

POTAWATOMI LAW AND ORDER CODE

TITLE 1 GENERAL PROVISIONS

CHAPTER 1-1 APPLICATION OF CODE

Section 1-1-1. Territory, Persons and Property Affected.

As required by the tribal constitution, the authority and jurisdiction of the Prairie Band Potawatomi Nation shall extend to the fullest extent possible, including, without limitation, to any and all persons, including non-members and members of the Prairie Band Potawatomi Nation and including any corporation, other entity or any person and to all surface, subsurface or other territory or real or personal property of any nature. The authority and jurisdiction of the Nation shall apply pursuant to this Code to each of the following:

(A) The Prairie Band Potawatomi Indian Reservation, including all lands, islands, waters, roads, and bridges or any interests therein, whether trust or non-trust status and notwithstanding the issuance of any patent or right-of-way, within the boundaries on the Reservation as established in Article 4 of the Treaty with the Potawatomi Nation, dated June 17, 1846, 9 Stat. 853, and such other lands, islands, waters or any interest therein hereafter added to the Reservation.

(B) All persons and property within any existing or future territory to which it is possible to extend the Nation's jurisdiction or authority, including, without limitation, territory within the exterior boundaries of Indian country of the Nation or of its members and all property held by the United States in trust for the Prairie Band Potawatomi Nation or in trust for a member of the Prairie Band Potawatomi Nation.

(C) All members of the Tribe, wherever located, exercising any tribal rights pursuant to federal, tribal or state law.

(D) All persons and property outside the exterior boundaries of territory that is subject to the jurisdiction and authority of the Nation, to the extent not prohibited by federal law, including, without limitation, any person who personally or through an agent does any of the following insofar as any claim brought in Tribal Court arises from the doing of such act:

- (1) The transaction of any business of the Reservation;
- (2) The commission of a tortuous act on the Reservation;
- (3) Contracting to insure any person, property or risk located on the Reservation at the time of contracting; and
- (4) The act of sexual intercourse on the Reservation with respect to which a child may have been conceived.

(E) For any reservation land located outside of Jackson County, Kansas, this tribal Code shall be interpreted to substitute for Jackson County and Kansas the county and state in which such land is located.

(Amended by PBP TC No. 2008-121, May 22, 2008)

CHAPTER 1-2 LEGAL AUTHORITY

Section 1-2-1. Constitutional Authority.

This Code is adopted pursuant to the authority vested in the Potawatomi Tribal Council under the Constitution and By-Laws of the Prairie Band of Potawatomi Indians.

Section 1-2-2. Prior Inconsistent Codes and Ordinances Repealed.

Any Code or Ordinance of the Tribe which conflicts in any way with the provisions of this Code is hereby repealed to the extent that it is inconsistent with or is contrary to the spirit or purpose of this Code.

Section 1-2-3. Construction.

In construing the provisions of this Code, unless the context otherwise requires, the following shall apply:

- (A) This Code shall be liberally construed to affect its purpose and to promote substantial justice.
- (B) Words in the present tense include the future and past tenses.
- (C) Words in the singular number include the plural, and words in the plural number include the singular.
- (D) Words of the masculine gender or neuter include masculine and feminine genders and the neuter.
- (E) The prosecution of all criminal offenses and the conduct of all procedures pertaining to their trial or other disposition shall be in the name and for the benefit of the Tribe.

CHAPTER 1-3 AMENDMENT

Section 1-3-1. Amendment of Law and Order Code.

This Code may be amended in the manner provided for the adoption of Ordinances. Amendments and additions to this Code shall become a part of the Code for all purposes and shall be codified and incorporated herein in a manner consistent with the numbering and organization of this Code.

CHAPTER 1-4 DEFINITIONS

Section 1-4-1. Definitions

In this Code, except where otherwise specifically provided or the context otherwise requires, the following terms and expressions shall have the following meanings:

- (A) **Civil.** “Civil” refers to all non-criminal issues, matters, subjects, cases and controversies between or among persons.
- (B) **Clerk.** “Clerk” shall mean the Clerk of the Prairie Band of Potawatomi Tribal District Court or the Clerk of the Court of Appeals.
- (C) **Code.** “Code” shall mean this Law and Order Code of the Potawatomi Tribe, comprising together with all amendments, additions, or modifications, which may be enacted from time to time by the Tribal Council.
- (D) **Constitution.** “Constitution” shall mean the Constitution and By-Laws of the Nation and any amendments.
- (E) **Court of Appeals.** “Court of Appeals” shall mean the court of that name established under the provisions of Title 2 of this Code, and the Judges of that Court collectively and individually, serving and acting in that office and capacity. The Court of Appeals is the Court of last resort to which appeals may be taken from the District Court. The judicial decisions of the Court of Appeals are final and are not subject to further appeal.
- (F) **Criminal.** “Criminal” refers to those offenses under this Code and any other ordinance of the Tribe for which, upon conviction, a person may be subject to a fine or imprisonment, or both, and to the cases involving such offenses or alleged offenses, and to the procedures for their trial or other disposition.
- (G) **District Court or Court.** “District Court” or “Court” shall mean the court of that name established under the provisions of Title 2 of this Code, and the Judges of

that Court, collectively and individually, serving and acting in that office and capacity. The District Court is the lower or general trial Court.

(H) He, Him and His. “He”, “him and “his” shall mean the masculine, feminine and neuter forms as appropriate unless a particular masculine, feminine or neuter form is necessary for the phrase to have meaning.

(I) Judge. “Judge” means a Judge or Special Judge of the District Court or Court of Appeals.

(J) Indian. “Indian” shall mean any person who is of Indian descent who is a member of any recognized Indian tribe under federal jurisdiction at the time of the event.

(K) Party. “Party” shall mean any person who is a participant, or involved in or the subject of or to, whether active or inactive, voluntary or involuntary, including one made a party by the action of another person in or to any case, trial, hearing, controversy, matter, relationship, or proceeding which is encompassed within any procedure under this Code.

(L) Person. “Person” shall mean any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, partnership, joint venture, club, company, joint stock company, business trust, municipal corporation, corporation, association, society, political entity, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise; provided, that the term does not include the federal government and any agency thereof, the government of the Tribe an any governmental entities of the Tribe, or any of the above listed forms of business entities that are wholly owned or operated by the Tribe.

(M) Property. “Property” shall mean realty and personal, of whatever nature, including fixtures, money, claims, intangible rights and interest in property.

(N) Reservation. “Reservation” shall mean the Prairie Band Potawatomi Indian Reservation established in Article 4 of the Treaty with the Potawatomi Nation, dated June 17, 1846, 9 Stat. 853, including all lands, islands, waters, roads, or any interests therein, whether in trust or non-trust status and notwithstanding the issuance of any patent or right-of-way, and such other lands, islands, waters or any interest therein hereafter added to the Reservation. As required by the tribal constitution, “Reservation” shall also mean all existing or future territory to which it is possible to extend the Nation’s jurisdiction or authority, including, without limitation, territory within the exterior boundaries of Indian country of the Nation or of its members and all property held by the United States in trust for the Prairie Band Potawatomi Nation or in trust for a member of the Prairie Band Potawatomi Nation.

(Amended by PBP TC No. 2008-121, May 22, 2008)

(O) Tribal Council or Council. “Tribal Council” or “Council” shall mean the Tribal Council of the Tribe existing and functioning pursuant to the Constitution and By-laws of the Tribe.

(P) Tribal Court System, Tribal Courts or Courts. “Tribal Court System” or “Tribal Courts” or “Courts” shall mean all of the courts established under this Code.

(Q) Tribe. “Tribe” or "Nation" shall mean the Prairie Band Potawatomi Nation, recognized by the federal government and operating pursuant to the Tribal Constitution and By-laws, and “tribal” shall mean belonging or pertaining to the Nation.

(Enacted by PBP TC No. 92-55, 1 November 18, 1992; amended by PBP TC No. 2002-081, June 14, 2002; amended by PBP TC No. 2008-121, May 22, 2008)

