

**POKAGON BAND OF POTAWATOMI INDIANS
INDIANA POLICE POWERS IMPLEMENTATION ORDINANCE**

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CHAPTER 1 GENERAL PROVISIONS

Section 1.01 Short Title

This Ordinance shall be known, and may be cited as, the "Indiana Police Powers Implementation Ordinance".

Section 1.02 Authority

The Tribal Council enacts this Ordinance in accordance with the duties of the Tribal Council stated in Article IX, Subsections 1(a), 1(c) and 1(d) of the Constitution, and the legislative powers of the Tribal Council enumerated in Article IX, Subsection 2(a).

Section 1.03 Findings

The Tribal Council finds as follows:

- (a) The Band is a sovereign, federally recognized Indian tribe, as reaffirmed by the Pokagon Restoration Act and is organized under the Constitution;
- (b) In accordance with the Pokagon Restoration Act, and pursuant to Article IX of the Constitution, the Tribal Council is the governing body of the Band;
- (c) The sovereign powers of the Band extend to Indiana Trust Land and all persons subject to the jurisdiction of the Band;
- (d) The Tribal Council is empowered and has a sacred obligation to protect the Band's Indiana Trust Land and promote and protect the peace, health, safety, and general welfare of the Band, including Band citizens;
- (e) The Band has a Tribal Police Department;
- (f) The Band wishes to maintain and promote effective law enforcement for all those present within Indiana Trust Land;
- (g) Effective law enforcement by Tribal Police Officers sometimes includes a need for the performance of law enforcement duties outside of Indiana Trust Land;
- (h) As a result of federal case law, the Band lacks the authority to exercise its sovereignty to the fullest extent, including with regard to law enforcement;

(i) Under the Indiana Authorizing Statute, the Band may authorize a Tribal Police Officer to exercise Police Powers in the entire State of Indiana or any part of the State of Indiana, provided the Band complies with the requirements of the Indiana Authorizing Statute, including the requirement that the Band adopt an ordinance specifically describing the area in which a Tribal Police Officer who is appointed to exercise Police Powers may exercise such Police Powers; and

(j) The Band desires to appoint Tribal Police Officers to exercise Police Powers within the entire State of Indiana, including Indiana Trust Land.

Section 1.04 Purpose

The Tribal Council enacts this Ordinance to:

(a) implement the requirements of the Indiana Authorizing Statute, including the requirement that the Band adopt an ordinance specifically describing the area in which a Tribal Police Officer appointed to exercise Police Powers may exercise such Police Powers; and

(b) authorize and empower the Chief of Police appoint any Tribal Police Officer to exercise Police Powers, subject to the requirements of this Ordinance.

Section 1.05 Construction

To the extent reasonable, this Ordinance shall be read and interpreted in a manner that is consistent with the Constitution, but in the event of any inconsistency, the Constitution shall control.

Section 1.06 Severability

If a court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid or unenforceable, such judgment shall not affect, impair, or invalidate the remainder of this Ordinance, which shall continue in full force and effect.

Section 1.07 Definitions

The following terms are defined under this Ordinance:

(a) “Band” means the Pokagon Band of Potawatomi Indians, a sovereign, federally recognized Indian tribe.

(b) “Chief of Police” means the Chief of Police of the Tribal Police Department.

(c) “Code of Offenses” means the Band’s Code of Offenses, as amended from time-to-time.

(d) “Constitution” means the Band’s Constitution, as amended from time-to-time.

(e) “Cross Deputization Agreement” means any agreement with the Band wherein another jurisdiction deputizes or commissions Tribal Police Officers to enforce the laws of such jurisdiction.

(f) “Include” and any derivative, whether capitalized or not, shall be deemed to be followed by “without limitation,” unless the context indicates otherwise.

(g) “Indiana Authorizing Statute” means Indiana Code 5-2-24-1 through 5-2-24-5.

(h) “Indiana Trust Land” means, pursuant to the Pokagon Restoration Act or other applicable federal law: (1) all lands located within the State of Indiana, the title to which is held in trust by the United States for the benefit of the Band; and (2) all lands located within the State of Indiana that are proclaimed by the Secretary of the Interior to be part of the Band’s reservation. The term “Indiana Trust Land” includes any rights-of-way running through Indiana Trust Land.

(i) “Law Enforcement Training Board” means the law enforcement training board created by Indiana Code 5-2-1-3.

(j) “Pokagon Restoration Act” means P.L. 103-323, enacted September 21, 1994.

(k) “Police Powers” means, consistent with Indiana Code 5-2-24-4, authority to exercise police powers under the Indiana Authorizing Statute with regard to the enforcement of Indiana laws that includes the authority to:

(1) make an arrest;

(2) conduct a search or a seizure of a person or property;

(3) carry a firearm; and

(4) exercise other police powers with respect to the enforcement of Indiana laws.

(l) “Tribal Council” means the Band’s Tribal Council established under Article X of the Constitution.

(m) “Tribal Police Department” means the Band’s Police Department.

(n) “Tribal Police Officer” means an individual who is employed as a member of the Tribal Police Department with authority to enforce Band law, including the Code of Offenses, and the power to arrest.

CHAPTER 2 APPOINTMENTS

Section 2.01 Authorization

(a) In accordance with the requirements of this Ordinance, the Chief of Police is empowered and authorized to appoint any Tribal Police Officer to exercise Police Powers.

(b) Any such Tribal Police Officer who is appointed to exercise Police Powers, as implemented under this Ordinance, shall have the authority to exercise such Police Powers, subject to the requirements of this Ordinance and any requirements under applicable Band law and policy.

Section 2.02 Pre-Appointment

(a) Prior to the first initial exercise of the appointment authority delegated to the Chief of Police under this Ordinance, the Chief of Police or his or her designee shall provide the notice required in Subsection 3.02(a) of this Ordinance.

(b) Prior to the Chief of Police appointing any Tribal Police Officer to exercise Police Powers, the Chief of Police, or his or her designee, shall:

(1) contact every law enforcement department or agency that has employed (or currently employs) the individual and request that the employing department or agency provide:

(i) a complete and unredacted copy of all findings and orders related to disciplinary action or internal investigations (whether performed by an internal investigator or an outside agency) employing the individual; and

(ii) the Band or the Tribal Police Department with a copy of the individual’s entire employment file, except for any medical records or information.

(2) ensure that the individual successfully meets the minimum basic training and educational requirements adopted by the Law Enforcement Training Board under Indiana Code 5-2-1-9 as necessary for employment as a law enforcement officer in the State of Indiana.

(3) ensure that the individual:

- (i) is at least twenty-one (21) years of age;
- (ii) does not have a felony conviction; and
- (iii) meets all requirements for serving as a Tribal Police Officer under all applicable Band law and policy.

Section 2.03 Decision

(a) The Chief of Police is authorized to determine the form and manner of the actual appointment of any Tribal Police Officer to exercise Police Powers, provided the Tribal Police Officer meets all requirements of this Ordinance.

(b) Any Tribal Police Officer appointed to exercise Police Powers shall, prior to the exercise of such Police Powers, take an oath of office in a form and manner prescribed by the Chief of Police.

(c) The decision of whether to appoint a Tribal Police Officer to exercise Police Powers who is otherwise qualified under this Ordinance for such appointment, is within the sole discretion of the Chief of Police.

Section 2.04 List

(a) The Chief of Police shall maintain a list of Tribal Police Officers appointed to exercise Police Powers.

(b) The Chief of Police shall update such list as necessary to account for any suspension, termination, or decertification of appointment status pursuant to Section 2.05 of this Ordinance.

Section 2.05 Suspension, Termination, or Decertification

(a) The Chief of Police may, in his or her sole discretion, immediately suspend or terminate the appointment status of any Tribal Police Officer.

(b) Any Tribal Police Officer appointed to exercise Police Powers who no longer meets the pre-appointment requirements provided in Section 2.02 shall automatically have his or her appointment status immediately suspended effective as of the date such person no longer met the pre-appointment requirements.

(c) A Tribal Police Officer who has been appointed to exercise Police Powers through this Ordinance may be decertified as a law enforcement officer by the Law Enforcement Training Board under Indiana Code 5-2-1-12.5, provided such decertification shall serve only to decertify or terminate the Tribal Police Officer's appointment status under this Ordinance.

(d) The resignation, termination, or suspension of a Tribal Police Officer from Band employment shall automatically include the termination or suspension of appointment under this Ordinance, effective as of the date of such resignation, termination, or suspension.

(e) Any such suspension, termination, or decertification of a Tribal Police Officer's appointment status shall only limit the Tribal Police Officer's authority to exercise Police Powers through this Ordinance and shall have no effect on any other authority of the Tribal Police Officer.

CHAPTER 3 GEOGRAPHIC SCOPE

Section 3.01 Police Powers

Any Tribal Police Officer appointed to exercise Police Powers through this Ordinance is authorized to exercise such Police Powers within the entire State of Indiana, including Indiana Trust Land.

Section 3.02 Notice

(a) The Chief of Police, or his or her designee, shall provide written notice of the boundaries of the area in which a Tribal Police Officer appointed to exercise Police Powers through this Ordinance may exercise such Police Powers, to all of the following:

- (1) The Superintendent of the Indiana State Police Department; and
- (2) The Sheriff of the County in which any Indiana Trust Land is located; and
- (3) The chief of police of any consolidated city where Indiana Trust Land is located.

(b) The Chief of Police shall provide such notice required in Subsection 3.02(a) at least every two (2) years, by January 31 of the second year.

CHAPTER 4 LIMITATIONS

Section 4.01 Sovereign Immunity

(a) Tribal Police Officers are officers of the Band government and shall be immune from suit when acting in an official capacity to the fullest extent permitted by law, including when exercising Police Powers.

(b) Nothing in this Ordinance shall waive the sovereign immunity of the Band or any of its officials, officers, employees, or representatives.

(c) All privileges and immunities provided by the Constitution, the United States Constitution, the Constitution of the State of Indiana, and all Federal, Indiana, and Band laws shall apply to all Tribal Police Officers exercising Police Powers to the fullest extent permitted by law.

Section 4.02 Tribal Law Enforcement Authority

Nothing in this Ordinance shall:

(a) affect any authority or right of the Band, including the authority of a Tribal Police Officer to enforce Band law; or

(b) confer upon the State of Indiana any authority or right, except as expressly set forth in this Ordinance.

Section 4.03 Cross Deputization Agreements

Nothing in this Ordinance shall affect any:

(a) Cross Deputization Agreement, including any authority granted to Tribal Police Officers, or the deputization of Tribal Police Officers by any Indiana law enforcement agency; or

(b) other law enforcement agreement to which the Band is a party.

Section 4.04 Employment

(a) Any Tribal Police Officer appointed to exercise Police Powers through this Ordinance is and shall remain an employee of the Band, reporting to and supervised by the Chief of Police, regardless of whether or not such Tribal Police Officer is exercising Police Powers.

(b) Nothing in this Ordinance is or shall be construed as any guarantee of continued employment of any Tribal Police Officer, but rather the Band reserves the right to terminate such employment at any time in accordance with Band law and policy.

(c) Appointment of a Tribal Police Officer to exercise Police Powers shall not create any contract between such Tribal Police Officer and the Band or between the Band and the State of Indiana or any agency, department, division, or subdivision of the State of Indiana.

LEGISLATIVE HISTORY

Indiana Police Powers Implementation Ordinance, enacted December 8, 2022, by Res. No. 22-12-08-02.