

Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians
Civil Infraction Ordinance

CHAPTER I
GENERAL PROVISIONS

- Section 1 Title.
This Ordinance will be known as the “*Civil Infraction Ordinance.*”
- Section 2 Purpose.
The purpose of this Ordinance is to:
- a. Promote the general health, safety, and welfare of the Tribe, its citizens, and visitors to the Tribe’s Reservation;
 - b. Govern the conduct and activities of all persons on the Tribe’s Reservation by prohibiting any acts which are offensive to public order and civil society; and
 - c. Provide 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 a civil infraction and penalties against a person who engages in illegal and offensive conduct.
- Section 3 Severability.
If any provision of this Ordinance is found to be contrary to the Tribe’s Constitution, Tribal law, or Federal law, such provision(s) will be struck and the remainder of this Ordinance will continue in full force and effect.
- Section 4 Effective Date.
This Ordinance will take effect immediately upon its enactment by Resolution of the Tribal Council.
- Section 5 Interpretation.
In its interpretation and application, the provisions of this Ordinance will be considered minimum requirements and will be liberally construed in favor of the Tribe and will not be deemed a limitation upon or repeal of any other tribal power or authority.
- Section 6 Non-Liability.
The Tribe declares there is no liability on the part of the Tribe, its agencies, agents, or employees for any damages which occur as a result of reliance upon or conformity with this Ordinance. The Tribe, by the adoption of this Ordinance, does not waive its sovereign immunity in any respect.

CHAPTER II
DEFINITIONS

Section 1 Definitions.

For purposes of this Ordinance the following definitions apply:

- a. **“Civil Infraction”**-means an act or omission prohibited by this Ordinance and for which a civil sanction may be ordered at the discretion of the Tribe.
- b. **“Citizen”**- means a person enrolled in the Tribe pursuant to the Tribe’s Constitution and Enrollment Ordinance.
- c. **“Police Department”**-means the Tribal Police division of the Match-E-Be-Nash-She-Wish Band of Pottawatomini Indians Public Safety Department.
- d. **“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.
- e. **“Reservation”**-means all lands held in trust for the Tribe by the United States government which includes the area over which the Tribe exercises civil and criminal jurisdiction.
- f. **“Tribal Council”**-means the governing body of the Tribe as established by Article VI of the Match-E-Be-Nash-She-Wish Band of Pottawatomini Indians Constitution.
- g. **“Tribal Court”**-means the Tribal Judiciary established under Article VII §1(s) of the Match-E-Be-Nash-She-Wish Band of Pottawatomini Indians Constitution.
- h. **“Tribe or Tribal”**-means or refers to the Match-E-Be-Nash-She-Wish Band of Pottawatomini Indians (Gun Lake Tribe).

CHAPTER III
CONDUCT DEEMED DETRIMENTAL TO PUBLIC HEALTH, SAFETY, AND WELFARE

Section 1 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” means the substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, commonly produced by the fermentation or distillation of grain, starch, grapes, molasses, or other substances, including all dilutions and mixtures of this substance.
- b. A minor commits the civil infraction of unlawful purchase, consumption, or possession of liquor if the minor 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 in the course of his/her employment during regular working hours if the minor employee is employed by an employer licensed under the Tribe’s Liquor Control Ordinance. The liquor cannot be possessed for the minor’s 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 of the following:
 - 1. An undercover operation in which the minor purchases or receives liquor under the direction of the minor's employer and with the prior approval of the Tribal Prosecutor to regulate compliance with the Tribe's Liquor Control Ordinance; 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 to regulate compliance with the Tribe's Liquor Control Ordinance.

Section 2 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 business establishment located on the Tribe's Reservation that is not licensed to sell liquor for consumption on the premises.

Section 3 Public Intoxication.

A person commits the civil infraction of public intoxication if the person is intoxicated in a public place and either directly endangers the safety of another person or property or acts in a manner that causes a public disturbance.

Section 4 Littering.

A person commits the civil infraction of littering if the person discards any debris, trash, bottles, cans, paper, or waste on any street, sidewalk, parking lot, parkway, or right-of-way, in anything other than a proper waste receptacle.

Section 5 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.

Section 6 Indecent Exposure.

A person commits the civil infraction of indecent exposure if the person intentionally makes any open and obscene exposure of his/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.

Section 7 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.

- Section 8 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.
- Section 9 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 purpose.
- Section 10 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” will have the meaning ascribed to that term in “Class II gaming” and “Class III gaming” in Section 2, Subsection 2.05 and Subsection 2.06 of the Tribe’s Gaming Ordinance.
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.
- Section 11 Disorderly Person.
A person commits the civil infraction of disorderly conduct if he/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 manner that disturbs the public peace; or
e. Engages in fighting or violent, tumultuous or threatening behavior; or
f. Unreasonably disrupts any lawful meeting or assembly; or
g. Lies or sleeps on any property that he/she has no right to occupy; or
h. Obstructs vehicular or pedestrian traffic; or
i. Creates any hazardous, physically offensive, or alarming condition by an act which serves no legitimate purpose.
- Section 12 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 attempt 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.

- Section 13 Malicious Mischief.
A person commits the civil infraction of malicious mischief if the person knowingly takes or recklessly destroys, damages, or defaces or removes any public property or other property not belonging to the person.
- Section 14 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 of the owner or legal occupant, or remains upon the land or premises of another after being notified to depart from there by the owner or occupant, or agent or servant of either.
- Section 15 Hindering or Opposing the Police.
A person commits the civil infraction of hindering or opposing the police if the person obstructs, resists, hinders, or opposes any member of the Tribal Police or any police officer in the discharge of his/her duties.
- Section 16 Violations of the Gun Lake Tribe Site Development Rules
A person violates the Gun Lake Tribe Site Development Rules by not adhering to the stormwater management practices as provided therein, including not abiding by all legally binding maintenance and plan agreements as required.
- a. If stormwater management practices, as provided in the Site Development Rules are not followed, the Environmental Department or its designee may make repairs and maintenance to preserve the intended functions and purpose of the Site Development Rules, and to prevent a threat to the general welfare of the community and to the public health and safety.
 - b. Costs and expenses may be levied against the person who violates the Site Development Rules, including for the maintenance or repair conducted by the Environment Department if applicable, plus any fees and costs associated with the violation. All costs of repair as conducted by the Environmental Department or its designee, shall be remitted to the Environmental Department.

CHAPTER IV ENFORCEMENT OF CIVIL INFRACTIONS

- Section 1 Jurisdiction and Procedure.
- a. Jurisdiction is hereby conferred upon the Tribal Court over prosecutions for civil infractions of this Ordinance.

- b. Violations of this Ordinance will constitute civil infractions of this Ordinance punishable by a civil fine which is the lesser of:
 - 1. Any amount specifically provided for the offense in this Ordinance; 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 Ordinance may be instituted by the issuance of a Tribal Uniform Traffic Citation issued by a duly authorized police officer citing a provision of Tribal law or state law incorporated by reference into this Ordinance.

Section 2 Enforcement and Penalties

- a. The provisions of this Ordinance will be enforced by all Tribal law enforcement officers. In addition, every 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 Ordinance and issue citations to Tribal Court.
- b. In addition to the civil penalties authorized by this Ordinance, 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 Tribal Court upon conviction will order payment of court fees and costs in the amount determined by the Tribal Court.

Addendum 1—Schedule of Fines and Costs
Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians
Civil Infractions Ordinance

Two-thirds (2/3) of any civil penalty will be designated a fine and one-third (1/3) will be designated court costs. \$10.00 of every civil penalty will be placed into a Victim's Fund.

Purchase, Consumption, or Possession of Liquor by Minor	\$145.00
Consumption of Liquor in Public	\$ 85.00
Public Intoxication	\$160.00
Littering	\$ 85.00
Spitting	\$ 85.00
Indecent Exposure	\$160.00
Public Urination or Defecation	\$ 85.00
Possession of Marijuana	\$220.00
Drug Paraphernalia	\$145.00
Gambling by Minor	\$145.00
Disorderly Person	\$160.00
Defrauding an Innkeeper	\$160.00
Malicious Mischief	\$160.00
Trespass	\$145.00
Hindering or Opposing the Police	\$250.00
Stormwater or Soil Erosion Sediment Control Violation	\$500.00