

DELAWARE TRIBE OF INDIANS

CONSTITUTION AND BYLAWS

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TITLE I
CONSTITUTION AND BYLAWS
PART I-CONSTITUTION

ARTICLE		PAGE
1.	SUPREME AUTHORITY	4
2.	MEMBERSHIP.	4
3.	RIGHTS OF MEMBERS	4
4.	GOVERNING BODY	5
5.	POWERS OF THE TRIBAL COUNCIL	5
6.	ELECTIONS	6
7.	VACANCY.	7
8.	INITIATIVE PETITIONS	8
9.	AMENDMENTS	8
10.	RECALL OR REMOVAL FROM OFFICE	8
11.	ANNUAL MEMBERSHIP MEETING	9
12.	JUDICIAL	9

PART II - BYLAWS

1.	DUTIES OF OFFICERS	11
2.	MEETINGS OF THE TRIBAL COUNCIL	12
3.	INITIATIVE PROCESS	13

DELAWARE
CONSTITUTION AND BYLAWS

PREAMBLE

We, the members of the Delaware Tribe, also known as the **LENNI LENAPE**, in order to establish a more perfect form of government, preserve our heritage and powers of self-government, provide for the good and welfare of our people and to secure our rights and privileges as members, do hereby establish this Constitution and Bylaws for the Delaware Tribe.

DELAWARE CONSTITUTION

ARTICLE I-Supreme Authority

The supreme governing authority shall rest with all Delaware Tribe members, eighteen (18) years of age or older who are registered to vote. Adult voting membership shall mean the "entire" voting membership of the Delaware Tribe of Indians in accordance with Article VI, Section 6.

All powers not granted to the Tribal Council by this Constitution and Bylaws are reserved for the members of the Delaware Tribe.

ARTICLE II- Membership

Section 1. The membership of the Delaware Tribe shall consist of all those persons whose names are included on the Delaware Indian per capita roll approved by the Secretary of Interior on April 20, 1906, and their descendants.

The Delaware Tribal Council shall have the power to enact ordinances, to establish rules and regulations governing membership, adoption, procedures for enrollment, and preparation and approval of an official membership roll. Provided: Nothing contained herein shall be construed to invalidate the presently existing membership roll or the membership of those persons enrolled prior to the effective date of this Constitution and Bylaws.

ARTICLE III-Rights of Members

Section 1. The rights of the members of the Delaware Tribe to hold religious beliefs, speak and write freely, and the right of the members to assemble and petition their government, shall not be disturbed.

Section 2. The Tribal Council shall not deprive any person of their liberty or property without due process of law, nor deny any member the equal protection of the laws.

ARTICLE IV-Governing Body

Section 1. There is created by this Constitution a governing body which shall be known as the Delaware Tribal Council.

The Tribal Council shall consist of seven (7) members; a Chief, Assistant Chief, Secretary, Treasurer, and three (3) members, all of whom must be eligible voters within the Delaware Tribe.

Section 2. Any duly elected Tribal Council Member shall not hold any other elected position within the Delaware Tribe of Indians.

ARTICLE V - Powers of the Tribal Council

The Delaware Tribal Council shall have the following powers:

- A. To represent the Delaware Tribe and act in all matters that concern the general welfare of the tribe, and to make decisions not inconsistent with or contrary to this Constitution and Bylaws or the Constitution and laws of the United States of America.
- B. To negotiate and make contracts with Federal, State, and Local Government and individuals, firms or companies.
- C. To advise and consult with the Secretary of Interior or his representative on all matters and activities that may affect the Delaware Tribe and to make appropriation requests to the Bureau of Indian Affairs on any project / program beneficial to the Delaware Tribe.
- D. To employ legal counsel, the choice of counsel and fixing fees to be subject to the approval of the Secretary of the Interior, or his authorized representative if required by Federal law.
- E. To cultivate, promote and encourage the culture and crafts of the LENNI LENAPE.
- F. To administer charity.
- G. To negotiate permits and leases, subject to approval of the Secretary of the Interior, if required by Federal Law, for business, home site and other purposes, and generally to provide for the proper use and development of all Tribal lands, natural resources, and other Tribal property.

- H. To appropriate Tribal funds for Tribal purposes.
- I. To mortgage or otherwise encumber Tribal land and to borrow money from any source and pledge or assign chattels of future tribal income as security therefore with the approval of the Secretary of the Interior or his authorized representative if required by Federal Law.
- J. To enact ordinances to regulate the use of all tribal lands through zoning, taxation, or otherwise.
- K. To manage and control community / tribal property, enterprises, and other economic projects and programs of the Delaware Tribe, including, but not limited to, the establishment of housing and rental authorities, education programs and elderly programs, and appointment of planning, programming, and development committees.
- L. To authorize, charter, establish and regulate associations and corporations formed for the benefit of the Delaware Tribe of doing business upon Delaware lands.
- M. To establish rules to regulate its own proceedings, to appoint subordinate committees, commissions, boards, tribal officials, and employees not otherwise provided for in this Constitution and Bylaws and to prescribe their duties, salaries, and tenure.

ARTICLE VI - Elections

Section 1. Elections shall be held every second year the first Saturday of November. The Chief so elected and the three (3) Council members who receive the highest number of votes cast shall hold office for four (4) years; the three (3) remaining Council members shall hold office for two (2) years. Thereafter, each newly elected Council member shall serve four (4) years.

Section 2. Members elected to the Tribal Council shall take office at a meeting which shall take place the 1st Saturday after an election, at which time, they shall take an oath administered by the Chief. In the absence of the Chief, the Assistant Chief, or Chairman Pro Tem elected by a majority vote of the Tribal Council.

Section 3. The Tribal Council, after being installed in office, shall elect by majority vote from among its members a Secretary and Treasurer.

Section 4. Candidates seeking election to the position of Chief, Assistant Chief, Tribal Council, or Tribal Court, shall file with the Tribal Office in accordance to Title 4 of the Delaware Tribal Statutes.

Section 5. Elections shall be by secret ballot and conducted according to Title 4 of the Delaware Tribal Statutes. Absentee balloting shall be allowed.

Section 6. All Delaware Tribe members, eighteen (18) years of age or older, who are registered to vote, can vote in all elections and sign petitions.

Section 7. Public notice of the date of election and designation of polling places shall be given at least thirty (30) days and not more than forty-five (45) days prior to the date of elections.

Section 8. If the Tribal Council shall fail to give proper notice of the election, or in case a regular election has not been held, the Tribal Court, upon receipt of a petition signed by at least one hundred (100) registered voters shall call such election and shall give thirty (30) days' notice, setting the time and place of the election.

ARTICLE VII -Vacancy

Any vacancy which may occur on the Tribal Council, because of death or resignation, shall be filled by majority vote of the remaining members. Vacancies occurring because of removal or recall shall be filled by a special election to be held within forty-five (45) days. Provided that if a vacancy created because of recall or removal occurs within one hundred eighty (180) days of the next regular tribal election, no special election shall be held, but the matter shall be held over and delayed until such next regular election.

ARTICLE VIII -Initiative Petitions

The members of the Delaware Tribe reserve unto themselves the power to initiate and pass resolutions and ordinances, and to change or modify resolutions and ordinances enacted by the Tribal Council, according to rules and procedures set forth in the Bylaws.

ARTICLE IX -Amendments

Section 1. This Constitution and Bylaws may be amended by 2/3 majority of votes cast by eligible voting membership.

Section 2. It shall be the duty of the Chief to call for an election for the purpose of amending the Constitution and Bylaws when:

- (a) petition signed by at least one hundred (100) registered voters, setting forth the full text of the proposed amendments, has been filed with the Tribal Council Secretary, or
- (b) The Tribal Council, passes a resolution by a 2/3 majority vote, calling for an amendment to the Constitution.

ARTICLE X-Recall/Removal from Office

Section 1. If any elected member of the Delaware Tribal government is convicted of a felony or crime which involves dishonesty, his office shall be considered forfeited upon 2/3 vote of the Tribal Council by resolution, or by 2/3 of votes cast by eligible voting membership.

Section 2. Any member of the Delaware Tribal Council not in attendance of two consecutive, unexcused absences, at the regularly scheduled Council meetings, shall forfeit his office.

ARTICLE XI - Annual Membership Meeting

Section 1. A General Council meeting of the adult membership shall be held on a Saturday, during the month of November, at which time the Chief or his designated spokesman shall make a "State of the Tribe" address. Notice of this annual membership meeting shall be given by the Chief, not less than thirty (30) nor more than forty-five (45) days preceding the meeting. The General Council meeting shall be presided by the Chief and Tribal Council in accordance to Roberts Rules of Order. Resolutions or motions that rescind or effect previously adopted resolutions or ordinances passed by the Tribal Council must be approved by 2/3 of votes cast by eligible voting membership. Resolutions passed at the annual General Council meeting must be approved by 2/3 of votes cast by eligible voting membership. Resolutions or motions presented at the General Council meeting must be approved by 2/3 vote of the Tribal Council or 2/3 of votes cast by eligible voting membership in an election

Section 2. Committee Reports and other reports regarding the operation of Delaware Tribe programs and projects shall be presented as well as other business properly brought before the membership.

Section 3. A quorum of not less than 100 eligible voting members must be present to conduct and/or vote on any business.

Article XII - Tribal Judiciary

Section 1. Judicial Power Vested

The judicial power of the Delaware Tribe shall be vested in a tribal court system. The tribal court system shall be composed of a court of general jurisdiction (hereinafter referred to as the "Tribal Court"), an appellate court (hereinafter referred to as the "Tribal Appellate Court"), and such lower courts as the Tribal Appellate Court may establish.

Section 2. Jurisdiction

The judicial power shall extend to all cases arising under this Constitution, ordinances, regulations, and/or judicial decisions of the Delaware Tribe and shall be exercised to the fullest extent consistent with self-determination and the sovereign powers of the Tribe.

Section 3. Qualifications

Member of the Delaware Tribe. Any member of Delaware Tribe may serve as a Tribal Judge provided he/she is twenty-five (25) years of age or older, is not a member of the Tribal Council or running for a seat on the Tribal Council, and has not been convicted of a felony under Tribal, or State law within the seven (7) year period immediately preceding the date of the election, or, in the event of a vacancy, his/her appointment. Non-Delaware Member Qualifications. A non-member of the Delaware

Tribe may be appointed to or elected to serve as a Tribal judge if such individual possesses a Law degree, is a member of a federally recognized tribe, and has not been convicted of any crime involving dishonesty, moral turpitude, nor been convicted of a felony under Federal, Tribal or State law within the seven (7) year period immediately preceding the date of the election, or, in the event of a vacancy under Article X, Section 4(a), his/her appointment.

Section 4. Composition of the Tribal Court System

Tribal Court. The Tribal Court shall be a court of general jurisdiction and shall consist of one (1) chief judge and one (1) associate judge. Judges of the Tribal Court shall be elected by the registered voters. The current tribal judges, as of adoption of these amendments, shall determine staggered terms from amongst themselves and new terms shall be set at either two year or four years. Each term thereafter shall be set as set forth below.

Court of Appeals. The Tribal Court of Appeals shall consist of three (3) judges. At least one (1) of the three (3) judges shall be an elder (age 55 years or older) in the Delaware Tribe, and at least one (1) of the three (3) judges shall be an attorney licensed to practice before the courts of a state in the United States. Judges of the Court of Appeals shall be elected by the registered voters. The current tribal judges, as of adoption of these amendments, shall determine staggered terms from amongst themselves and new terms shall be set at either two years or four years. Each term thereafter shall be as set forth below.

Section 5. Term of Office

Except as provided for in Section 4, the term of office for all Tribal Judges shall be six (6) years.

Tribal Judges will continue in office until a successor is sworn in. There shall be no prohibition against continuous service.

Section 6. Removal of a Tribal Judge

The Tribal Judiciary may remove any judge by an affirmative vote of a majority of all other members of the Judiciary for:

Unethical conduct, as defined by the American Bar Association Code of Judicial Conduct;

Physical or mental disability which prevents the performance of judicial duties;

Persistent failure to perform duties;

Gross misconduct that is clearly prejudicial to the administration of justice; or

Ineligibility, under Section 3 of this Article, to serve as a member of the Tribal Judiciary.

Section 7. Vacancies in the Tribal Judiciary

Any vacancy in the Tribal Judiciary shall be filled by the Tribal Council.

Section 8. Judicial Independence

The Tribal Judiciary shall be independent from the legislative and

executive functions of the tribal government and no person exercising powers of the legislative or executive functions of government shall exercise powers properly belonging to the judicial branch of government.

Section 9. Practice and Procedure

The Tribal Judiciary shall by general rules establish, modify, amend, or simplify the practice and procedure in all courts of the Delaware Tribe.

PART II

BYLAWS

DELAWARE BY-LAWS

ARTICLE I-Duties of Officers

Section 1. The Chief of the Tribal Council, hereinafter referred to as the Council, shall preside over all meetings of the Council, perform all duties of a Chairman and exercise any authority given him specifically by the Council or by a General Council of the Tribe. The chief shall have the power to vote.

Section 2. The Assistant Chief, in the absence of the Chief, shall preside and shall have all powers, privileges and duties of the Chief. He shall have the power to vote at any meeting.

Section 3. The Council Secretary shall have charge of all tribal correspondence and it shall be his duty to submit promptly to the Superintendent of the Jurisdiction and other appropriate offices of the Bureau of Indian Affairs, copies of all minutes of regular and special meetings of the Council, as well as copies of all resolutions and ordinances adopted by the Council. He shall have the power to vote at any meeting.

Section 4. The duties of the Treasurer shall be as follows:

A. He shall accept, receipt form, keep and safeguard, all funds in custody of the Council. He shall deposit all such funds as directed by the Council and shall keep accurate records of such funds and shall report on all receipts and expenditures and the amount and the nature of all funds in his custody to the Council at regular meetings and at such other times as required by the Council. He shall not pay or otherwise disburse any funds in custody of the Council except when properly authorized to do so by the Council.

B. The books and records of the Treasurer shall be audited at least once a year by a competent auditor employed by the Council, and at such other times as the Council may direct.

C. The Treasurer shall be required to give a surety bond satisfactory to the Council.

D. All checks shall be signed by the Treasurer and shall be countersigned by the Chief of the Council or by some other officer designated by the Chief.

E. If the Treasurer is a member of the Council, he shall have the power to vote at any meeting.

F. All other members of the Council may perform such duties as assigned by the Council and have the power to vote.

ARTICLE II - Meetings of the Tribal Council

Section 1. At the first meeting of the Council, after a regular election, which shall be the first Saturday after election, new members of the Council will be inaugurated and take office, and the Council shall see that all Council members have a correct and clear understanding of the Constitution and Bylaws and the management of tribal affairs, as well as the rules for conduct of their own body.

Section 2. Regular meetings of the Council shall be held as designated in a resolution by the Council.

Section 3. Special meetings of the Council may be called by the Chief or special meetings may be called by the Chief upon the written request of three (3) or more members of the Council. Written notice shall be given to each Council member at least five (5) days prior to special meetings.

Section 4.

A. In the conduct of business, Roberts Rules of Order shall apply except when they are inconsistent with the express provisions of the Constitution and Bylaws. All regular meetings shall be open to all members of the Tribe. Tribal members may participate in the discussion with the consent of the Chief.

B. The order of business at any regular or special meetings of the Tribal Council shall be as follows:

1. Call to Order by the Chief
2. Prayer
3. Roll Call
4. Reading of Minutes of Last Meeting
5. Unfinished Business
6. Reports
7. New Business
8. Adjournment

C. Voting at the Council meetings may be by voice, but at the discretion of the Chief, or upon the request of any two (2) members of the Council, a secret vote may be taken.

Section 5. Matters of business for the Council shall be decided by a majority vote. A quorum (a number competent to transact business) of the Council shall be four (4) members, which may include the Chief or Assistant Chief.

Section 6. No Council member shall vote on any matter coming before the Council in which he has a personal interest or in which he or she would be personally enriched by the outcome of the vote, unless special consent is given by a majority vote of the remaining Council members.

Section 7. Each official, elected or appointed, shall take an oath of office, prior to assuming his duties, which shall be: "I, _____, do solemnly swear that I will support and defend the Constitution of the United States of America against all enemies, that I will carry out faithfully and impartially, the duties of my office to the best of my ability, that I will cooperate, promote and protect the best interests of the Delaware Tribe in accordance with this Constitution and Bylaws."

ARTICLE III-Initiative Process

The voting membership's right to initiate and pass legislation for the benefit of the Delaware Tribe shall be governed by the rules and regulations as follows:

A. The petition shall at the beginning contain a statement of the purpose of the petition in clear and concise language.

B. Petitions shall be typed and clearly set forth the proposed ordinance or resolution.

C. Persons signing the petition must print their full name, address and affix their signatures.

D. In determining whether the signatures are valid (those of registered voters), only those names which appear on the same page as the "Statement of Purpose" with the text of the resolution or ordinance, shall be counted. Names on blank pages will not be counted.

E. Prior to obtaining signatures, a copy of the petition shall be filed with the Council Secretary. Petitions not filed will be invalid.

F. A petition meeting the above rules and signed by one hundred (100) voting members shall require Chief to initiate an election within forty-five (45) days.

G. The Secretary shall verify the names of all persons signing any petition to verify their voting status.