

TITLE VIII

**NOTTAWASEPPI HURON BAND OF
THE POTAWATOMI INDIANS
LAW AND ORDER CODE**

CHAPTER 09

CIVIL INFRACTIONS CODE

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CHAPTER 1. GENERAL PROVISIONS.

SEC. 101. TITLE. THE TITLE OF THIS CODE SHALL BE THE NHBPI CIVIL INFRACTIONS CODE.

SEC. 102. PURPOSE. THE PURPOSE OF THIS CODE IS TO:

- (A) PROMOTE THE HEALTH, SAFETY AND GENERAL WELFARE OF THE TRIBE, ITS CITIZENS AND VISITORS TO THE TRIBE'S RESERVATION;
- (B) GOVERN THE CONDUCT AND ACTIVITIES OF ALL PERSONS ON THE RESERVATION OF THE NOTTAWASEPPI HURON BAND OF THE POTAWATOMI BY PROHIBITING CERTAIN ACTS WHICH ARE OFFENSIVE TO PUBLIC ORDER AND CIVIL SOCIETY;
- (C) PROVIDE FOR A MECHANISM FOR TRIBAL REGULATION OF THE CONDUCT AND ACTIVITIES OF ALL PERSONS WITHIN THE TERRITORIAL JURISDICTION OF THE TRIBE BY PROVIDING FOR THE IMPOSITION OF CIVIL FINES AND PENALTIES AGAINST PERSONS WHO ENGAGE IN CERTAIN ILLEGAL AND OFFENSIVE CONDUCT.

SEC. 103. SEVERABILITY. IF ANY PROVISION OF THIS CODE IS FOUND TO BE UNCONSTITUTIONAL OR UNLAWFUL BY THE COURTS OF THE TRIBE OR THE FEDERAL COURTS, SUCH PROVISION(S) SHALL BE STRUCK AND THE REMAINDER OF THIS CODE SHALL CONTINUE IF FULL FORCE AND EFFECT.

SEC. 104. EFFECTIVE DATE. THIS CODE SHALL TAKE EFFECT IMMEDIATELY UPON ITS ENACTMENT BY RESOLUTION OF THE TRIBAL COUNCIL.

SEC. 105. INTERPRETATION. IN ITS INTERPRETATION AND APPLICATION THE PROVISIONS OF THIS CODE SHALL BE HELD TO BE MINIMUM REQUIREMENTS AND SHALL BE LIBERALLY CONSTRUED IN FAVOR OF THE TRIBE AND SHALL NOT BE DEEMED AS A LIMITATION UPON OR REPEAL OF ANY OTHER TRIBAL POWER OR AUTHORITY.

SEC. 106. NON-LIABILITY. THE TRIBE DECLARES THAT THERE IS NO LIABILITY ON THE PART OF THE TRIBE, ITS AGENCIES, AGENTS OR EMPLOYEES FOR ANY DAMAGES WHICH MAY OCCUR AS A RESULT OF RELIANCE UPON OR CONFORMITY TO THIS CODE. THE TRIBE BY THE ADOPTION OF THIS CODE DOES NOT WAIVE ITS SOVEREIGN IMMUNITY IN ANY RESPECT.

CHAPTER 2. DEFINITIONS.

SEC. 201. DEFINITIONS. AS USED IN THIS CODE:

- (A) "CIVIL INFRACTION" MEANS AN ACT OR OMISSION PROHIBITED BY THIS CODE AND FOR WHICH CIVIL SANCTIONS MAY BE ORDERED. CERTAIN ACTS OR OMISSIONS MAY BE CHARGED AS A CIVIL INFRACTION AND/OR A CRIME AT THE DISCRETION OF THE TRIBE.
- (B) "CRIME" (OR "CRIMINAL") MEANS (OR REFERS TO) AN ACT OR OMISSION FORBIDDEN BY LAW WHICH IS PUNISHABLE UPON CONVICTION BY IMPRISONMENT, FINE NOT DESIGNATED AS A CIVIL FINE, OR OTHER PENAL DISCIPLINE.

- (C) "INDIAN" MEANS ANY PERSON WHO IS SUBJECT TO FEDERAL CRIMINAL JURISDICTION UNDER THE MAJOR CRIMES ACT, 18 U.S.C. §1153.
- (D) "MEMBER" MEANS A PERSON ENROLLED IN THE TRIBE PURSUANT TO THE CONSTITUTION AND LAWS OF THE TRIBE GOVERNING CITIZENSHIP AND ENROLLMENT.
- (E) "NON-INDIAN" MEANS ANY PERSON WHO IS NOT A MEMBER OR INDIAN, AS THOSE TERMS ARE DEFINED IN THIS CODE.
- (F) "POLICE DEPARTMENT" MEANS THE NOTTAWASEPPI HURON BAND OF THE POTAWATOMI POLICE DEPARTMENT.
- (G) "PUBLIC PLACE: MEANS ANY SIDEWALK, STREET, RIGHT-OF-WAY, ALLEY, PARK, PUBLIC BUILDING, PARKING LOT, ANY PLACE OF BUSINESS OR ASSEMBLY OPEN TO THE PUBLIC AND ANY OTHER PLACE WHICH IS OPEN TO THE PUBLIC VIEW OR TO WHICH THE PUBLIC HAS ACCESS WHETHER OR NOT PRIVATELY OWNED OR LEASED TO A PRIVATE PARTY.
- (H) "RESERVATION" MEANS THE AREA OVER WHICH THE TRIBE EXERCISES CIVIL AND CRIMINAL REGULATORY JURISDICTION, AND INCLUDES ALL LANDS HELD IN TRUST FOR THE TRIBE BY THE UNITED STATES.
- (I) "TRIBAL COURT" MEANS THE TRIBAL JUDICIARY ESTABLISHED UNDER ARTICLE X OF THE CONSTITUTION OF THE NOTTAWASEPPI HURON BAND OF THE POTAWATOMI, OR ANY SUCCESSOR PROVISION.
- (J) "TRIBE" (OR "TRIBAL") MEANS (OR REFERS TO) THE NOTTAWASEPPI HURON BAND OF THE POTAWATOMI.

CHAPTER 3. CONDUCT DEEMED DETRIMENTAL TO PUBLIC HEALTH, SAFETY AND WELFARE.

SEC. 301. PURCHASE, CONSUMPTION, OR POSSESSION OF LIQUOR BY MINOR.

- (A) FOR PURPOSES OF THIS SECTION, THE TERM "MINOR" MEANS A PERSON LESS THAN 21 YEARS OF AGE AND THE TERM "LIQUOR" SHALL HAVE THE MEANING ASCRIBED TO THAT TERM IN SECTION 102(G) OF THE TRIBE'S LIQUOR ORDINANCE.
- (B) A MINOR COMMITS THE CIVIL INFRACTION OF UNLAWFUL PURCHASE, CONSUMPTION OR POSSESSION IF LIQUOR IF THE MINOR PERSON PURCHASES OR ATTEMPTS TO PURCHASE, CONSUMES OR ATTEMPTS TO CONSUME LIQUOR, OR POSSESSES OR ATTEMPTS TO POSSESS LIQUOR, EXCEPT AS PROVIDED IN THIS SECTION.
- (C) THIS SECTION DOES NOT PROHIBIT A MINOR FROM POSSESSING LIQUOR DURING REGULAR WORKING HOURS AND IN THE COURSE OF HIS/HER EMPLOYMENT IF EMPLOYED BY A PERSON LICENSED UNDER THE TRIBE'S LIQUOR ORDINANCE, IF THE LIQUOR IS NOT POSSESSED FOR HIS/HER PERSONAL CONSUMPTION. THE CONSUMPTION OF SACRAMENTAL WINE BY A MINOR IN CONNECTION WITH RELIGIOUS SERVICES AT A CHURCH, SYNAGOGUE OR TEMPLE IS NOT PROHIBITED BY THIS SECTION.
- (D) SUBSECTION (B) OF THIS SECTION DOES NOT APPLY TO A MINOR WHO PARTICIPATES IN EITHER OR BOTH OF THE FOLLOWING:

- (1) AN UNDERCOVER OPERATION IN WHICH THE MINOR PURCHASES OR

RECEIVES LIQUOR UNDER THE DIRECTION OF PERSON'S EMPLOYER AND WITH THE PRIOR APPROVAL OF THE TRIBAL PROSECUTOR'S OFFICE AS PART OF AN EMPLOYER-SPONSORED INTERNAL ENFORCEMENT ACTION; OR

- (2) AN UNDERCOVER OPERATION IN WHICH THE MINOR PURCHASES OR RECEIVES LIQUOR UNDER THE DIRECTION OF THE TRIBAL POLICE OR THE TRIBAL GAMING COMMISSION AS PART OF AN ENFORCEMENT ACTION.

SEC. 302. CONSUMPTION OF LIQUOR IN PUBLIC. A PERSON COMMITS THE CIVIL INFRACTION OF CONSUMPTION OF LIQUOR IN A PUBLIC PLACE IF THE PERSON CONSUMES LIQUOR IN ANY PUBLIC PLACE OR IN ANY BUSINESS ESTABLISHMENT LOCATED ON THE TRIBE'S RESERVATION THAT IS NOT LICENSED TO SELL LIQUOR FOR CONSUMPTION ON THE PREMISES.

SEC. 303. PUBLIC INTOXICATION. A PERSON COMMITS THE CIVIL INFRACTION OF PUBLIC INTOXICATION IF THE PERSON IS INTOXICATED IN A PUBLIC PLACE AND EITHER ENDANGERS DIRECTLY THE SAFETY OF ANOTHER PERSON OR OF PROPERTY OR ACTS IN A MANNER THAT CAUSES A PUBLIC DISTURBANCE.

SEC. 304. LITTERING. A PERSON COMMITS THE CIVIL INFRACTION OF LITTERING IF THE PERSON LITTERS ANY STREET, SIDEWALK, PARKING LOT, PARKWAY OR RIGHT-OF-WAY. FOR PURPOSES OF THIS SECTION, THE TERM "LITTER" MEANS TO DISCARD ANY DEBRIS, TRASH, BOTTLES, CANS, PAPER OR ANY WASTE ON, OR INTO ANY AREA EXCEPT AN APPROPRIATE CONTAINER USED FOR THE DISPOSAL OF SUCH ITEMS.

SEC. 305. SPITTING. A PERSON COMMITS THE CIVIL INFRACTION OF SPITTING IN PUBLIC IF THE PERSON SPITS ON THE FLOOR OR SEAT OF ANY PUBLIC CARRIER, OR ANY PUBLIC FLOOR OR WALL, SEAT OR EQUIPMENT OF ANY PLACE OF PUBLIC ASSEMBLY.

SEC. 306. INDECENT EXPOSURE. A PERSON COMMITS THE CIVIL INFRACTION OF INDECENT EXPOSURE IF THE PERSON INTENTIONALLY MAKES ANY OPEN AND OBSCENE EXPOSURE OF HIS OR HER PERSON OR THE PERSON OF ANOTHER KNOWING THAT SUCH CONDUCT IS LIKELY TO CAUSE REASONABLE AFFRONT OR ALARM. THE ACT OF BREASTFEEDING OR EXPRESSING BREAST MILK IS NOT INDECENT EXPOSURE.

SEC. 307. PUBLIC URINATION OR DEFECATION. A PERSON COMMITS THE CIVIL INFRACTION OF PUBLIC URINATION OR DEFECATION IF THE PERSON URINATES OR DEFECATES IN ANY PUBLIC PLACE OR ANY OTHER PLACE IN THE VIEW OF THE PUBLIC NOT SPECIFICALLY DESIGNATED FOR THAT PURPOSE.

SEC. 308. POSSESSION OF MARIJUANA. A PERSON COMMITS THE CIVIL INFRACTION OF SIMPLE POSSESSION OF MARIJUANA IF THE PERSON POSSESSES NOT MORE THAN 30 GRAMS OF MARIJUANA OR ANY OF ITS DERIVATIVES.

SEC. 309. DRUG PARAPHERNALIA. A PERSON COMMITS THE CIVIL INFRACTION OF POSSESSION OF DRUG PARAPHERNALIA IF THE PERSON VENDS, SELLS, DISTRIBUTES OR POSSESSES ANY ARTICLE OR PARAPHERNALIA USED OR ADAPTED FOR USE AS A MEANS OF SMOKING, INJECTING, OR CONSUMING ANY UNLAWFUL DRUG. THIS SECTION DOES NOT APPLY

TO PHYSICIANS, PHARMACISTS, OR INDIVIDUALS WHO HAVE LAWFULLY BEEN PRESCRIBED MEDICATION AND WHO VEND, SELL, DISTRIBUTE OR POSSESS ANY SUCH ARTICLES FOR LAWFUL PURPOSES.

SEC. 310. GAMBLING BY MINOR.

- (A) FOR PURPOSES OF THIS SECTION, THE TERM “MINOR” MEANS A PERSON LESS THAN 21 YEARS OF AGE AND THE TERM “GAMBLING” SHALL HAVE THE MEANING ASCRIBED TO THAT TERMS “CLASS II GAMING” AND “CLASS III GAMING IN SECTIONS 204 AND 205 OF TITLE V OF THE TRIBE’S LAW AND ORDER CODE – LICENSING AND REGULATION OF BINGO AND OTHER GAMES OF CHANCE.
- (B) A MINOR COMMITS THE CIVIL INFRACTION OF UNLAWFUL GAMBLING BY A MINOR IF THE MINOR PERSON ENGAGES, OR ATTEMPTS TO ENGAGE, IN ANY GAMBLING GAME AT ANY GAMING FACILITY OR ENTERPRISE LICENSED BY THE TRIBE.
- (C) SUBSECTION (B) OF THIS SECTION DOES NOT APPLY TO A MINOR WHO PARTICIPATES IN AN UNDERCOVER OPERATION IN WHICH THE MINOR PURCHASES OR RECEIVES LIQUOR UNDER THE DIRECTION OF THE TRIBAL POLICE OR THE TRIBAL GAMING COMMISSION AS PART OF AN ENFORCEMENT ACTION.

SEC. 311. DISORDERLY PERSON. A PERSON COMMITS THE CIVIL INFRACTION OF DISORDERLY CONDUCT IF HE OR SHE INTENTIONALLY, KNOWINGLY OR RECKLESSLY:

- (A) USES ABUSIVE, INDECENT, PROFANE OR VULGAR LANGUAGE IN A PUBLIC PLACE; OR
- (B) MAKES AN OBSCENE OR OFFENSIVE GESTURE IN A PUBLIC PLACE; OR
- (C) ABUSES OR THREATENS A PERSON IN A MANNER CALCULATED TO PLACE THE THREATENED PERSON IN FEAR OF BODILY HARM; OR
- (D) MAKES A LOUD AND UNREASONABLE NOISE IN A MANNER THAT DISTURBS THE PUBLIC PEACE; OR
- (E) ENGAGES IN FIGHTING OR IN VIOLENT, TUMULTUOUS OR THREATENING BEHAVIOR; OR
- (F) UNREASONABLY DISRUPTS ANY LAWFUL MEETING OR ASSEMBLY; OR
- (G) LIES OR SLEEPS ON ANY PROPERTY THAT HE OR SHE HAS NO RIGHT TO OCCUPY; OR
- (H) OBSTRUCTS VEHICULAR OR PEDESTRIAN TRAFFIC, OR
- (J) CREATES ANY HAZARDOUS PHYSICALLY OFFENSIVE OR ALARMING CONDITION BY AN ACT WHICH SERVES NO LEGITIMATE PURPOSE.

SEC. 312. DEFRAUDING AN INNKEEPER. A PERSON COMMITS THE CIVIL INFRACTION OF DEFRAUDING AN INNKEEPER IF THE PERSON OBTAINS (OR ATTEMPTS TO OBTAIN) FOOD, LODGING, MERCHANDISE OR OTHER ACCOMMODATIONS AT ANY HOTEL, LODGING HOUSE, RESTAURANT, RETAIL STORE OR SIMILAR PLACE OF BUSINESS WITHOUT PAYING, WITH INTENT TO DEFRAUD THE OWNER OR MANAGER, OR WHO OBTAINS (OR ATTEMPTS TO OBTAIN) CREDIT AT ANY HOTEL, LODGING HOUSE, RESTAURANT, RETAIL STORE OR SIMILAR PLACE OF BUSINESS BY OR THROUGH ANY FALSE PRETENSE, INCLUDING ALTERING (OR ATTEMPTING TO ALTER) THE LABEL, PRICE TAG OR MARKING ON ANY ITEM OFFERED FOR SALE AND/OR SEEKING TO OBTAIN A REFUND ON MERCHANDISE NOT PREVIOUSLY PURCHASED WITHOUT VALUE HAVING BEEN PAID TO THE OWNER OR AGENT OF THE RETAIL STORE.

SEC. 313. MALICIOUS MISCHIEF. A PERSON COMMITS THE CIVIL INFRACTION OF MALICIOUS MISCHIEF IF THE PERSON TAKES KNOWINGLY OR RECKLESSLY DESTROYS, DAMAGES, OR DEFACES OR REMOVES ANY PUBLIC PROPERTY OR OTHER PROPERTY NOT BELONGING TO THE PERSON..

SEC. 314. TRESPASS. A PERSON COMMITS THE CIVIL INFRACTION OF TRESPASS IF THE PERSON WILLFULLY ENTERS UPON THE LANDS OR PREMISES OF ANOTHER WITHOUT LAWFUL AUTHORITY, AFTER HAVING BEEN FORBIDDEN TO DO SO BY THE OWNER, LEGAL OCCUPANT, OR AGENT FOR THE OWNER OR LEGAL OCCUPANT, OR REMAIN UPON THE LAND OR PREMISES OF ANOTHER AFTER BEING NOTIFIED TO DEPART THEREFROM BY THE OWNER OR OCCUPANT OR THE AGENT OR SERVANT OF EITHER.

SEC. 315. HINDERING OR OPPOSING A POLICE OFFICER. A PERSON COMMITS THE CIVIL INFRACTION OF HINDERING OR OPPOSING A LAW ENFORCEMENT OFFICER IF HE OR SHE OBSTRUCTS, RESISTS, HINDERS OR OPPOSES A POLICE OFFICER OR ANY AUTHORIZED PEACE OFFICER IN THE DISCHARGE OF HIS/HER DUTIES. A VIOLATION OF THIS SECTION IS PUNISHABLE BY A CIVIL FINE NOT LESS THAN \$155.00.

SEC. 316. RUNNING OVER A FIRE-HOSE. A PERSON COMMITS THE CIVIL INFRACTION OF RUNNING OVER A FIRE-HOSE IF HE OR SHE:

- (A) IS OPERATING A MOTOR VEHICLE (AS THAT TERM IS DEFINED IN THE TRIBE'S MOTOR VEHICLE CODE) ON THE RESERVATION; AND
- (B) RUNS OVER A FIRE-HOSE BEING OPERATED BY AUTHORIZED FIRE PERSONNEL OR OTHER PUBLIC SAFETY PERSONNEL.
- (C) A VIOLATION OF THIS SECTION IS PUNISHABLE BY A CIVIL FINE OF \$155.00.

CHAPTER 4. ENFORCEMENT OF CIVIL INFRACTIONS.

SEC. 401. JURISDICTION AND PROCEDURE.

- (A) JURISDICTION IS HEREBY CONFERRED UPON THE TRIBAL COURT OVER PROSECUTIONS FOR CIVIL INFRACTIONS OF THIS CODE.
- (B) VIOLATIONS OF THIS CODE SHALL CONSTITUTE CIVIL INFRACTIONS OF THIS CODE PUNISHABLE BY A CIVIL FINE WHICH IS THE LESSER OF:
 - (1) ANY AMOUNT SPECIFICALLY PROVIDED FOR THE OFFENSE IN THIS CODE;
 - OR

- (2) THE AMOUNT SPECIFICALLY PROVIDED FOR THE OFFENSE IN A CIVIL PENALTY SCHEDULE APPROVED BY THE TRIBAL COUNCIL.
- (C) PROCEEDINGS INVOLVING CIVIL INFRACTIONS OF THIS CODE MAY BE INSTITUTED BY THE ISSUANCE OF A TRIBAL UNIFORM TRAFFIC CITATION ISSUED BY A DULY AUTHORIZED PEACE OFFICER CITING A PROVISION OF TRIBAL LAW OR STATE LAW INCORPORATED BY REFERENCE INTO THIS CODE.

SEC. 402. ENFORCEMENT AND PENALTIES.

- (A) THE PROVISIONS OF THIS CODE SHALL BE ENFORCED BY ALL TRIBAL LAW ENFORCEMENT OFFICERS. IN ADDITION, ANY STATE OR LOCAL LAW ENFORCEMENT OFFICER EMPOWERED BY THE TRIBAL COUNCIL TO ENFORCE TRIBAL CRIMINAL LAWS IS HEREBY AUTHORIZED TO ENFORCE THE PROVISIONS OF THIS CODE AND ISSUE CITATIONS TO TRIBAL COURT.
- (B) IN ADDITION TO THE CIVIL PENALTIES AUTHORIZED BY THIS CODE, THE TRIBAL COURT MAY ALSO ORDER RESTITUTION TO ANY VICTIM FOR DAMAGE TO, OR THE LOSS OF, THE VICTIM'S PROPERTY WHICH MAY ARISE FROM ANY CIVIL INFRACTION.
- (C) IN ADDITION TO ANY PENALTY IMPOSED BY THE TRIBAL COURT, THE COURT UPON CONVICTION SHALL ORDER PAYMENT OF COURT FEES AND COSTS IN THE AMOUNT OF DETERMINED BY THE TRIBAL COURT.

HISTORY: ADOPTED SEPTEMBER 24, 2009 - RESOLUTION 09-24-09-02); AMENDED FEBRUARY 18, 2011 – RESOLUTION No. 02-18-11-06)(ADDED NEW SECTION 314 DEFINING OFFENSE FOR “HINDERING OR OPPOSING A POLICE OFFICER” AND 315 DEFINING OFFENSE FOR “RUNNING OVER A FIRE-HOSE”)