



**BOIS FORTE BAND OF CHIPPEWA
TRIBAL CODE**

**TITLE 20
CULTURAL RESOURCES CODE**

CODE HISTORY:

- Adopted by RTC Resolution No. 132-2006 (March 16, 2006).
- Recodified and Amended by RTC Resolution No. 78-2026 (April 15, 2026).



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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 20
CULTURAL RESOURCES CODE

20.1.1. Findings.

The Bois Forte Reservation Tribal Council finds that:

- (a) The mission of the Bois Forte Band includes the preservation of the Band's sovereignty, cultural identity, and heritage;
- (b) The cultural heritage of the Band should be maintained as a vital aspect of its community life and provide direction for development;
- (c) Cultural sites and resources of the Bois Forte Band are being lost or substantially altered, sometimes inadvertently, with increasing frequency;
- (d) The preservation of this irreplaceable, invaluable cultural heritage is in the interest of the Bois Forte Band and its people so that its legacy of cultural, educational, aesthetic, inspirational and economic benefits will be protected, maintained and enriched for future generations;
- (e) Increased knowledge of cultural resources through the creation of better means to identify, inventory, assess and administer them will improve the planning of Tribal, federal, state or other projects and enable expeditious project development with adequate protection for and mitigation of harm to those resources; and
- (f) The Bois Forte cultural resource preservation program is a necessary supplement to existing federal and state programs that provide preservation services on lands where the Bois Forte Band has an historical interest.

20.1.2. Policy.

It is the policy of the Bois Forte Band, in cooperation with the Federal government, the State of Minnesota, other Indian tribes, private organizations and others to:

- (a) Establish the means by which the cultural resources of the Bois Forte Band can be preserved;
- (b) Administer cultural resources owned or controlled by the Band as a steward for present and future generations;
- (c) Encourage governmental entities, organizations and individuals to identify, protect and preserve Bois Forte cultural resources wherever located; and
- (d) Identify, acquire, and preserve through public and private efforts, all cultural resources of the Bois Forte Band.

- (e) Administer this Code in a manner which protects cultural resources even if the resources have no direct or determined connection with the Band.

20.1.3. Definitions.

- (a) **“ARPA”** means the Archaeological Resources Protection Act, Pub. L. 96-95, 93 Stat. 721, 16 U.S.C. § § 470aa-470 mm, as amended.
- (b) **“Bois Forte lands”** means those lands within the Nett Lake, Lake Vermilion and Deer Creek Reservations other lands held in trust for the Band or its members or otherwise under the control of the Band, and those lands which the Band owns in fee simple status.
- (c) **“Bois Forte Register”** means the Bois Forte Register of Cultural Properties.
- (d) **“Cultural Patrimony Objects”** means objects, artifacts or materials with ceremonial, cultural, historical, sacred, spiritual, or traditional value to the Bois Forte Band whether or not associated with burials or remains.
- (e) **“Cultural property”** means any cultural resource determined to be significant enough to be included in the Bois Forte Register.
- (f) **“Cultural Remains”** means any remains with archaeological, cultural, historical, sacred, spiritual, or traditional value to the Bois Forte Band, including, but not limited to Cultural Patrimony Objects and Funerary Objects.
- (g) **“Cultural resource”** means any product of human activity, or any object, place, site or structure given significance by human activity or belief.
- (h) **“Funerary Objects”** means any objects, artifacts or materials which are reasonably believed to have been placed with a deceased individual in burial as part of tribal cultural ceremony or rite.
- (i) **“Lands in which the Bois Forte Band has an historical interest”** means all lands historically or traditionally used by the Bois Forte Band, including the territories ceded to the United States by the Treaty of 1854 and the Treaty of 1866.
- (j) **“NAGPRA”** means the Archaeological Resources Protection Act, Pub. L. 96-95, 93 Stat. 721, 16 U.S.C. § § 470aa-470 mm, as amended.
- (k) **“Tribal Preservation Officer” or “THPO”** means the Bois Forte Tribal Historic Preservation Officer, who is the Director of the Bois Forte Historic Preservation Office.
- (l) **“Remains”** means the physical remains, articulated or unarticulated bones and bone fragments, and the surrounding soil matrix at any stage of decomposition of any human.

- (m) **“Sponsor”** means the governmental official or the official in a private entity who has decision-making authority over a particular undertaking.
- (n) **“Undertaking”** means any project, activity or program that can result in changes in the character or use of cultural properties, if any such cultural properties are located within the area of potential effects of the undertaking.

20.1.4. Tribal Historic Preservation Office Authority.

- (a) The Bois Forte Tribal Historic Preservation Office shall be the Bois Forte tribal government entity responsible for the protection, preservation and management of the Band’s cultural resources.
- (b) The office shall be directed by the Bois Forte THPO who shall advise the Reservation Tribal Council and its various divisions, programs, and enterprises, other tribal organizations and entities, individuals, the federal, state, and local governments and private organizations on matter pertaining to cultural resource preservation on Bois Forte lands and on lands in which the Bois Forte Band has an historical interest.
- (c) Unless otherwise provided by RTC resolution, determinations of the THPO on matters within its authority shall be given deference by other divisions, programs, or Band enterprises.
- (d) The THPO shall be a member of any committee authorized by the RTC to adopt or recommend land use plans for Bois Forte lands.
- (e) Authorized employees and agents of THPO are authorized to enter upon all Bois Forte lands, including lands leased to others, for the purpose of performing duties under this Code. Except in exigent circumstances in which there is a threat of imminent harm to cultural resources, the THPO will give reasonable notice of entry to the occupant or owner of the property.

20.1.5. Archaeology.

The THPO shall receive and review all applications for federal permits under ARPA and shall actively participate in federal permitting processes in order to ensure that applicants, permittees and federal agencies comply with ARPA tribal notice and consent requirements for activities affecting Bois Forte cultural resources.

20.1.6. Bois Forte Heritage Center and Cultural Museum.

The Bois Forte Heritage Center and Cultural Museum shall be the repository for all cultural resources collected on Bois Forte lands and for cultural resources repatriated, donated, or otherwise in the possession of the Band.

20.1.7. Bois Forte Register of Cultural Properties/Sites.

- (a) The Preservation Officer shall create, maintain and administer a Bois Forte Register of Cultural Properties comprising buildings, objects, places, sites and structures significant in Bois Forte history, archaeology and culture.
- (b) Cultural properties on Bois Forte lands shall be included in the Bois Forte Register if, on the date this Code is adopted, they are:
 - (1) Historic properties listed on the National Register of Historic Places on the National Register of Historic Landmarks;
 - (2) Natural areas designated as a National Historic Landmark; and
 - (3) Archaeological sites designated for protection under federal law.
- (c) The THPO shall establish a program to locate, inventory and evaluate cultural resources on Bois Forte lands and to list all such resources as may be eligible on the Bois Forte Register.

20.1.8. Prohibited Activities.

- (a) Unless specifically authorized by a valid permit:
 - (1) No person may alter, damage, excavate, collect, destroy or remove any cultural properties on Bois Forte lands.
 - (2) No person may sell, buy, exchange or transport cultural resources from Bois Forte lands.
 - (3) No person may engage in research that involves or impacts cultural resources on Bois Forte lands except as authorized by a permit issued by the Preservation Officer.
- (b) Unless the written approval of the THPO has been obtained, no sponsor of any undertaking on Bois Forte lands may commence, or implement, the undertaking.

20.1.9. Permits.

- (a) The THPO shall issue permits only on a case by case basis. The THPO may prescribe a form for applications for permits. Each permit shall contain:
 - (1) the nature of the permitted activity;
 - (2) the duration of the permit;

- (3) a description of the reports the permittee is required to submit and the time for submission;
- (4) the requirements the permittee must meet if the activity involves the alteration, collection, excavation, removal or disturbance of cultural resources.

(b) Exceptions to Requirements.

- (1) The prohibitions of Section 20.1.8 and permit requirements of 20.1.9 shall not apply to the THPO and its employees engaged in official business relating to cultural resources management activities consistent with THPO procedures and policies.
- (2) The THPO may adopt policies for excepting from prohibitions and permits those Bois Forte members who are engaged in activities directly relating to the practice of traditional Ojibwe religion.

20.1.10. Suspension or Revocation of Permits.

(a) The THPO may suspend or revoke a permit:

- (1) Without cause upon a written determination that continuation of activities is not in the best interests of the Bois Forte Band. Such suspension or revocation shall not bar the permittee from holding a modified permit or a new permit.
- (2) With cause upon a written determination (A) that a permit term or condition has not been met by the permittee; (B) that a permit term or condition has been knowingly or willfully violated; or (C) that the permittee has engaged in activities outside the scope of the permit or otherwise prohibited by this Code.

(b) Permit suspensions or revocations shall be without liability to the Bois Forte Band, the THPO and their officers and employees.

20.1.11. Cultural Remains.

(a) The THPO shall:

- (1) advise the Reservation Tribal Council, the Commissioners on tribal government and others about the identification, preservation, protection and repatriation of cultural remains;
- (2) develop and recommend to the Reservation Tribal Council any policies, procedures or other measures to identify, protect, preserve and repatriate cultural remains;
- (3) receive all notices to the Band of discovery of cultural remains under NAGPRA;
- (4) take emergency measures to protect cultural remains from disturbance or removal;

- (5) modify, suspend, or halt any undertakings that might adversely affect cultural remains on Bois Forte lands;
- (6) enter into cooperative agreements with other public and private entities or persons to facilitate reports of discovery of cultural remains and compliance with this code on lands in which the Band has an historical interest;
- (7) make reasonable and good faith efforts to determine whether discovered cultural remains are ancestors of the Band, and give such notices as may be reasonable to other governments, known living descendants or relatives, or Band members generally regarding discovered cultural remains.

(b) Reports of Discovery.

All persons and all Divisions, offices and entities including sponsors of undertakings within Bois Forte lands shall report promptly to the THPO the discovery of any cultural remains.

(c) Investigation.

The THPO shall cause a prompt investigation of any report of discovery under this Code, NAGPRA or ARPA and create a written record of the investigation.

(d) Remedy.

The THPO shall take such action as is necessary to modify, suspend, or halt any activity that might adversely affect discovered cultural remains. Such action may be verbal, provided that it is reduced to writing not later than the next business day. Written directives to halt work on construction activities shall be served on the owner, the contractor, and the field supervisor or foreman responsible for the activity.

(e) Identification.

(1) If discovered cultural remains are or appear to be ancestors of the Band, the THPO shall make reasonable and good faith efforts to identify any known living descendants or relatives of the discovered cultural remains and provide written notice to any known descendants or relatives.

(A) After receipt of notice under this Section, descendants, relatives, or Band members may make a written claim of ownership of the cultural remains to the Preservation Officer. The claim must be submitted to the Preservation Officer within thirty (30) days of the date of the notice.

(B) Within sixty (60) days of receipt of a claim of ownership, the Preservation Officer shall make a written determination of any claim of individual

ownership. The Preservation Officer must find that the preponderance of evidence supports a claim to individual ownership. In the event of individual ownership, the remains shall be promptly turned over to the claimant.

(C) If no individual claim is found valid, the cultural remains shall be deemed the property of the Band for reinterment.

(f) Repatriation.

The THPO shall:

- (1) be familiar with NAGPRA and support the administration and enforcement of NAGPRA;
- (2) develop and recommend to the Reservation Tribal Council for approval tribal policies and procedures to implement NAGPRA, including, but not limited to, procedures:
 - (A) to request cultural remains inventories;
 - (B) for tribal consultation with federal agencies, the governments of other tribes, and other appropriate entities regarding cultural remains;
 - (C) to establish cultural affiliation of cultural remains; and,
 - (D) to establish right of possession of cultural remains.
- (3) receive all notices and inventories of cultural remains;
- (4) review and monitor all inventories of all cultural remains. In reviewing such inventories, the THPO may use tribal community, spiritual, or traditional leaders;
- (5) investigate the possibility of repatriation and cultural remains, and determine whether any cultural remains should be requested for return and shall request such return;
- (6) provide technical assistance to individual tribal members in their repatriation claims;
- (7) coordinate and supervise the return of all cultural remains;
- (8) determine, in accordance with the provisions of 20-1-11(e) of this Code, whether any of the returned cultural remains are of valid individual ownership, and if so, return such cultural remains promptly to the claiming tribal members, descendants, or relatives; and,

(9) subject to the approval of the Reservation Tribal Council, may recommend and seek the assistance of the Tribal Attorney to initiate administrative or legal action to enforce NAGPRA and the provisions of this Code.

(g) Disposition.

Subject to the approval of the Reservation Tribal Council, the THPO shall develop procedures for the proper disposition, placement, and curation of any unclaimed cultural remains, and may prepare an internal plan for the adequate custody, safekeeping, and maintenance by the Band of unclaimed cultural remains. In developing such procedures and plan, the THPO may use tribal community, spiritual, and traditional leaders.

(h) Reinterment.

(1) If conditions favor preservation of unclaimed cultural remains in situ, the THPO shall coordinate reinterment in situ.

(2) If conditions do not favor preservation of unclaimed cultural remains in situ, then the THPO may coordinate the removal of the remains and their reinterment elsewhere.

(3) Tribal community, spiritual, and traditional leaders may assist any reinterment of unclaimed cultural remains.

(4) Reinterment of unclaimed cultural remains shall occur as soon as reasonably possible, but should proceed with such care and precautions as are necessary to avoid mistakes or misjudgment.

(5) Reinterment shall have as its goals both respectful treatment and keeping cultural remains together.

20.1.12. Penalties.

(a) Any person who violates the prohibitions in this code is subject to a civil penalty of up to \$5000.00 and an assessment of actual damages. The assessment of damages shall include, but is not limited to, consideration of:

(1) costs of restoration of the cultural resource;

(2) reasonable enforcement and administrative costs;

(3) costs of disposition of the cultural resources, including, if necessary, curation in perpetuity;

(4) costs of testing and evaluation necessary to plan for restoration or curation; and

- (5) costs of mitigation measures the Preservation Office deems appropriate to protect the cultural resource from further harm.
- (b) The THPO is authorized to seize cultural resources taken or possessed in violation of this Code.
- (c) Civil penalties, damages, and forfeitures of seized cultural resources shall be proposed in notices and served on the person believed to be in violation in the same manner as a civil complaint under the Bois Forte Civil Code and Rules of Procedure.
- (d) A person who receives a Notice of Violation, a Notice of Assessment, or Notice of Proposed Forfeiture shall within twenty (20) days of service:
 - (1) pay the penalty or assessment; or relinquish the item(s) proposed for forfeiture;
 - (2) file a petition for relief from the penalty, assessment or forfeiture with the THPO.
- (e) If a timely petition for relief is filed, the THPO shall make a final determination written (30) days of receipt of the petition. The final determination shall include the basis for the decision and the amount of the final penalty or damages, or both. The date the payment is due shall be prescribed, but shall not be more than thirty (30) days after said final decision.

20.1.13. Judicial Review of Contested Violations, Assessments and Forfeitures.

- (a) A person who has received a final decision of the THPO may contest that decision by commencing a civil action in the Bois Forte Tribal Court which shall have exclusive jurisdiction to review contested decisions of the THPO. The Bois Forte Tribal Court shall have authority to reverse or modify a THPO decision only upon a specific finding that the decision or a part thereof, was arbitrary, capricious, or otherwise not in accordance with this Code.
- (b) A complaint seeking judicial review of a THPO decision must be filed within thirty (30) days of the date of the decision.

20.1.14. Records / DATA.

The records and data collected, created, maintained, or possessed by the THPO shall be treated as government data and protected private information as set forth in Section 5, Subd. 3 of the Bois Forte Data Privacy Ordinance.