

# BAD RIVER BAND OF LAKE SUPERIOR TRIBE OF CHIPPEWA INDIANS

CHIEF BLACKBIRD CENTER

P.O. Box 39 • Odanah, Wisconsin 54861

## RESOLUTION NO. 6-11-14-280

### **Adopting Chapter 146 of the Bad River Tribal Court Code, Disorderly Conduct**

**WHEREAS,** The Bad River Band of Lake Superior Tribe of Chippewa Indians is a federally recognized Indian tribe organized under Section 16 of the Indian Reorganization Act of 1934, 25 U.S.C. subsection 476, of which the Tribal Council is the governing body; and

**WHEREAS,** The Bad River Tribal Council is authorized by Article VI, Section 1(q) of the Bad River Constitution to promulgate and enforce ordinances governing the conduct of members of the Bad River Tribe, and of non-members of the Reservation providing for the maintenance of law and order; and

**WHEREAS,** The Tribal Council has determined that in order to eliminate offensive behaviors and maintain peace within the Bad River community, and to promote health, safety, and well being to anyone within the exterior boundaries of the Bad River Reservation individuals need to held accountable for their actions.

**NOW, THEREFORE, BE IT RESOLVED** that the Bad River Tribal Council hereby adopts and declares effective the day following the date of approval the attached ordinance to be codified as Chapter 146 – Disorderly Conduct Code, of the Bad River Tribal Court Code.

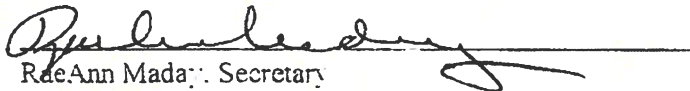
**AND BE IT FURTHER RESOLVED** that the Bad River Tribal Council directs the Bad River Police Department to post the Disorderly Conduct ordinance in public places within the Reservation. The public places shall include: Chief Blackbird Center, Bad River Community Center, Bad River Housing Authority Office, Elderly Building, New Odanah Post Office, Bad River Casino, Birch Hill Community House, and local Reservation stores.

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Chapter 146- Disorderly Conduct Code

CERTIFICATION

I, the undersigned, as Secretary of the Bad River Band of Lake Superior Tribe of Chippewa Indians, and Indian Tribe organized under Section 16 of the Indian Reorganization Act, hereby certify that the Tribal Council is composed of 7 members, of whom 6 members, constituting a quorum, were present at a meeting hereof duly called, noticed, convened, and held on the 11 day of June, 2014; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of 5 members; 0 against; and 0 abstaining; and that said resolution has not been rescinded or amended.

  
RaeAnn Maday, Secretary  
Bad River Tribal Council

**Bad River Tribal Court Code**  
**Creation of Chapter 146 – Disorderly Conduct Code**

Relating to: Disorderly Conduct Code Title, Statement of Purpose and Definitions, Enforcement and Penalties.

Chapter 146 of the Bad River Tribal Court Code is created to read:

**Section 146.01 Title, Statement of Purpose and Definitions.**

- A. Title. This Code may be cited as the “Disorderly Conduct Code.”
- B. Statement of Purpose. The purpose of this Code is to:
1. Eliminate offensive behaviors and maintain peace within the Bad River community;
  2. To hold violators accountable for their actions;
  3. To promote health, safety, and well-being to anyone within the boundaries of the Bad River Reservation.
- C. Construction. This Chapter shall be liberally construed to effect the purposes stated above and shall be interpreted to comport with the customs and traditions of this Tribe. If Tribal Law, customs, or traditions are inconclusive in any matter arising under this chapter, then other Tribal Law, Federal Law, and as a last resort, the law of the State of Wisconsin, may be used for guidance.
- D. Definitions. As used in this Chapter the following terms shall have the meanings given below:

Disorderly Conduct

Any person subject to the jurisdiction of the Bad River Reservation who is found, by a preponderance of the evidence, to have engaged intentionally in any of the following behaviors on the Reservation, knowing, or having reasonable grounds to know that such behavior will, or will tend to alarm, anger or disturb others or provoke an assault or breach of the peace, is guilty of disorderly conduct, which is a civil misdemeanor, and is subject to a fine.

1. **Disorderly Conduct means:**
  - a) Engaging in brawling or fighting; (Refer to Section 146.02(A)), or
  - b) Disturbing a lawful meeting or assembly of persons without lawful authority; or
  - c) Engaging in offensive, obscene, abusive, or abusive conduct tending to reasonably arouse alarm, anger, or resentment in others or uses offensive.

- obscene, or abusive words which by their very utterance, inflict injury or tend to incite and immediate breach of the peace; or
- d) Blocking vehicular or pedestrian traffic without lawful authority; or
  - e) Preventing the free flow of incoming and out-going traffic to public or private places without lawful authority; or
  - f) Making a false report or warning of a fire, impending explosion or other catastrophe in a place in which such an occurrence would endanger human life; or
  - g) Appearing in a public or private place in an intoxicated and disorderly condition; or
  - h) Creating a disturbance, while hosting or attending celebration, so as to disrupt the peacefulness of the neighborhood or community through loud noises and/or fights or other obnoxious behavior; or
  - i) Playing his/her music from any car, house or music player so as to create a disturbance to the neighbors or community members, between the hours of 10:00 p.m. and 8:00 a.m. Creating a disturbance or disrupting the peace shall be determined by the enforcement officer(s) from the complainant's location, or shall be determined using a decibel meter reading of 90-95 dB, or be determined by whether the noise can be heard from a distance of 500 feet or more from the disturbance.

#### Section 146.02 Enforcement

- A. The Tribal Police shall have the authority to investigate any disturbance on the Reservation. Upon reasonable suspicion, which may be used on the complaint of another person, that any person subject to the jurisdiction of the Bad River Reservation is engaging in or has engaged in disorderly conduct as defined in section (D) of this chapter, The Tribal Police shall determine whether a citation according to Section 146.03 of this chapter shall be issued, or whether the citation of battery according to the State of Wisconsin Statute is warranted.
- B. As used in this section, "Reservation" means lands owned or held in trust for the Bad River Tribe.
- C. Nothing contained in this section shall be construed as a waiver of sovereign immunity of the Bad River Band of Lake Superior Chippewa.

#### Section 146.03 - Penalties

Any person who violates this Chapter shall be subject to the following

- (1) A civil forfeiture not less than \$50.00 but not to exceed \$500.00 for the first offense; and/or
- (2) A civil forfeiture not less than \$100.00 but not to exceed \$1000.00 for a second offense within a five (5) year period; and/or

- (3) A penalty other than those stated above as deemed appropriate by the Court. to be determined on a case-by-case basis.