

**UPPER MATTAPONI TRIBE
RESOLUTION NO. 2023-005**

FIRST ELECTION LAW OF 2023

At a duly called Regular Meeting of the Council held this 6th day of September, 2023, the following Resolution and Law were adopted.

WHEARAS; On July 22, 2023, the citizens of the Upper Mattaponi Tribe (“Tribe”) overwhelmingly voted to adopt a new constitution (“Constitution”) to assert the Tribe’s sovereign authority as a federally-recognized Indian tribe and to reorganize the Tribe to exercise its full governmental authority in a fair and equitable manner; and,

WHEREAS; The Constitution establishes new, 4-year staggered terms of office for the elected officials of the Tribe, including Council Representatives, Chief, and Assistant Chief; and,

WHEREAS; The Constitution requires the Tribe to conduct the “First Election” in October 2023, for all elected officials of the Tribe including Council Representatives, Chief, and Assistant Chief; and,

WHEREAS; In order to establish the new, staggered 4-year terms of office for both legislative (Council) and executive (Chief and Assistant Chief) branches of government under the First Election provision of the Constitution, including recognizing the creation of the new “a-large District” for one Council seat, the Council has identified the need to enact a law governing the First Election in accordance with the terms of the Constitution; and,

WHEREAS; The Council is vested with the authority to enact laws and Budget Resolutions pursuant to Article VII, Section 4(a) of the Constitution.

NOW THEREFORE BE IT RESOLVED, that the Council hereby enacts the attached law entitled, “The First Election Law of 2023” to govern the First Election under the Constitution; and,

BE IT FINALLY RESOLVED, that the Council recognizes that the Constitution authorizes the Election Commission to conduct and administer all elections for the Tribe, and the Election Commission is authorized to take all necessary steps to effectuate the intent of this law.

C E R T I F I C A T I O N

The foregoing resolution was duly voted upon by the Council on September 6, 2023, at a Regular Meeting with a vote of 5 in favor and 0 opposed, 0 abstaining, and 2 absent, pursuant to the authority vested in the Council by the Constitution of the Tribe.



Speaker of the Council

COUNCIL - RESOLUTION NO. 2023-005:

SPONSOR: STUPPONCE

CO-SPONSOR(S): _____

REPRESENTATIVES	YES	NO	ABSTAIN	ABSENT
Lou Wratchford	X			
Desiree Dyer	X			
Joey Adams	X			
Steven Tupponce	X			
Morgan Faulkner	X			
Lenny Adams				X
Al Tupponce				X

ASSISTANT CHIEF: (Authorized to break tie votes only): _____

DELIVERY OF THE RESOLUTION AND LAW TO THE CHIEF

Resolution No. 2023-005 was presented to the Chief of the Upper Mattaponi Tribe on the 11th day of September 2023, pursuant to the Article VII, Section 5(f) of the Constitution of the Upper Mattaponi Tribe, and will become effective after signature by the Chief or veto override by the Council.



Speaker of the Council

COUNCIL - RESOLUTION NO. 2023-005:

CHIEF'S ACTION:

APPROVED

VETO - RETURNED TO COUNCIL WITH EXPLANATION:

On this 11 day of September, 2023.

W. Frank Adams
Chief

Presented by the Chief to the Council on the ____ day of _____, 20__.

COUNCIL'S ACTION:

Override of Chief's veto:

YES

NO

REPRESENTATIVES	YES	NO	ABSTAIN	ABSENT

CERTIFICATION

The foregoing resolution was duly voted upon by the Council on this 11th day of September, 2023, at a meeting with a vote of 5 in favor and 0 opposed, and 0 abstaining, and 2 absent pursuant to the authority vested in the Council by the Constitution of the Upper Mattaponi Tribe.

[Signature]
Speaker of the Council

Section 1.1 Short Title

This enactment shall be known as, the “FIRST ELECTION LAW OF 2023” (“First Election Law”).

Section 1.2 Definitions.

- (a) “Constitution” means the constitution approved by the voters of the Tribe at the Special Election held on July 22, 2023.
- (b) “First Election” means the elections to be held in October 2023 as described in Article X, Section 6 of the Constitution.
- (c) “Election Commission” means the entity, formerly called the Election Board, that is vested with the authority to conduct all elections in fair and impartial manner. New Constitution, Article IX, Section 3 and Section 16(e).
- (d) “Tribe” means the Upper Mattaponi Tribe.

Section 1.2 Purpose.

The purpose of this First Election Law is to provide guidance under the law for the Election Commission to call and conduct the First Election in October 2023 in accordance with the requirements of the Constitution of the Tribe.

Section 1.3 Findings.

The Council hereby finds and declares that:

- (a) On July 22, 2023, the citizens of the Tribe overwhelmingly voted to adopt a new constitution to assert the Tribe’s sovereign authority as a federally-recognized Indian tribe and to reorganize the Tribe to exercise its full governmental authority in a fair and equitable manner; and,
- (b) The Constitution establishes new, 4-year staggered terms of office for the elected officials of the Tribe, including Council Representatives, Chief, and Assistant Chief; and,
- (c) The Constitution requires the Tribe to conduct the “First Election” in October 2023, for all elected officials of the Tribe including Council Representatives, Chief, and Assistant Chief; and,
- (d) In order to establish the new, staggered 4-year terms of office for both legislative (Council) and executive (Chief and Assistant Chief) branches of government under the First Election provision of the Constitution, including recognizing the creation of the new “a-large District” for one Council seat, the Council has identified the need to enact a law governing the First Election in accordance with the terms of the Constitution; and,

- (e) The Council is vested with the authority to enact laws and Budget Resolutions pursuant to Article VII, Section 4(a) of the Constitution.

Section 1.4 First Election.

- (a) The Constitution requires the Election Commission to conduct the First Election for all elected officials of the Tribe [Const., Art. X, Sec. 6] as follows

Section 6. First Election. The First Election for Chief, Assistant Chief, and seven Council Representatives under this Constitution shall be held in October 2023. Officials of the Tribe in office at the time of the adoption of this Constitution shall remain in office until the First Election is held and the results are certified. All officials elected to office in the First Election shall receive the oath of office on January 1, 2024. In the First Election, the Chief and Assistant Chief shall be elected to four-year terms of office, the candidates for Representatives receiving the highest number of votes, the second highest number of votes, and the third highest number of votes shall be elected to four-year terms of office, the candidates for Representatives receiving the fourth, fifth, and sixth highest number of votes shall be elected to two-year terms of office, and the candidate receiving the highest number of votes for at-large Representative shall be elected to a two-year term of office. After the completion of the First Election, the Chief, Assistant Chief, and all Representatives shall be elected to serve four-year terms of office.

- (b) The Election Commission shall conduct the First Election on October 28, 2023.

Section 1.5 Election Commission.

- (a) The Constitution requires the Election Commission to conduct all elections including the First Election [Const., Art. X, Sec. 1] as follows:

Section 1. Election Commission. All elections shall be conducted and administered by the Election Commission. The Election Commission shall be comprised of at least three Commissioners who shall conduct all elections in a fair and impartial manner. Commissioners may receive reasonable compensation as determined in an approved budget. No increase or decrease in compensation of a Commissioner shall take place until after the next General Election. Commissioners shall be nominated and selected at a General Citizenship Meeting held in March by a vote of the people attending the meeting; provided that the persons selected are present at the meeting. Each Commissioner shall serve a three-year term of office. A vacancy on the Election Commission shall be filled at the next General Citizenship Meeting.

- (b) The Election Commission shall conduct the First Election in a fair and impartial manner.
- (c) The Election Commission shall prepare and mail an official Notice of the First Election to all adult citizens of the Tribe at the last known address of each citizen as contained in the records of the Tribe. The official Notice shall include relevant details of the First Election including key dates, deadlines, the process to seek election office, and contact information for the Election Commission. Each adult member shall be responsible for maintaining a current mailing address with the Tribe.
- (d) The Election Commission shall select a neutral observer who is not related to any citizen of the Tribe and who shall observe the conduct of the election on election day including the counting and certification of the ballots after the close of the polls.
- (e) In recognition that the new Constitution was recently approved by the voters with a short time period in which to conduct the First Election, if a new Election Commission is not selected by the citizens at the most recent General Citizenship Meeting, then the most recently seated Election Board shall serve as the new Election Commission for purposes of the First Election, and in their absence, the Chief may appoint a new Election Commissioner(s) for purposes of the First Election.

Section 1.6 Voters.

- (a) The voting age in all elections is set by the Constitution [Const., Art. X, Sec. 2] as follows:

Section 2. Voters. All enrolled citizens of the Tribe age eighteen or older shall be entitled to vote in an election.

- (b) The Election Commission shall prepare and post for at least five days a preliminary list of the eligible voters of the Tribe, which shall include all adult members of the Tribe who will be 18-years old or older on election day. The Election Commission shall accept challenges to the preliminary list of eligible voters including allegations of ineligible people included on the list and eligible people omitted from the list. The Election Commission shall promptly decide any challenges to the preliminary list of eligible voters, and shall prepare and post a final list of eligible voters.

Section 1.7 Candidates for Elective Office.

- (a) All candidates for elective office shall seek office in accordance with the terms set in the Constitution [Const., Art. X, Sec. 4] as follows:

Section 4. Candidates for Elective Office. Candidates for elective office shall be required to file a written application to run for office confirming that they meet the qualifications for

the respective offices. A candidate shall not seek more than one elective office in the same election. Upon request, the Election Commission shall provide a candidate with a list of names and addresses of the voters of the Tribe for the candidate to use exclusively for election purposes.

- (b) The Election Commission shall prepare and utilize a Candidate Filing Form for the First Election that complies with the requirements of the Constitution including allowing qualified candidates to seek office for one of the following positions: Chief, Assistant Chief, Council Representative, or At-large Council Representative.
- (c) For the purpose of qualifying for candidacy and in recognition of the separation of powers requirements of the Constitution, an “official” of the Tribe shall include the Chief, the Assistant Chief, and any person who serves on a business entity Board of Directors under Article XVI of the Constitution, and who was selected upon nomination by the Chief and confirmation by the Council.
- (d) The Election Commission shall conduct a reasonable review of each completed Candidate Filing Form submitted by the established deadline; provided, that the burden of proving that a candidate meets the requirements to qualify for elective office shall rest on the candidate, and the Election Commission may presume the accuracy and veracity of a completed Candidate Filing Form unless it has a reasonable basis to believe otherwise, in which case, the Election Commission may use reasonable efforts to verify the information the accuracy of a completed Candidate Filing Form.

Section 1.8 Terms of Office in the First Election.

The terms of office for the newly elected Chief, Assistant Chief, and Representatives in the First Election shall be set in accordance with the Constitution [Const., Art. X, Sec. 6] as follows in pertinent part:

In the First Election, the Chief and Assistant Chief shall be elected to four-year terms of office, the candidates for Representatives receiving the highest number of votes, the second highest number of votes, and the third highest number of votes shall be elected to four-year terms of office, the candidates for Representatives receiving the fourth, fifth, and sixth highest number of votes shall be elected to two-year terms of office, and the candidate receiving the highest number of votes for at-large Representative shall be elected to a two-year term of office. After the completion of the First Election, the Chief, Assistant Chief, and all Representatives shall be elected to serve four-year terms of office.

Section 1.9 Qualifications of the Candidates.

- (a) All candidates for Chief and Assistant Chief shall meet the minimum qualifications listed in the Constitution [Const., Art. VIII, Sec. 2] as follows:

Section 2. Qualifications for Chief and Assistant Chief.

Candidates for Chief and Assistant Chief shall be enrolled citizens of the Tribe and at least thirty years old. Once elected, the Chief and Assistant Chief shall reside within one hundred miles of the site of the original Sharon Indian School, and shall maintain residency for the duration of their terms of office.

- (b) All candidates for Council Representative shall meet the minimum qualifications listed in the Constitution [Const., Art. VII, Sec. 2] of the Constitution as follows:

Section 2. Qualifications for Council Representatives.

Candidates for Representatives shall be enrolled citizens of the Tribe, and at least twenty-one-years old. Six Representatives shall reside within one hundred miles of the site of the original Sharon Indian School for the duration of their terms of office. One Representative shall serve in an at-large District and shall not reside within one hundred miles of the site of the original Sharon Indian School for the duration of the term of office. Candidates shall seek office in either the non-at-large District or the at-large District, and if elected, shall serve as a Representative of the District in which they reside.

- (c) The determination of whether a candidate meets the 100-mile requirement of Article VII, Section 2 of the Constitution shall be measured in direct, “as-the-crow-flies”, miles and not roadway miles.

Section 2.0 Ballots.

- (a) The Election Commission shall conduct the First Election utilizing secret written ballots. The names of the candidates shall be listed alphabetically by last name on the ballot.
- (b) In the First Election, the Election Commission shall mail official ballots to all citizens of the Tribe listed on the final list of eligible voters.
- (c) In the First Election, a citizen shall have the right to cast one vote for a candidate for Chief, one vote for a candidate for Assistant Chief, six votes for candidates for Council Representatives, and one vote for an At-large Council Representative.
- (d) All ballots returned to the Election Commission shall be notarized by a licensed notary.
- (e) In the First Election, a citizen may return an official ballot to the Election Commission by US mail, by other mail delivery service, or by hand-delivery; provided, that the Election Commission must receive a completed ballot 5:00 pm on September 27, 2023. A citizen may also vote in-person at the polling site on election day whether or not the citizen received a ballot by mail; provided, that the Election Commission shall ensure that no citizen is permitted to vote more than once.

- (f) A citizen may request a ballot from the Election Commission at any time prior to the deadline for the return of ballots.
- (g) Write-in ballots shall be prohibited.

Section 2.1 Polling Place.

The polling place for the First Election shall be the Sharon Indian School.

Section 2.2 Hours of Voting.

The polling place shall be open from 10:00 am to 2:00 pm. Voters in-line at the polling place but unable to cast their ballots before 2:00 pm shall be permitted to finish voting.

Section 2.3 Method of Voting.

- (a) Each prospective voter who wishes to vote in-person at the polling place shall present their photo ID card issued by the Tribe or other government-issued identification. The Election Commission shall identify the voter on the final list of eligible voters and shall hand an unused ballot to the voter who shall sign their name on a form kept to acknowledge receipt of the ballot.
- (b) The voter shall vote in privacy and shall place a mark opposite the name of the candidate or candidates for whom they are voting. The ballot shall be folded so that the choices made by the voter cannot be seen by others. The ballot shall be personally deposited in the ballot box by each voter.

Section 2.4 Counting the Ballots.

- (a) The Election Commission shall count the votes cast for each candidate in accordance with the requirements of the Constitution [Const., Art. X, Sec. 3] as follows (in pertinent part):

The Election Commission shall certify all elections within seventy-two hours of the close of the polls.

- (b) At the close of the polls, the Election Commission shall count the votes as marked on the ballots. The Election Commission shall count each vote as long as the choice of the voter can be determined. The Election Commission shall count each vote whether or not the voter cast a vote, or cast all of the eligible votes, in each category on the ballot. The candidate or candidates receiving the highest number of votes for each available seat shall be declared the winner or winners.
- (c) The tallying of the votes shall be open for public observation, but the public shall remain at a reasonable distance from the Election Commission and shall not disrupt the Election Commission.
- (d) At the end of the tally, the Election Commission shall determine the total vote cast for each candidate. These results shall be written down, together with the

number of rejected ballots, and shall be certified by each member of the Election Commission by the signing of his name thereto. The results shall be posted at the polling place and in other public locations. The Election Commission may conduct a recount of the ballots; provided, that the recount is conducted prior to the final certification of the election results.

- (e) Upon final certification of the election results, the Election Commission shall secure the ballots, including any unused, spoiled, and rejected ballots, for at least one year.

Section 2.5 Tie Votes.

Tie votes in the First Election shall be decided by a game of chance.

Section 2.6 Challenges to the Election Results.

Any citizen of the Tribe may file a written challenge to the results of the First Election by providing the grounds for the challenge accompanied by substantiating evidence to the Election Commission. The Election Commission shall provide the challenger with an opportunity to present testimony and other evidence to support the challenge, and the Election Commission shall hear and decide election challenges in a timely manner; provided, that the Election Commission shall not overturn the results of the First Election unless the citizen or citizens challenging the election results proves by clear and convincing evidence the any irregularities forming the basis of the challenge would have changed the outcome of the election.

Section 2.7 Oath of Office.

- (a) In the First Election, the Oath of Office shall be administered to newly elected Chief, Assistant Chief, and Council Representatives in accordance with Constitution [Const., Art. X, Sec. 5] as follows (in pertinent part):

The Oath of Office administered to officials who serve in elected positions shall include a requirement to uphold the Constitution of the Tribe.

- (b) In the First Election, the Election Commission shall administer the Oath of Office to the newly elected Chief, Assistant Chief, and Council Representatives in accordance with the requirements of the Constitution [Const., Art. X, Sec. 6] as follows (in pertinent part):

All officials elected to office in the First Election shall receive the oath of office on January 1, 2024.

Section 2.8 Other Election Matters.

Any other election matters not specifically addressed in this First Election Law shall be decided by the Election Commission. The decision of the Election Commission shall be final.