (5) Certified copies of the adoption proceeding, if adopted. All adoption records, shall be kept confidential and sealed.
- (6) DNA evidence. n applicant must undergo a DNA (Genetic) Test at their expense.

(a) Sample Collection:

- i. In order to establish the evidentiary basis of the paternity testing results for purposes of enrollment or disenrollment, the party seeking to have the paternity testing results considered in an enrollment or disenrollment decision must present themselves in person to the Enrollment Department or if the person is beyond 75 miles then test will be conducted by a 3rd party contractor.
- ii. The collector will complete the chain of custody form along with photographs. The collector is to receive at least 1 form of government issued photo ID from all parties being collected Drivers license, Tribal Enrollment ID, Military ID, passport etc....

(b) Testing:

- i. An independent third-party contractor will test all paternity cases to a Probability of Paternity of 99.999% or higher for trio cases (mother, child and alleged father); 99.99%.
- ii. Following the completion of testing, samples will only be stored for 6 months in a secure facility and then will be discarded.

(c) Results:

- i. The Department will receive the official certified DNA paternity test report from the approved independent third-party contractor.

- ii. The Enrollment Department will accept official certified DNA paternity test from FCPC Family Service Child Support and or FCPC Tribal Court.
- (7) An affidavit of parentage shall not be accepted unless accompanied with a conforming original birth certificate;
- (8) An application for Adoption Membership will be screened to ensure that the applicant meets the following criteria:
- (a) The applicant is one-fourth (1/4) Potawatomi Indian blood degree of which at least one-eighth (1/8) must be traced to the Base Roll has substantial community ties as established and one of the following;
 - i. The applicant must verify residency and be domiciled in the State of Wisconsin with substantiated proof of residency for a period of three (3) consecutive years prior to the date of the application of Adoption Membership . Proof of residency may include, but is not limited to, the showing of a current driver's license, rental lease, utility bills, or other creditor or government documents listing residency within Wisconsin. Post office boxes are not acceptable as proof of residency; or
 - ii. The applicant must verify employment or work for FCPC or its enterprises for a period of three (3) consecutive years prior to the date of the application for enrollment. Proof of employment or work for FCPC or its enterprises may include, but not be limited, to I.R.S W-2, correspondence from an authorized individual confirming employment or signed contracts.
- (9) Any other supporting evidence, which shall be given such weight as the Committee determines is appropriate based on the age, source, apparent authenticity relevance and other circumstances;

4.2. Processing Applications

- (A) A verification of a complete application, applicant identity and DNA.
- (1) Applicants that have incomplete applications will receive a notice from the Department of an incomplete application which identifies what material is missing within forty-five (45) calendar days of submitting the application. All incomplete applications will be closed after one hundred eighty (180) calendar days of receipt of the application.
 - (2) Upon receipt of a complete application, the Enrollment Department will process the application. Initial processing includes, but is not limited to, verification of submitted documents, verification of the Applicant's identity,

and whether the Applicant has been enrolled in another Tribe. DNA test results remain the property of the Tribe and will be stored in accordance with Department procedures.

- (3) Applicants that have submitted complete applications will receive a notice from the Department, within forty-five (45) calendar days of the submitting of the applications that their application will be forwarded to the Committee for review. Applicants will be informed that the Committee may ask for additional information or documentation.
- (B) Applicants will receive a Department notice of the Committee decision within forty-five (45) calendar days of the submittal date to the Committee.
- (1) Applicants who receive a favorable determination by the Committee shall be submitted to the Executive Council by the first Thursday of the month before each regular quarterly General Council meeting. The Executive Council will review materials and make a recommendation to the General Council and forward to the next regular General Council unless the determination is made within twenty (20) calendar days of the next General Council, in which case the determination will be submitted at the following General Council.
 - (2) Applicants who receive an unfavorable determination by the Committee will receive a notice of their rejection from the Department. The rejection notice shall state the specific reason(s) they do not qualify and advise the applicant of the right to appeal to the Tribal Court. The appellant shall be advised to submit with the appeal any supporting evidence.
- (C) Applicants will receive from the Department a notice of the General Council decision or notice of a lack of General Council decision within three hundred sixty-five (365) calendar days of first submittal to the General Council.
- (1) Eligible applicants approved by the General Council shall be notified within ten (10) calendar days of the General Council decision from the Department.
 - (2) If the General Council has not rendered a decision within this three hundred sixty-five (365) calendar day period, the applicant who received a favorable determination by the Committee will be deemed approved as a member of the tribe.
 - (3) If the General Council has not rendered a decision within this three hundred sixty-five (365) calendar day period, the applicant who receives an unfavorable determination by the Committee will be deemed rejected for enrollment as a member of the Tribe.

- (4) Applicants who receive a favorable determination by the Committee but who are rejected by the General Council shall receive a notice of their rejection from the Department. The rejection notice shall state the specific reason(s) they do not qualify and advise the applicant of the right to appeal to the Tribal Court. The rejected applicant shall be advised to submit with the appeal any supporting evidence.

§5. COMPUTING DEGREE OF POTAWATOMI INDIAN BLOOD

5.1. Computation

- (A) The degree or quantum of Potawatomi Indian Blood of an applicant for membership under Constitution Article II, Section 1 (c) shall be determined by adding one-half the degree of Potawatomi Indian Blood of each parent.
- (B) Interpretations
 - (1) For Adoption Membership, as of the effective date of this ordinance, all Wisconsin Potawatomi on the Base Roll that have other Indian Blood and are listed as full bloods shall be considered four-fourths (4/4) Potawatomi Indian Blood for degree or quantum of Potawatomi Indian Blood computations.
 - (2) All Potawatomi Indian Blood shall be combined and considered Potawatomi Indian Blood for Article II Section 1(c) and Membership Roll degree or quantum of Potawatomi Indian Blood computations.

§6. LOSS OF MEMBERSHIP

6.1. Voluntary Relinquishments

- (A) Any adult member may voluntarily relinquish their membership. Adult members relinquishing their membership will not be entitled to re-apply for membership. Once relinquished, their relinquishment is final and non-appealable.
- (B) A parent or legal guardian or other legal representative may not relinquish the membership of any member of the Tribe who are under the age of eighteen (18).
- (C) All voluntary relinquishment requests by members out of the Tribe must be submitted to the Department in writing on an approved request to voluntary relinquish form which shall include a disclosure of:

- (1) All of the member's shared or vested financial interests in Tribal land or other property (including any promissory notes, mortgages, lease documents, etc.); and or
 - (2) All of the member's shared or vested financial interests that are related to any tribal programs or, accounts; and/or
 - (3) All of the member's debts owed to the Tribe or other financial obligations subject to Tribal Court Order.
 - (4) The approved form shall require certification by the Tribal Chief Financial Officer, attesting to the member's obligations to the Tribe, if any, as described above. The member's signature must be notarized and witnessed by two adults. The approved form shall also require the relinquishing member to consent to the Tribal Court's jurisdiction for any disputes involving nonpayment of debts owed to the Tribe.
- (D) All voluntary relinquishments must be approved by the Tribal Court.

6.2. Disenrollments From The Tribe

- (A) A member who is found to have been erroneously or fraudulently enrolled, or is enrolled with another Indian tribe, band or group or Indians or any other person who is found not eligible for membership shall be subject to disenrollment.
 - (1) Initiation of Disenrollment by Committee. The Committee may initiate a written complaint for disenrollment of a member from the Membership Roll upon determining that there is probable cause to conclude that the member fails to meet the eligibility requirements.
 - (2) Initiation of Disenrollment by members. Any three (3) enrolled FCPC adult members who are not legally incompetent may initiate a complaint for disenrollment of a member from the Membership Roll only by filing Affidavits with the Department. The Affidavits must clearly state the grounds for removal and include written and supporting evidence. A non-refundable filing fee of one thousand Dollars (\$1,000) must accompany each Affidavit.
- (B) All complaints for disenrollment shall be submitted to the Department in writing with a signature of the person filing the complaint or may be independently initiated in writing by the Department. Upon receipt of a complaint for disenrollment, the Department and Committee shall conduct an internal administrative review of the complaint for disenrollment in accordance with the approved policies.
- (C) The Committee shall determine if there is probable cause to conclude that a person is not an eligible member.

- (1) If the Committee finds that there is no probable cause, no further challenges to that member on the same issue shall be allowed for a least one calendar year and only if new written supporting evidence is presented.
 - (2) A Committee finding that there is probable cause will be documented and will include findings of fact and include certified attachments of the relevant documents or materials.
 - (a) Members will receive a notice within thirty (30) days by the Department that they have determined that there is probable cause to conclude that the member is not an eligible member and the matter has been referred to the Tribal Prosecutor.
- (D) Tribal Prosecutor Independent Investigation. The Tribal Prosecutor will send a notice to the member within 15 days that a complaint for disenrollment has been referred to the Tribal Prosecutor for investigation. The Tribal Prosecutor will notify the member of the process and the rules used in this investigation as defined in the ordinance.
- (1) The following rules shall apply to this investigation:
 - (a) The Tribal Prosecutor shall have the authority to request that the Tribal Court issue subpoenas for any documents and authorize the examination of any witnesses identified by the Tribal Prosecutor.
 - (b) The Tribal Prosecutor may convene a proceeding if he or she determines that a proceeding is necessary to determine if a disenrollment is appropriate after thorough examination of all evidence submitted. The Tribal Prosecutor may consider all Committee findings and other relevant facts in making such determination.
 - (c) The Tribal Prosecutor may question, under oath, the member subject to disenrollment and all other relevant witnesses that the Tribal Prosecutor determines to be necessary and appropriate to ascertain whether the disenrollment should proceed.
 - (d) The examination may be done confidentially.
 - (e) Any person questioned by the Tribal Prosecutor as part of such investigation may have counsel (including non-attorneys) present at

his or her request, but such counsel shall not be allowed to testify, examine his or her client, or cross-examine other witnesses.

- i. The Tribal Prosecutor will send a notice to the members within 15 days that a complaint for disenrollment has been referred to the Tribal Prosecutor for investigation. The Tribal Prosecutor will notify the member of the rules process and the rules used in this investigation as defined in the Ordinance.
- (f) The Tribal Court, upon motion by the Tribal Prosecutor, may compel a person to testify or produce evidence at the proceeding.
- (g) The record of any of the proceedings, if any, shall not be open to inspection by anyone except the Tribal Prosecutor unless it is used by the Tribal Prosecutor in formal disenrollment proceedings before the Tribal Court, and then only to the extent used by the Tribal Prosecutor.
- (2) If the Tribal Prosecutor determines that a complaint for disenrollment of a member's right to membership is not valid the Tribal Prosecutor will refer the matter back to the Department who will send out a notice to the member of the finding.
- (3) If the Tribal Prosecutor determines that a complaint of disenrollment, DNA, Blood quantum adjustment, paternity of a member's right to membership is valid and can be proved in court by clear and convincing evidence the Tribal Prosecutor will inform the challenged, member by notice of the challenge and immediately file an action in Tribal Court.

§7. Records

7.1. Maintaining

(A) Errors and Changes in Records

- (1) Any alleged error or requested changes in the enrollment record must be made in writing to the Department.
- (2) Correction of minor errors on the Membership Roll. The Department with the approval of the Committee may correct minor errors.
- (3) Procedure for review of substantial errors. The Committee will notify all potentially affected member(s) of a date and time for a hearing to be held to

determine whether a correction of the Membership Roll is warranted. The notice will include a statement that the person has a right to review the evidence, a right to present evidence, witnesses, and the right to an attorney or spokesperson at the member's expense.

- (a) Burden of Proof. The burden of proof shall be on the person requesting the correction and there will be a rebuttable presumption that the information on the Membership Roll is correct.
 - (b) Standard of Proof. In all proceedings regarding blood degree corrections, the person seeking a blood degree correction shall be required to prove by clear and convincing evidence that a blood degree other than that listed on the roll for the person whose blood degree is at issue, is the correct blood degree to be listed on the roll.
- (4) Hearing on requests for correction. A hearing will be held by the Committee on all requests to change the Membership Roll. The affected person shall have the right and opportunity to present witnesses and evidence on his own behalf and to inspect opposing evidence or examine opposing witnesses regarding a proposed change to the Membership Roll.
- (5) The Committee will render a decision within sixty (60) calendar days and inform the Department of any changes. The Department will then send a notice to the member(s) of any changes made to their record. The Committee's decision regarding the change or changes may be appealed to Tribal Court. No action shall be taken to correct the record until the member(s) time period to file an appeal in Tribal Court has expired or while an appeal is pending in Tribal Court.
- (6) When a member's record has been changed to reflect an increase or decrease in or Potawatomi Indian Blood quantum, that member's descendants may be affected. As a result, a thorough review of how those changes have affected members' relations must occur.
- (a) Changes to biological descendants' records must be made to be consistent with the affected ancestor(s).
 - (b) Changes to siblings' records will depend on the relation of siblings to his or her ancestors.
 - (c) All proposed changes in records shall follow process in this Section.

§8. APPEALS AND HEARINGS

8.1. Tribal Court

(A) Ineligible applicants

- (1) For ineligible applicants, the Tribal Court must receive an appeal no later than sixty (60) calendar days from the delivery date of notice of rejection. All notices of appeal shall include any supporting evidence for the request for review. The Tribal Clerk of Court shall send copies of all appeals to the Committee for their records.
- (2) The Tribal Court's decision on appeal of the ineligible applicant who has been deemed ineligible by the Committee, shall be referred to the Committee with a statement of facts and findings. The deemed approved provisions in Section 4.2 in this ordinance do not apply to this paragraph.
- (3) If the Tribal Court finds in favor of the eligible applicant who has been deemed ineligible by the General Council, then the Tribal Court shall refer the matter back to General Council with a statement of facts and findings and ask for reconsideration. If the General Council has not rendered a decision within three hundred sixty-five (365) calendar days from the date the Tribal Court referred the applicant back to the General Council for reconsideration, then the applicant will be deemed ineligible for enrollment as a member of the Tribe.
- (4) Applicant is only able to request an internal appeal once, either through option A (2) or option A (3). The Applicant is not able to request two internal appeals.

(B) Disenrollments

- (1) Disenrollment proceedings at the Tribal Court shall not exceed six (6) months between the initial filing by the Tribal Prosecutor and final judgment unless agreed by the parties or upon a finding of good cause on the record by the Tribal Court.
- (2) If the Tribal Court finds in favor of the member, the member's name will remain on the current membership roll.
- (3) If the Tribal Court finds that the member must be disenrolled the Tribal Court shall issue an order requiring the affected member to satisfy all of his or her outstanding financial obligation to the Tribe, if any, including:

- (a) All of the member's shared or vested financial interests in Tribal land or other property (including any promissory notes, mortgages, lease documents, etc.); and
 - (b) All of the member's shared or vested financial interests that are related to any tribal programs or accounts; and
 - (c) All of the member's debts owed to the Tribe or other financial obligations subject to Order of the Tribal Court.
- (4) Tribal Administration, Tribal Chief Financial Officer and the Tribal Court shall attest to any such obligations to the Tribe, as described above. The disenrolled member shall also be informed of the Tribal Court's jurisdiction for any disputes involving nonpayment of debts owed to the Tribe.
 - (5) In the case of any shared property interests, the Tribal Court may order the property sold and the proceeds divided evenly among all interest holders.
 - (6) In order to avoid undue hardship, the Tribal Court may approve payment arrangements for any outstanding obligations to the Tribe. However, the Tribal Court shall not approve payment arrangements in excess of fifteen (15) years.
 - (7) The disenrollment shall become effective the day the Final Disenrollment Order is signed by a Tribal Judge.
- (C) Relinquishments
- (1) The Tribal Court shall hold a hearing on the record where the Tribal Court shall confirm through dialogue with the member that his or her relinquishment is in fact done freely and voluntarily and that the member is competent to make such a decision. The consequences of the decision shall be explained to the member by the Tribal Court.
 - (2) The Tribal Court shall confirm that the relinquishment application is complete and order the satisfaction of all financial obligations to the Tribe as identified in Section 6.1 that all the member's shared or vested financial interests the member has which are on tribal land or are related to any tribal programs, accounts, or the Tribal Court orders have been terminated or adjusted as needed.
 - (3) In the case of any shared property interests, the Tribal Court may order the property sold and the proceeds divided evenly among all interest holders.

- (4) Prior to relinquishment, the member shall satisfy all financial obligations to the Tribe as described in this Section 6.1, or make payment arrangements acceptable to the Tribal Court. In no case shall the Tribal Court approve payment arrangements in excess of fifteen (15) years.
- (5) The relinquishment shall become effective the day the order is signed by a Tribal Judge, which shall be signed within 30 days of the Tribal Court hearing on the record.

(D) Records

- (1) For substantial error changes in enrollment records, the Tribal Court must receive an appeal no later than sixty (60) calendar days from the date of a notice of change in enrollment records.

(E) Hearing.

- (1) The standard of review for all enrollment matters is a hearing De Novo and the burden of proof is by clear and convincing evidence. The Appellant has the burden of proof.
- (2) Appellants and members have the right to legal representation at any Tribal Court hearing, at their own expense.
- (3) The applicant being rejected or member being disenrolled or whose enrollment records are being corrected due to substantial error has the right to obtain copies, through discovery, of the evidence being used to support his or her rejection, disenrollment or records correction. The Tribal Court shall order that all original enrollment documents and evidence may not be disclosed by the applicant/member and must be returned to the Department at the conclusion of the case. The Department employees and Committee members are subject to discovery and cross-examination.
- (4) Failure to appear at a hearing shall result in a default, at the discretion of the Tribal Court.
- (5) The Tribal Court shall issue a decision within sixty 60 calendar days of the final hearing or filing in an enrollment case before the Tribal Court or within 6 months of the original filing, whichever is sooner. The Tribal Court shall not award money damages.
- (6) Closed Court – All hearings in Tribal Court as prescribed in this Ordinance shall be closed hearings.

8.2. Secretary of Interior

- (A) An applicant who has been rejected by the General Council and who has exhausted all their appeal rights in Tribal Court may submit an appeal to the Secretary of the Interior. Appellant must notify the Tribal Court of the appeal to the Secretary of Interior. The Tribal Court shall then submit a complete record of the proceedings to the Secretary of Interior and the courts' finding.
- (B) The Secretary of Interior must receive an appeal no later than six (6) months from the date of receipt of a Tribal Court order recognizing the General Council's rejection of an applicant. (FCPC Constitution Article II Section (2) and (3)).
- (C) When an appeal is received from a rejected applicant the Secretary of Interior shall base its decision in accordance with its regulations. The decision of the Secretary of the Interior on the appeal shall be final.

§9. EFFECTIVE DATE AND AMENDMENTS

9.1. Effective Date

This Ordinance shall be adopted by a majority vote of a quorum of the General Council and shall become effective when approved by the Secretary of the Interior or his/her authorized representative.

9.2. Rescission of Former Documents

Any Enrollment or Adoption Ordinances, resolutions or motions or any other regulative documents or portions thereof heretofore enacted that are inconsistent with this Ordinance are rescinded as of the effective date of this Ordinance.

9.3. Severability

In the event any sentence, paragraph or section of this Ordinance is held to be unconstitutional or otherwise invalid, the remaining sentences, paragraphs or sections shall remain valid and be presumed consistent with the Constitution and all other applicable laws.

9.4. Amendments

The members in a duly called referendum by a majority vote shall have the power to amend this Ordinance, consistent with the provisions of the Constitution. This Ordinance

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supersedes and takes precedence over any enrollment resolution or Ordinance previously adopted.

LEGISLATIVE HISTORY

August 21, 1978 – Enacted as “Forest County Potawatomi Ordinance No. 0001” by General Council Resolution 0005. According to the adopting resolution: “it is recognized that the current [1937] constitution limits from membership several Potawatomi people who, logically are members of this band” and “it is the desire and determination of the General Council in session on this 22nd day of July 1978 to correct a longstanding discrepancy in our existing membership provisions.”

Notes:

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.

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