

ORDINANCE NO. 40

CIVIL DEFAMATION

BE IT ENACTED, by the Saginaw Chippewa Tribal Council as follows:

SECTION 1. SHORT TITLE. This Ordinance may be cited as the Civil Defamation Ordinance of the Saginaw Chippewa Indian Tribe of Michigan ("Tribe").

SECTION 2. STATEMENT OF PURPOSE. An Ordinance to identify legal responsibility for defamatory statements and the award of damages and injunctive relief.

SECTION 3. DEFINITIONS. As used in this Ordinance, except where otherwise specifically provided or the context otherwise requires, the following terms and expressions shall have the following meanings:

- a. Tribal Council means the duly elected governing body of the Tribe.
- b. Defamatory statement means a statement, purporting to be fact, that is (1) made about a person to a third party or the public, (2) is untrue, and (3) damages the reputation of the person who is the subject of the statement.
- c. Libel means a defamatory statement that is made in writing to a person or is published in printed media, including but not limited to newspapers, periodicals, social media, or other internet sources.
- d. Person means a human being.
- e. Public official means persons who are (1) members of the Tribal Council or are employed as Tribal Council staff; (2) judges and employees of the Tribal Court; (3) serving on a Tribal board, committee or commission; and (4) employees or consultants of the Tribe who perform supervisory functions, including directors, supervisors, managers, lead personnel, and legal counsel.
- f. Slander means a defamatory statement made orally to another person or to the general public, either in person or broadcast over television, radio, social media, or other internet sources.

SECTION 4. CAUSE OF ACTION

- a. The Plaintiff has the burden to prove all of the following by clear and convincing evidence:
 - 1. Defendant made a defamatory statement; and
 - 2. The defendant's communication to the third party was made (i) by the negligence of the defendant, (ii) with knowledge that it was false, or (iii) with reckless disregard of whether it was false; and

3. The communication damaged the plaintiff's reputation.
- b. There shall be no cause of action under this Ordinance for the publication or communication of a report of matters of public record or of a governmental notice, announcement, written or recorded report, or act or action of a public body of the Tribe. There shall be no cause of action under this Ordinance against any public official for any actions, communications, or publications that are made within the scope of their official duties. For the avoidance of doubt, a public official posting matters on non-governmental social media accounts does not constitute a matter within the scope of that public official's official duties.

SECTION 5. DAMAGES

- a. Money damages shall be limited to actual economic damages the plaintiff proves by clear and convincing evidence to plaintiff's property, business, trade, profession, or occupation. Money damages shall not be awarded in amounts exceeding a total of \$10,000.00 for any complaint.
- b. Injunctive relief may be ordered as determined by the Court.
- c. The party prevailing, by a verdict of the Court, shall be awarded reasonable attorney fees and costs.

SECTION 6. DEFENSES

- a. Truth as a defense. Truth of the statement that is the subject of a complaint under this Ordinance shall be an absolute defense requiring dismissal of the claim.

SECTION 7. NO JURY TRIAL; COMPLAINT

- a. All trials conducted pursuant to this Ordinance shall be by bench trial and shall not be subject to trial by jury.
- b. A cause of action shall be brought under this Ordinance by the filing of a civil complaint with the Tribal Community Court which shall include a non-refundable filing fee of \$250.00.

SECTION 8. ENACTMENT; AMENDMENT; REPEAL; SEVERABILITY

- a. Enactment. This Ordinance is enacted by Tribal Council resolution 25-065.
- b. Amendment. This Ordinance may be amended by formal Tribal Council action in the form of a Tribal Council Resolution.

- c. Repeal. This Ordinance may be repealed by formal Tribal Council action in the form of a Tribal Council Resolution.
- d. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

LEGISLATIVE HISTORY

Ordinance 40 Civil Defamation Ordinance. Enacted by Resolution 25-065, approved on March 5, 2025.