

POKAGON BAND OF POTAWATOMI INDIANS CIVIL RIGHTS ORDINANCE

Section 1. Title

This Ordinance shall be known as the Pokagon Band of Potawatomi Indians Civil Rights Ordinance.

Section 2. Declaration of Civil Rights

The Pokagon Band of Potawatomi Indians (the "Band"), in the exercise of self-governance shall not:

- A. make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances;
- B. violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;
- C. subject any person for the same offense to be twice put in jeopardy;
- D. compel any person in any criminal case to be a witness against himself;
- E. take any private property for a public use without just compensation;
- F. deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense, which will be paid for by the Band if the person is indigent, according to criteria established by the Tribal Council;
- G. require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of one year and a fine of \$5,000, or both;
- H. deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law;
- I. pass any bill of attainder or ex post facto law; or

- J. deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six persons.
- K. discriminate against any person on the basis of sex, age (because they are elderly), physical disability, or sexual orientation.

Section 3. Enforcement and Remedies

The Pokagon Band of Potawatomi Indians Tribal Court (the “Tribal Court”) shall have jurisdiction over claims for violations of the provisions of Section 2 brought against the Band, its Tribal Council, its governmental agencies, or its governmental officials for declaratory or injunctive relief.

The Tribal Court shall have jurisdiction to award only declaratory and injunctive relief for claims brought under this Ordinance, *provided however*, that the Tribal Court may award a reasonable attorney fee and costs to a claimant.

The Tribal Court may tax attorney fees and costs to a claimant if the Court determines that a claim was frivolous or brought to harass a governmental agency, board or official of the Band.

Section 4. Persuasive Legal Authority

For the purpose of applying sub-section 2(K) of this Ordinance, the Tribal Court shall look to federal law on sex, age and disability discrimination, and to state laws prohibiting discrimination on the basis of sexual orientation, for persuasive authority, provided, however, that age requirements for judges and Tribal Council members shall not be subject to challenge on the basis of age.

Section 5. Tribal Preference Policies Unaffected

Nothing herein shall be deemed to allow a challenge to the provision of preferential treatment of any sort, including employment, contracting, appointments, or entitlements (a) to members of the Pokagon Band of Potawatomi Indians or to businesses owned and controlled by members of the Band; (b) to Native Americans, or to businesses owned and controlled by Native Americans, over any persons, other than members of the Band; or (c) to members of local communities, or to businesses owned and controlled by members of local communities reasonably proximate to trust lands of the Band; and the exercise of such preferential treatment shall not be deemed to violate any of the provisions of this Ordinance.

LEGISLATIVE HISTORY

Enacted on January 30, 2001, by Resolution No. 01-01-30-01