

BAY MILLS INDIAN COMMUNITY

**ORDINANCE NO. 4
TRIBAL FOSTER CARE LICENSING**

Section 1. LICENSE REQUIREMENT:

Any person or entity desiring to provide care, custody and control to any minor child subject to the jurisdiction of the Bay Mills Indian Community Tribal Court shall make application on the form provided therefore to the Bay Mills Indian Community Child Welfare Committee.

Section 2. EXEMPTION FROM LICENSE.

Any home or institution in which a minor of the Bay Mills Indian Community is placed shall be licensed by the Child Welfare Committee, another Indian Tribe, or a state government agency. No minor member shall be placed in an unlicensed home or institution unless (a) said home is the residence of a separated or divorced parent, grandparent, brother, sister, step-parent, step-brother, step-sister, uncle, aunt, nephew, niece, or first cousin of said child; or (b) such placement is made in an emergency situation for the period not exceeding forty-eight (48) hours prior to a hearing thereon in the Tribal Court.

Section 3. HOME STUDY

A home study shall be completed and filed with the Child Welfare committee within thirty (30) days of the filing of an application for a license. Said study shall verify the contents of the application and the compliance by the applicant with the provisions of Section 9, Foster Care Standards. The study may be prepared by a social worker, caseworker, or trainee upon the request of the Child Welfare Committee for such study, include the home study, the recommendations.

Section 4. ISSUANCE OF LICENSE; CONTENT.

The Child Welfare Committee shall act to issue a license or to refuse license issuance within (10) working days of the filing of the home study. If the license is issued, it shall specify the person or entity to whom it is issued, the residence which is to be licensed, the age, sex and number of children who may be placed at that residence, and any special conditions upon the license.

Section 5. LICENSES; DURATION; RENEWAL.

License shall be issued for a provisional period of six (6) months, and for annual periods thereafter. All licenses shall expire at the conclusion of the period for which they are issued, unless, not less than thirty (30) days prior to said expiration, an application for an annual license is filed as required by Section 1. Upon filling out an application for renewal of a previously issued license, reverification of compliance by the licensed person or entity with the provisions of Section 9, Foster Care Standards, shall be filed by person of agency completing the initial home study with the Child Welfare Committee not less than (5) working days prior to the expiration of the prior license. A renewed annual license shall be issued on reverification of compliance with Section 9 unless conditions are found which would justify revocation of a license for cause pursuant to Section 6 (b).

Section 6. REVOCATION AND TERMINATION

A license issued by the Child Welfare Committee will terminate:

- (a) Automatically upon notice to that body that:
 - 1. The licensed person or entity voluntarily relinquishes the license or,
 - 2. The residences of the licensed person or entity has changed, or

3. The licensed person has died or become totally incapacitated or the licensed entity has dissolved.
 4. At the end of one year, unless the licensed person or entity has filed an application for license renewal as required by sections 1 and 5.
- (b) For cause, upon finding by the Child Welfare Committee by the preponderance of the evidence adduced at a hearing thereon, of:
1. Physical, sexual or emotional abuse of any person in the licensed residence, or
 2. Refusal for a substantial period, following written notification by the Child Welfare Committee to correct conditions amounting to noncompliance with the provisions of Section 9, Foster Care Standards, or
 3. Physical or emotional incapacity, not amounting to total incapacity, of the licensed person, which substantially impairs the ability of the foster home to provide adequate care, custody and control of the children placed therein.
 4. Refusal, for a period of two (2) years without good cause, to accept any offered child placement, or
 5. Persistent refusal to cooperate with tribal court, placement agency or natural parental efforts to reunite and revitalize the natural family unit except in cases where parental rights have been terminated.
 6. Failure to comply with any or all of rules may be cause for foster home license to be revoked and/or not renewed.

Section 7. APPEALS; LICENSE DENIAL OR REVOCATION

Any person or entity who is denied a license or whose license is revoked shall have a right to a hearing before the Executive Council within five (5) working days of such request. Upon receipt of an adverse decision of the Executive Council, said person or entity may request a full hearing before the Bay Mills General Tribal Council by the filing of a written request with the Tribal Secretary within ten (10) days of the adverse decision. The hearing before the Executive Council and the Bay Mills Indian Community general Tribal Council shall provide the person or entity with the full and fair opportunity to confront in person the witnesses against him or her, to present any dispute the contents of any written reports and the request the licensing body or council to compel the attendance of any witness. The hearing before the Bay Mills Indian Community Tribal Council shall be held at its next regularly scheduled meeting and its decision, upon review of all the oral and written evidence and arguments, shall be final.

Section 8. DUTY TO REPORT

Any person or entity having either a provisional or permanent license issued under this Ordinance shall report to the social agency who prepared the home study thereon any material change in the condition of the licensed residence or the circumstances of the persons living within the licensed residence within five (5) days of such change. This duty to report shall include, but are not limited to the following:

- (a) Change of residence
- (b) Increase in household size
- (c) Marital Separation or divorce of the licensed person
- (d) Death of the licensed person
- (e) Dissolution of the licensed entity
- (f) Total incapacitation of the licensed person
- (g) Change in employment status outside the licensed residence

Section 9. STANDARDS OF FOSTER CARE.

In carrying out the powers and responsibilities delegated thereto by this ordinance, the Child Welfare Committee shall apply the following standards for foster care:

TEMPORARY FOSTER CARE STANDARDS

- (a) The number of children to be placed in a foster home will be determined by the ability of the foster parents to provide appropriate care by the size of the home in the light of the Indian lifestyle and custom.
- (b) Sleeping and dining facilities will conform to reservation standards and customs.
- (c) A foster home license applies to only to the residence where the family is living at the time of the application for a license is made, and a change of residence automatically terminates the license. Prior to change of residence, the licensee shall notify the Child Welfare Committee and whom the child is given care must also be notified.
- (d) The home shall be so constructed, arranged, and maintained as to provide adequately for the health and safety of the occupants.
- (e) Heating, ventilation, and light shall be sufficient to provide a comfortable atmosphere.
- (f) Sleeping arrangements must provide adequate opportunities for comfortable rest and privacy.
- (g) Refrigeration shall be available for the care of preservable foods.
- (h) Water supply and sewage disposal systems must meet the requirements of the Indian Health Service.
- (i) Members of the foster family shall be of current good character, habits, and relationships within the family shall be such that the wholesome atmosphere for the child will be insured. All members of the foster family shall be willing to accept the foster child into the home as a member of the family group.
- (j) The persons in charge of the foster home be suitable temperament to care for the children; shall understand the needs of the children; shall be capable of handling an emergency situation promptly and intelligently; and shall be willing to cooperate fully with the children's own parents and or the supervising agency.
- (k) Any person single or married may apply for a foster home license who have a stable and permanent home. Foster parents must be at least 21 years old. The foster parent must be willing and able to establish meaningful relationships with other persons.
- (l) In cases where foster parents are employed outside of the home, foster child(ren) must be cared for by a responsible adult or a licensed daycare provider.
- (m) The income available to a foster home prior to placement of a child must be sufficient to support the foster family at the reservation level standards.
- (n) The responsibility for the child's health care shall rest with the foster parents who shall cooperate with the parents or the child placement agency, public or private, and the physicians and health authorities in the community.

- (o) Foster parents shall be responsible for providing opportunity for the religious education and attendance at religious services within a reasonable distance of the licensed foster home of the children in accordance with the expressed wishes of their parents.
- (p) Each person in charge of the foster home shall keep a record of the children's names and ages, medical, legal issues, and the date of his entry and discharge.
- (q) Prior to licensing of a foster care home, the prospective foster parents shall receive training in the goals and objective of foster care from the Tribal Welfare Agency. Foster parents shall participate when on-going training is provided by the Tribal Child Welfare Agency.

Section 10a. CONFIDENTIALITY; EXCEPTIONS.

The contents of all applications, reports, home studies and appeal proceeding filed or prepared pursuant to this ordinance shall be considered and keep confidential except:

- (1) when such confidentiality is waived in writing, by the person or entity who is the subject of such application, report, home study of proceeding, and by the parent, guardian or tribal court in any case involving a specific child, or
- (2) when required by the tribal court in the exercise of its jurisdiction over a particular minor child, in any proceeding and for any purpose, or
- (3) in a criminal prosecution charging the license person or entity with an offense against any person, including a child placed in their care in the residence which is the subject of the application, report, home study, or proceeding, or
- (4) in any suit or action, arising out of the exercise by the Bay Mills Indian Community or its power and authority to license foster homes and place children therein, when said suit names the Bay Mills Indian Community Tribe or its subsidiary organizations, officers, agents, or employees as defendants, or
- (5) when such application, reports, home study, or proceeding is necessary in further tribal proceedings relating to the subject matter thereof.

Section 10b OFFENSE; PENALTY

It shall be an offense for any person to disclose information made confidential under subsection (a) of this section. Upon conviction of such offense in the Tribal Court, any person so convicted shall be punished by a term of imprisonment of not more than thirty (30) days, by a fine of not more than \$100.00 or both such fine and imprisonment.