



**BOIS FORTE BAND OF CHIPPEWA  
TRIBAL CODE**

**TITLE 1  
ESTABLISHMENT OF THE COURT**

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## BOIS FORTE TRIBAL CODE

### PREAMBLE

The purpose of the Bois Forte Tribal Code (BFTC) is to, whenever possible, restore Minobimaadiziwin (the Good Path of Life) to all persons it serves by providing a progressive, non-judgmental path to health and forgiveness, in accordance with the community's traditional practices and values. First and foremost, the Bois Forte Tribal Court shall be guided by the seven defining Anishinabe teachings or core values:

1. *Nibwaakaawin* — Wisdom;
2. *Zaagi'idiwin* — Love;
3. *Minaadendamowin* — Respect;
4. *Zoongide'ewin* — Bravery;
5. *Gwayakwaadiziwin* — Honesty;
6. *Dabaadendiziwin* — Humility; and
7. *Debwewin* — Truth.

*Accordingly, the Bois Forte Tribal Court's focus in all decisions shall be on the impact it will have seven generations in the future.* If necessary, the presiding Judge may consult a community spiritual leader or elder for guidance when endeavoring to adhere to these principles and the Bois Forte Reservation Council may enact a resolution designating appropriate spiritual leaders or elders available for such consultation.

**TITLE 1  
ESTABLISHMENT OF THE COURT**

**CHAPTER 1 – THE BOIS FORTE TRIBAL COURT**

**1.1.1. Creation of the Court.**

Pursuant to the inherent and sovereign powers of the Bois Forte Band of Chippewa Indians, there is hereby established the Bois Forte Tribal Court, which may be referred to as the Tribal Court.

**1.1.2. Jurisdiction.**

- (a) **Policy.** It is hereby declared as a matter of Band policy and legislative determination, that the public interest and the interests of the Bois Forte Band of Chippewa Indians demand that the Band provide itself, its members, and other persons living within the territorial jurisdiction of the Band an effective means of redress against Indians who commit criminal offenses within the territory of the Band. For the purposes of jurisdiction, an “Indian” or “Indian Person” shall mean (i) an enrolled member of a federally recognized Indian tribe; (ii) a first or second generation descendant of an enrolled member of a federally recognized Indian tribe; or (iii) any other person with direct descendancy to an enrolled member of a federally recognized Indian tribe and affiliation to the Bois Forte Band.
- (b) **Territory.** The jurisdiction of the Tribal Court shall extend to all Indian Country, as defined in 18 U.S.C. § 1151, over which the Bois Forte Band has governmental jurisdiction. This territory shall include, but is not limited to, those areas known as the Nett Lake Reservation, the Vermilion Lake Reservation, and Indian allotments on public domain (styled Outside Nett Lake), the Indian title to which has not been extinguished.

**1.1.3. Judges.**

- (a) **Number.** The Tribal Court shall consist of one (1) trial judge, three (3) appeals judges, and not more than two (2) magistrates.
- (b) **Selection.** The trial judge and magistrates shall be elected by the Bois Forte Reservation Tribal Council by a majority vote of the members of the Reservation Tribal Council at a regular meeting. The three (3) appeals judges shall be elected by a majority vote of the members of the Reservation Tribal Council by secret ballot at a regular meeting.
- (c) **Term, Compensation, Qualifications.**
  - (1) The terms of office of such judges and magistrates shall be determined by the Bois Forte Reservation Tribal Council. Provided, however, that a judge or magistrate

once appointed shall not have his compensation decreased during his term of office, and no judge or magistrate shall be suspended or removed from office prior to the expiration of his term except as provided hereinafter. Judges and magistrates may be appointed to successive terms of office.

(2) No person shall be eligible for election as a judge or magistrate of the Bois Forte Tribal Court unless he or she:

(A) is at least twenty-five (25) years of age;

(B) is of good moral character and integrity;

(C) is capable of preparing papers and conducting hearings incident to the office;  
and

(D) has demonstrated to the Bois Forte Reservation Tribal Council knowledge of the Bois Forte Tribal Code and understanding of federal and state laws.

(3) Preference in selection may be given to otherwise qualified persons who have had education or training in Indian law and tribal judiciary or the law in general, or who are actively enrolled in and pursuing such a course or program, or who declare an intention to pursue such a course or program upon election to a magistrate or judge position.

(d) **Removal.** A judge or magistrate may be removed from office prior to the expiration of his term of office by the affirmative vote of three (3) members of the Bois Forte Reservation Tribal Council only for neglect of duty or gross misconduct, and only after a public hearing at which the judge or magistrate, after being given not less than ten (10) days' notice and written charges, is given an opportunity to answer all charges and present evidence in his own defense.

(e) **Disqualification.** The trial judge shall disqualify himself in any case in which he has any direct interest, is or has been a pre-trial witness, or is so related to a party as to render it improper for him to sit in any proceeding on the matter. Upon his disqualification, the appellate court shall appoint a judge to sit on the case. An appellate judge shall be disqualified to hear the appeal in any case in which he has a direct interest, has been a witness at trial, or is so related to a party as to render it improper for him to hear the appeal.

#### **1.1.4. Use of Other Judges.**

Upon disqualification of any judge, or if a judge is unable to preside or sit for other good cause, the Bois Forte Reservation Tribal Council may arrange for the services of another tribal judge, or, if necessary, of any other qualified individual. Such appointment shall be for a designated proceeding and compensation shall be as provided herein.

### **1.1.5. Clerk of Court.**

- (a) The Bois Forte Reservation Tribal Council shall appoint a Clerk of Court who shall serve as clerk for the Tribal Court, the Tribal Court sitting as the Juvenile Division, and the Appellate Court. Such additional assistants as necessary may be appointed. The appointment, qualifications, terms of office, and compensation of clerks shall be determined by the Bois Forte Reservation Tribal Council.
- (b) Clerk's Duties. The Clerk shall render assistance to the court, to the tribal police, and to members of the public in drafting complaints, subpoenas, petitions, warrants, notices of appeal, and other documents required in the functions of the court. The Clerk shall supervise and keep written records of all proceedings of the court. The Clerk is authorized to administer oaths to witnesses and to collect fines and other monies; and shall account to the Bois Forte Reservation Tribal Council for all monies collected and deposit such monies in a separate account. The Clerk shall be bonded in an amount to be fixed by the Bois Forte Reservation Tribal Council.

### **1.1.6. Magistrate's Duties.**

The magistrate of the Bois Forte Tribal Court shall have the power to arraign any person charged with an offense under Titles 6, 7, and 8 of the Tribal Code, to issue warrants and summons in the absence of the Judge, to impose sentence upon any person pleading guilty to any speeding violation under Title 8, and to perform any other duties provided by the court rules, as promulgated under Section 4.7.19.

### **1.1.7. Prosecutor.**

A prosecutor to represent the Bois Forte Band may be appointed by the Bois Forte Reservation Tribal Council for service when occasion requires and on such terms and conditions as may be fixed by the Bois Forte Reservation Tribal Council. Qualifications for prosecutors shall be determined by the Bois Forte Reservation Tribal Council.

### **1.1.8. Officers of the Tribal Court.**

Officers of the Bois Forte Tribal Court shall include all police officers and all judges, magistrates, and clerks of the court. The term "police" shall include tribal police and their deputies, and all Bureau of Indian Affairs law enforcement personnel.

## **CHAPTER 2 – MISCELLANEOUS PROVISIONS**

### **1.2.1. Prior Inconsistent Ordinances Repealed.**

Any and all ordinances of the Bois Forte Reservation Tribal Council which conflict in any way with the provisions of this Law and Order Code are hereby repealed to the extent they are inconsistent with or conflict with, or are contrary to the spirit and/or purpose of this Law and Order Code.

### **1.2.2. Amendment of Code.**

This Code may be amended, additions made hereto, or deletions made herefrom in the manner provided for the adoption of tribal ordinances. Amendments and additions to this Code shall become a part hereof for all purposes and shall be codified and incorporated herein in a manner consistent with the organization hereof. Any new amendments, additions, or deletions made to the Code shall be effective when enacted by the Bois Forte Reservation Tribal Council and received by the Bois Forte Judicial Director.

### **1.2.3. Words Used in Present Tense.**

Unless otherwise provided, words used in this Code in the present tense include the future as well as the present. Words used in the masculine gender include the feminine and the neuter, and plural includes the singular and vice versa.

### **1.2.4. Construction of the Code.**

This Code, together with any additions hereto which may be enacted, is to be construed according to the plain import of its language. No person shall be punished for an offense which is not made penal by the plain import of the offense's definition upon the pretense that the person has offended against the statute's spirit. Words not specifically defined herein are to be taken according to their ordinary meaning.

### **1.2.5. Applicability of Code - Offense Committed Before Adoption of Code.**

The provisions of this Code shall not apply nor extend to any act done or offense committed prior to the effective date of the Code, except as to matters of procedure and as to provisions alleviating the punishment to be imposed upon conviction in any case.

### **1.2.6. Choice of Law.**

When there is a conflict of law or an absence of law pertaining to a legal issue involved in a case, the Court may, in its discretion, utilize laws from other jurisdictions for guidance in the following priority:

- (a) Other Ojibwe tribes;
- (b) Other tribal nations;
- (c) Federal laws; and
- (d) State laws.

## CHAPTER 3 – ADMISSION TO THE COURT

### 1.3.1. Representation in Tribal Court.

- (a) Any person brought before the Tribal Court in any proceeding may be represented by counsel of his choice. Such counsel may be a lay person; provided, that the lay person meets minimum criteria as the tribal judge is hereby empowered to establish.
- (b) Any lay person who desires to represent a person before the Tribal Court shall attest to the following:
  - (1) That he will advocate his client's position;
  - (2) That he will abide by the rules of the Tribal Court and the principles of the Tribal Code;
  - (3) That he has an understanding of the law as it pertains to his client's case; and
  - (4) That he has not been convicted of an offense involving moral turpitude or dishonesty within the last six (6) months.

The trial judge, in his discretion, may require the person to demonstrate proof of attestations at subsections (3) and (4) above to the satisfaction of the trial judge.

- (c) Except with respect to Section 1.3.2, when the term "attorney" is used in this Code it shall be read as including a counselor as provided in this section.

### 1.3.2. Attorneys; Admission to Practice; Rules of Professional Conduct; Discipline.

- (a) **Practice before the Tribal Court.** No attorney shall represent any person in an action before the Tribal Court unless such attorney is duly admitted to practice before the Bois Forte Tribal Court.
- (b) **Practice for Admission.** Any attorney wishing to practice before the Tribal Court shall file a written request for admission with the court, accompanied by a Certificate of Good Standing from the State Bar or Supreme Court of the state in which such attorney is duly licensed to practice law. In addition, the applicant must certify under oath, in writing, that if admitted, he will accept and represent indigent clients without compensation or without full compensation, when asked by a judge of the court to do so. Such request shall be accompanied by an admission fee of \$100.00, except that such admission fee may be reduced by the tribal judge upon a showing that the accused will be denied effective counsel if a reduction is not made. No filing fee shall be required in any instance if the applicant is a member of the Bois Forte Band of Chippewa Indians. After submission of the requisite documents and fee, they shall be reviewed by the trial judge who shall, after being satisfied that the requirements have been met, cause the Clerk to enter the attorney's name on the roster of attorneys

admitted to practice before the court and to issue a certificate evidencing the same to the attorney. Such entry shall constitute certification to practice before the Bois Forte Tribal Court until such time as the attorney files a notice of retirement, dies, becomes incapacitated, or is suspended or disbarred from practice before the court.

- (c) **Rules of Professional Conduct.** The Tribal Court may, in its discretion, promulgate rules of professional conduct applicable to attorneys admitted to practice before the court, provided that such rules are approved by the Bois Forte Reservation Tribal Council. Any such rules shall be deemed approved if the Bois Forte Reservation Tribal Council does not reject or object to the order within sixty (60) days after the date it is submitted for approval.

(d) **Attorney Discipline.**

- (1) **Disciplinary Authority.** An attorney admitted to practice in this jurisdiction is subject to the disciplinary authority of the Bois Forte Tribal Court, regardless of where the attorney's conduct occurs. An attorney not admitted in this jurisdiction is also subject to the disciplinary authority of this jurisdiction if the attorney provides or offers to provide any legal services in this jurisdiction. An attorney may be subject to the disciplinary authority of both this jurisdiction and another jurisdiction for the same conduct.

- (2) **Attorney Misconduct.** It is professional misconduct for an attorney to:

- (A) Violate or attempt to violate any rules of professional conduct promulgated by this Court, knowingly assist or induce another to do so, or do so through the acts of another;
- (B) Commit a criminal act that reflects adversely on the attorney's honesty, trustworthiness, or fitness as an attorney in other respects;
- (C) Engage in conduct involving dishonesty, fraud, deceit; or misrepresentation;
- (D) Engage in conduct that is prejudicial to the administration of justice;
- (E) State or imply an ability to influence improperly a tribal agency or official or to achieve results by means that violate the rules of the Court or other applicable tribal law;
- (F) Knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law;
- (G) Engage in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status, or socioeconomic status in conduct related to the practice of law; or

(H) Repeatedly neglect or fail to fulfill professional responsibilities and duties, or orders or rules of the court.

(3) **Discipline, Sanction, Disqualification.** The Tribal Court, in its sole discretion, shall have the authority to issue the following forms of discipline for attorney misconduct or violation of rules of professional conduct:

(A) Disbarment;

(B) Suspension;

(C) Public or private censure;

(D) Sanction; or

(E) Disqualification.