

BANISHMENT ORDINANCE

101. PURPOSE - The purpose of this Ordinance is to implement as a matter of law the inherent right of the Bay Mills Indian Community to exclude from its lands those persons or other parties who constitute a threat to the safety, security, and/or welfare of the Tribe or its citizens, neighbors and visitors.

102. DEFINITIONS - The following terms shall have the meanings described in this Section for the purposes of this Ordinance:

A. "Lands of the Bay Mills Indian Community" are:

1. Those lands within the original confines of the Bay Mills Reservation purchased by the United States under the Act of June 19, 1860 (12 Stat. 58):
2. Land declared by the Secretary of the Interior as part of the Tribe's Reservation under the Indian Reorganization Act, 25 U.S.C §§ 5101, 5111;
3. Land held in trust by the United States for the benefit of the Bay Mills Indian Community under the Indian Reorganization Act, 25 U.S.C. §§5101, 5108; and
4. Land owned or controlled by the Bay Mills Indian Community or any of its agencies or entities.

B. "Party" means any entity other than a human being, organized under the laws of the United States, or any other country or of any State, to carry out activities for any purpose on behalf of the entity.

C. "Person" means an individual who is not a citizen of the Bay Mills Indian Community.

D. "Threat to the safety, security, and/or welfare" means any person or party who:

1. Is a registered sex offender under the laws of any jurisdiction;
2. Is a perpetrator of domestic violence as is defined by the law of the Bay Mills Indian Community;

3. Provides or sells a controlled substance, as is defined by the laws of the Bay Mills Indian Community; or
4. Is a threat to the Tribe's natural resources or environment.

103. BANISHMENT AUTHORITY - The power to exclude, or banish, persons or parties from the lands of the Bay Mills Indian Community is exclusively exercised by the Executive Council, and shall not be delegated.

104. REQUEST FOR BANISHMENT - A request to banish a specific person or party may be made in writing by the Tribal Prosecutor or by a citizen of the Tribe and addressed to the Executive Council.

201. INVESTIGATION REQUIRED -

- A. No consideration of a request for banishment shall be made by the Executive Council, until the completion of an investigation of the circumstances cited in the request by the Bay Mills Tribal Police under the direction of the Tribal Prosecutor.
- B. The results of the investigation shall be reviewed and evaluated by the Tribal Prosecutor, who shall then submit a recommendation and all relevant information to the Executive Council, advising as to whether the results demonstrate a threat to the safety, security and/or welfare of the Tribe and/or its citizens, neighbors and visitors.

202. BANISHMENT IS PERMENANT - In making a decision as to whether or not to grant the request for banishment, the Executive Council shall consider that a banishment order, once issued, is permanent and not subject to revocation, and that it is a severe remedy intended to protect the Community from serious threats to its safety, security, or welfare.

203. BANISHMENT CANNOT BE RESCINDED UPON REQUEST OF THE INITATING TRIBAL CITIZEN - The Tribal citizen who initially sought the banishment order cannot terminate the banishment by requesting that the Executive Council do so.

204. ISSUANCE OF BANISHMENT - In the event that the Executive Council decides to issue an order of banishment, it shall enact a written resolution identifying the relevant conduct which established the basis for banishment, and specifying the time and date when banishment goes into effect. If the banishment is limited to the lands comprising the Bay Mills Reservation, that limitation must be clearly expressed in the Resolution, as well. A copy of the Resolution and all appendices to it, if any, must be personally served prior to the initiation of any sanction for violating the banishment order. Notice will be posted in all

buildings owned by the Bay Mills Indian Community regarding the order of banishment for thirty (30) days after the banished individual has been notified.

205. BANISHMENT CANNOT BE OVERTURNED - Once issued by the Executive Council pursuant to Section 206, above, an order of banishment cannot be terminated or modified by an order of the Bay Mills Tribal Court, nor can it be rescinded or modified by a vote of the General Tribal Council.

301. PENALTIES FOR PERSON VIOLATING THE BANISHMENT ORDER - A person subject to an order of banishment shall be subject to the following penalties:

- A. Prosecution under the general trespass laws of the Bay Mills Indian Community, pursuant to Chapter VI, §622 of the Bay Mills Tribal Code, as it may from time to time be amended;
- B. Prosecution under the criminal laws of the United States, under 18 U.S.C. §1152, as it may from time to time be amended;
- C. Referral for prosecution for prohibited entry on land owned or controlled by the Bay Mills Indian Community which is not held in trust by the United States, under the law of the State of Michigan, including recreational trespass under MCL 324.73102, and criminal trespass under MCL 750.552, as either may from time to time be amended;
- D. Removal from the lands of the Bay Mills Indian Community by Tribal Police; and
- E. Any other remedy available under the laws of the Bay Mills Indian Community, the United States, or the State of Michigan.

302. PENALTIES FOR PARTY VIOLATING THE BANISHMENT ORDER - A party subject to an order of banishment shall be subject to the following penalties:

- A. Prosecution under the criminal laws of the United States, under the provisions of the Assimilated Crimes Act, 18 U.S.C. §1152, as it may from time to time be amended;
- B. Civil damages action in any court of competent jurisdiction for personal injuries or property damages caused by the party or parties which resulted in the banishment order.