

# THE CONSTITUTION OF POHNPEI

## PREAMBLE

*WE, THE PEOPLE OF POHNPEI, in whom Almighty God has bestowed sovereignty over this sea, the air, space, and the islands within, do now by His grace establish this Constitution.*

*Through the exercise of our sovereign right of self-determination, we accept without hesitation the challenge and responsibility to serve as the guardians of our people and islands, both now and in the future; to protect and uphold the inalienable rights of our people; to protect and maintain the heritage and traditions of each of our islands; and to protect and promote the harmony and prosperity of all the people of Pohnpei.*

*We acknowledge the strength that comes from the union of our individual cultural past; we are united by a common sea; and we freely express our desire to live and work together in peace and harmony for the common good of the people of Pohnpei and all mankind.*

*With this Constitution, we proclaim and reaffirm the Sovereignty of Pohnpei.*

## ARTICLE I Territory and Jurisdiction

### Section 1. Territory.

The territory of Pohnpei comprises the islands and reefs of Pohnpei, a marine space of two hundred nautical miles measured outward from appropriate baselines, the sea bed, subsoil, water column, insular and continental shelves, and any other territory and water belonging to any island of Pohnpei by historical right, custom, or legal title.

### Section 2. Jurisdiction.

Unless limited by obligations assumed by Pohnpei, or by its unilateral act, the waters connecting the islands and reefs of Pohnpei are internal waters, regardless of dimension, and the jurisdiction of Pohnpei extends to the entire territory of Pohnpei including its marine space, the seabed, subsoil, water column, insular and continental shelves, and the airspace over lands and waters.

### Section 3. New Territory.

New territory may be added to Pohnpei in accordance with statute, which may provide for the local government therefor if appropriate. Such statute shall require approval by the voters of Pohnpei in a referendum in which approval is given by the majority of the registered voters of Pohnpei, or such greater number of votes as may be specified in the statute proposing such addition.

## ARTICLE 2 Supremacy

This constitution is the supreme law of Pohnpei. An act of government in conflict with this

Constitution is invalid to the extent of conflict.

## **ARTICLE 3 Citizenship**

### **Section 1. Citizens and Pweldak on the Effective Date of this Constitution.**

(1) A person who is a legal resident of Pohnpei is a citizen and pweldak of Pohnpei if either of his parents at the time of his birth was a citizen and pweldak of Pohnpei.

(2) A person who was a citizen or pweldak of the local governments in Pohnpei immediately prior to the effective date of this Constitution is a citizen and pweldak of Pohnpei while a legal resident of Pohnpei.

### **Section 2. Citizens on the Effective Date of this Constitution.**

A person who was a citizen or a legal resident of Pohnpei on the effective date of this Constitution is a citizen of Pohnpei while a legal resident of Pohnpei.

### **Section 3. Naturalization.**

The Legislature shall provide legislation of naturalization and loss of citizenship.

### **Section 4. Citizens of New Territory.**

Citizens of newly acquired territory of Pohnpei shall become citizens of Pohnpei as provided by statute.

## **ARTICLE 4 Fundamental Rights**

### **Section 1. Freedom of Speech.**

No government action may deny or impair the right of every person to speak, write, and publish freely on any subject and the right to receive information on all subjects. A person may be held responsible for untruthful statements injuring other persons without privilege, and for statements creating a clear and immediate danger of unlawful conduct or substantial injury to the public.

### **Section 2. Freedom of Association and Petition.**

The right of all people peaceably to assemble, to associate, to consult for their common interests, and to petition the government may not be abridged.

### **Section 3. Equal Rights.**

No law or other government action may deny or impair the equal rights of all persons on account of gender, race, ancestry, national origin, religion, language, or social status. No person may be denied the equal protection of the law.

### **Section 4. Due Process of Law.**

No person may be deprived of life, liberty, or property without due process of law. Private property may not be taken except for a public purpose with just compensation.

### **Section 5. Contract Rights.**

No law may impair an existing contractual obligation, except for the protection of an essential public interest.

## **Section 6. Imprisonment for Debt.**

No person may be imprisoned solely for failure to discharge a debt.

## **Section 7. Ex Post Facto and Attainder.**

No person may be held criminally liable for an act that was not a legally recognized crime at the time of its commission. An increased penalty for a criminal act shall not apply to an act committed before the increase. No person may be found guilty of a crime or be punished for a crime except by a court of law.

## **Section 8. Searches and Seizures.**

(1) The right of all people to be secure in their persons, houses, papers, and property against unreasonable searches and seizures may not be violated.

(2) No warrant may be issued except upon probable cause supported by oath or affirmation, and particularly describing the place to be searched, and the person or thing to be seized.

## **Section 9. Rights of the Accused.**

(1) In all criminal prosecutions the accused shall be presumed innocent until proven guilty beyond a reasonable doubt.

(2) The accused shall be promptly informed of the nature and cause of the accusation; he shall have the right to counsel; he shall have the right to a speedy, public, and impartial trial; he shall have the right to be confronted with the witnesses against him and to examine them fully; he shall have the right to compel the obtaining of evidence and the attendance of witnesses in his favor; and he shall not be compelled to testify against himself.

(3) No person may be put in jeopardy more than once for a single offense.

(4) Excessive bail may not be required, nor excessive fines imposed.

(5) Cruel or unusual punishment may not be inflicted.

## **Section 10. Habeas Corpus.**

The privilege of the writ of habeas corpus shall not be suspended except in accordance with law when the public safety requires during insurrection, rebellion, or invasion.

## **Section 11. Death Penalty.**

No crime may be punished by death.

## **Section 12. Slavery and Involuntary Servitude.**

Slavery is prohibited. Involuntary servitude is prohibited except to punish crime after conviction in accordance with law.

## **Section 13. Freedom of Movement.**

Subject only to the requirements of public health, order, and safety all persons have freedom of travel and movement.

## **Section 14. Military Action.**

(1) In time of peace, no soldier may be quartered in any house without the consent of the owner and occupants, nor in time of war except in a manner prescribed by statute.

(2) Just compensation shall be provided for the use, taking or destruction of the property of

the people, and for personal injury and death arising from military action. Such compensation shall be the responsibility of the military force causing such damage.

## **ARTICLE 5 Tradition**

### **Section 1. Customs and Traditions.**

This Constitution upholds, respects, and protects the customs and traditions of the traditional kingdoms of Pohnpei.

### **Section 2. Protection of Customs and Traditions.**

The Government of Pohnpei shall respect and protect the customs and traditions of Pohnpei. Statutes may be enacted to uphold customs or traditions. If such a statute is challenged as violating the rights guaranteed by this Constitution, it shall be upheld upon proof of the existence and regular practice of the custom or tradition and the reasonableness of the means established for its protection, as determined by the Pohnpei Supreme Court.

### **Section 3. Family Obligations.**

(1) To strengthen and retain good family relations in Pohnpei, as needed, this Constitution recognizes and protects the responsibility and authority of parents over their children.

(2) This Constitution also acknowledges the duties and rights of children in regard to respect and good family relations as needed.

## **ARTICLE 6 Suffrage and Elections**

### **Section 1. Suffrage.**

A citizen of Pohnpei who, at the time of election, has attained the age of eighteen years and has not committed a felony for which he is on parole or probation or under a sentence shall be qualified to vote. Other qualifications may be prescribed by statute.

### **Section 2. Right to Vote and Hold Office.**

No property qualification, tax, or fee may be imposed on the right to vote or hold office.

### **Section 3. Conduct of Elections.**

The Legislature shall, by statute, provide for voter registration and the conduct of elections. Voting shall be by secret ballot.

### **Section 4. Time of Elections.**

(1) General elections for the Governor, the Lieutenant Governor, and the Legislature shall be held simultaneously every four years on the second Tuesday in November.

(2) Special elections shall be held as provided by statute.

(3) Runoff elections required by law shall be held twenty-eight days after the date of the election which resulted in the requirement for runoff.

(4) If a state of emergency declared by the Governor in accordance with the Constitution prevents the holding of an election when scheduled, the election shall be held not later than thirty days after the emergency ends. Unless otherwise provided by statute, after postponement

of an election due to a declared state of emergency, the new election date shall be proclaimed by the Governor.

**Section 5. Initiative and Referendum.**

The Legislature shall provide by statute for enactment of laws by initiative petition requiring signature of not more than thirty-five percent of the qualified voters of Pohnpei, and for referendum requiring not more than sixty percent of the votes cast for approval of a proposal.

**ARTICLE 7**  
**Responsibilities of**  
**The Government of Pohnpei**

**Section 1. Resources and Environment.**

The Governor of Pohnpei shall establish and faithfully execute comprehensive plans for the conservation of natural resources and the protection of the environment.

**Section 2. Development.**

The Government of Pohnpei shall promote economic development and shall establish and faithfully execute a development plan for Pohnpei.

**Section 3. Education.**

(1) The Government of Pohnpei shall provide educational services for the public. Compulsory education through a grade to be set by statute shall be enforced by law. Public education of citizens of Pohnpei through a grade as prescribed by statute shall be free of fees. Any fees imposed for public education shall be limited to the ability to pay.

(2) The Government of Pohnpei shall provide for the regulation of educational services. All public and private educational institutions shall comply with minimum standards of educational achievement which shall be established by the Government of Pohnpei.

(3) The Government of Pohnpei shall establish and faithfully execute comprehensive plans for the continual improvement of educational standards and services.

(4) The Government of Pohnpei shall establish and maintain a library, museum, and archives.

**Section 4. Health Services.**

(1) The Government of Pohnpei shall provide health care services for the public.

(2) The Government of Pohnpei shall establish and faithfully execute comprehensive plans for the continual improvement in health care services.

(3) The Government of Pohnpei shall provide for the regulation of health care services.

**Section 5. History and Culture.**

The Government of Pohnpei shall establish and faithfully execute comprehensive plans for the identification, preservation, and administration, for the benefit of the public, of places, artifacts, and information of historical and cultural importance.

**Section 6. Public Safety.**

(1) The Government of Pohnpei shall establish and faithfully execute comprehensive plans for continual improvement in the protection of the safety and security of person and property.

(2) There shall be a Pohnpei Government agency responsible for maintaining peace and order in times of crisis and natural disaster.

**Section 7. Delegation of Administration.**

The Government of Pohnpei may delegate to the local government the authority to administer services described in this Article, provided that the Government of Pohnpei retains responsibility for policy and proper administration.

**Section 8. Skill Development.**

The Pohnpei Government shall have the responsibility to promote the development and evaluation of the skills of workers, as provided by law.

## **ARTICLE 8 Legislative**

**Section 1. Legislative Power.**

The legislative power of the people of Pohnpei is vested in the Pohnpei Legislature as prescribed by this Constitution. The legislative power extends to all rightful subjects of legislation not inconsistent with this Constitution.

**Section 2. Apportionment.**

Each local jurisdiction shall constitute an electoral district for the Legislature. The number of members of the Legislature shall be established by law at the time of reapportionment. Reapportionment shall take place at least every ten years and may take place after each official census. Reapportionment shall be on the basis of local citizenship. Each local government shall be represented by at least one member.

**Section 3. Terms of Office.**

Except for members chosen to fill vacancies the terms of the members shall commence on the second Monday of January following their election.

**Section 4. Qualifications.**

No person is eligible to serve as a member of the Legislature unless he is at least twenty-five years of age at the time his term of office commences; he has been a citizen of a local government of Pohnpei for at least twenty-five years at the time his term of offices commences; and he has been a citizen of the local government that he represents for at least three years. A person convicted of a felony is ineligible to serve as a member of the Legislature unless he has received a pardon restoring his civil rights at least sixty days before he is elected. The Legislature shall be the sole qualifications of its members.

**Section 5. Conflict of Interest.**

No member of the Legislature may hold another public office in, be employed by, or receive other compensation or remuneration from government, governmental instrumentality, or any organization whose income is derived principally from public moneys. A member of the Legislature may be a member of a constitutional convention.

**Section 6. Taking New Office.**

During the term for which he is elected or appointed, no member of the Legislature may be elected or appointed to any Pohnpei Government or local government office or employment which has been created or the compensation of which established or increased by statute at any time during such term. As to the taking of a Pohnpei government office, this prohibition shall not

apply if the increase in compensation applies to all employees of the branch of government in which the office is located, and if the increase applies equally or in an equal proportion to all positions in the branch of government. This prohibition shall not apply to membership in a constitutional convention, or to taking an office whose compensation is otherwise increased if the member of the Legislature does not receive the increase in compensation.

**Section 7. Immunities.**

Members of the Legislature shall in all cases, except felony or breach of the peace, be privileged from arrest during and while going to or returning from sessions or committee meetings of the Legislature. A member is responsible only to the Legislature for his statements in the Legislature or a committee thereof.

**Section 8. Proceedings.**

The Legislature shall keep and publish a journal. All proceedings of the Legislature and its committees shall be open to the public, unless the Legislature or committee determines by unanimous vote that the public interest requires the proceedings to be closed. No vote of the Legislature may be secret by ballot, except for the election of its officers and confirmation of officials.

**Section 9. Investigation.**

As incidents of its authority, the Legislature and its duly authorized committees may conduct investigations, hold public hearings, subpoena witnesses and documents, and administer oaths. The rules of the Legislature shall provide for the enforcement of the contempt power and other incidents of legislative authority.

**Section 10. Sessions.**

(1) The Legislature shall convene in regular session on the second Monday of January each year, or as soon thereafter as is practical, for such period and at such other times as may be provided by law.

(2) A special session of the Legislature may be convened either by the presiding officer of the Legislature upon a petition of one-third of its members, without regard to vacancies, or by the Governor. When the Legislature is convened by the Governor, the Legislature shall only consider the subjects stated in the convening call.

**Section 11. Quorum.**

Three-fourths of the members of the Legislature, without regard to vacancies, shall constitute a quorum. A smaller number than a quorum may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as the Legislature may provide, including suspension of salaries and allowances.

**Section 12. Bills and Resolutions.**

(1) No law may be enacted except by bill. Each bill shall embrace only one subject, which shall be expressed in its title. A provision outside the subject expressed in the title is void.

(2) Each section of a law to be amended shall be set forth in the amending bill and reenacted at full length.

(3) The enacting clause of a bill shall be: "*BE IT ENACTED BY THE POHNPEI LEGISLATURE.*"

(4) To become law, a bill shall pass two readings on separate days. The first reading may be on the day of introduction. Passage on second reading shall require the affirmative vote on

roll call of a majority of the members of the Legislature, without regard to vacancies.

(5) A resolution shall be introduced as a proposal for a resolution and may be adopted on the day that it is introduced. It shall be adopted upon the affirmative vote of a majority of the members of the Legislature, without regard to vacancies.

**Section 13. Action on Bills by the Governor.**

(1) Every bill that has passed the Legislature shall be certified by the presiding officer and the Clerk and presented to the Governor.

(2) The Governor shall have ten days to consider bills presented to him ten or more days before a recess of at least a week's duration or before adjournment of the Legislature. For all other bills he has thirty calendar days after they are presented to him.

(3) If the Governor approves the bill, he shall sign it, and it becomes law.

(4) If the Governor does not approve the bill, he shall return it with his objections to the presiding officer of the Legislature. The Governor may disapprove any specific item or items of appropriation, in any bill that appropriates money for specific purposes, by striking out or reducing the item or items, but he may disapprove other bills only in their entirety.

(5) Any bill neither signed nor returned by the time specified shall become law as if the Governor signed it.

**Section 14. Action by the Legislature on Disapproved Matters.**

(1) After the Legislature has received a message of disapproval, the bill, item, or items disapproved shall become law on a single reading upon the affirmative vote of two-thirds of the members of the Legislature, without regard to vacancies.

(2) If the Legislature receives a message of disapproval within the last ten days of a session or after the adjournment of a session, the Legislature may reconsider the disapproved bill, item, or items, at the next session without regard to any limitations on the call.

**Section 15. Confirmation of Appointments.**

The confirmation of all appointments by the Governor of offices of the Government of Pohnpei shall require the affirmative vote of a majority of the members of the Legislature, without regard to vacancies.

**Section 16. Initial Apportionment of the Legislature.**

Until reapportionment, the members of the Legislature shall be apportioned among the local governments as follows: Kapingamarangi, one; Mwokil, one; Ngetik, one; Nukuoro, one; Pingelap, one; Kolonia Town, two; Net, two; Uh, two; Kitti, four; Madolenihmw, four; Sokehs, four. The first reapportionment shall be made within ten years of the effective date of this constitution and shall apply to subsequent general elections.

**ARTICLE 9  
Executive**

**Section 1. Governor: Executive Power.**

The executive power of the Governor of Pohnpei is vested in the Governor who shall be elected by the qualified voters of Pohnpei.

## **Section 2. Lieutenant Governor.**

There shall be a Lieutenant Governor. The Lieutenant Governor shall perform the duties delegated to him by the Governor and such other duties as may be prescribed by statute.

## **Section 3. Qualifications.**

(1) No person is eligible to become Governor or Lieutenant Governor unless he is a citizen of Pohnpei by birth; he is at least thirty-five years of age; and he has never been convicted of a felony.

(2) No person may serve more than two full consecutive terms as Governor, except that a person who serves as Governor less than two years during a term to which another person was first elected, may serve two full consecutive terms thereafter.

## **Section 4. Election.**

Nominations for the office of Governor or the office of Lieutenant Governor shall be by petitions signed by qualified voters as provided by statute. If no candidate receives a majority of the votes cast for the office of Governor or Lieutenant Governor, a run-off election shall be held between the two candidates for that office receiving the highest votes. Tied elections shall be resolved in the manner prescribed by statute.

## **Section 5. Terms of Office.**

The terms of office of the Governor and the Lieutenant Governor shall be four years and shall begin at noon on the second Monday of January following their election, and they shall hold office until the qualification of their successors.

## **Section 6. Vacancy and Incapacity.**

(1) The Lieutenant Governor shall become Governor when the office of Governor is vacant.

(2) The Lieutenant Governor shall serve as the Acting Governor when the Governor is absent from Pohnpei or is incapacitated. The Legislature shall provide by statute for the determination of incapacity.

(3) Statute shall provide for the filling of the vacancy when the office of the Lieutenant Governor is vacant.

## **Section 7. Faithful Execution of Laws.**

The Governor is responsible for the faithful execution of the provisions of this Constitution and of all laws of Pohnpei.

## **Section 8. Powers Over Criminal Penalties.**

The Governor may grant reprieves, commutations and pardons after conviction of offenses other than impeachment, subject to regulation by statute.

## **Section 9. Reports.**

The Governor shall report to the Legislature at the beginning of each regular session in January on the condition of Pohnpei, and he may do so at other times. He may recommend legislative measures for the consideration of the Legislature.

## **Section 10. Executive Officers.**

Members of all policy-making boards, the chief officers of all executive departments and agencies, and such other executive officers as may be provided by law, shall be appointed by the Governor with the approval of the Legislature by affirmative vote of the majority of the

members, without regard to vacancies. The chief officers of the executive departments and other agencies shall serve at the pleasure of the Governor. Such officers may be removed by the Governor or be impeached in accordance with Article 13, Section 6, of this Constitution.

**Section 11. Executive Reorganization.**

The executive branch, or any part thereof, may be organized by statute or by executive reorganization plan. Executive reorganization plans shall be presented by the Governor to the Legislature. The Legislature may reject an executive reorganization plan or any portion of it by resolution within thirty session days after its presentation. If the Legislature is not in session at the time of presentation, the Governor shall call a special session to consider the plan.

**ARTICLE 10**  
**Judiciary**

**Section 1. Judicial Power.**

The judicial power of Pohnpei is vested in the Pohnpei Supreme Court, and in such inferior courts as may be established by law.

**Section 2. Inferior Courts and Adjudicatory Bodies.**

Inferior courts and adjudicatory bodies may be established by statute. They shall have such original jurisdiction, concurrent with the Pohnpei Supreme Court, as may be established by statute. All judges and members of adjudicatory bodies shall be nominated by the Governor with approval by affirmative vote of a majority of the members of the Legislature, without regard to vacancies.

**Section 3. Pohnpei Supreme Court: Membership.**

(1) The Pohnpei Supreme Court shall consist of a Chief Justice and not more than four associate justices who shall be nominated by the Governor with the approval by affirmative vote of a majority of the members of the Legislature, without regard to vacancies.

(2) The Legislature shall provide by statute for the service of temporary justices. Their nominations shall also be subject to the approval of the Legislature in the same manner as the other justices.

**Section 4. Pohnpei Supreme Court: Jurisdiction.**

(1) The Pohnpei Supreme Court is a court of record and is the highest court of Pohnpei.

(2) The trial division of the Pohnpei Supreme Court has original jurisdiction over all civil and criminal cases within the jurisdiction of Pohnpei and appellate jurisdiction over the decisions of all inferior courts and adjudicatory bodies.

(3) The appellate division of the Pohnpei Supreme Court has appellate jurisdiction over all matters in the trial division.

(4) The right to a new trial and to appeal decisions of inferior courts and adjudicatory bodies to the Pohnpei Supreme Court shall be preserved.

(5) No appeal on any matter relating to the Constitution, Pohnpei law, customs and traditions may be made to any other court, except the Pohnpei Supreme Court.

**Section 5. Pohnpei Supreme Court: Divisions.**

(1) Unless otherwise provided by law, each Pohnpei Supreme Court justice shall be a

member of the trial division and the appellate division of the Pohnpei Supreme Court. A justice who has heard a case in the trial division may not participate in the decision of the case in the appellate division.

(2) A single justice may hear a case in the trial division. No fewer than three justices shall hear and decide cases in the appellate division. A single justice may make interlocutory appellate orders, subject to review by a full appellate panel of justices hearing the appeal.

**Section 6. Pohnpei Supreme Court: Qualification.**

No person is eligible to serve as a justice of the Pohnpei Supreme Court unless he is at least thirty-five years of age. A person convicted of a felony is ineligible to serve.

**Section 7. Pohnpei Supreme Court: Trial.**

A justice of the Pohnpei Supreme Court shall serve for a term of twelve years provided that he may continue to serve until a successor who has been nominated is confirmed. A justice may be reappointed.

**Section 8. Compensation.**

Compensation of all justices, judges, and members of the adjudicatory bodies shall be prescribed by law. Compensation may not be diminished during their terms of office, except by general law and in the same proportion applying to all officers and employees of the Government of Pohnpei.

**Section 9. Administration.**

The Chief Justice is the administrative head of the judicial system of Pohnpei. The administration of the Pohnpei judicial system, including personnel, property, finance, and budget matters, is independent of the legislative and executive branches of the Government of Pohnpei. The Chief Justice shall be responsible for preparation of the annual budget of the Judiciary, which shall be submitted to the Legislature through the Governor. The Governor may submit his comments on the Judiciary budget, but he may not revise it or reduce it.

**Section 10. Rules.**

The Pohnpei Supreme Court shall have the authority to promulgate or to amend its rules of procedure and rules of conduct of the Judiciary and its employees, and rules governing the property of the Judiciary. Such rules shall have the effect of law, and may be amended by statute.

**Section 11. Judicial Policy.**

The decisions of all courts and adjudicatory bodies shall be consistent with this Constitution and the concepts of justice of the people of Pohnpei.

## **ARTICLE 11 Public Finance**

**Section 1. Taxation Power.**

The Government of Pohnpei shall have the authority to levy any tax and fee not prohibited under this Constitution.

**Section 2. Local Government Taxes.**

Local governments may levy a surtax on a tax levied by the Government of Pohnpei. The surtax levied by the local governments shall not exceed twenty percent of the tax set by the Legislature, unless expressly authorized by statute. The Legislature may authorize the local

governments to impose other taxes under such conditions as may be prescribed by statute. Local governments have the sole authority to levy business license fees.

### **Section 3. Revenue Sharing.**

Not less than thirty percent of all taxes received by the Government of Pohnpei from sources within Pohnpei shall be appropriated to local governments for development projects and operations identified in local plans. Local plans shall be adopted by statute only after extensive public hearings in the respective local jurisdictions. Such funds shall be apportioned by population on the basis of local citizenship.

### **Section 4. Taxation of Government Property.**

Property of the Government of Pohnpei and property of the local governments shall not be taxed.

### **Section 5. Taxation and Appropriation of Public Purposes.**

No tax may be levied or money appropriated except for public purposes.

### **Section 6. Pohnpei Treasury.**

The Legislature shall provide by statute for the organization of the Pohnpei Treasury. The Pohnpei Treasury shall contain a General Fund and special funds established by law. All revenues of the Government of Pohnpei shall be deposited into the General Fund or a special fund, as provided by law.

### **Section 7. Obligation of Funds.**

The obligation for the payment of money and the withdrawal of money from Pohnpei Treasury may only be made in accordance with law.

### **Section 8. Auditor.**

(1) There shall be an Auditor appointed by the Governor with the approval of the Legislature by affirmative vote of the majority of the members, without regard to vacancies, to serve for a term of four years and until his successor is appointed and confirmed. Within thirty days before the end of each four-year term, the Auditor may be removed by affirmative vote of two-thirds of the members of the Legislature, without regard to vacancies.

(2) The Auditor shall be responsible for conducting audits of all financial transactions and of all accounts kept by or for all departments, offices, agencies, and instrumentalities of the Government of Pohnpei and of the local governments. All such accounts shall be audited at least once every two years. All financial statements issued by Government accounting officers shall require the certification of their accuracy by the Auditor.

(3) The Auditor shall annually report his findings and recommendations to the Governor and the Legislature. The Auditor shall make such additional reports and provide such additional information as he may deem appropriate and as the Legislature may require by law.

(4) The Auditor shall require the establishment of accounting systems that will ensure strict financial accountability.

(5) The Auditor may employ his own staff and may contract for professional accounting services and other services that he may deem necessary.

(6) The Auditor shall annually prepare the budget which will be submitted to the Legislature through the Governor. The Governor may submit his comments, but he may not revise or reduce it.

**Section 9. Fiscal Reports.**

Within the time prescribed by statute, the Governor shall annually submit to the Legislature a report identifying the revenues and funds anticipated to be available to the Government of Pohnpei for the forthcoming fiscal year, as well as such other fiscal information as the Legislature may require by law.

**Section 10. Budget Submission.**

The Governor shall prepare a budget for the forthcoming fiscal year for the operations of all Pohnpei Government agencies, except the Auditor, and the legislative and judicial branches, and for other purposes. The Governor shall submit the budget to the Legislature within the time prescribed by statute. The Governor shall also receive and may comment on the budget of the Auditor, the Legislature, and the Judiciary, which he shall promptly submit to the Legislature. Budgets shall be in such form and shall provide such information as may be required by law.

**Section 11. Budget Act.**

(1) After receiving the report of anticipated revenues and other funds, and after receiving the budget of all Pohnpei Government agencies, and taking into account the requirements for funding capital improvements, development projects, and assistance to local governments, the Legislature shall enact a comprehensive operations budget authorization law for the forthcoming fiscal year. Such law may subsequently be amended.

(2) Except as required by a state of emergency declared by the Governor in accordance with this Constitution, no appropriation for operations of any government agency may be made except in accordance with the comprehensive operations budget authorization law.

**Section 12. Control of Expenditures.**

Provisions shall be made by law to control the rate of expenditures, when funds appear insufficient to meet anticipated expenditures for the fiscal year.

**Section 13. Public Credit.**

The Government of Pohnpei may not borrow money on public credit except as authorized by statute for economic development and the construction and major repair of public facilities. Every statute authorizing the borrowing of money on the public credit shall identify the source of adequate funds which shall be dedicated to the repayment of such obligations.

**ARTICLE 12**  
**Land**

**Section 1. Limitation of Leaseholds.**

No lease of land, except from the Government or as provided in Section 4 of this Article, may exceed twenty-five years. The right for option to renew and other protections shall be provided by statute.

**Section 2. Acquisition of Permanent Interest in Real Property.**

The acquisition of permanent interest in real property shall be restricted to Ponapean citizens who are also pwilidak of Pohnpei, as specified under Article 3 of this Constitution.

**Section 3. Indefinite Land-Use Agreements.**

An agreement that grants the user of land the unilateral authority to continue use for an indefinite term is prohibited.

**Section 4. Land Legislation.**

The Legislature may provide, by appropriate legislation procedures to permit leases and other uses of land in excess of the limits prescribed in Section 1 of this Article.

**Section 5. Land Sales.**

No land shall be sold, except as authorized by statute.

**Section 6. Acquisition of Land for Public Purposes.**

The power to take interests in land may be exercised by the Government of Pohnpei for public purposes. No taking shall occur until after consultation with the local government concerned, good faith negotiation with the owners of such interests, which shall include the offer to exchange the land for land of comparable value, or a payment of just compensation.

**Section 7. Land Offices and Adjudicatory Bodies.**

To the extent that is practical, all administrative functions relating to land shall be under a single office.

**ARTICLE 13  
General Provisions**

**Section 1. Official Language.**

The official languages of the Pohnpei Government shall be the Pohnpei and English languages.

**Section 2. Harmful Substances.**

(1) Nuclear, chemical, gas, and biological weapons, nuclear power plants, and waste materials therefrom, including high-level and low-level radioactive waste, shall not be introduced, stored, used, tested, or disposed of within any part of the jurisdiction of Pohnpei, except if such action is specifically and expressly permitted by a majority of votes cast in a referendum by the people of Pohnpei.

(2) The Legislature shall provide by statute for the strict control of harmful substances not listed under Subsection 1 of this Section, limiting their introduction, storage, use, and disposal within the jurisdiction of Pohnpei to activities necessary for the enhancement of public health, public safety, and economic development.

**Section 3. Capital of Pohnpei.**

The capital of Pohnpei shall be established by statute. The properties used by the Government of Pohnpei shall be under the jurisdiction of the Government of Pohnpei.

**Section 4. Government Property.**

Government property may not be transferred to private use or disposal except pursuant to procedures established by law.

**Section 5. Ethical Conduct.**

The Legislature shall enact a code of ethical conduct for officials and employees of the Government of Pohnpei and shall prescribe administrative and criminal penalties for violation of the code.

**Section 6. Impeachment.**

(1) The Governor, Lieutenant Governor, Auditor, members of the Legislature, justices or judges of any Court, and all appointed officials of the Government of Pohnpei may be

impeached, but only for misconduct in office, neglect of duty, incapacity, or conviction of an offense of moral turpitude.

(2) Upon the adoption of a resolution of impeachment by three-fourths of the members of the Legislature without regard to vacancies, a notice of impeachment shall forthwith be served upon the official by the Legislature.

(3) Upon service of the notice of impeachment, the official shall be suspended from his duties, but with pay, pending judgment.

(4) A tribunal composed of three Justices of the Pohnpei Supreme Court shall be convened by the Chief Justice, or by the Governor in the event of impeachment of the Chief Justice. The tribunal shall appoint a special prosecutor with the approval of a majority of the members of the Legislature, without regard to vacancies. A conviction of impeachment shall require the vote of two-thirds of the members of the tribunal.

(5) Judgment in cases of impeachment shall not extend beyond removal from office, but a person so convicted may nevertheless be subject to indictment, trial, judgment, and punishment according to the law.

#### **Section 7. Recall.**

(1) The Governor, Lieutenant Governor, and members of the Legislature may be removed from office by recall.

(2) To recall the Governor or Lieutenant Governor, a petition signed by thirty-five percent of the registered voters of Pohnpei must be submitted to the presiding officer of the Legislature, who shall forthwith appoint a Special Election Commissioner, to whom the voter registration lists of Pohnpei shall forthwith be presented. Within fifteen days, the Special Election Commissioner shall determine the validity of the petition. If the petition is valid, a recall election shall be held within thirty days of the determination of validity, on the date specified by the Special Election Commissioner. The official shall be recalled upon the affirmative vote of sixty percent of the registered voters of Pohnpei.

(3) To recall a member of the Legislature a petition signed by thirty-five percent of the registered voters of the electoral district must be submitted to the Governor, who shall forthwith transmit the petition to the Election Commissioner. Within fifteen days, the Election Commissioner shall determine the validity of the petition. If the petition is valid, a recall election shall be held within thirty days of the determination of validity, on the date specified by the Election Commissioner. The member of the Legislature shall be recalled upon the affirmative vote of fifty-one percent of the registered voters of the electoral precinct he represents.

#### **Section 8. Compensation of Government Officials.**

(1) The salaries and allowances for the elected and appointed officers shall be set by law.

(2) The salaries and allowances for all elected and appointed officers may be reapportioned every five years.

(3) The salaries and allowances for all elected and appointed officers may be reduced at any time, provided that such a decrease applies to all such officers in an equal amount.

#### **Section 9. Declaration of Emergencies.**

(1) The Governor may declare a state of emergency and issue appropriate decrees, to preserve the public peace, health, or safety, at a time of extreme emergency caused by civil

disturbance, epidemic, natural disaster, or immediate threat of war.

(2) A declaration of emergency may impair a civil right only to the extent actually necessary to preserve peace, health, or safety. A declaration of emergency may be subject to judicial review.

(3) The Legislature may amend or revoke a declaration of emergency at any time by resolution. Unless the declaration expires earlier, the Legislature shall convene within thirty days to consider the declaration of emergency. Unless the declaration expires earlier, is revoked, amended, or repealed, a declaration of emergency shall be in effect for thirty days.

## **ARTICLE 14**

### **Local Governments**

#### **Section 1. Local Governments.**

The local governments comprising the Pohnpei Government on the effective date of this Constitution are Kapingamarangi, Kitti, Kolonia Town, Madolenihmw, Mwokil, Net, Ngetik, Nukuoro, Pingelap, Sokehs, and Uh.

#### **Section 2. Constitution of the Local Governments.**

Each local government may establish its own constitution. Such constitution shall not be inconsistent with this Constitution or Pohnpei law, in effect on the effective date of this Constitution and may provide a functional role for traditional leaders.

#### **Section 3. Local Government Authority.**

The local governments may exercise all authority not prohibited under this Constitution and Pohnpei law.

#### **Section 4. Local Government Boundaries.**

(1) This Constitution does not change the boundaries of the local governments.

(2) No local government may be divided or consolidated.

#### **Section 5. Areas Outside the Local Governments.**

Areas within the jurisdiction of Pohnpei located outside the boundaries of the local governments shall be administered by the Government of Pohnpei until such time as, by statute, such areas are incorporated into existing local governments with the consent of the affected local governments or are established as separate local governments having the same rights as the other local governments.

## **ARTICLE 15**

### **Amendment**

#### **Section 1. Proposal for Amendment by Legislature.**

The Legislature may propose an amendment to this Constitution. Such proposed amendment shall require approval by affirmative vote of three-fourths of the members of the Legislature, without regard to vacancies. It shall be transmitted to the Governor for his consideration in the manner prescribed in this Constitution for consideration of bills. If the Governor approves the proposed amendment, it qualifies for ratification. If the Governor disapproves the proposed amendment, he shall return it to the Legislature in the manner prescribed in this Constitution for the return of disapproved bills. The Legislature may

reconsider the proposed amendment. If the Legislature again approves the proposed amendment by affirmative vote of three-fourths of the members, without regard to vacancies and in the manner prescribed in this Constitution, for disapproved bills, the proposed amendment qualifies for ratification.

**Section 2. Proposal for Amendment by Petition.**

An amendment to this Constitution may be proposed by presenting to the Governor a petition that sets forth the text of the proposed amendment and bears the signatures of at least one-third of the registered voters of Pohnpei. The Governor shall have the petition examined and, within ninety days after presentation to him, he shall determine whether the petition has the requisite number of signatures of registered voters. Upon certification that the petition contains the requisite number of signatures, the proposed amendment qualifies for ratification.

**Section 3. Subject of Proposed Amendment.**

A proposed amendment, whether proposed by the Legislature or by initiative petition, shall include only one subject.

**Section 4. Ratification of Proposed Amendment.**

(1) The proposed amendment shall be submitted for ratification at an election, whether general or special, held not less than ninety days nor more than one hundred eighty days after the proposed amendment qualifies.

(2) A proposed amendment shall take effect only if approved by not less than two-thirds of the votes cast on the amendment, and at least fifty percent of the registered voters of Pohnpei at the time of the election.

**Section 5. Adoption of Amendment.**

The Legislature shall provide procedures for the adoption of amendments and implementation of this article.