

**TRIBAL CODE**

**CHAPTER 61:**

**BARRING INDIVIDUALS FROM TRIBAL LANDS**

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**HISTORY NOTE:**

Current Ordinance:

Resolution 2004-116, adopted November 2, 2004, rescinds in its entirety Tribal Code: Chapter 61 Barring Individuals From Tribal Lands, and adopts the newly drafted Chapter 61: Barring Individuals From Tribal Lands, effective immediately.

# **TRIBAL CODE**

## **CHAPTER 61:**

### **BARRING INDIVIDUALS FROM TRIBAL LANDS**

#### **61.101 Purpose and Statement of Intent.**

The Sault Ste. Marie Tribe of Chippewa Indians hereby finds and determines that it is necessary to provide a means whereby the Tribe can protect itself, its members, and other persons living on Tribal Lands, from people whose presence on Tribal Lands is harmful to, or threatens harm to, the peace, health, safety, morals, general welfare or environmental quality of life on Tribal Lands. Such action is deemed necessary as a result of the Tribe's interest in maintaining the aforementioned interests free from harm, to protect the cultural identity of the Tribe, and to protect those residents of Tribal Lands who may be imposed upon, harmed or otherwise disadvantaged. The procedures outlined herein are intended to provide procedural fairness to persons affected by these provisions while at the same time recognizing the need, in appropriate situations, to act immediately to remedy actual or threatened harm.

#### **61.102 Tribal Lands Defined.**

For purposes of this Chapter, "Tribal lands" means the area over which the Tribe exercises criminal or civil regulatory jurisdiction, and includes, but may not be limited to, the following:

- (1) all lands within the exterior boundaries of the Tribe's Tribal Lands.
- (2) all lands held in trust for the Tribe by the United States, and;
- (3) all lands owned by the Tribe which are "dependent Indian communities" as defined in 18 U.S.C. §1151.

#### **61.103 Persons Subject to Exclusion and Removal.**

All persons, real or artificial (including corporate entities), whether or not they are owners of land located within the boundaries of Tribal Lands, or who are, or who are not legally entitled to reside on said Tribal Lands as a result of their having established a permanent domicile or permanent employment on said Tribal Lands, may be excluded or removed from all or any portion of Tribal Lands as provided herein.

#### **61.104 Grounds for Exclusion and Removal.**

Any real or artificial person subject to exclusion and removal as provided herein may be excluded or removed from property within the jurisdiction of the Sault Ste. Marie Tribe of Chippewa Indians upon any one or more of the following grounds:

(1) Violations of the Sault Ste. Marie Tribe of Chippewa Indian's Tribal code, any provision of Federal or State law, or the law, rule or ordinance of any corresponding local unit of government, that threatens the peace, health, safety, morals, general welfare or environmental quality of life of Tribal Lands including, but not limited to, violations of law committed by non-Indians which would be a violation of Tribal law if committed by an Indian on Tribal Lands.

(2) One or more instances of domestic violence, stalking, harassment or domestic disturbances that breach the peace, or threatens the peace, health, safety, morals, general welfare or environmental quality of life of Tribal Lands.

(3) Trading or conducting business upon Tribal Lands in violation of Tribal, State or Federal laws or regulations.

(4) Committing frauds, confidence games, or usury against persons residing on Tribal Lands, or inducing them to enter into grossly unfavorable contracts of any kind;

(5) Doing or threatening to do any act upon Tribal Lands which seriously threatens the peace, health, safety, morals or general welfare of the Tribe, its members, or other persons living on Tribal Lands; or

(6) Doing or threatening to do any act upon Tribal Lands which seriously threatens the environment of the land, water, natural resources, air, or any other natural land or topographical feature on Tribal Lands or which would in any way threaten the environmental quality of life for the Tribe, its members, or other persons living on Tribal Lands.

(7) Breach of the peace or repeated public drunkenness.

(8) Violation of any law, rule, regulation or minimum internal control standard promulgated by the Sault Tribe Gaming Commission.

#### **61.105 Proceedings for Exclusion and Removal.**

Upon complaint by a Tribal Attorney of the Sault Ste. Marie Tribe of Chippewa Indians, the Tribal Court may determine whether a real or artificial person has committed any of the aforementioned acts constituting grounds for exclusion and removal and whether or not the exclusion and/or removal of such real or artificial person is to be ordered. Such proceedings shall be conducted as provided below. An order of exclusion and/or removal may be entered by the Tribal Court.

**61.106 Emergency Exclusion and Removal Without Prior Hearing.**

(1) Whenever the Tribal Court finds that there is an immediate need to order the exclusion and/or removal of a real or artificial person from Tribal Lands and that the granting of notice and opportunity to be heard to such real or artificial person prior to making such order would cause a delay seriously detrimental to the interests of the Tribe, its members, or the other residents of Tribal Lands, the Tribal Court shall immediately order such exclusion and/or removal and provide the notice and opportunity for review of such decision outlined below.

(2) Whenever the exclusion and/or removal of a real or artificial person is ordered without a prior hearing as provided herein, the person shall be served with a notice of such action. Such notice shall:

(a) state the nature and extent of the exclusion and/or removal so ordered,

(b) state the reasons why no prior hearing was held,

(c) inform the person that once they have been served with the order that they may, within 14 days of service of said order, petition the Tribal Court for a hearing to reconsider the order,

(d) that they may be represented by counsel at such hearing at their own expense,

(e) that they may present evidence in their own defense,

(f) that their compliance with such order may be enforced by any duly authorized law enforcement officer.

(3) A copy of the order shall be served with the notice and such service may be accomplished by personal service or if personal service is not reasonably possible, by mailing to the person by United States registered mail, return receipt requested, at their last known address.

(4) Upon receipt of a petition for a hearing as provided next above, the Tribal Court shall schedule a hearing to allow the person to present evidence. Such hearing shall be held within fourteen (14) days of the receipt of the petition, provided, however, that the order of exclusion and/or removal shall remain in full force and effect pending hearing and a decision thereon, except for purposes of attending a hearing.

(5) The Tribal Court shall, as a result of such hearing, either affirm, modify or rescind its previous order, and shall give the person notice of such decision in the same manner as provided for service of the notice above.

**61.107 Hearing on Exclusion and Removal in Non-Emergency Situations.**

(1) In all other cases of exclusion and/or removal, a Tribal Attorney shall cause to be served a copy of the petition and a notice of hearing upon the person involved either by personal service, or if such service is not reasonably possible, by registered mail, return receipt requested, at the last known address of such person. Such notice shall contain the date and time of the hearing, which shall be held not less than three (3) days from the date of service, and shall further inform the person that they may appear with counsel if they so desire, and present evidence on their own behalf.

(2) The hearing on a proposed exclusion and/or removal may be held at a regular session of the Tribal Court.

(3) The Tribal Court shall hear the evidence presented and upon a showing of clear and convincing evidence establishing that one or more of the grounds contained in §61.104 exist, shall, if appropriate, order the exclusion and/or removal of the real or artificial person. If the real or artificial person is not present at such hearing, or if a decision thereon is not rendered until after the hearing, appropriate notice shall be served on the real or artificial person in the manner provided above, informing them of the action of the Tribal Court and shall include a copy of any order of exclusion and/or removal which affects such real or artificial person. The Tribal Court may limit, modify or set other conditions upon the exclusion or removal.

**61.108 Duration.**

Orders excluding or removing real or artificial persons from Tribal Lands may not exceed one year in duration. Upon filing of a petition for extension of order excluding and/or removing persons from the Tribal Lands, the Tribal Court may, upon a finding by the preponderance of the evidence that the conditions that led to the exclusion and/or removal still exist, extend the order for the subsequent year.

**61.109 Review of Orders of Exclusion and Removal.**

(1) The Appellate Court shall have exclusive authority to hear appeals from orders of exclusion and/or removal after a hearing has been held thereon before the Tribal Court, provided that an appeal is properly filed with the Appellate Court within 30 days of a final judgment being entered by the Tribal Court.

(2) The Tribal Appellate Court shall have authority to stay an order of exclusion and/or removal upon such conditions of security as it deems just and proper only if all prior hearing remedies have been exhausted and only if no substantial interest of the Tribe, its members, or other residents of the Tribal Lands will be harmed thereby.

(3) All orders of exclusion and/or removal shall remain in full force and effect during periods of hearing or review unless stayed as provided herein.

**61.110 Finality of Review.**

The decision of the Appellate Court upon review is final.

**61.111 Enforcement of Orders of Exclusion and Removal.**

All law enforcement officers of the Sault Ste. Marie Tribe of Chippewa Indians, the U.S. Government, and other law enforcement agencies duly authorized to act on behalf of the Sault Ste. Marie Tribe of Chippewa Indians are hereby empowered to carry into effect any exclusion and/or removal order of the Tribal Court according to the terms of such order.

**61.112 Disclaimer.**

This Chapter does not limit the power of an individual resident, the manager of a Tribal enterprise or the employees in charge of a particular place to bar an individual from that place.