

**POKAGON BAND OF POTAWATOMI INDIANS
LAND USE AND CONSERVATION CODE**

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CHAPTER 1

PURPOSE AND DEFINITIONS

Section 1.01 Short Title

This Code shall be known and may be cited as the "Land Use and Conservation Code."

Section 1.02 Authority

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

Section 1.03 Purpose

The purpose of this Code is to:

- (a) ensure compliance with the mandate of Article IV, Section 1 of the Constitution by providing procedures governing Classifying Tribal Land;
- (b) ensure compliance with the mandate of Article IV, subsection 2(b) of the Constitution by providing open, fair and uniform procedures governing Reclassifying Tribal Land or Resources;
- (c) ensure compliance with the mandate of Article IV, subsections 2(c) and (d) of the Constitution by providing open, fair and uniform procedures related to Transfer of Tribal Land or Resources;
- (d) ensure compliance with Article IV, Section 3 of the Constitution by establishing use requirements, restrictions and management practices deemed necessary by the Tribal Council for the protection and sound use and development of Tribal Land and Resources, including pursuant to the Land Plan;
- (e) ensure compliance with the mandate of Article IV, Section 4 of the Constitution by providing procedures governing approving, assessing, reporting, reviewing, revising and updating the Land Plan to guide future growth and establish goals and priorities for Tribal Land and Resources;
- (f) establish an advisory Board to make recommendations to the Tribal Council regarding Classifying, Reclassifying, Transfer and acquisition of Tribal Land or Resources, as applicable, pursuant to the Constitution and this Code; and
- (g) vest the Board with the powers, rights and obligations stated in this Code.

Section 1.04 Applicability

This Code shall extend to all Tribal Land and Resources within the jurisdiction of the Band.

Section 1.05 Construction

(a) This Code, 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 Code conflicts with any provision of Pokagon Band Law, or the Committee Procedures Handbook, the provisions of this Code shall control.

(c) This Code shall be liberally construed to accomplish its purpose as set forth in Section 1.03 of this Code.

Section 1.06 Severability

If any provision of this Code, 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 Code, which shall continue in full force and effect.

Section 1.07 Effective Date

This Code shall become effective as Pokagon Band Law, for all purposes, on the Effective Date.

Section 1.08 Immunity

The Board is an instrumentality of the Pokagon 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. Board 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 with respect to officers of the Band.

Section 1.09 Definitions

As used in this Code:

(a) “Alternate Member” means a person appointed to the Board to fulfill the duties of Board member(s) in the absence of a Board member(s) only after being recognized and seated by the Chairperson of the Board.

(b) “Band” or “Pokagon Band” means the Pokagon Band of Potawatomi Indians, a sovereign nation, along with its instrumentalities, agencies, departments, programs and any entity, regardless of form, which is wholly owned by the Band.

(c) “Board” means the Pokagon Band Land Use Board.

(d) “Citizen” means a duly enrolled member of the Pokagon Band.

(e) “Classify” or “Classifying” means initial Tribal Council action to designate Tribal Land as Commercial Lands, Non-Commercial Lands, or Land Preserves.

(f) “Code” means this Land Use and Conservation Code.

(g) “Commercial Lands”, as defined in Article IV, subsection 1(a) of the Constitution, means Tribal Land the Band designates for commercial use, such as business, agriculture, farming, public recreation, surface and/or sub-surface mining or oil installations, and any other commercial activity available to the Band.

(h) “Committee Procedures Handbook” means the Band’s Committee Procedures Handbook.

(i) “Constitution” means the Constitution of the Pokagon Band.

(j) “Department of Housing” means the Band’s Department of Housing.

(k) “Department of Natural Resources” means the Band's Department of Natural Resources.

(l) “Effective Date” means the date of enactment of this Code by the Tribal Council.

(m) “Encumbrance”, as described in Article IV, subsection 3(c) of the Constitution, means a lease, mortgage, security interest, lien, right of way or other encumbrances to Tribal Land.

(n) “Finance Board” means the Pokagon Band Finance Board.

(o) “Land Acquisition Fund” or “Fund” means the Land Acquisition Fund mandated pursuant to Section 9.01 of this Code.

(p) “Land Plan” means the Long Term Land Acquisition and Development Plan mandated pursuant to Article IV, Section 4 of the Constitution.

(q) “Land Preserves”, as defined in Article IV, subsection 1(c) of the Constitution, means Tribal Land, waterways, lakes, timber areas, and other surface/subsurface Tribal Land the Band designates for ceremonial, medicinal, burial, historic, or other aboriginal uses.

(r) "Non-Citizen" means any individual who is not an enrolled member of the Pokagon Band.

(s) “Non-Commercial Lands”, as defined in Article IV, subsection 1(b) of the Constitution, means Tribal Land the Band designates for purposes of housing, tribal centers, health service programs, education, judicial centers, natural resource centers, tribal recreation areas, and any other tribal service center or facilities.

(t) “Pokagon Band Law” means all acts, codes, ordinances, or other legislative action of the Band.

(u) “Public Utility Service”, as defined in Article IV, subsection 3(c) of the Constitution, means and includes the distribution, transmission, relay or receipt of electricity, gas, water, sewer, telephone, radio, television (including cable) and data communications, and similar services which are available or may become available in the future.

(v) “Reclassify” or “Reclassifying” means the Tribal Council action to designate Tribal Land as Commercial Lands, Non-Commercial Lands, or Land Preserves after Tribal Land has already been classified.

(w) “Resources” means soil, fish, wildlife, biota, air, water, minerals, and all other like resources appertaining to Tribal Land.

(x) “Sale” means transfer for consideration by the Band of title to Tribal Land.

(y) “Service Area” means the ten (10) county service area established pursuant to Public Law 103-323, 108 Stat. 2152, 25 U.S.C. 1300j-6, being the Michigan counties of Allegan, Berrien, Van Buren, and Cass and the Indiana counties of La Porte, St. Joseph, Elkhart, Starke, Marshall, and Kosciusko.

(z) “Transfer”, as described in Article IV, subsection 2(c) of the Constitution, means granting or conveying Tribal Land or Resources by assignment, sale, lease, or any other means consistent with federal law, as applicable.

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

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

(cc) “Tribal Land” means all lands now held or hereafter acquired by or for the Band, or held in trust for the Band by the United States.

CHAPTER 2

BOARD

Section 2.01 Establishment

(a) The Tribal Council hereby establishes the Board, which shall be composed of five (5) persons as follows:

(1) Four (4) Citizens; and

(2) the Director of the Department of Natural Resources.

(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 Board, 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 procedures stated in the Tribal Council Procedures Act.

Section 2.02 Eligibility

In order to be eligible for appointment to the Board pursuant to Section 2.01(a)(1) or 2.01(c) of this Code, a Citizen shall:

(a) be at least twenty-five (25) years of age; and

(b) possess expertise, knowledge, skills, and professional and personal experience which will contribute to the fulfillment of the purposes and duties of the Board.

Section 2.03 Alternate Members

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

(b) If a Board member arrives at any regular or special meeting after an Alternate Member has been recognized and seated, the Board member shall not replace the Alternate Member for that meeting.

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

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

Section 2.04 Board Officers

(a) The Board shall elect a Chairperson, Vice Chairperson, Secretary, and Treasurer from among the Board members; provided that no Board members shall hold more than one office.

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

(c) The Board Officers shall perform the duties as set forth in the Committee Procedures Handbook.

Section 2.05 Term of Appointment

(a) The term of the Board members identified in subsections 2.01(a)(1) and 2.01(c) of this Code shall be three (3) years, provided the initial terms of initial appointments shall be staggered pursuant to the requirements of the Tribal Council Procedures Act.

(b) The term of the Board member identified in subsections 2.01(a)(2) of this Code shall be coterminous with his or her term of employment by the Band as the Director of the Department of Natural Resources.

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

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

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

Section 2.06 Resignation

(a) A Board member serving on the Board pursuant to subsection 2.01(a)(1) or 2.01(c) of this Code may resign from the Board by submitting a signed and dated letter of resignation to the Board Chairperson or Board Secretary. The resignation shall be effective as of the date tendered unless provided otherwise in the resignation letter. The Board shall forward a copy of the resignation letter to the Tribal Council Chairperson.

(b) The Tribal Council Chairperson or the Chairperson's designee serving on the Board, 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 Board Secretary.

Section 2.07 Removal

Notwithstanding any other provision of Pokagon Band Law and the Committee Procedures Handbook, all Board members and Alternate Members shall serve at the pleasure of the Tribal Council.

Section 2.08 Vacancy

(a) Upon a vacancy in the Board position identified in subsections 2.01(a)(1) or 2.01(c) of this Code, 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 position of the Director of the Department of Natural Resources, and correspondingly a vacancy on the Board, the Tribal Council shall appoint the successor Band employee to fill the vacancy on the Board.

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

Section 2.09 Duration

The establishment of the Board shall commence on the Effective Date and shall continue until abolished by the Tribal Council.

Section 2.10 Compensation

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

CHAPTER 3

DUTIES AND STANDARDS

Section 3.01 Duties of Board

Except as otherwise provided in Sections 3.02, 3.05 and 3.06 of this Code, the Board shall:

(a) prepare, maintain and regularly update an inventory of all Tribal Land and to the extent practicable Resources, including for each parcel the legal description, acreage, and all known encumbrances and servitudes, as applicable;

(b) research, analyze, and develop a proposed recommendation to Classify each parcel of Tribal Land and Resources as Commercial, Non-Commercial or Land Preserves;

(c) research, analyze, and develop a proposed recommendation regarding all proposals to Reclassify Tribal Land or Resources;

(d) research, analyze, and develop a proposed recommendation regarding all proposals to Transfer Tribal Land or Resources;

(e) research, analyze, and develop a recommendation regarding all proposals to acquire Tribal Land or Resources;

(f) provide Citizens a reasonable opportunity to be heard on all proposed recommendations to Classify, Reclassify or Transfer Tribal Land or Resources;

(g) prepare and present to the Tribal Council a final report with a recommendation to Classify, Reclassify, Transfer, or acquire Tribal Land or Resources, as applicable;

(h) research and develop the Land Plan to guide future growth and establish goals and priorities for Tribal Land and Resources;

(i) facilitate the on-going assessment and reporting, reviewing, revising and updating the Land Plan; and

(j) develop such forms, documents and processes as reasonably necessary for the efficient administration of this Code.

Section 3.02 Authority of Board

(a) The authority of the Board shall be limited to carrying out the duties stated in Section 3.01 of this Code, including, as necessary to:

(1) access, possess and copy relevant documents and records directly related to Tribal Lands and Resources; and

(2) obtain assistance from, and provide direction to, employees of the Department of Natural Resources.

(b) Notwithstanding any other provision of this Code, the Board shall have no authority to:

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

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

(3) exercise any regulatory or legislative power of the Tribal Council;

(4) perform the duties stated in subsections 3.01(b), (c), and (d) of this Code in regard to the following:

(A) Tribal Land owned or leased by Mno-Bmadsen or any entity wholly-owned by Mno-Bmadsen, as pursuant to Section V(f) of the Mno-Bmadsen Charter the Tribal Council has designated such Tribal Land as Commercial; or

(B) Tribal Land in New Buffalo, Michigan and Hartford, Michigan as more particularly described in Exhibits B and C attached to Tribal Council Resolution Number 11-09-26-01;

- (5) perform the duties stated in subsection 3.01(d) of this Code for leases in connection with programs of the Department of Housing;
- (6) perform the duties stated in subsection 3.01(d) of this Code for Transfers of Tribal Land from fee to trust status;
- (7) perform the duties stated in subsection 3.01(d) of this Code for leases executed by the Pokagon Gaming Authority;
- (8) perform the duties stated in subsection 3.01(e) of this Code for acquisitions by Mno-Bmadsen or any entity owned by Mno-Bmadsen; or
- (9) perform the duties stated in subsection 3.01(d) of this Code for leases of Tribal Land executed by any federally-chartered corporation wholly owned by the Band and organized under Section 17 of the Indian Reorganization Act of 1934, 25 U.S.C. §477.

Section 3.03 Constitutional Standards

(a) The Board, in fulfilling the duties stated in Section 3.01 of this Chapter, shall be guided by the following general principles stated in the Constitution which relate to Tribal Lands and Resources:

- (1) Pursuant to the Preamble, the intent of the Constitution, includes to conserve and develop Resources;
- (2) Pursuant to Article IV, Section 1 of the Constitution, the Pokagon Band is dedicated to reestablishing a Tribal Land base; and
- (3) Pursuant to Article IV, Section 2 of the Constitution, the overall intent of the Pokagon Band is to acquire, rather than divest itself, of Tribal Land.

(b) The Board, in fulfilling the duties stated in Section 3.01(b), (c) and (d) of this Code, shall be bound by the following requirements of the Constitution which relate to Tribal Land and Resources:

- (1) Pursuant to Article IV, Section 1 of the Constitution, the Board shall recommend that the Tribal Council Classify Tribal Land only as Commercial Lands, Non-Commercial Lands, or Land Preserves.
- (2) Pursuant to Article IV, subsection 2(a)(i) of the Constitution, the Board shall not recommend that the Tribal Council Reclassify Tribal Land already classified as Land Preserves.
- (3) Pursuant to Article IV, subsection 2(b) of the Constitution, the Board may recommend that the Tribal Council Reclassify Tribal Land and Resources already classified as Commercial or Noncommercial.

(4) Pursuant to Article IV, subsections 2(c) and (d) of the Constitution, the Board may recommend that the Tribal Council Transfer Tribal Land and Resources classified as Commercial or Noncommercial.

Section 3.04 Use Criteria

(a) The Board, in fulfilling the duties under Section 3.01 of this Chapter, shall be guided by the following general Tribal Land and Resources use criteria, as applicable:

(1) the ecology and priorities of use of Tribal Land and Resources, including the general principles stated in subsection 3.03(a) of this Code and the Land Plan;

(2) the suitability or adaptability of Tribal Land for a use and whether Tribal Land has such physical and other characteristics required under Pokagon Band Law for a particular use; and

(3) the present and potential uses and users of Tribal Lands and Resources, including but not limited to Citizens in the exercise of treaty rights reserved under Article I, Section 2 of the Constitution, and whether such uses shall achieve the best or highest uses with minimum disturbance to or dislocation of existing uses or users.

(b) The Board, in fulfilling the duties under Section 3.01 of this Code, shall consider the following specific Tribal Land and Resources use criteria, as applicable:

(1) location (within or outside Service Area);

(2) size (acreage);

(3) status (trust or fee land);

(4) access (open, landlocked, road frontage, etc.);

(5) land use (present and future);

(6) features (conditions, improvements, etc.);

(7) quality of life (space, noise, pollution, etc.);

(8) adjacent land use (benefits, concerns, etc.);

(9) jurisdiction (zoning, taxation, etc.);

(10) Resources (abundance, sanctity, etc.); and

(11) any other criteria the Board deems relevant.

Section 3.05 Expedited Actions

The Tribal Council may direct the Board to perform the duties under Section 3.01 of this Code on an expedited basis.

Section 3.06 Waiver

Subject to the Constitution, when necessary or convenient, the Tribal Council may waive the provisions of this Code by resolution.

CHAPTER 4

BOARD REPORT

Section 4.01 Board Procedures

The Board shall comply with the Open Meetings Act and the Committee Procedures Handbook, including but not limited to, provisions relating to Board meetings.

Section 4.02 Report Required

The Board shall make all recommendations to Tribal Council to Classify, Reclassify, Transfer, or acquire Tribal Land or Resources, as applicable, through a written report.

Section 4.03 Content

The report shall state the Board's recommendations and contain information sufficient to properly explain and support such recommendations, including the following, if applicable:

(a) a description of each parcel of Tribal Land, or portion thereof, which is the subject of the recommendation, and to the extent practicable the Resources (along with available maps);

(b) a description of any research conducted and documents reviewed in connection with developing the recommendation;

(c) a description of the analysis utilized to develop the recommendation, including discussion of the standards and criteria stated in Chapter 4 of this Code;

(d) a description of the recommendation within the context of any Land Plan; and

(e) any additional information that, in the judgment of the Board, is relevant to the recommendation.

Section 4.04 Board Approval

(a) The Board shall approve the report prior to submission and presentment to the Tribal Council.

(b) Prior to approval of the report, the Board shall provide Citizens with a reasonable opportunity to comment on a recommendation to Classify, Reclassify or Transfer Tribal Land or Resources, as applicable.

Section 4.05 Board Presentation

The Board shall present the report to the Tribal Council at a regular or special meeting of the Council. Board members shall attend such meeting and assist with presentation as assigned by the Chairperson of the Board.

Section 4.06 Acceptance or Rejection

Consistent with the advisory role of the Board, and the authority of the Tribal Council stated in Article IV of the Constitution, the Tribal Council shall consider, but shall not be bound by, any recommendation of the Board, and may accept or reject any or all recommendations contained in any report.

CHAPTER 5

CLASSIFICATION AND RECLASSIFICATION

Section 5.01 Authority to Classify or Reclassify

Pursuant to Article IV, Section 1 of the Constitution, only the Tribal Council shall Classify or Reclassify Tribal Land or Resources.

Section 5.02 Permitted Classifications

Pursuant to Article IV, Section 1 of the Constitution, the Tribal Council shall Classify Tribal Land only as Commercial Lands, Non-Commercial Lands, or Land Preserves.

Section 5.03 Prohibited Reclassifications

Pursuant to Article IV, subsection 2(a)(i) of the Constitution, the Tribal Council shall not Reclassify Tribal Land or Resources classified as Land Preserves.

Section 5.04 Permitted Reclassifications

Pursuant to Article IV, subsection 2(b) of the Constitution, the Tribal Council may Reclassify Tribal Land or Resources classified as Commercial or Noncommercial.

Section 5.05 Approval by Resolution

The Tribal Council shall Classify or Reclassify Tribal Land or Resources only by resolution and only after the Board has submitted and presented the report to the Tribal Council pursuant to Section 4.05 of this Code, except as provided in Sections 3.05 or 3.06 of this Code.

Section 5.06 Consequence of Classification

Consistent with Article IV, Section 1 of the Constitution, Tribal Land shall be used solely for the uses consistent with its classification; provided that any lawful use of Tribal Land existing on the Effective Date may be continued, although such use may not conform to this Code; subject, however to any limitations imposed pursuant to Section 8.02.

CHAPTER 6

ACQUISITION, TRANSFER, AND ENCUMBRANCE

Section 6.01 Authority to Approve Acquisition

Pursuant to Article IX, subsection 2(b) of the Constitution, the Tribal Council shall approve all acquisitions of Tribal Land by the Band, except to the extent the Tribal Council has delegated such authority pursuant to Article IX, subsections 2(i) or (k) of the Constitution.

Section 6.02 Prerequisites to Acquisition

The Pokagon Band shall not purchase any land until a title insurance commitment has been issued, and a minimum level of due diligence, as warranted by the circumstances, has been completed.

Section 6.03 Authority to Approve Transfer

(a) Consistent with Article IX, subsections 2(c) and (d) of the Constitution, the Tribal Council shall approve, by resolution, all Transfers of Tribal Land by the Band, other than a Sale, except to the extent the Tribal Council has delegated such authority pursuant to Article IX, subsections 2(i) or (k) of the Constitution;

(b) Consistent with Article IV, subsection 3(b) of the Constitution, the Tribal Council shall approve, by resolution, all Sales of Tribal Land by the Band, except to the extent the Tribal Council has delegated such authority pursuant to Article IX, subsection 2(i) or (k) of the

Constitution; subject, however to the following requirements of Article IV, subsection 3(b) of the Constitution and this Code:

- (1) title to Commercial Lands not held in trust for the Band may be transferred upon a majority vote of the Tribal Council, or the governing board of the subordinate organization to which the Tribal Council has delegated such authority, as applicable;
- (2) title to Non-Commercial Lands not held in trust for the Band may only be transferred with the prior approval of the voters of the Band in a referendum vote held under Article XIV, Section 3 of the Constitution; and
- (3) title to trust lands may only be transferred by the United States at the request of the Band approved by a two-thirds (2/3) majority in a referendum in which at least one-third (1/3) of Citizens eighteen (18) years of age and older cast their ballots.

Section 6.04 Authority to Approve Encumbrance

Any Encumbrance to Tribal Land requires the prior approval, by resolution, of the Tribal Council, except to the extent the Tribal Council has delegated such authority pursuant to Article IX, subsections 2(i) or (k) of the Constitution; provided that pursuant to Article IV, subsection 3(c) of the Constitution, other than for a Public Utility Service, no Tribal Land shall be encumbered in favor of any Non-Citizen, or for any other purpose, for a period in excess of twenty-five (25) years without prior approval of two-thirds (2/3) majority in a referendum in which at least one-sixth (1/6) of Citizens eighteen (18) years of age and older cast their ballots.

CHAPTER 7

LAND PLAN

Section 7.01 Purpose

Pursuant to Article IV, Section 4 of the Constitution, the general purpose of the Land Plan is to guide future growth and to establish goals and priorities for the use of Tribal Land and Resources.

Section 7.02 Elements

The Board, in fulfilling the duties under subsections 3.01(h) and (i) of this Code, shall ensure that the Land Plan includes the following:

- (a) background information on the Pokagon Band;
- (b) demographic and geographic information on Citizens;
- (c) current Tribal Land and Resources classifications, including areas designated as places where rights pursuant to Article I, Section 2 of the Constitution may lawfully be conducted;

- (d) current Tribal Land and Resources uses;
- (e) current infrastructure and services;
- (f) goals and strategies for future Tribal Land and Resources uses;
- (g) goals and strategies for future infrastructure and services; and
- (h) any other matter the Board deems relevant.

Section 7.03 Board Approval

The Board shall approve the proposed Land Plan, and any proposed amendments thereto, prior to submission and presentment to the Tribal Council.

Section 7.04 Presentment

The Board shall present the proposed Land Plan, and any proposed amendments thereto, to the Tribal Council at a regular or special meeting of the Tribal Council. Board members shall attend such meeting and assist with presentation of the proposed Land Plan as assigned by the Board Chairperson.

Section 7.05 Tribal Council Approval

Pursuant to the mandate stated in Article IV, Section 4 of the Constitution, the Tribal Council shall approve the Land Plan and all amendments thereto.

Section 7.06 Annual Reporting

The Board shall prepare and provide the Tribal Council with an annual report on the status of the Land Plan. Pursuant to Article IV, Section 4 of the Constitution, the Tribal Council shall report on the Land Plan annually at a membership meeting held pursuant to Article VIII of the Constitution.

Section 7.07 Review

The Board shall review and develop proposed amendments to the Land Plan as needed, but not less than every five (5) years. Pursuant to Article IV, Section 4 of the Constitution, the Tribal Council shall consider all proposed amendments to the Land Plan.

CHAPTER 8

RIGHTS AND RESTRICTIONS

Section 8.01 Rights

(a) Pursuant to Article I, Section 2 of the Constitution, Citizens have the right to hunt, fish, trap, and gather wild animals and wild plants for use as food, medicine, clothing, and any other uses consistent with the usual rights of occupancy on land or bodies of water within the jurisdiction of the Band.

(b) Pursuant to Article 1, Section 2 of the Constitution, however, such protected rights are subject to reasonable restrictions established by the Tribal Council for the protection of Resources and public safety, and Citizens shall not develop Resources without being authorized pursuant to Pokagon Band Law.

Section 8.02 Restrictions

To the extent any provisions of this Code, or the Land Plan, or the implementation or application thereof, restricts or impairs the exercise of any rights stated in Article I, Section 2 of the Constitution, the Tribal Council hereby deems such provisions reasonable for the protection of Resources and public safety.

CHAPTER 9

LAND ACQUISITION FUND

Section 9.01 Purpose and Creation

(a) The Tribal Council shall create, or cause to be created, the Land Acquisition Fund. The purpose of the Fund shall be to fund land acquisition for the Band.

(b) The Fund shall be held in an account recommended by the Finance Board and approved by the Tribal Council.

(c) The Band's objective in establishing the Fund is to develop and grow the Fund such that it can become the sole source of funding for land acquisition for the Band.

Section 9.02 Annual Funding

Each year the Finance Board shall include in the Band's annual budget, an amount to be contributed to the Fund.

Section 9.03 Growth and Spending from the Land Acquisition Fund

(a) The Finance Board shall approve, and may amend as necessary or desired, an investment strategy for the funds within the Fund.

(b) Disbursements from the Fund must be approved by the Tribal Council.

(c) Disbursements from the Fund shall be in the following order of priority:

- (1) From interest and dividends earned by the Fund;
- (2) From any growth earned by the Fund; and
- (3) From any principal of the Fund.

LEGISLATIVE HISTORY

Land Use and Conservation Code, enacted December 14, 2011 by Res. No. 11-12-14-02; Amended October 22, 2012 by Res. No. 12-10-22-06; On December 1, 2021, by Res. No. 21-12-01-02, Subsections 2.04(a) and 3.02(a)(4)(A) were amended; On September 19, 2022, by Res. No. 22-09-19-08, Chapter 9 was added and new Subsections 1.09(n) and (o) were added.