

## **TITLE 1 - GENERAL PROVISIONS**

### **CHAPTER 1 - CONSTRUCTION**

*Legislative History: "Severability" was enacted and codified as 1 T.O.C. Chapter 1, Section 1101 by Resolution No. 09-028 effective January 14, 2009.*

# **Tohono O'odham Code**

## **Title 1 - General Provisions**

### **Chapter 1 - Construction**

#### **Section 1101 Severability**

The Nation's laws are severable. If any word, clause, phrase, sentence, subsection, section, or other provision (hereinafter, "provision") of a Nation's law or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the invalidity shall not affect any other provisions or applications of the law that can be given effect without the invalid provision or application.

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL  
(Enacting Tohono O'odham Code Title 1, Chapter 1, Section 1101, "Severability")**

**RESOLUTION NO. 09-028**

1 **WHEREAS, the Constitution of the Tohono O'odham Nation provides that "[a]ll legislative powers**  
2 **of the Tohono O'odham Nation shall be vested in the Tohono O'odham Council," and**  
3 **vests the Legislative Council with the power to "enact laws, ordinances and resolutions**  
4 **necessary or incidental to the exercise of its legislative powers" (Constitution, Article**  
5 **V, Section 1 and Article VI, Section 1(l)); and**

6 **WHEREAS, the Legislative Council has enacted a broad range of criminal and civil laws governing**  
7 **civil actions, taxation, water rights, elections, enrollment, housing, and other matter**  
8 **critical to the "public health, peace, morals, education and general welfare of the**  
9 **Tohono O'odham Nation and its members" (Constitution of the Tohono O'odham**  
10 **Nation, Article VI, 1(c)(2)); and**

11 **WHEREAS, although some of the Nation's laws contain severability clauses, the majority of the**  
12 **Nation's laws do not; and**

13 **WHEREAS, a severability clause clarifies that, if any provision within a law is declared**  
14 **unconstitutional or otherwise invalid by a court of competent jurisdiction, the**  
15 **remainder of that law is unaffected and remains valid; and**

16 **WHEREAS, the Council wishes to clarify its legislative intent that, unless expressly provided**  
17 **otherwise, the Nation's laws are severable to the maximum extent possible and the**  
18 **invalidity of any clause, phrase, sentence, section, or other provision should not**  
19 **invalidate any law as a whole; and**

20 **WHEREAS, it is in the Nation's best interest that the Legislative Council enact a general**  
21 **severability clause in the form attached hereto as Tohono O'odham Code Title 1,**  
22 **Chapter 1, Section 1101 in order to clarify that the Nation's laws are severable.**

23 **NOW, THEREFORE, BE IT RESOLVED that the Legislative Council hereby enacts Tohono**  
24 **O'odham Code Title 1, Chapter 1, Section 1101; which, unless expressly provided**  
25 **otherwise, shall apply to all laws of the Nation upon the effective date of this**  
26 **resolution.**

27 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 12<sup>TH</sup> Day**  
28 **of JANUARY, 2009 at a meeting at which a quorum was present with a vote of 2,534.5 FOR; -0-**  
29 **AGAINST; -0- NOT VOTING; and 05 ABSENT, pursuant to the powers vested in the Council by Section**  
30 **1 (c)(2) of Article V and Section 1 (l) of Article VI of the Constitution of the Tohono O'Odham Nation,**  
31 **adopted by the Tohono O'Odham Nation on January 18, 1986; and approved by the Acting Deputy**  
32 **Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act**  
33 **of June 18, 1934 (48 Stat. 984).**

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TOHONO O'ODHAM LEGISLATIVE COUNCIL

  
Verlon M. Jose, Legislative Chairman

12 day of January, 2009

ATTEST:

  
Lucille Lopez, Acting Legislative Secretary

12 day of January, 2009.

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 12 day of January, 2009 at 4:10 o'clock, P..M., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon his approval or upon his failure to either approve or disapprove it within 48 hours of submittal.

TOHONO O'ODHAM LEGISLATIVE COUNCIL

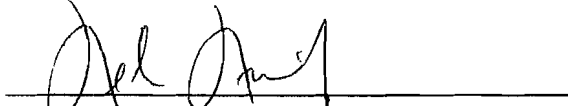
  
Verlon M. Jose, Legislative Chairman

APPROVED

on the 14 day of January, 2009

DISAPPROVED

at 3:22 o'clock, P..M.

  
NED NORRIS, JR., CHAIRMAN  
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 14 day of

January, 2009, at 3:37 o'clock, P..M.

  
Lucille Lopez, Acting Legislative Secretary