

BOIS FORTE BAND OF CHIPPEWA INDIANS  
DATA PRIVACY ORDINANCE

## **BOIS FORTE BAND OF CHIPPEWA INDIANS DATA PRIVACY ORDINANCE**

### **Section 1. Purpose.**

The purpose of this Ordinance is to provide guidance as to the classification, release, or inspection of data in the possession of the Bois Forte Band of Chippewa Indians and its various subdivisions and enterprises. The presumption of this Ordinance is that Band data shall be considered protected private information unless the ordinance states otherwise.

### **Section 2. Definitions.**

Subd. 1. "Band" means the Bois Forte Band of Chippewa Indians, a federally recognized Indian tribe.

Subd. 2. "Member" means a person who is an enrolled member of the Bois Forte Band of Chippewa Indians.

Subd. 3. "Nonmember" means a person who is not an enrolled member of the Bois Forte Band of Chippewa Indians.

Subd. 4. "Reservation Tribal Council" means the Bois Forte Reservation Council, the governing body of the Bois Forte Band of Chippewa Indians.

Subd. 5. "Band government" means the Reservation Tribal Council and all Bois Forte Band of Chippewa Indians governmental subunits. It does not include the Reservation Tribal Council in its capacity as gaming regulatory authority or Band for non-profit entities.

Subd. 6. "Government data" means all data created, collected, received, or maintained by the Reservation Tribal Council. It does not include business enterprise data, gaming regulatory data, or tribal court data.

Subd. 7. "Gaming regulatory data" means all data created, collected, received or maintained by the Reservation Tribal Council in its capacity as gaming regulatory authority.

Subd. 8. "Business enterprise data" means all data created, collected, received, or maintained by any for-profit business entity owned or operated by the Bois Forte Band of Chippewa Indians.

Subd. 9. "Tribal court data" means all data created, collected, received, or maintained by the Bois Forte Tribal Court.

Subd. 10. "Personal material" means any government data, gaming regulatory data, business enterprise data, or tribal court data that contains information that could be readily associated with particular individuals, specifically including health information (individually identifiable information about a person's past or present health or the past, present, or future provision of health care).

Subd. 11. "Protected private information" means any government data, gaming regulatory data, business enterprise data, or tribal court data that may not be inspected or copied by any person except as may be specified in this Ordinance.

Subd. 12. "Unprotected public information" means any government data, gaming regulatory data, business enterprise data, or tribal court data that may be inspected and copied by any person.

Subd. 13. "Partially protected member information" means any government data, gaming regulatory data, business enterprise data, or tribal court data that may be inspected only by a Member. A Member may inspect such data but shall not be allowed to copy it.

Subd. 14. "Tribal Court" means any court provided for in the Code of the Bois Forte Band of Chippewa Indians.

### **Section 3. Access to Data in Course of Duties.**

A Reservation Tribal Council Member, an employee of the Band government or business enterprise or Tribal Court, a contractor with the Band, or an appointee of the Reservation Tribal Council shall have access to all government data, gaming regulatory data, business enterprise data, or tribal court data, regardless of its classification, if such data is reasonably needed in order to carry out such person's duties. However, any data so accessed shall not be made public or made available to other Members except as provided in this Ordinance.

### **Section 4. Provision of Compilations of Data to the Federal Government.**

The Band government, business enterprises, and Tribal Court may in their discretion provide agencies of the federal government agencies with compilations of data that do not identify particular individuals, if such compilations are required by law or serve the interests of the Band as a whole.

## **Section 5. Government Data.**

Subd. 1. Unprotected Public Information. The following government data shall be unprotected public information: Band Constitution and Bylaws; duly enacted ordinances, laws, and regulations; minutes of Reservation Tribal Council Meetings, except those portions of minutes of executive sessions; names of duly elected officers of the Reservation Tribal Council; final vote tallies in Band regular and special elections; names of enrolled members of the Band; data that is required by law to be publicly posted; and agreements, contracts, or compacts between the Band government and other governments. A person may obtain access to such unprotected public information by submitting a written request to the Reservation Tribal Council. The Reservation Tribal Council shall make such information available within five (5) business days after receipt of the request.

Subd. 2. Partially Protected Member Information. The following government data shall be partially protected member information: proposed resolutions, ordinances, laws, and regulations that were the subject of a vote by the Reservation Tribal Council; land descriptions and title status of Band owned or controlled land; leases of Band owned or controlled land; signed loan documents for loans from the Band to outside entities; signed loan documents for loans from outside entities to the Band; annual Band government audit; signed contract documents for contracts with the federal or state government; and annual Band government budget. A Member may obtain access to such information by submitting a written request to the Reservation Tribal Council. The Reservation Tribal Council shall make such information available for inspection by a Member within five (5) business days after the request; however, the Member may not photocopy or otherwise duplicate such data and must execute a non-disclosure of confidential information agreement.

Subd. 3. Protected Private Information. The following government data shall be protected private information: personal material except as otherwise provided in subdivisions 1 and 2; signed contracts between the Band government and private entities or individuals; and all other data that is not unprotected public information or partially protected member information under subdivisions 1 and 2. An individual who is the subject of personal material appearing in government data may obtain access to such material as it relates to him/her by submitting a written request to the Reservation Tribal Council or to the head of the relevant governmental subdivision. The Reservation Tribal Council or the relevant governmental subdivision shall make the personal material available within five (5) business days of the request, but only to the person who is the subject of the personal material. Such person may inspect and copy the information. If the personal material sought to be inspected also contains personal material relating to other individuals, the material shall be put in a form that protects the privacy of the other individuals. An individual who is the subject of personal material appearing in government data may also authorize release of information contained in that material to others (for example, to verify employment), by submitting a written request to the Reservation Tribal Council or to the head of the relevant governmental subdivision.

Subd. 4. Notwithstanding subdivisions 2 and 3, the Reservation Tribal Council in its discretion and by formal resolution may designate specified government data as unprotected public information or partially protected member information or may release government data under such restrictions as it deems desirable; provided that personal material that includes health information will be used or disclosed in accordance with applicable federal laws or regulations.

## **Section 6. Gaming Regulatory Data.**

Subd. I. Unprotected Public Information. The following gaming regulatory data shall be unprotected public information: gaming regulatory regulations and formal operating procedures; and written orders or decisions of the Reservation Tribal Council in its capacity as gaming regulatory authority. A person may obtain access to such unprotected public information by submitting a written request to the Reservation Tribal Council. The Reservation Tribal Council shall make such information available within five (5) business days after receipt of the request.

Subd. 2. Protected Private Information. All gaming regulatory data that is not unprotected public information under subdivision 1 shall be protected private information. An individual who is the subject of personal material appearing in gaming regulatory data may obtain access to such material as it relates to him/her by submitting a written request to the Reservation Tribal Council. The Reservation Tribal Council shall make the personal material available within five (5) business days of the request, but only to the person who is the subject of the personal material. Such person may inspect and copy the information. If the personal material sought to be inspected also contains personal material relating to other individuals, the material shall be put in a form that protects the privacy of the other individuals. An individual who is the subject of personal material appearing in gaming regulatory data may also authorize release of information contained in that material to others (for example, to verify employment), by submitting a written request to the Reservation Tribal Council.

Subd. 3. Notwithstanding subdivision 2, the Reservation Tribal Council may allow access to or transmit gaming regulatory data to the National Of Chippewa Gaming Regulatory as authorized by federal law and pursuant to a valid request from the National Indian Gaming Commission. This subdivision does not authorize access to or the transmission of gaming regulatory data that relates to the deliberative processes of the Reservation Tribal Council in its capacity as gaming regulatory authority.

Subd. 4. Notwithstanding subdivisions 2 and 3, the Reservation Tribal Council in its discretion and by formal resolution may designate specified gaming regulatory data as unprotected public information or partially protected member information.

**Section 7. Business Enterprise Data.**

Subd. 1. Unprotected Public Information. The following business enterprise data shall be unprotected public information: names of the management officials of the enterprise; minimum internal control standards adopted pursuant to federal and tribal law; and formal written policies and procedures that are distributed to employees. A person may obtain access to such unprotected public information by submitting a written request to the manager of the business enterprise. The manager shall make such information available within five (5) business days after receipt of the request.

Subd. 2. Partially Protected Member Information. The following business enterprise data shall be partially protected member information: annual audits and annual budgets.

Subd. 3. Protected Private Information. The following business enterprise data shall be protected private information: financial records other than those identified in subdivision 2; personnel records; and all other business enterprise data that is not unprotected public information or partially protected member information under subdivisions 1 and 2. An individual who is the subject of personal material appearing in business enterprise data may obtain access to such material as it relates to him/her by submitting a written request to the manager of the business enterprise. The business enterprise shall make the personal material available within five (5) business days of the request, but only to the person who is the subject of the personal material. Such person may inspect and copy the information. If the personal material sought to be inspected also contains personal material relating to other individuals, the material shall be put in a form that protects the privacy of the other individuals. An individual who is the subject of personal material appearing in business enterprise data may also authorize release of information contained in that material to others (for example, to verify employment), by submitting a written request to the manager of the business enterprise.

Subd. 4. Notwithstanding subdivisions 2 and 3, the Reservation Tribal Council in its discretion and by formal resolution may designate specified business enterprise data as unprotected public information or partially protected member information, or may release business enterprise data under such restrictions as it deems desirable.

Subd. 5. Notwithstanding subdivisions 2 and 3, the Chief Executive Officer (CEO) of Fortune Bay Resort and Casino, or the CEO's delegate if a delegation has been made in writing, may in his/her discretion provide information relating to incident investigations, including surveillance tapes, to any law enforcement agency or court of the United States; any law enforcement agency of a subdivision of the State of Minnesota; the Tribal Court; or a court of the State of Minnesota or another State. Requests for information relating to incident investigations shall be made in writing to the general manager or his/her delegate and shall specify the law enforcement purpose for which the data is sought.

**Section 8. Tribal Court Data.**

Subd. 1. Unprotected Public Information. The following tribal court data shall be unprotected public information: Complaints; written motions; written court orders, decisions, or dispositions; names of all judges and judicial employees. A person may obtain access to such unprotected public information by submitting a written request to the Clerk of the Tribal Court. The Clerk of Court shall make such information available within five (5) business days after receipt of the request.

Subd. 2. Protected Private Information. Notwithstanding subdivision 1, any data involving children who are minors shall be protected private information.

Subd. 3. Except as provided in subdivisions 1 and 2, the Tribal Court in its discretion may make its own internal rules relating to the availability of other tribal court data to the public or to Members.

**Section 9. Tribal Court Jurisdiction.**

The Bois Forte Tribal Court shall have jurisdiction to adjudicate disputes arising under this Ordinance and to grant equitable relief; however, the Tribal Court shall not grant any damage awards in suits brought under this Ordinance.

**Section 10. Police Investigations.**

Upon the request of a duly authorized federal, state or tribal police officer or prosecuting official, acting within the course of duty, and for the sole purpose of assisting in the investigation of a possible crime:

Subd. 1. The Reservation Tribal Council, in its discretion, may allow such officer or official to inspect or copy government data that otherwise would be protected information under this Ordinance.

Subd. 2. The Reservation Tribal Council, in its discretion, may allow such officer or official to inspect or copy gaming regulatory data that otherwise would be protected information under this Ordinance.

Subd. 3. The CEO or general manager of a business enterprise, or a person delegated by the CEO or general manager, in his/her discretion may allow such officer or official to inspect or copy business enterprise data that otherwise would be protected information under this Ordinance.

Subd. 4. The Chief Judge of the Tribal Court, in his/her discretion, may allow such officer or official to inspect or copy tribal court data that otherwise would be protected information under this Ordinance.