

**POKAGON BAND OF POTAWATOMI INDIANS
TRIBAL CODE**

FAMILY WELFARE COMMISSION ORDINANCE

This Code may be cited as the "Family Welfare Commission Ordinance" and may be referred to as "this Ordinance" herein. This Ordinance is enacted by the Pokagon Band Tribal Council (the "Tribal Council") pursuant to the express grant of authority enumerated in Article IX, subsections 1 (a), (b), and (c), and subsections 2 (a), (h), and (i) of the Constitution and the inherent authority of the Band as a sovereign tribal nation to provide for the health, safety, and welfare of the Pokagon Band of Potawatomi Indians (the "Pokagon Band").

FINDING

The care and custody of the Pokagon Band children are vital to the continued existence and integrity of the Band as such the welfare of its children is of paramount importance to the Band.

The Administration of Child and Family Welfare programs may not necessarily include individuals who are members of the Pokagon Band or who are well informed on the child-rearing practices and family values of the Band. To assure that the values of the Pokagon Band of Potawatomi Indians are reflected in the course of action in cases involving the welfare of Pokagon Band children and their families, a Pokagon Band Family Welfare Commission (the "Commission") composed of Pokagon Band Tribal members is established to act as an advisory body to the Administration, the Judiciary and the Tribal Council.

Section 1. Definitions

The following terms, whenever used or referred to in this Ordinance, whether capitalized or not, shall have the following respective meanings:

- A. "Band" means the Pokagon Band of Potawatomi Indians;
- B. "Commission" means the Family Welfare Commission established by this Ordinance;
- C. "Commissioner" means a member of the Family Welfare Commission;
- D. "Commission Records" means all information, whether in written, electronic or other form, that is maintained by the Commission and in the Commission's exclusive possession or control, notwithstanding the existence of copies of any such records that may be outside of the Commission's possession or control;
- E. "Department of Social Services" means the Department of Social Services of the Pokagon Band of Potawatomi Indians;
- F. "Indian Child Welfare Act" means the Indian Child Welfare Act of 1978, 25 U.S.C. 1901 *et seq*;

- G.** “Jurisdiction” shall be defined by the meaning given the term in the Pokagon Band Child Protection Code;
- H.** “State Systems” means those State of Michigan or State of Indiana governmental branches and agencies charged with administering child protection and family services laws within their respective jurisdictions;
- I.** “Service Area” means the Michigan counties of Allegan, Berrien, Van Buren, and Cass, and the Indiana counties of La Porte, St. Joseph, Elkhart, Starke, Marshall, and Kosciusko, as established by the Pokagon Band Restoration Act, 25 U.S.C. § 1300j-6, and such other areas as may be added thereto pursuant to Federal law;
- J.** “Tribal Council” means the governing body of the Pokagon Band of Potawatomi Indians; and
- K.** “Tribal Court” means the Pokagon Band of Potawatomi Indians Tribal Court.

Section 2. Purposes.

The Pokagon Band Family Welfare Commission is established for the following purposes:

- A.** consulting with the Pokagon Band Tribal Council, Tribal Court, Department of Social Services, and when appropriate, state judicial and administrative bodies, to
 - 1** Protect the best interest of the Pokagon Band children and its families and promote stability and security of the Pokagon Band families;
 - 2** Recommend to the judicial and administrative agencies involved, a course of action for the care and guidance of Pokagon Band children which most preserves the unity of the family;
 - 3** Recommend such actions that will best serve the cultural, spiritual, emotional, mental, and physical welfare of the child and prevent the abuse, neglect and abandonment of children;
 - 4** Recommend a continuum of services for children and families with emphasis whenever possible on prevention, early intervention, and community-based alternatives;
 - 5** Recognize and acknowledge the cultural traditions of the Band for child-rearing and family preservation; and
 - 6** Ensure that the Band exercises fully its rights and responsibilities under the Indian Child Welfare Act of 1978 and the child and family welfare laws of the Band.

- B.** To review on appeal the discretionary decisions of the Institutional Trustee regarding Special Distributions from the minor's trust.

Section 3. Governmental Instrumentality.

The Pokagon Band Family Welfare Commission is an instrumentality of the Pokagon Band government and shall be clothed with all the rights, privileges, and immunities of the Band, including but not limited to the sovereign immunity of the Band from suit absent express consent from Tribal Council. Family Welfare Commissioners shall be deemed officers of the Band government and shall be immune from suit when acting in their official capacity to the fullest extent permitted by law with respect to officers of the Band.

Section 4. Composition of the Family Welfare Commission.

The Family Welfare Commission shall consist of five (5) Commissioners, of whom one shall be the Commission Chairperson, one shall be the Commission Vice-Chairperson, and one shall be the Commission Secretary. All members of the Commission shall be appointed to the Commission by the Tribal Council.

Section 5. Qualifications of Commissioners.

- A.** A Commissioner may not also be a member of Tribal Council.
- B.** An individual considered for appointment must be an enrolled Tribal member, at least twenty-one (21) years of age, with knowledge and experience demonstrated through educational, occupational or volunteer activities in the following areas:
 - 1.** childhood education;
 - 2.** childhood development;
 - 3.** Pokagon Band or other tribal customs and traditions pertaining to child rearing;
 - 4.** governmental and private programs to assist children and families in need; and
 - 5.** individual and family dysfunction, the types, causes, and treatment.
- C.** Neither an employee nor the spouse of an employee of the Band or of the federal government, or a state or local government, who is involved with or possibly involved with the delivery of services relating to child welfare matters within the scope of the Commission duties and authority may be appointed or serve as a Commissioner.
- D.** Immediate family members, as defined in the Pokagon Band Code of Ethics, of any family may not serve simultaneously on the Commission.

- E. In the event that any Commission member should be in violation of Sections 14 or 15 of this Ordinance, in addition to the penalties set forth in Section 19, that person shall be permanently disqualified from future service as a Commission member.

Section 6. Requirements for Appointment to the Commission.

- A. Commissioners must sign and abide by a statement acknowledging the standards of confidentiality required for serving as a Commissioner.
- B. Commissioners must submit to and pass a background check conducted by the Tribal Police Department subject to such written guidelines or procedures as may be established by the Tribal Police Department. The background check serves the purpose of assisting the Tribal Council in determining whether a prospective Commissioner could pose any risk to the safety or welfare of a child or may otherwise be unsuitable for appointment to the Commission. The background check shall include the Commissioner's criminal history, including any arrest record, and history of investigation by State Systems for suspected child abuse or neglect. A background check shall be conducted prior to the appointment or re-appointment of every Commissioner.
- C. Every Commissioner shall be of good character and reputation, shall not associate with dishonest or disreputable persons, and shall exhibit high moral standards at all times.

Section 7. Term of Appointment.

- A. Except as stated below in subsection B below regarding the initial term of the Commission, each Commissioner shall serve a term of three (3) years. If at the conclusion of a Commissioner's term the Tribal Council has not made an appointment for the subsequent term, such Commissioner shall continue to serve with all powers and duties until an appointment has been made; *Provided* that pending such appointment the continuation of the Commissioner in office shall be deemed to extend into the subsequent term rather than expand such Commissioner's term beyond the term prescribed by this Section. There are no limits on the number of terms that may be served, consecutively or otherwise. Appointment to the Commission shall not create any property or contract rights or interests, nor shall appointment to the Commission be deemed to create a contract of employment or otherwise between a Commissioner and the Band or the Tribal Council. An appointment to fill a vacancy shall only be for the duration of the unexpired term.
- B. In order to stagger the terms of the commissioners to promote the continuity of the Commission, when the Commission is first established, two of the Commissioners shall be appointed to terms of two years and three Commissioners shall be appointed to terms of three years.

Section 8. Officers.

- A. The Tribal Council shall appoint one of the Commissioners as the Commission Chairperson.
- B. The Commission shall elect a Vice Chairperson and a Secretary from among the Commissioners.
- C. No two (2) Commission Offices may be held by any one Commissioner.
- D. The term of each Officer position shall coincide with such Officer's term of appointment to the Commission

Section 9. Duties of Officers.

A. Chairperson. The Commission Chairperson shall:

- 1. Preside at all Commission meetings;
- 2. Submit for review matters needing to come before the Commission;
- 3. Facilitate the formulation of recommendations;
- 4. In the absence of the Commission Secretary, the Chairperson or presiding officer shall assign the duties of the Secretary to another Commission member until the Secretary resumes such duties;
- 5. Perform all other duties as may be required by this Ordinance, the Family Welfare Commission, or other Pokagon Band laws; and
- 6. Attend seminars, workshops and training as needed to develop knowledge and skills helpful in performing the duties of the Chairperson.

B. Vice-Chairperson. The Commission Vice-Chairperson shall:

- 1. Preside at all meetings in the absence of the Commission Chairperson and perform all other duties of the Chairperson during the Chairperson's absence;
- 2. Perform all duties of the Commission Chairperson during any period of time the Commission Chairperson is unable to perform such duties, subject to such limitations as may be established by the Commission;
- 3. Perform all other duties as may be required by this Ordinance, the Family Welfare Commission, or other Pokagon laws; and
- 4. Attend seminars, workshops and training as needed to develop knowledge and skills helpful in performing the duties of the Vice-Chairperson.

C. Secretary. The Commission Secretary shall:

1. Properly record all acts and votes of the Commission;
2. Be responsible for the preparation and maintenance of Commission minutes;
3. Provide timely notice of meetings to all members of the Commission;
4. Be custodian of and properly keep all the records of the Commission;
5. Preside at all duly called meetings in the absence of the Chairperson and of the Vice-Chairperson of the Commission;
6. Maintain a record of the terms of appointment of all Commission members and notify the Tribal Council and the Department of Social Services at least ninety (90) days in advance of the expiration of any Commissioner's term of appointment;
7. Attend seminars, workshops and training as needed to develop knowledge and skills helpful in performing the duties of the Secretary; and
8. The Secretary shall perform such other duties as may be prescribed by this Ordinance or by the Commission.

D. Additional Duties. The Officers of the Commission shall perform such other duties as the Commission may require.

Section 10. Removals, Resignations, and Vacancies.

A. Removal.

1. Removal Procedure. Upon a majority vote of the Commission, the Commission may request that the Tribal Council remove, or the Tribal Council on its own action may remove, a Commissioner for serious neglect of duty, misconduct in office, misfeasance, malfeasance or nonfeasance, or conduct unbecoming a Commissioner, including without limitation:
 - (a) Engaging in prohibited activity as defined under Section 15 hereunder or failure to meet other material requirements of this Ordinance;
 - (b) The unexcused failure to attend three (3) consecutive meetings. To be "excused" a Commissioner must notify the Chairperson or presiding officer in advance of the meeting, unless the Chairperson or presiding officer deems the situation an emergency. The Chairperson or presiding officer conducting the meeting shall be the person responsible for authorizing the absence as "excused" or "unexcused." The reason for the absence shall be placed in the Commission minutes;

- (c) Commission of an act or omission of an act which is contrary to the best interest of the Commission, or which is contrary to goals or objectives established by this Ordinance; and
 - (d) Conviction of any felony crime or conviction of any misdemeanor involving an act or failure to act that raises an appearance that the Commissioner is unfit to serve on the Commission.
2. Removal Hearing. Removal shall take place only after an opportunity for a hearing before Tribal Council; *Provided* that the Commissioner has been given written notice of the specific charges against him or her at least ten (10) days prior to the hearing. At any such hearing, the Commissioner shall have the opportunity to be heard in person and to challenge information or testimony given against the Commissioner.

B. Resignation.

- 1. Any Commissioner may resign at any time by giving a written notice to the Commission Chairperson or presiding officer, and such resignation shall take effect at the time specified therein. Unless otherwise specified in the resignation, acceptance of such resignation shall not be necessary to make it effective.
- 2. At any time during his or her appointment, a Commissioner may resign from an officer position and may continue to remain a member of the Commission.

C. Vacancy.

- 1. The Commission Chairperson shall notify the Council Chairperson when a Commissioner is no longer able to serve on the Commission. Notice of vacancies on the Commission shall be advertised in the Band newsletter and by posting the notice at the Tribal Council office(s). The Commission and Tribal Council may solicit applications for vacancies on the Commission.
- 2. In filling a vacancy, the Tribal Council shall appoint a successor for the length of the unexpired term. No person may serve as a Commissioner until the Tribal Council makes the appointment.
- 3. A replacement Officer shall fill the appropriate term until its expiration and shall subsequently be eligible for re-appointment or re-election in accordance with this Ordinance.

Section 11. Powers of the Family Welfare Commission.

- A. The Family Welfare Commission shall act within the limits of the authority expressly delegated to it by Council in this Ordinance, in the Child Protection Code, in the Gaming Revenue Allocation Plan Code, and in other laws of the Band. In carrying out any administrative duties of the Commission, the Commission shall follow the administrative

policies and procedures established by Tribal Council for Commissions or programs, unless an exception is specified in this Ordinance, in Pokagon Band law or in applicable federal law.

B. The Family Welfare Commission shall have the following powers and duties:

- 1.** Advise the Tribal Council, the Department of Social Services, the Presenting Officer, the Tribal Court, and other agencies and officials of the Band on general matters related to the Commission's work and recommend policies and procedures for implementing Federal and Tribal child welfare law, *provided* that in the course of advising the Tribal Council the Commission shall not reveal any confidential information;
- 2.** Be aware of and remain informed about pending state court proceedings involving Pokagon Children under the Indian Child Welfare Act;
- 3.** Make recommendations to the Department of Social Services, the Presenting Officer, and the Tribal Court regarding intervention in ICWA proceedings and regarding the transfer of jurisdiction over such cases from state courts to the Tribal Court;
- 4.** Make recommendations to the Department of Social Services, the Presenting Officer and the Tribal Court regarding the need to take action to protect a child pursuant to laws of the Band;
- 5.** Review the files of matters referred to the Commission or otherwise within the scope of Commission authority, including reports, psychological evaluations, medical evaluations, correspondence, and court records and confer with the Department of Social Services as needed to assure that the best available services and resources are being provided in each such matter. The Commission may request that the Department of Social Services provide the Commission with additional information or conduct further investigation into a case to the extent necessary and reasonable for the purpose of assisting the Commission in making informed recommendations;
- 6.** Make recommendations to the Department of Social Services regarding case plans and case management and participate with the Department of Social Services in conferences facilitated by the Presenting Officer to resolve any differences of opinion regarding significant aspects of a case plan or case management strategy;
- 7.** Consult with and assist the Department of Social Services to create an active recruitment plan for tribal foster care and adoptive homes;
- 8.** Assist the Department of Social Services in developing recommendations to the Tribal Council regarding licensing standards for shelter, foster, and adoptive homes and child placing agencies;

9. To review on appeal the discretionary decisions of the Institutional Trustee under subsection 8.E of the Pokagon Band Gaming Revenue Allocation Plan Code regarding Special Distributions from the minor's trust; and
10. Engage in further activities within the limits of the Commission's authority under consistent with this Ordinance and other applicable laws of the Band as needed to maintain and improve the welfare of children of the Pokagon Band of Potawatomi Indians.

Section 12. Appeal of Trustee's Decisions Regarding Minor's Trusts.

The Commission is authorized under this Section and subsection 8.E of the Pokagon Band Gaming Revenue Allocation Plan Code (the "Code") to review the discretionary decisions of the Institutional Trustee ("Trustee") on an appeal filed by a parent or legal guardian in accordance with the requirements of this Section and other applicable law.

- A. **Scope of the Commission's Authority on Appeal.** The scope of the Commission's authority is limited to the review of discretionary decisions of the Trustee on a petition for a Special Distribution from a minor's trust duly filed by the minor's parent or legal guardian, or adult beneficiary on his or her own behalf and shall not extend to any other decisions of the Trustee. The Commission shall be limited to declaratory relief and shall either affirm the Trustee's decision if it was reasonable or may reverse or revise the Trustee's decision if it was arbitrary or capricious.
- B. **Who May File an Appeal.** A parent or legal guardian of a minor, or adult beneficiary whose petition for a Special Distribution was denied, in whole or in part, by the Trustee may file an appeal with the Commission seeking declaratory relief from the Trustee's decision.
- C. **Time for Filing an Appeal.** An appeal authorized under this Section must be filed within thirty (30) days after the Trustee's decision is served upon the beneficiary.
- D. **Rules of Procedure on Appeal.**
 1. The Commission's review of the Trustee's decision shall be limited to the record before the Trustee at the time the Trustee rendered a decision. Upon receipt of a notice from the Commission that an appeal was filed, the Trustee shall promptly provide a true copy of the record to the Commission.
 2. No special forms or pleadings for filing an appeal shall be required, provided that an appeal shall not be considered to have been filed with the Commission unless the Commission receives an original document requesting an appeal of the Trustee's decision that is signed and dated by the parent or legal guardian of the minor or by the adult beneficiary. The Commission may, at its discretion, request that the parent or legal guardian provide the Commission with a copy of the birth certificate or other

reliable proof that the person filing the appeal is the parent or legal guardian of the minor.

3. The Commission may hear directly from the parent or legal guardian and the Trustee before rendering a decision, provided that the Commission shall rely solely on the record and shall not receive testimony or other new evidence. The Commission may allow a parent, legal guardian, or the Trustee to participate in an appeal hearing by telephone.
4. The Commission's decision shall be in writing, shall be signed by a majority of the members of the Family Welfare Commission, and shall include findings of fact based on the record and conclusions of law. The Commission shall endeavor to provide notice by certified mail, return receipt requested, to the beneficiary and the Trustee of a decision within ten (10) days of the date of the hearing.

E. Standard of Review. The Commission shall review the Trustee's decision regarding the Special Distribution to determine if it was arbitrary or capricious. The Commission may deem the Trustee's decision to be arbitrary or capricious if:

1. the evidence in the record is clearly not adequate to support the necessary facts for the Trustee's decision;
2. the Trustee applied the applicable law or other legal standards incorrectly; or
3. the Trustee applied incorrect laws or legal standards.

F. Additional Standards on Appeal.

1. The Trustee's decision shall be deemed by the Commission to be reasonable unless the Commission deems such decision to be arbitrary or capricious.
2. The Commission shall give deference to any reasonable interpretation of applicable law or other legal standards by the Trustee.
3. In reviewing the Trustee's decision, the Commission shall recognize that in considering "sources of financial support" available to the beneficiary, as stated in subsection 8.E of the Code, the funds held in the minor's trust shall be viewed as funds of last resort. Accordingly, funds held in the minor's trust may only be made available for a Special Distribution when a specific deficiency is found in what can be made available through personal, family, federal, state, and tribal sources.

G. No Further Appeal. Neither the Commission's decision on appeal nor the Trustee's decision regarding Special Distributions shall be subject to further review or appeal by the Tribal Council, the Pokagon Band Tribal Court, or any other Pokagon Band executive or judicial body. Nothing in this Section shall be construed as a waiver of the Pokagon

Band's sovereign immunity or consent to further appeal of a Commission or Trustee decision.

Section 13. Duties of Individual Commissioners.

Each Commission Member shall:

- A. Be knowledgeable about Tribal law and policies as they relate to Family Welfare Commission duties and authority;
- B. Attend all Commission meetings unless good cause can be shown for being absent;
- C. Provide expert testimony on child welfare matters in state or tribal courts as needed;
- D. Fully comply with all confidentiality standards and other requirements under Tribal law in carrying out Commission duties. Upon appointment and any reappointment, each Commissioner must sign and abide by a statement acknowledging the standards of confidentiality required for serving as a Commission Member, as outlined in Section 14 of this Ordinance; and
- E. If contacted directly by an interested party, the Commissioner shall refer such person to the Department of Social Services.

Section 14. Confidentiality.

- A. Commissioners are subject to the same standards of confidentiality as court personnel, Department of Social Services staff and other related professionals.
- B. All records of the Commission involving specific Commission matters shall be kept strictly confidential. Such records may be reviewed by or released to only such other persons as may be authorized by law.
- C. Case materials in the possession of the Commission shall be kept secure and under Commission control at all times. Case material shall only be provided to Commissioners in attendance at meetings and the copying of such materials shall be closely controlled by the Commission Secretary. The Commission Secretary shall collect case materials from the Commission at the conclusion of Commission meetings and return the materials to a secure location. The Commission shall not retain any case materials or information of any kind pertaining to a specific case in its permanent records.
- D. Commission members may take handwritten notes in Commission meetings as needed for personal reference subject to such guidelines as may be established by the Commission.
- E. Violation of the confidentiality requirements in this Section by a Commissioner shall be grounds for removal from the Family Welfare Commission.

F. The obligation of Commission members to maintain the confidentiality of all confidential information shall be a continuing obligation that shall survive the conclusion of each Commission member's term of appointment to the Commission.

Section 15. Prohibited Activities.

A Commissioner shall not commit any of the following acts, the violation of which shall constitute grounds for removal from the Commission:

- A. Act in an administrative or supervisory capacity with respect to any Band personnel or Band departments, agencies or programs except with regard to any Band employee assigned by the Band to the service and supervision of the Commission;
- B. Influence the application of established operating policies and procedures in order to cause benefit to any person, program, or agency which would otherwise not be benefited;
- C. Be involved in any manner as a Commissioner in any case in which the Commissioner has an actual or apparent bias or conflict of interest;
- D. Engage in independent fact finding with regard to any case or matter;
- E. Contact any person in a State System or respond to any contact from a person in a State System regarding cases or other matters within the scope of the responsibilities of the Commission in the absence of a lawful court order except with the approval and active involvement of the Department of Social Services; and
- F. Intentionally violate or willfully disregard any provision of Tribal law governing the activities of the Commission or violate or repeatedly violate, as determined by conviction, guilty plea, or the plea of *nolo contendere*, any other provision or provisions of Tribal, state or federal law that are felonies or misdemeanors or that separately or collectively raise an appearance that the Commissioner is no longer capable of fulfilling the duties of office with honesty and integrity.

Section 16. Meetings.

A. Frequency of Meetings.

The Commission shall meet at regular intervals and as often as necessary to carry out its duties under this Ordinance. Due to the confidential nature of the business conducted by the Commission, meetings or portions of meetings in which specific cases are being discussed shall be closed to all persons other than those whose participation the Commission deems necessary and appropriate to the specific case. However, the participation of any other persons in Commission meetings shall not relieve the Commission of its responsibilities to maintain the confidentiality of child welfare matters and other confidential information.

B. Notice of Meetings.

1. Meetings of the Commission may be called by the Chairperson, by other Commission officers authorized by this Ordinance to preside in the absence of the Chairperson, or by the Commission.
2. Notice of Commission meetings shall be in writing, unless notice is made during a duly called meeting, shall be provided at least seventy-two (72) hours in advance unless such advance notice is waived by all Commissioners, and shall indicate the time and place for the meetings and the agenda for the meeting. If notice of a meeting is provided orally during a duly called meeting, written notice shall subsequently be provided to any Commissioner absent from such meeting.
3. Service of notice shall be made on every Commissioner and may be made personally, by telefax, by e-mail, or by mailing such notice, postage prepaid, plainly addressed to each Commissioner at his or her last known mailing address. Notice by mail shall be deemed to be given at the time when the same is deposited in the United States mail, with postage fully paid, plainly addressed to the Commissioner.
4. Notice of the time and place of any Meeting of the Commission may be waived by telefax or any other writing either before or after such meeting has been held. If all Commissioners waive notice of the meeting, no notice of the same shall be required.
5. Attendance of a Commissioner at a meeting shall constitute a waiver of notice of such meeting except when the Commissioner attends the meeting for the express purpose of objecting to the transaction of business at such meeting.
6. Action taken at a meeting shall be restricted to the purpose(s) stated in the notice of the meeting unless all Commissioners are present at the meeting and all Commission members agree to take action on matters not given in the notice.

C. Approval of Agenda.

The first order of business at any duly called meeting of the Family Welfare Commission shall be the approval of a meeting agenda, which shall be as stated in the initial notice of the meeting subject to such revisions as may be approved by a majority vote of the Commission.

D. Minutes.

1. The Commission shall keep complete and accurate records of its transactions and shall keep written minutes of the proceedings of all its meetings. These minutes shall include, but be not limited to the following:
 - (a) Date;

- (b) Names of the members attending, as well as those absent;
 - (c) Topics discussed;
 - (d) Recommendations made; and
 - (e) Follow-up required.
2. The Commission shall approve the minutes of all duly called meetings at regular intervals, but no less frequently than every three (3) months.

E. Recordings of Meetings Prohibited.

Tape recordings and other electronic or mechanical means of creating a verbatim record of the proceedings of a Commission meeting are prohibited.

F. Quorum.

1. A quorum is necessary in order for the Commission meeting to proceed. At all meetings of the Commission, three (3) Commissioners shall constitute a quorum for the transaction of business; *provided* that an officer that is authorized by this Ordinance is among the quorum and present for all business conducted by the Commission.
2. If a quorum is not present, the presiding officer shall adjourn the meeting; at the rescheduled meeting, any business may be transacted which may have been transacted at the adjourned meeting.
3. Any meeting may be adjourned from time to time, and the meeting may be held as adjourned without further notice if the time and place to which it is adjourned is fixed and announced at such meeting.

G. Decision of Question and Recommendations.

When a meeting has been properly convened, a majority vote shall decide any question brought before such a meeting, including recommendations, unless the question is one for which a different vote is required by express provision of this Ordinance or of Pokagon Band law. In such a case, the express provision shall govern and control the decision of question.

H. Those Entitled to Vote and Conflict of Interest.

All Commissioners shall be entitled to a vote on all matters, subject to the limitations of Section 15 regarding prohibited activities and any other provision in this Ordinance or other law of the Band.

I. Method of Voting.

The voting at all meetings shall be in person and by voice; *provided* that any voting Member may demand a roll call vote, and in such case, the vote of each Member shall be recorded by the Commission Secretary.

Section 17. Records.

- A.** Commission records are exclusive property of the Pokagon Band and shall be kept on file at the designated office(s) of the Band. Any person who has any of this property shall promptly surrender it, without notice or demand, to the Department of Social Services.
- B.** The Commission records shall be subject to any records ordinance or records policies as the Tribal Council may enact; *provided* that such ordinance or policy does not require a breach of confidentiality standards outlined in Section 14 above.

Section 18. Reimbursement for Commissioner Travel.

Commission members shall be entitled to reimbursement for actual and reasonable expenses incurred in the discharge of their duties; *provided* that such reimbursement shall be in accordance with the Pokagon Band expense reimbursement and travel policies and procedures applicable to the Commission.

Section 19. Enforcement.

- A. Criminal Violations.** Any Indian person who willfully violates or willfully fails to comply with any provision of this Ordinance shall be guilty of a crime and shall be subject to a maximum fine of \$5,000 or 1 year imprisonment, or both. Each day during which such violation or failure to comply continues shall constitute a separate violation of this Code.
- B. Civil Violations.** Any person who willfully violates or willfully fails to comply with any provision of this Ordinance shall be liable for a civil fine not to exceed \$5,000 for each such violation or failure to comply. The amount of any such civil fine may be recovered in a civil action in the Tribal Court. All civil fines accruing under this Code shall be cumulative and a suit for the recovery of one fine shall not bar or affect the recovery of any other fine, judgment, penalty, forfeiture, or damages, nor bar the power of the Tribal Court to punish for contempt, nor bar any criminal prosecution.

Section 20. Amendments.

Tribal Council may amend this Ordinance at any duly called Tribal Council meeting in accordance with the laws governing the actions of the Tribal Council; *provided* that any amendment proposed to Tribal Council, other than amendments proposed by the Commission, shall be first forwarded to the Commission, and the Commission shall have thirty (30) calendar days to present Tribal Council with a resolution supporting, opposing, or revising the proposed

amendment. If the Commission presents no such resolution, Tribal Council may proceed with the amendment. Unless otherwise provided by tribal law, any amendment proposed by the Commission and any Commission resolution presented in accordance with this Article should be given deference, but is not binding upon the Tribal Council, and does not limit the authority of the Tribal Council.

LEGISLATIVE HISTORY

The “Children’s Welfare Commission Ordinance” was enacted on November 6, 2001 by adoption of Tribal Council Resolution No. 01-11-06-01; on October 20, 2003, by adoption of Tribal Council Resolution No. 03-10-20-03, comprehensive amendments were enacted and the Ordinance was re-titled “Family Welfare Commission Ordinance”; on November 8, 2003, by adoption of Tribal Council Resolution No. 03-11-08-03, technical corrections to Tribal Council Resolution No. 03-10-20-03 were enacted; on October 26, 2004, by adoption of Tribal Council Resolution No. 04-10-26-02, subsection 6.b was amended to strike credit history from the background check requirements; and on February 28, 2011 by adoption of Tribal Council Resolution No. 11-02-28-02, amendments were enacted in Section 2, Purposes, Section 11, Powers, and new Section 12 to provide for the review by the Commission of decisions regarding requests for Special Distributions from minors’ trust accounts, and subsection 5.b was amended to raise the age of qualification for a Commissioner from eighteen to twenty-one years.