

**POKAGON BAND OF POTAWATOMI INDIANS  
FOOD SOVEREIGNTY COMMITTEE ACT**

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## CHAPTER 1

### General Provisions

#### Section 1.01 Short Title

This Act shall be known and may be cited as the "Food Sovereignty Committee Act."

#### Section 1.02 Authority

The Tribal Council enacts this Act pursuant to the legislative powers of the Tribal Council as enumerated in Article IX, subsections 2(a), (i) and (k) of the Constitution; and the duties of the Tribal Council stated in Article IX, subsections 1(a), (b), (c), (d) and (h) of the Constitution.

#### Section 1.03 Findings

The Tribal Council finds as follows:

(a) The Band is a sovereign, federally recognized Indian tribe and is organized under the Constitution;

(b) Under Article IX, Subsection 1(a) of the Constitution, the duties of the Tribal Council include promoting and protecting the health, education, safety and general welfare of the Band;

(c) Under Article IX, Subsection 2 of the Constitution, the powers of the Tribal Council include to enact laws, not inconsistent with the Constitution; establish subordinate governmental committees; and delegate to such committees the power to manage the Band's governmental programs, activities and property;

(d) The Band has continuously resided in its ancestral homelands in southwestern Michigan and northern Indiana since time immemorial;

(e) The Band has derived from spiritual and cultural teachings and instructions, a spiritually and culturally based manner of relating to the ecosystem; and

(f) The Band has a sacred obligation to protect and sustain its ecosystem for the next seven generations and beyond; and

(g) Traditional foods within the Band's ancestral homelands offer nourishment and the consumption of traditional foods will improve a person's physical, mental, and spiritual health; and

(h) The Tribal Council desires to restore traditional teachings related to traditional foods;

(i) The Tribal Council desires to increase the availability of traditional foods for Band citizens and families; and

(j) The Tribal Council desires that any food systems, whether new or reintroduced, are adaptable to environmental conditions, including the changing climate.

#### **Section 1.04 Purpose**

The purpose of this Act is to:

(a) establish the Committee to assist the Tribal Council in fulfilling its duties and obligations and achieving the above expressed desires and

(b) vest the Committee with the powers, rights and obligations stated in this Act.

#### **Section 1.05 Construction**

(a) This Act, to the extent reasonable, shall be read and interpreted in a manner consistent with the Constitution; provided in the event of any inconsistency, the Constitution shall control.

(b) To the extent this Act conflicts with any provision of Band law, the provisions of this Act shall govern.

(c) This Act shall be liberally construed in order to accomplish the purpose set forth in Section 1.04 of this Act.

#### **Section 1.06 Severability**

If any provision of this Act, or the application thereof to any person or circumstance, shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act, which shall continue in full force and effect.

#### **Section 1.07 Governmental Immunity**

The Committee is an instrumentality of the Band government and shall be vested with all the rights, privileges, and immunities of the Band, including but not limited to the sovereign immunity of the Band from suit absent express consent from the Tribal Council. Committee

members and Alternate Members shall be deemed officers of the Band government and shall be immune from suit when acting in their official capacity to the fullest extent permitted by law.

### **Section 1.08 Definitions**

As used in this Act:

- (a) “Act” means this Food Sovereignty Committee Act.
- (b) “Alternate Member” means a person appointed to the Committee to fulfill the duties of a Committee member(s) in the absence of a Committee member(s) only after being recognized and seated by the Chairperson of the Committee.
- (c) “Band” means the Pokagon Band of Potawatomi Indians, a sovereign federally recognized Indian tribe.
- (d) “Band Employee” means a person employed, whether full or part-time, by the Band, excluding, however, any person employed by the Pokagon Gaming Authority, Mno-Bmadsen, and any entity owned, in whole or in part, or directly or indirectly, by Mno-Bmadsen.
- (e) “Committee” means the Food Sovereignty Committee.
- (f) “Committee Officers” means the Chairperson, Secretary, and Treasurer of the Committee.
- (g) “Citizen” means a duly enrolled member of the Band.
- (h) “Committee Procedures Handbook” means the Band’s Committee Procedures Handbook.
- (i) “Constitution” means the Band’s Constitution, which was adopted on November 1, 2005 and became effective on December 16, 2005.
- (j) “Department of Language and Culture” means the Band’s Department of Language and Culture.
- (k) “Department of Natural Resources” means the Band’s Department of Natural Resources.
- (l) “Department of Social Services” means the Band’s Department of Social Services.
- (m) “Spouse” means a person lawfully married to a Citizen.

(n) “Tribal Council” means the governing body of the Band established pursuant to Article X of the Constitution.

(o) “Tribal Council Procedures Act” means the Band’s Tribal Council Procedures Act.

(p) “Traditional Ecological Knowledge” means the culturally and spiritually based manner in which native people relate to their ecosystem, derived from spiritual and cultural teachings and instructions handed down from ancestors.

## **CHAPTER 2**

### **Establishment, Eligibility, Officers and Compensation**

#### **Section 2.01 Establishment of Committee**

(a) The Tribal Council hereby establishes the Committee, which shall be composed of five (5) persons.

(b) Consistent with Article X, subsection 5(c)(iv) of the Constitution, the Tribal Council Chairperson, or a Tribal Council member designated by the Tribal Council Chairperson, shall serve as an ex-officio, non-voting member of the Committee, and the Chairperson’s presence shall not be counted in determining whether a quorum exists.

(c) The Tribal Council shall appoint two (2) Alternate Members using the committee appointment procedures provided in the Tribal Council Procedures Act.

#### **Section 2.02 Eligibility for Committee**

In order to be eligible for appointment to the Committee and to serve on the Committee pursuant to Section 2.01(a) or 2.01(c) of this Act, a person shall:

- (a) be a Citizen, a Spouse, or a Band Employee; and
- (b) be at least 18 years of age; and
- (c) possess a passion for Traditional Ecological Knowledge.

#### **Section 2.03 Preferred Eligibility**

While not required for appointment to the Committee, preference in appointment to the Committee shall be given to Citizens who, in addition to the requirements of Section 2.02, also

possess education and/or experience in Traditional Ecological Knowledge, agriculture, horticulture, nutrition, or environmental science.

#### **Section 2.04 Alternate Members**

(a) Once recognized and seated by the Chairperson of the Committee at any regular or special meeting, the votes and actions of the Alternate Members shall have the same authority as if they had been made by a Committee member.

(b) In cases where a Committee member arrives at any regular or special meeting after an Alternate Member has been recognized and seated, the Committee member shall replace the Alternate Member.

(c) All actions regarding recognition and seating or replacement of Alternate Members shall be noted in the minutes.

(d) Alternate Committee members shall have the right to attend regular and special meetings and to receive information to the same extent as Committee members, and shall be bound by all requirements applicable to Committee members.

#### **Section 2.05 Committee Officers**

(a) The Tribal Council shall appoint one of the Committee members to serve as the Committee Chairperson.

(b) The Committee shall elect a Secretary and Treasurer from among the Committee members, provided that the Secretary and Treasurer positions shall not be held by the same Committee member.

(c) The term of each Committee Officer position shall coincide with such person's term of appointment to the Committee.

(d) The Committee Officers shall perform the duties as set forth herein and in the Committee Procedures Handbook.

#### **Section 2.06 Compensation**

Committee members may be compensated for service to the Committee at rates established by the Tribal Council pursuant to the Committee Procedures Handbook.

## CHAPTER 3

### Term and Vacancies

#### Section 3.01 Term of Appointment

(a) The term of the Committee members identified in subsection 2.01(a) and 2.01(c) of this Act shall be three years, provided that the terms of initial appointment shall be staggered pursuant to the requirements of the Tribal Council Procedures Act.

(b) The term of the Committee member identified in subsection 2.01(b) of this Act shall be coterminous with his or her term of office.

(c) There shall be no limit on the number of terms that may be served on the Committee, consecutively or otherwise.

(d) Appointment to the Committee shall not confer any right or create any contract between the Committee member and the Band.

#### Section 3.02 Resignation from Committee

(a) A Committee member serving on the Committee pursuant to subsection 2.01(a), or an Alternate Member serving pursuant to subsection 2.01(c) of this Act may resign from the Committee by submitting a signed and dated letter of resignation to the Committee Chairperson or Committee Secretary. The resignation shall be effective as of the date tendered unless provided otherwise in the resignation letter. The Committee shall forward a copy of the resignation letter to the Tribal Council Chairperson.

(b) A Committee member serving on the Committee pursuant to subsection 2.01(a), or an Alternate Member serving pursuant to subsection 2.01(c) of this Act, who no longer meets the eligibility requirements for service on the Committee provided in subsection 2.02(a), shall automatically be deemed to have resigned from the Committee without further action of the Committee or the Tribal Council. Such deemed resignation shall be effective as of the date the Committee member or Alternate Member no longer met the eligibility requirements provided at subsection 2.02(a); provided, however, that the validity of any Committee action shall not be affected if such action occurred while a Committee member or Alternate member failed to maintain the eligibility requirements for service on the Committee provided in subsection 2.02(a). The Committee shall promptly provide the Tribal Council Vice Chairperson and the former Committee member or former Alternate Member with written notice of any automatic deemed resignation pursuant to this subsection 3.02(b).

(c) The Tribal Council Chairperson, or the Chairperson's designee serving on the Committee pursuant to subsection 2.01(b) of this Act, may resign by submitting a signed and dated letter of

resignation to the Tribal Council Chairman or the Tribal Council Secretary, which resignation shall be effective as the date tendered unless provided otherwise in the resignation letter. A copy of the resignation letter shall be provided to the Committee Secretary.

### **Section 3.03 Removal from Committee**

Notwithstanding any other provision of Band law or the Committee Procedures Handbook, all Committee members shall serve at the pleasure of the Tribal Council and may be removed by the Tribal Council with or without cause or notice.

### **Section 3.04 Vacancy on Committee**

(a) Upon a vacancy in a Committee position identified in subsection 2.01(a) or 2.01(c) of this Act, the Tribal Council shall fill any such vacancy pursuant to the requirements of the Tribal Council Procedures Act, including the requirement that any such vacancy be filled first by an Alternate Member.

(b) Upon a vacancy in the Committee position identified in subsection 2.01(b) of this Act, the Tribal Council Chairperson shall endeavor to fill the vacancy as soon as practicable.

## **CHAPTER 4**

### **Duties and Authority**

#### **Section 4.01 Duties of Committee**

Subject to the provisions of this Act, and in addition to all other requirements under Band law and the Committee Procedures Handbook, the Committee shall:

(a) Organize and oversee the development of community gardens on Band land, which shall include, without limitation, planting, harvesting, processing, and disseminating crops from such community gardens;

(b) Develop, for Tribal Council review and approval, proposed policies regarding planting, harvesting, processing, and disseminating crops from community gardens;

(c) Develop and maintain, on Band land, an heirloom seed library;

(d) Promote the foraging of mushrooms, wild edibles, and small game on Band land;

- (e) Conduct, in coordination with the Department of Natural Resources, the restoration of food foraged from Band land;
- (f) Assist, as may be requested by the Department of Natural Resources or the Department of Language and Culture, in any wild rice initiatives undertaken by either department;
- (g) Assist, as may be requested by the Department of Natural Resources or the Department of Language and Culture, in any sugar bush initiatives undertaken by either department;
- (h) Assist, as may be requested by the Department of Natural Resources, with any beekeeping initiatives it may undertake;
- (i) Develop, in coordination with the Department of Natural Resources or the Department of Language and Culture, as appropriate, educational opportunities for Band youth, which shall include internships and mentorships with either department,
- (j) Develop and conduct, in coordination with the Department of Natural Resources or the Department of Language and Culture, as appropriate, workshops and educational materials focused on any aspect of traditional food and food related teachings, with the intended audience for all such workshops and materials being Band youth;
- (k) Organize and oversee the development of vertical gardens on Band land;
- (l) Develop, for Tribal Council review and approval, a proposed plan for a farmers market on Band land that includes the development and operation of the proposed farmers market;
- (m) In coordination with the Department of Social Services, develop and implement a plan to make available to needy Band families, fresh produce grown on Band land in any community or vertical garden by or on behalf of the Committee;
- (n) develop and submit to the Tribal Council a work plan in accordance with the Committee Procedures Handbook;
- (o) develop and submit to the Finance Board, with a copy to the Tribal Council, a budget in accordance with the Committee Procedures Handbook; and
- (p) provide or submit to the Tribal Council the reports in accordance with the Committee Procedures Handbook.

#### **Section 4.02 Authority of Committee**

(a) All rights, powers, or privileges not expressly delegated to the Committee pursuant to this Act shall be reserved to and held by the Tribal Council.

(b) The authority of the Committee shall be limited to taking action reasonably necessary to carry out the duties stated in Section 4.01 of this Act, including to:

(1) access, possess and copy relevant documents and records directly related to the Committee's duties stated in Section 4.01 of this Act; and

(2) obtain assistance from Band Employees in accordance with the Committee Procedures Handbook.

(c) Notwithstanding any other provision of this Act, the Committee shall have no authority to:

(1) enter into any contract, or any other binding agreement;

(2) supervise or discipline any Band Employee;

(3) expend funds or commit any funds with respect to any matter, except in accordance with an approved budget and Band law; or

(4) exercise any regulatory or legislative power of the Tribal Council.

(d) The location of any community garden, vertical garden, or seed library, shall be recommended by the Committee and is subject to Tribal Council approval.

### **Section 4.03 Confidentiality**

No Committee member shall use or disclose, for any purpose other than the performance of the Committee member's official duties relating to the Committee, any confidential information obtained in connection with participating on the Committee.

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### **LEGISLATIVE HISTORY**

Food Sovereignty Committee Act, enacted September 13, 2016, by Tribal Council Resolution No. 16-09-13-05.