

Citizen Potawatomi Nation



Ordinance # 23-01-REG-Or-T4

AN ORDINANCE AMENDING TITLE 4, ELECTION CODE, OF THE TRIBAL CODE OF THE CITIZEN POTAWATOMI NATION.

WHEREAS, the Citizen Potawatomi Nation is a federally recognized tribe of North American Indians reorganized pursuant to the Oklahoma Indian Welfare Act of June 26, 1936, with a history of self-government that begins long before the creation of the United States of America and the State of Oklahoma; and

WHEREAS, the jurisdiction and governmental powers of the Citizen Potawatomi Nation are exercised an elected government pursuant to the Nation's Constitution;

WHEREAS, the Legislature of the Citizen Potawatomi Nation has an interest in providing for the orderly conduct of free and fair elections pursuant to Articles 7 and 12 of the Nation's Constitution;

WHEREAS, the amendment of Title 4 will serve these aims; and

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATURE OF THE CITIZEN POTAWATOMI NATION that an ordinance amending Title 4, Sections 1-128, 1-129, 1-130, 1-131, 1-132, and 1-133 and adding Section 1-130.1 to Title 4 of the Citizen Potawatomi Nation Tribal Code as follows **IS HEREBY APPROVED**.

(Additions to statutory language underlined. Removals of statutory language ~~stricken through~~.)

“Section 4-1-128 Electioneering and Loitering

No person shall be allowed to electioneer inside or within one hundred (100) feet of the polling place where and when the election is in progress. Neither will any loitering be permitted in the polling places during voting hours. Election officials at the polling place have the duty to obtain such assistance as may be required to maintain order about the building during the progress of the election.

Section 4-1-129 Voter Conduct

No intoxicated person will be permitted in the polling place. No person will be permitted to conduct himself in such a manner which may interfere with the election progress. No person shall engage in any activity which serves as a detriment to the election process or which inhibits the rights of another to vote. The Chairman of the Election Committee has the authority to make such a determination and effect the removal of any person in violation of this provision.

Section 4-1-130 Anonymous Election Material

It shall be unlawful for any person, firm, corporation, partnership, organization, or association to write, print, post, or distribute or cause to be written, printed, posted or distributed a statement, circular, poster or advertisement, whether utilizing a physical or digital medium, which is designed to influence the voters on the nomination or election of a Candidate or to influence the voters on ~~any constitutional or statutory amendment~~ a Ballot Question or on any other issue in a Potawatomi tribal election, or to influence the vote of any member of the Legislature or Tribal Council, unless there appears in a conspicuous place upon such circular, poster, or advertisement, either the name and address of the person, if an individual, or the name and address of the president, chairman, or secretary, or of two (2) officers of the organization, if an organization. This prohibition does not restrict an individual's right to express their personal views on Candidates and Ballot Questions through a social media or other electronic posting if the individual posts using their personally-identifiable social media or other electronic account, nor does it restrict individual personal statements by identifiable people through any medium which is unpaid and is not advertising. Persons violating this act shall be guilty of a crime punishable by the maximum incarceration and fine allowed by law.

Section 4-1-130.1 Definitions for Campaign Finance, Election Material and Reporting

For purposes of the Election Code, the following terms shall be defined as follows, together with any other provisions amplifying the terms in the Election Code:

1. "Ballot Question" means a Constitutional Amendment as defined by CPN Const. art 19; an Enactment as defined by CPN Const. art. 18, § 1; an Initiative or Referendum measure as defined by CPN Const. art. 10; and/or a Recall, as defined by CPN Const. art. 8, § 1.

2. "Campaign" means all activities for or against the election of a Candidate or for or against a Ballot Question.

3. "Campaign Contribution" means a contribution in money or services to a Candidate or Campaign that is offered or given with the intent that it be used in connection with a Campaign. Whether a contribution is made before, during, or after an election does not affect its status as a Campaign Contribution. A Campaign Contribution can include a gift, donation, or loan of cash or cash equivalents and a gift, donation, or loan of services or goods conveyed in-kind or at below market value. It does not include the value of services provided without compensation by volunteers in a Campaign or the display of a noncommercial yard sign, lapel pin, button, bumper sticker or similar *de minimis* display of individual support or opposition to a Candidate or Ballot Question.

4. "Campaign Expenditure" means a purchase, payment, distribution, loan, guarantee or forgiveness of a loan, conveyance, advance, compensation, reimbursement, fee, deposit or gift made by any person or organization that is used to expressly advocate the election or defeat of a Candidate or support of or opposition to a Ballot Question. Whether an expenditure is incurred before, during or after an election does not affect its status as a Campaign Expenditure. It does not include the value of services provided without compensation by volunteers in a Campaign or the

display of a noncommercial yard sign, lapel pin, button, bumper sticker or similar *de minimis* display of individual support or opposition to a Candidate or Ballot Question.

5. "Candidate" means a Filed Candidate as defined by CPN Code § 4-1-146 or any individual or organization advocating for or against a Ballot Question by making a Campaign Expenditure.

6. "Disclosure Report" means a financial disclosure report of Campaign Contributions, Campaign Expenditures and/or Campaign assets or liabilities as required by this Section.

7 "Officeholder" means an individual who, being lawful and duly elected, occupies an elective office of the Citizen Potawatomi Nation.

8. "Political Organization" means any association or group comprised of any combination of individuals or corporations, whether formally or informally organized, that expresses interest by political activities, financial contributions or other methods of either support for or opposition to any Candidate, Campaign, or Ballot Question.

Section 4-1-131 Application

The provisions of Section 130 shall not apply to any matter published in any newspaper, magazine, ~~or journal,~~ or online publication, website, or social media platform recognized and circulating as such, which matter is published upon its own responsibility and for which it shall not charge or receive any compensation whatsoever, nor shall the provisions of this Chapter apply to any publication, whether in physical or digital format, issued by any legally-constituted election officials in the performance of their duties. For purposes of this provision only, a newspaper, magazine or journal is a publication which is published at intervals of either one (1) month or less, on a continuous basis, and has been so published on said continuous basis for the six (6) months prior to the date when ballots can first be requested by tribal members for elections of Legislature members at the General Council. The newspaper, magazine or journal must also bear the address of the publisher. For purposes of this provision only, an online publication, website or social media platform is any form of media that relies on an electronic device for its creation, distribution, view, and/or storage.

Section 4-1-132 Public Disclosure of Campaign Contributions

~~Each candidate for elective offices in the Citizen Potawatomi Nation shall file a public disclosure statement that identifies all persons, corporations, groups, etc., contributing in excess of Fifty Dollars (\$50.00) to that individual's campaign. This disclosure must be made to the Secretary-Treasurer of the Tribe no later than four (4) weeks after the day of the election. If no contribution has been received, a statement must be filed stating so. Failure to file public disclosure under this Chapter is punishable by a fine of Five Hundred Dollars (\$500.00) and possible disqualification from the election if the individual falsifies or refuses to file the required reports.~~

A. Candidate Contact Information

No later than the filing date for an election or the announcement of the date of a Ballot Question, each Candidate shall file with the Election Committee a statement containing the name, mailing address, email address, and phone number and a statement that the Candidate will account for all

Campaign Contributions and Campaign Expenditures. The Candidate may amend the statement at any time prior to the opening of the polls on the day set for the election. Should the Candidate fail to file said statement or falsify a statement filed, the Election Committee shall notify the Candidate of Candidate's noncompliance. If the Candidate does not comply with this provision within fourteen days of the receipt of the notice of noncompliance, the Committee shall disqualify the Candidate from the election and/or shall disqualify any advocate for a Ballot Question from further participation in the election.

B. Campaign Contributions

1. Campaign Contributions may only be made by individual natural persons. No corporation, partnership, legal entity, or organization, whether formally or informally organized, may contribute to any Candidate or Political Organization.

2. Campaign Contributions may be made only by members of the Citizen Potawatomi Nation.

3. No person, including a Candidate, may contribute more than Five Thousand Dollars (\$5,000.00) in Campaign Contributions to any one (1) Candidate or Political Organization during an election period. Campaign Contributions used to repay a Candidate's loan of personal funds to his/her own campaign are subject to all limitations for Campaign Contributions contained in this Section.

4. No person shall knowingly make or authorize a Campaign Contribution or Campaign Expenditure in the name of or on behalf of another person. No Campaign Contributions shall be made in the name of a minor. No person shall directly or indirectly reimburse another for a Campaign Contribution.

5. No person, corporation, partnership, legal entity, or organization, whether formally or informally organized, shall use or threaten to use physical force, job discrimination, employment reprisal, employment reward, financial reward, or financial reprisal to solicit or obtain a Campaign Contribution.

6. No Candidate shall solicit a Campaign Contribution from an employee of the Citizen Potawatomi Nation, including an employee of any corporation, agency, or other entity that is at owned or operated in whole in part by the Nation.

7. Every person making a Campaign Contribution shall provide their name, address, telephone number, and email address with every Campaign Contribution. Anonymous Campaign Contributions are not permitted. The Candidate shall be responsible for collecting this information and forwarding to the Election Committee pursuant to Part F of this Section.

8. No Officeholder, Candidate, potential Candidate or Political Organization shall receive any Campaign Contributions prior to the beginning of the six (6) month period immediately preceding the primary or special election date or more than six months immediately following the election date. Any Campaign Contribution received outside of the allowable temporal window must be returned to the donor.

9. No Candidate or Political Organization who receives a Campaign Contribution may convert it to personal use. Left-over Campaign Contributions must be returned, pro rata, to each contributor within six months of the Election.

10. An expenditure made by a person, Political Organization, or any other organization, whether formally or informally organized, for a communication expressly advocating the election or defeat of a Candidate for elective office of the Citizen Potawatomi Nation or a vote for or against a Ballot Question made in coordination with, cooperation with, consultation with, or concert with, or at the request or suggestion of, or with the prior knowledge of, a Campaign or Candidate is a Campaign Contribution and is subject to the rules governing Campaign Contributions in this Section. Such an expenditure shall not include the display of a noncommercial yard sign, lapel pin, button, bumper sticker or similar *de minimis* display of individual support or opposition to a Candidate or Ballot Question.

C. Campaign Expenditures

Any Campaign Expenditure of more than One Hundred Dollars (\$100.00) shall be made by written instrument or electronic transfer drawn upon the campaign account containing the name of the candidate and the name of the recipient.

D. Disclosure Report

1. Contents of Reports. Each candidate filing for elective office of Citizen Potawatomi Nation shall file with the Election Committee certified monthly and final Disclosure Reports on forms provided by the Election Committee. The reports shall include the name, address, email address, and phone number the Candidate; for each Campaign Contribution, the amount and date of the Campaign Contribution, and the name, address, email address, and phone number of the contributor; and for each Campaign Expenditure, the amount and date of the Campaign Expenditure, and a brief description of the nature of each Campaign Expenditure. If there has been no financial activity subject to the reporting requirements of this section for a reporting period, the Candidate shall so certify on the report.

2. Monthly Reports. Each Candidate shall deliver a complete monthly Disclosure Report to the Election Committee beginning with a report for the month that the Candidate filed for office or the Ballot Question was set for election. The Disclosure Report shall comprise the entire previous month, beginning on the first day of the month and ending on the last. The report shall be due on the 15th day of the following month. If the Election Committee has not received a monthly report by the 15th day of the month in which it was due, the Committee shall notify the Candidate of Candidate's noncompliance. If the Candidate does not comply with this provision within seven (7) days of the receipt of the notice of noncompliance, the Committee shall disqualify the Candidate from the election and/or shall disqualify any Campaign for a Ballot Question from further participation in the election.

3. Final Report. The Candidate shall file a final financial disclosure report cataloging the details all Campaign Contributions, all Campaign Expenditures, and the balance of any unexpended Campaign Contributions on hand, with supporting documents, on the date of the Election. The Candidate receiving the highest number of votes in any Election for an elective office shall not be

certified to take office until his or her final Disclosure Report is filed and there is no pending challenge or objection to the Disclosure Report extant with the Election Committee.

4. Corrections. The Election Committee shall give each Candidate a reasonable opportunity to correct any deficiency or error in his or her Disclosure Report(s) upon reasonable notice. Any Campaign Contributions received during the six (6) month period following the election date shall be recorded on a revised final report to be filed no later than the first of the month following the expiration date of said six (6) month period. The Disclosure Reports shall be maintained by the Committee, which shall preserve the reports in a secure location for at least five (5) years. Disclosure Reports consisting of only names and contribution amounts will be available upon request by any citizen of the Citizen Potawatomi Nation. More detailed reports shall not be made available except by specific order of the Courts of the Citizen Potawatomi Nation.

E. Challenge to Committee Decision

1. Committee Review. A Candidate who is the object of an adverse decision of the Committee made under the authority this Section may seek review by filing a written petition, stating with particularity the basis for the petition, with the Election Committee within two business days of notice of the Committee's adverse decision. Upon receiving a challenge, the Election Committee shall immediately deliver copies to all other Candidates for the petitioning Candidate's office. A hearing on the challenge must be held within five (5) days of receipt of challenge. The Election Committee must render a decision on the challenge within seventy-two (72) hours of commencing a hearing. No formal pleadings are required. The Election Committee may subpoena witnesses and take testimony under oath. The petitioner has the burden of proof.

2. Appeal. Any proper party to such a Part E(1) of this Section proceeding aggrieved by the Election Committee's decision may appeal to the Tribal Court within two (2) business days of notice of the decision. The appellant shall have the burden of proof. The Tribal Court shall either: (a) affirm the Election Committee decision; or (b) reverse the Election Committee decision and depending upon which is appropriate, add or strike a candidate's name from the slate certification. The Tribal Court has ten (10) days to act on the appeal proceeding Election Day. Failure of the Tribal Court to render a decision within twenty (20) days is an affirmation of the Election Committee's decision.

F. Penalties

1. Criminal Liability. No Candidate shall knowingly accept a Campaign Contribution or knowingly make or authorize a Campaign Expenditure that the Candidate knows or should have known to have been made in violation of the Election Code. Any Candidate, Organization or entity, or any other person who is a citizen of Citizen Potawatomi Nation or a member of any other federally-recognized Indian tribe who has knowingly violated any requirement or prohibition in this Section of the Election Code shall be guilty of a crime.

2. Reporting Penalties. Each financial disclosure report shall be certified by the Candidate. A Candidate who certifies a report and therein knowingly fails to fully disclose the information required in this section is guilty of a crime. If a person is convicted of a criminal violation under this subsection, then he or she shall not hold the office and shall be barred from holding any elective office of Citizen Potawatomi Nation. Where any person who has received the highest

number of votes for any office is disqualified from holding said office, a special election shall be held to elect another person to hold such office. If the candidate has been elected and sworn into office, such conviction may be grounds for removal under CPN Const. art. IX.

3. Civil Liability. Any Candidate, other person, corporation or other legal entity who or which has knowingly made or accepted a Campaign Contribution or made a Campaign Expenditure on behalf of a Candidate in violation of this Section shall be liable to the Election Committee in the amount of double the value of the unlawful contribution or expenditure. The Chairman of the Election Committee shall be empowered to bring a suit on such a claim on behalf of the Nation by filing suit in Citizen Potawatomi Nation District Court within six (6) months of the final election date. Upon a finding of a violation(s) by said Court, damages as described in this provision shall be awarded to the Election Committee for the benefit of the Citizen Potawatomi Nation. The Court may award a reasonable attorney fee to a prevailing party.

4. Subjection to Jurisdiction. Any person, corporation, or other entity, whether formally or informally organized, which voluntarily violates any provision of this Code by making a Campaign Contribution or any expenditure or donation to support or oppose a Campaign or to fund, in whole or in part, or by committing any other illegal act, is subject to the jurisdiction of the courts of the Citizen Potawatomi Nation and governed by the laws of the Citizen Potawatomi Nation. Any such person or corporation or entity found to have been in violation of this Code may be determined to be ineligible for future contractual or business relationships with the Nation and any other available civil penalty or remedy.

Section 4-1-133. No Posting of Tribal Campaign Election Literature or Signs on Tribal Property

It shall be unlawful for any person, firm, corporation, partnership, organization or association to post election literature, material or signs on Tribal property. Posting of literature, signs or other partisan political advertisement is strictly prohibited. The distribution of tribal campaign literature will be allowed on Election Day at the tribal polling place, subject to specifications in Section 4-1-128. Nothing in this Chapter shall be interpreted as a general prohibition against the placement of advertisements in the tribal newspaper. Tribal property is defined as any parcel of land held in fee, restricted status, trust, or allotment by the Citizen Potawatomi Nation.”

EFFECTIVE DATE: This ordinance shall become effective upon adoption by the Legislature of the Citizen Potawatomi Nation.

CERTIFICATION

In his capacity as Secretary-Treasurer of the Citizen Potawatomi Nation, the undersigned hereby certifies that the above and foregoing ordinance is a true and correct copy of Ordinance # 23-01-PCG-02-74, as approved on the 14th of December, 2022 with 14 voting for, 0 opposed, 2 absent and 0 abstaining.



D. Wayne Trousdale
Secretary-Treasurer

Approved
 Disapproved



John A. Barrett
Tribal Chairman