

Nottawaseppi Huron Band of Potawatomi Indians



Location: Michigan

Population: 800

Date of Constitution: 2012

PREAMBLE

We, the members of the Nottawaseppi Huron Band of the Potawatomi Tribe of Michigan, in order to establish a recognized and approved tribal government to provide a means for the orderly transaction of community business, consistent with our Bode'wadmi traditions and cultural values, and as the free expression of the community will; to insure treaty rights and establish an affable relationship with the Federal Government via the Bureau of Indian Affairs and other agencies; to promote the betterment of the socioeconomic welfare and best interests of our community, and to implement any corporate mechanism to achieve these goals, do establish and adopt the following Constitution for the government, protection, and common welfare of the Nottawaseppi Huron Band of the Potawatomi.

ARTICLE I-NAME

SECTION 1. Name

- a) The name of this organization shall be the Nottawaseppi Huron Band of the Potawatomi (the "Band").

ARTICLE II - TERRITORY; JURISDICTION

SECTION 1. Territory.

- a) The territory of the Band shall encompass the Band's historical land base known as the Pine Creek Potawatomi Reservation in Athens Township, Michigan and all lands now held or hereafter acquired by or for the Band, or held in trust for the Band by the United States, including lands in which rights have been reserved or never ceded by the Nottawaseppi Huron Band of the Potawatomi in previous treaties, or as may otherwise be provided under federal law.

SECTION 2. Jurisdiction; Guiding Principles.

- a) Jurisdiction. The jurisdiction and sovereign powers of the Band shall, consistent with applicable federal law, extend and be exercised to the fullest extent consistent with tribal self-determination, including without limitation, to all of the Band's territory as set forth in Section 1 of this Article, to all natural resources

located within the Band's territory, to any and all persons within the Band's territory and to all activities and matters within the Band's territory. The Band's jurisdiction shall also extend beyond its territory whenever the Band is acting pursuant to jurisdiction that is created or affirmed by rights reserved or created by treaty, statutes adopted by the Tribal Council in the exercise of the Band's inherent sovereignty, Federal statute, regulation or other federal authorization, or a compact or other agreement entered into with a state or local government under applicable law.

- b) Guiding Principles. In exercising the jurisdiction and sovereign powers of the Band, the Tribal Council and other institutions of the Band's government shall be guided by the following principles:
1. Promote the preservation and revitalization of Bode'wadmimen and Bode'wadmi culture;
 2. Promote sustainable development strategies and practices to ensure the health and balance of the next seven generations of Tribal Members;
 3. Promote the health, educational and economic interests of all Tribal Members, especially our elders and children;
 4. Promote efforts that ensure the perpetual preservation and revitalization of the Band's sovereignty and self-determination; and
 5. Promote open and transparent governance by providing Tribal Members, and where appropriate, other persons subject to Tribal jurisdiction, with notice and opportunity to comment on financial, policy or legislative business under consideration.

SECTION 3. Tribal Government Offices; Official Records.

- a) The principal offices of the Band shall be located on the Band's historical land base known as the Pine Creek Potawatomi Reservation in Athens Township, Michigan. Branch offices of the Nottawaseppi Huron Band of the Potawatomi may be located within the area traditionally occupied by the Nottawaseppi Huron Band of the Potawatomi or within the Band's federally-designated service area at the Tribal Council's discretion.
- b) The principal offices shall be the depository for all official records of the Nottawaseppi Huron Band of the Potawatomi Indians.
- c) All official records of the Band are the exclusive property of the Band and shall be transferred by the Tribal Council, Judiciary, Election Board, Prosecutor and other officials leaving office to their successors in office.

ARTICLE III - MEMBERSHIP

SECTION 1. Eligibility: Procedure.

- a) Eligibility for Membership. The membership of the Nottawaseppi Huron Band of the Potawatomi shall consist of all persons meeting the following criteria who:
 1. Is a lineal descendant of any person listed on the Taggart Roll of 1904; and
 2. Is the biological child of an enrolled member of the Nottawaseppi Huron Band of The Potawatomi, whether that member is living or deceased, provided that if the biological parent member is deceased, he/she was a

- member of the Nottawaseppi Huron Band of The Potawatomi at the time of his/her death; and
3. Is not a member of any other Indian tribe of the United States or Canada whether federally recognized or not.
- b) The Burden of proof for membership in the Band is on the applicant. The Tribal Council shall not have the power to change or establish additional substantive criteria for membership in addition to those established in Section 1(a) of this Article.

SECTION 2. Membership Roll.

- a) A membership and enrollment committee appointed by the Tribal Council shall keep a current census of the Band.
- b) The Tribal Council shall have the power to temporarily suspend the approval of new requests for enrollment when such action is determined to be necessary to preserve the health, safety and welfare of the Band.

SECTION 3. Membership by Adoption.

- a) The Tribal Council shall have the power to enact statutes consistent with this Article to govern the adoption of persons not meeting the criteria described in Section 1(a) of this Article, provided that such statutes require persons seeking membership by adoption to meet the following minimum criteria.
 1. Must be eighteen (18) years of age or older at times he or she applies for membership; or
 2. Is a minor child who has been legally adopted by a member of the Nottawaseppi Huron Band of the Potawatomi;
 3. Is not a member of any other Indian tribe of the United States or Canada whether federally recognized or not.
 4. The person is North American Indian who is at least one-quarter (1/4) degree Indian blood quantum.
- b) The statute enacted by the Tribal Council shall provide that persons meeting the above minimum criteria and any additional criteria prescribed by the Tribal Council, upon written application for adoption into the Band, shall become members by a majority vote of the members at its annual General Membership meeting held in the month of April.

SECTION 4. Rights of Adopted Members.

- a) Persons who become members of the Nottawaseppi Huron Band of the Potawatomi through the adoption procedure set forth in Section 3 of this Article, shall thereupon have the right to vote on matters pertaining to the Band and shall enjoy all the rights and privileges of membership subject to the following exceptions:
 1. Such persons shall be excluded from participating in any claims arising out of treaties.
 2. Such persons shall be prohibited from serving on the Tribal Council, and
 3. Children of adopted members, who do not trace to the Base Roll may, upon reaching the age of eighteen (18), submit an application pursuant to Section 3 of this article.

SECTION 5. Relinquishment of Membership.

- a) Adult Tribal Members may relinquish their membership with the Band, by signing and notarizing an approved relinquishment form obtained from the tribal enrollment office.
- b) A parent or legal guardian may, in compliance with an enrollment code, adopted by the Tribal Council, may request relinquishment on behalf of a minor or for a person deemed incompetent by a court of competent jurisdiction.

SECTION 6. Disenrollment.

- a) Persons may only be removed from the Membership Roll for the following reasons:
 - 1. A Tribal Member who is found to have been erroneously or fraudulently enrolled, or is an enrolled member of another Indian tribe, whether federally recognized or not, or any other person who is found not eligible for Tribal Membership pursuant to the tribe's membership requirements contained in the Constitution of the Huron Band shall be subject to disenrollment. A Tribal Member who has been convicted of criminal treason in the Band's tribal court and all opportunities to appeal such conviction have been exhausted, is subject to disenrollment.
- b) No person shall be disenrolled from the Band unless they are first notified in writing of the reason(s) for their disenrollment, and given not less than thirty (30) days after such notification to request a hearing before the Tribal Court. The Tribal Court shall give such person at least thirty (30) days written notice before the hearing on their case before the Tribal Court. The hearing shall be open unless the person in question requests that the hearing be held in Closed Session.
- c) Until disenrollment is final under applicable law, the individual shall have all rights he/she is entitled to as a Tribal Member.

SECTION 7. Re-Enrollment.

- a) Once removed from the Membership Roll, an individual shall not be eligible to reapply for membership for a period of ten (10) years from the official date of relinquishment or disenrollment.
- b) A minor whose membership had been relinquished by a parent or legal guardian may reapply for membership upon reaching the age of eighteen (18) and up until the age of thirty (30).
- c) An incompetent whose membership has been relinquished by his/her parent or legal guardian may reapply for membership through an application submitted by their parent or current legal guardian.

SECTION 8. Enrollment Law

- a) The Tribal Council shall have the power to enact statutes consistent with this Article to govern future membership, the loss of membership, and membership appeals.

ARTICLE IV - GOVERNING COUNCIL

SECTION 1. Governing Body.

- a) The governing body of the Nottawaseppi Huron Band of the Potawatomi shall be a Tribal Council comprised of five (5) Tribal Members meeting the qualifications prescribed in Section 4 of this Article, who are elected at large by eligible tribal voters.

SECTION 2. Term of Office.

- a) Each position on the Tribal Council shall have a term of office of four (4) years.
- b) Tribal Council members shall continue in office until their successors are duly elected and installed in office, or until their resignation, removal, recall or death.

SECTION 3. Officers and Bylaws.

- a) Officers. The Tribal Council shall be organized with the following officers: a Chairperson, Vice-Chairperson, Secretary, Treasurer and Sergeant-at-Arms empowered to act on behalf of the Band as provided in this Constitution and in bylaws adopted by the Tribal Council.
- b) The Tribal Council shall adopt bylaws detailing the duties and responsibilities of its officers, and procedures for the election of its members to each officer position after any newly elected or appointed members of the Tribal Council take the oath of office

SECTION 4. Qualifications.

- a) Band members must possess the following qualifications in order to be nominees or hold any office on the Tribal Council:
 1. Must be twenty-one (21) years of age or older;
 2. Must not have been convicted of, or pled guilty or no contest to, any crime involving theft or fraud, any crime involving violence against persons, including sex offenses, or any felony within the last eight (8) years.
 3. Must not have been sentenced to a prison term of one (1) year or longer within the last eight (8) years.
 4. Must not have been removed or recalled from any salaried elected or appointed office within the last ten (10) years, where such conduct does not result in a conviction or plea in a court of competent jurisdiction, and;
 5. No Tribal Member can serve on the Tribal Council at the same time as their spouse, parents, legal guardians, children, or siblings.
 6. Must have a high school diploma or its equivalency.
 7. Must have an Associate's Degree or higher, or three (3) years of work and/or military experience.

SECTION 5 Quorum.

- a) A quorum of the Tribal Council for transacting business shall be three (3) Tribal Council members.

SECTION 6. Action by the Tribal Council.

- a) The Tribal Council shall take official action only at a properly called Tribal Council meeting at which a quorum has been established.

- b) The Tribal Council shall act only by enactment of a statute, resolution or motion.
- c) Tribal Council action shall be determined by a majority vote of the Tribal Council members who vote, providing a quorum is present.
- d) Whenever a greater vote is required by the constitution or by any tribal statute or charter, that voting requirement must be adhered to.

SECTION 7. Meetings of the Tribal Council.

- a) Regular Meetings. The Tribal Council shall meet monthly. The time and location for Regular Meetings of the Tribal Council shall be established in by-laws which shall be adopted at the next Regular Scheduled meeting of the Tribal Council immediately following the adoption of this constitution.
- b) Notice of Regular Meeting(s) scheduled shall be provided to the Tribal Membership not less than five (5) business days before the date of any Regular Meeting. Meeting notices shall be posted in conspicuous locations at the Tribal government and Tribal community facilities and on the Band's official website.
- c) Special meetings of the Tribal Council may be called by the Chairperson or by any two (2) members of the Tribal Council at any time. In the event that there is at least twenty-four (24) hours before the meeting commences, notice of the meeting shall be posted on the Band's website.
- d) When Special meetings are called The Chairperson shall inform all Tribal Council members, in writing, of the date, time and place of the meeting, and the item(s) to be acted upon. The Tribal Council may not take action on any item which is not reasonably related to the item identified in the notice.
- e) Open/Closed Meetings. All meetings, of the Tribal Council shall be open to all Tribal Members except when the Tribal Council meets in Closed Session. The Tribal Council shall disclose the general topic to be discussed in Closed Session to the Tribal Membership. No action can be taken by the Tribal Council in Closed Session other than:
 - 1. To prevent unwarranted invasion of privacy when considering personnel matters.
 - 2. To prevent damage to the investigative or bargaining position of the Band with respect to pending or anticipated arbitration or litigation.
 - 3. To prevent damage to the Band's negotiating or bargaining position with respect to ongoing contract or business negotiations.
 - 4. In other circumstances in which non-disclosure protects a significant public interest of the Band.
- f) In all cases in which the Tribal Council takes action in Closed Session, the general topic of the Closed Session shall be identified in the minutes open to the Tribal Membership. The minutes of Closed Session shall remain confidential until the Tribal Council determines by a majority vote, or by a Tribal Court order, to disclose Closed Session minutes to the Tribal Membership.
- g) The Tribal Council shall adopt a statute defining the procedures relating to the conduct of all meetings of the Tribal Council, the maintenance of records of Tribal Council meetings, and public access to records of the Tribal Council within six (6) months of the adoption of this constitution.

SECTION 8. Removal from office.

- a) Any member of the Tribal Council may be removed from office by an affirmative vote of at least four (4) Tribal Council members for the following reasons:
 1. Willful and persistent failure to perform the duties of office or other misconduct reflecting on the dignity and integrity of the Council or the Nottawaseppi Huron Band of the Potawatomi;
 2. Conviction, guilty plea, or no contest plea to any crime- involving theft or fraud, any crime involving violence against persons, including sex offenses, or any felony or other crime for which the person was sentenced to a prison term of one (1) year or longer while in office;
 3. Unexcused absence from three (3) meetings of the Tribal Council within one (1) year; or
 4. Any form of dishonest act against the Nottawaseppi Huron Band community.
- b) The Council member shall be personally served with written notice of the grounds upon which his/her removal is sought at least ten (10) days before the meeting at which the Tribal Council will consider his/her removal. The Council member shall be given the opportunity to answer the charges against him/her by presentation of testimony or other evidence to rebut the charges. The decision of the Council is final.
- c) When the Tribal Council votes to remove a Tribal Council member, the Tribal Council shall declare the position vacant and schedule a meeting to fill the vacancy as provided in Section 9 of this Article. The removed member shall have the right to appeal the decision of the Tribal Council to the Tribal Court. The Tribal Court may reverse the decision of the Tribal Council only if the Tribal Council violated the laws of removal promulgated in this constitution.

SECTION 9. Recall.

- a) Any member of the Tribal Council, after holding office for at least one (1) year, may be subject to recall under the following procedure:
 1. A recall petition must be signed by a minimum of twenty percent (20%) of the eligible voters in the Band, which shall be presented to the Election Board for signature verification.
 2. If Tribal Members seek the removal of more than one (1) Tribal Council member, a separate recall petition shall be required for each Tribal Council member subject to recall.
 3. To provide for continuity of governance, no more than two (2) Tribal Council members shall be subject to a recall election at any one time.
 4. All recall petitions must be on forms that are approved by the Election Board, which shall at a minimum require the following information:
 - a) Clear and concise statement describing the grounds for the recall;
 - b) The name of the Tribal Council member subject to recall;
 - c) Each signature line on the recall petition shall contain the following information: printed name, signature, address, Tribal ID number, and date signed. Signature lines not containing the required information shall be disallowed; and

- d) The name, address, Tribal ID number and signature of the circulator of the petition. Only enrolled Tribal Members of the Band are authorized to circulate recall petitions.
5. Within ten (10) business days of receipt of a recall petition, the Election Board shall certify the validity of the signatures or return it to the Tribal Member circulating the petition with an explanation of the defects and/or deficiencies.
6. A recall election shall be scheduled by the Election Board to be held within ninety (90) days after the date signatures are verified as meeting the requirements of this Article.
7. The Tribal Council member(s) shall be recalled by a majority vote of the band's eligible voters, provided that at least thirty percent (30%) of the eligible voters, vote in the recall election.
8. No member of the Tribal Council may be subject to more than one (1) recall election per calendar year.

SECTION 10. Vacancies.

- a) The office of any Tribal Council member who is removed, no longer meets the qualifications for office, resigns, or dies shall automatically be deemed to be vacant. If a vacancy occurs, the Council, by a majority vote shall appoint a qualified member of the Band to serve in that office until the seat can be filled in a special election to be held the following April at the next scheduled meeting of the General Membership for the unexpired term of office, if any.

ARTICLE V – ELECTIONS

SECTION 1. Elections.

- a) Elections shall be held in the month of April in conjunction with the annual meeting of the General Membership for those Tribal Council seats whose holders' terms are expiring or for seats otherwise vacant.

SECTION 2. Appointment and Duties.

- a) An election board, consisting of five (5) eligible voters of the Band, shall be appointed by the Tribal Council. No member of the election board may be a member of the Tribal Council.
- b) The election board shall have the authority to recommend any changes or additions to Tribal statutes, rules and regulations governing elections to be approved by the Tribal Council as may be necessary to ensure that Tribal elections are conducted in a manner that is consistent, fair and efficient.
- c) The election board will be responsible for conducting comprehensive background investigations of all candidates and publishing summaries of the criminal record, employment history, and educational achievement of each candidate to eligible voters of the Band. Criminal records may be published only after the candidate(s) in question are given the opportunity to challenge the findings of the criminal background investigation.

- d) The election board shall also have the authority to establish the schedule for all elections, and be responsible for settling of election disputes and election challenges.

SECTION 3. Eligible Voters.

- a) Only those Tribal Members who have attained the age of eighteen (18) on the date of the election may vote.
- b) Tribal Members may either vote at polls established at the General Membership meeting or by absentee ballot.

ARTICLE VI - POWERS

SECTION 1. Powers. The Tribal Council of the Nottawaseppi Huron Band of the Potawatomi shall be vested with the sovereign powers of the Band, subject to any express restrictions upon such powers in this Constitution. Such powers shall include, but not be limited to, the following:

- a) To adopt statutes, which are consistent with this Constitution, which shall be necessary and proper to carry out the sovereign powers of the Band and to promote and protect the health, safety, education, and general welfare of the Band and its members;
- b) To purchase, lease, take by gift, devise or bequest, or otherwise acquire land, interests in land, personal property, or other assets which the Tribal Council may deem beneficial to the Band;
- c) To approve or veto any sale, disposition, lease, or encumbrance of the Band's lands, interests in land, personal property, or other assets of the Band in accordance with Article VIII of this Constitution;
- d) To approve and/or employ legal counsel for the protection and advancement of the rights of the Band;
- e) To confer, negotiate, advise, consult, and enter into contracts, compacts or agreements with federal, state and local governments and their agencies, other tribal governments and their agencies, and individuals, corporations, and other entities on behalf of the Band;
- f) To protect and preserve property, to regulate the acquisition, disposition and use of the property for tribal purposes;
- g) To protect the interest of minors, the incompetent and the elderly members of the Band;
- h) To manage all economic affairs and enterprises of the Band;
- i) To administer any funds within the control of the Band and to appropriate for tribal use any available tribal funds;
- j) To promulgate and enforce statutes, which would provide for taxes, assessments or license fees upon members and non-members doing business within the tribal trust or reserved lands;
- k) To regulate the conduct of all persons who enter, reside on, and/or conduct business on the Band's lands and exclude persons not qualified to enter upon or reside within the tribal trust lands under statutes promulgated by the Tribal Council;

- l) To promulgate and enforce statutes intended to safeguard and promote the peace, safety, and general welfare of the Band, by regulating the conduct of trade and the use and disposition of property upon tribal lands;
- m) To promulgate and enforce statutes for economic purposes, to authorize or issue charters of incorporation for economic purposes, and to regulate the activities of such organizations;
- n) To regulate the domestic relations of members of the Band and other persons residing within Indian Country;
- o) To regulate the inheritance of real and personal property, within the jurisdiction of the Band;
- p) To establish regulatory commissions, boards, or other special purpose divisions or cooperative associations and delegate to such commissions, Boards, divisions or cooperative associations any of the foregoing powers, subject to the ability to reserve the right to review any action taken by virtue of such delegated power;
- q) To adopt resolutions or statutes to put into effect any of the foregoing powers or those powers set forth in this Constitution.

SECTION 2. Reservation of Powers; Future Delegation of Power.

- (a) Any rights and powers vested in the Band as an attribute of the Band's inherent sovereignty or reserved in any treaty to which the Band's political predecessors are party to, which are not expressly referred to in this Constitution, shall not be diminished, abridged, or divested by this Constitution.
- (b) The Tribal Council may exercise such additional powers as may be conferred upon the Band in the future by law, by the Secretary of the Interior, or by any other duly authorized official or agency of the federal government, state or local government or by another Indian tribe.

SECTION 3. Boards and Committees.

- a) The Council may appoint standing and regular committees needed to help achieve the purposes and goals of the Band. Members of all committees shall serve at the pleasure of the Council and may be removed without cause. At the Tribal Council's discretion, committees may include a member of the Tribal Council. The purpose of the committees shall be to make recommendations to the Tribal Council on matters concerning the committee.

ARTICLE VII LIMITATIONS ON THE EXERCISE OF GOVERNMENTAL POWERS

SECTION 1. Individual Rights

- a) The Band, in exercising the powers of self-government, shall not:
 1. Make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or of the right of the people peaceably to assemble and to petition for a redress of grievances;
 2. Violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;

3. Subject any person for the same offense to be twice put in jeopardy;
4. Compel any person in any criminal case to be a witness against himself;
5. Take any private property for a public use without just compensation;
6. Deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense to have the assistance of counsel for his defense;
7. Require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than the maximum penalty allowed under Federal law;
8. Deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law;
9. Pass any legislation, directed against a designated person, pronouncing him/her guilty of an alleged crime, without trial or conviction or ex post facto law, which retroactively changes the legality or consequences of a fact or action after the occurrence of that fact or commission of the act;
10. Deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six (6) persons; or
11. Make or enforce any law unreasonably infringing the right of persons to keep and bear arms within the territorial jurisdiction of the Band.

- b) The enumeration of individual rights in this Constitution shall not be construed to deny or abridge other rights retained by Band members.

SECTION 2. Impairment of Contracts Prohibited

- a) The Band shall adopt no law or resolution impairing the obligation of contracts.

SECTION 3. Access to Official Band Records

- a) To provide for a system of open communication and participation in governance by members of the Band, the Tribal Council and other government bodies shall keep records of all of their official actions, and governmental bodies shall conduct all their meetings open to the members of the Band, except as permitted by article IV, Section 7(e).
- b) Any member of the Band shall have a right to review any official record of the Band, except when tribal or applicable federal law provides for confidentiality or limits access to records or the information contained therein.
- c) The Tribal Council shall enact legislation providing procedures by which members of the Band may be afforded reasonable access to official records.
- d) The Supreme Court shall provide procedures for review of records in the custody and control of the Tribal Judiciary in accordance with this article.
- e) Tribal law, including procedures adopted by the Supreme Court, may limit access to records or information:
 1. To prevent an unwarranted invasion of personal privacy, such as with personnel, enrollment and medical records;

2. To prevent damage to the investigative, competitive or bargaining position of the Band, including with respect to pending or anticipation litigation or arbitration;
3. To protect minors involved in juvenile or child welfare proceedings; or
4. Other circumstances in which non-disclosure protects a significant public interest of the Band.

ARTICLE VIII RIGHT OF REFERENDUM AND INITIATIVE

SECTION 1. Referendum:

- a) The Tribal Council has the option to present to the membership any proposed statute or resolution provided the referendum option is adopted by a majority vote of the full Tribal Council.

SECTION 2 Initiative:

- a) Qualified voters of the Huron Band may propose a resolution, ordinance, or other action permitted under this Constitution by an initiative petition signed by a minimum of thirty (30) percent of the qualified voters.
- b) Any proposed or enacted statute or resolution of the Tribal Council involving or affecting the jurisdiction of the Band, the approval of the budget, appropriations for tribal government institutions, or the approval of leases, contracts or commercial transactions are specifically excluded from this article and are not subject initiative.

SECTION 3. Referendum Initiative Election

- a) A special election for a referendum/initiative shall be held within ninety (90) days of the receipt by the Election Board of a request for a referendum/initiative election.
- b) A majority vote of those who cast ballots shall determine whether the referendum/initiative shall go into effect, provided that a minimum of thirty (30) percent of the qualified voters cast ballots on the referendum/initiative. If adopted, it shall be binding on the Tribal Council until it expires by its own terms or is changed by further action of the voters.

SECTION 4. Effective Date.

- a) Any statute or resolution enacted by referendum under this Article shall take effect ten (10) days after certification of the election by the Election Board.

ARTICLE IX - LAND

SECTION 1. Tribal Lands.

- a) The Nottawaseppi Huron Band of the Potawatomi is dedicated to re-establishing a tribal land base to serve as a permanent homeland for the Band and its members. To that end, all lands which may now or hereafter be acquired by the Band by purchase, gift, devise or otherwise, and whether lands are owned in fee by the Band, or held in trust for the Band or any of its members by the United States or State of Michigan, shall be held as tribal lands. No part of such lands

shall be sold, transferred, mortgaged or encumbered in violation of the limitations provided in this Article.

SECTION 2. Long Term land Acquisition and Development Plan

- a) The Tribal Council shall develop a Long Term Land Acquisition and Development Plan and shall adopt such statutes and procedures as may be necessary to guide the acquisition and use of tribal lands, as well as decisions relating to the sale, transfer, assignment, lease and mortgage of tribal lands, provided such statutes and procedures are consistent with Section 1 of this Article.

SECTION 3. Transfers to the United States.

- a) Nothing in this Article shall be construed as restricting in any way the Tribal Council's authority to convey legal title to any Tribal lands to the United States to be held in trust for the Band.

SECTION 4. Sale or Transfer of Certain Lands Prohibited.

- a) The Tribal Council shall not sell or transfer title of the following categories of land:
 1. Lands held in trust for the Tribe by the United States;
 2. Any lands, the title to which is owned by the Nottawaseppi Huron Band of the Potawatomi, as of January 1, 2011;
 3. Lands adjacent to the Pine Creek Reservation; and
 4. Lands which are primarily acquired and used for the purpose of preserving cultural or historic resources, including cemeteries.

SECTION 5. Rights of Persons Holding Assignments.

- a) Every member of the Band who has an assignment of land on the Pine Creek Reservation at the time of the adoption of this Constitution shall have the right to hold the assignment as long as he/she lives, provided that if any assignee fails to use his assignment for a period of one (1) year, the Council shall cancel his/her assignment and reassign the land to another needy enrolled member unless good cause is shown why an extension of time should be granted.

ARTICLE X - SOVEREIGN IMMUNITY

SECTION 1. Tribal Immunity.

- a) The Nottawaseppi Huron Band of the Potawatomi, as a sovereign Indian Nation, is immune from suit in all forums except to the extent that immunity is expressly waived in accordance with this Article.

SECTION 2. Authorization of Suits against Officials and Employees of the Band.

- a) Officials and employees of the Band shall be subject to suit if
 1. The suit is brought in the Band's Tribal Court.
 2. The suit is against such officials or employees in their official capacity;
 3. The suit seeks only prospective injunctive relief, and does not seek monetary damages or any other form of retroactive relief-
 4. The suit seeks to enforce legal rights and duties established by this Constitution and by the laws of the Band.

- b) The Tribal Council may waive the Band's immunity from suit in furtherance of governmental purposes or a tribal business purpose. Such a waiver must be by written resolution and must be approved by a majority of the entire Tribal Council.
- c) The Tribal Council may delegate its authority under this Section to the governing bodies of chartered tribal entities, provided that the terms of such delegation limit the recourse to the assets of the entity.
- d) Nothing in this Section shall waive the Band's immunity from suit in any forum other than the Tribal Courts except as may be specifically provided in a specific waiver approved in accordance with this Article.

ARTICLE XI - TRIBAL JUDICIARY

SECTION 1. Tribal Court Established.

- a) The Nottawaseppi Huron Band of the Potawatomi hereby establishes a Tribal Court system. The Tribal Court system shall be comprised of a court of general jurisdiction (referred to as the "Tribal Court an appellate court of last resort (referred to as the "Tribal Supreme Court and such other lower courts as the Tribal Council may hereafter establish.

SECTION 2. Composition of the Tribal Court System

- a) Tribal Court. The Tribal Court shall consist of one (1) judge, who shall serve as Chief Judge. Additional associate judges shall be added by the Tribal Council as circumstances require.
- b) Tribal Supreme Court. The Tribal Supreme Court shall consist of one (1) Chief Justice and two (2) Associate Justices who shall meet as often as circumstances require. A quorum requirement of the Supreme Court shall be all three (3) members. Appeals shall be decided by a minimum of to two (2) members of the Tribal Supreme Court.

SECTION 3. Jurisdiction

- a) The judicial power of the Nottawaseppi Huron Band of the Potawatomi shall be in the Tribal Court system. The judicial power shall extend to all civil and criminal cases arising under this Constitution, all legislative enactments of the Band, including codes, statutes, ordinances, regulations, all resolutions, agreements, and contracts to which the Band or any of its entities is a party, and the judicial decisions of the Tribal Court System.
- b) The judicial power of the Tribal Court system may be exercised to the fullest extent consistent with self-determination and the sovereign powers of the Band, and, as exercised, shall govern all persons and entities subject to the jurisdiction of the Band under Article II of this Constitution.
- c) Appellate Jurisdiction. The Tribal Supreme Court shall have jurisdiction to review a final judgment, order or decree of the Tribal Court as provided in appellate rules adopted by the Tribal Judiciary or as prescribed by applicable Tribal law.
- d) Finality of Appellate Review. Rulings of the Tribal Supreme Court are final and binding and cannot be appealed to the Tribal Council, General Membership or any other jurisdiction.

SECTION 4. Judicial Appointments

- a) Appointment to the Tribal Court. The Judges of the Tribal Court, Supreme Court and such lower courts as may be established shall be appointed by an affirmative vote of 2/3 (two-thirds) of the members of the entire Tribal Council.

SECTION 5. Qualifications

- a) Tribal Courts. A person may be eligible to serve as a Chief Justice, a chief Judge, or an Associate Judge in the Tribal Courts only if he/she:
 1. Has attained the age of thirty (30) years;
 2. Is a licensed attorney in good standing;
 3. Is not a Tribal Council member or running for a Tribal Council position or a Tribal employee; and
 4. Has never been convicted of, or entered a plea of guilty or no contest to, a violent crime, felony, or a crime of fraud.

SECTION 6. Terms

- a) Tribal Court Term of Office. The Chief Judge of the Tribal Court shall serve for a term of four (4) years and this term will last until the oath of office is taken by their replacement. There shall be no limitation on the number of terms a Chief Judge may serve. If the Tribal Council appoints any additional Associate Judge(s), the Council shall set his/her term of office.
- b) Tribal Supreme Court Term of Office. Each Justice of the Tribal Supreme Court shall serve for a term of six (6) years and this term will last until the oath of office is taken by their replacement. There shall be no limitation on the number of terms a Justice may serve.
- c) In order to preserve alternating terms, the Tribal Council shall begin the following sequence for appointments.
 1. The first appointment of one (1) justice shall be for a six (6) year term.
 2. The second appointment of one (1) justice shall be for a four (4) year term.
 3. The third appointment of one (1) justice shall be for a two (2) year term.
- d) All subsequent appointments shall be for six (6) year terms or in the event of a replacement, serve out the remaining time of the term.

SECTION 7. Court Administration

- a) The Tribal Council shall have the power and responsibility to establish reasonable level of compensation for all Judges and Justices, the amount of which shall not be reduced during such persons' term of office.

SECTION 8. Removal of Judge or Justice.

- a) Removal. The powers for removal of members of the Tribal Judiciary shall be vested with the Tribal Council. The Tribal Council may remove a judge or justice for cause and shall obtain a minimum 2/3 (two-thirds) affirmative vote of the entire council for removal.
- b) Cause shall only include:
 1. Physical or mental disability which prevent the performance of judicial duties;
 2. Persistent failure to perform duties;

3. Gross misconduct that is clearly prejudicial to the administration of justice;
or
4. Conviction of violent crime, felony or a crime of fraud.

ARTICLE XII -AMENDMENTS

SECTION 1.

- a) This Constitution may be amended by a majority of the eligible voters of the Band at an election called for that purpose. A minimum of thirty (30%) percent of those entitled to vote, must vote to validate the election.
- b) The Tribal Council shall call an election for the amendment of the Constitution upon presentation of a petition signed by a minimum of thirty (30) percent of the eligible voters of the Band.
- c) In the absence of a petition, the Tribal Council may call a constitutional election by a majority vote of the entire Council.

ARTICLE XIII- SEVERABILITY

SECTION 1. In the event any sentence, paragraph or section of this constitution is held to be illegal or otherwise invalid, the remaining sentences, paragraphs or sections shall remain valid and be presumed consistent with all other applicable laws.