

**HOME DAYCARE LICENSING ORDINANCE OF BAY MILLS INDIAN
COMMUNITY**

Section 1. Purpose.

The purpose of this ordinance is to provide quality care for minor children on the Reservation of the Bay Mills Indian Community, through the establishment of licensing requirements for persons who care for the minor children of others in their home and for persons or entities which care for children for profit, and who are paid for such service by a tribal, state, or nonprofit agency.

Section 2. Definitions.

For purposes of this Ordinance, the following terms shall have the following meaning:

(a) "Caregiver" means a person who resides in a home in which child care is provided, or a person employed by an entity which provides child care services, and whose duties include direct care, supervision and protection of minor children.

(b) "Child care facility" means an entity which operates at a particular location on the Reservation a program for which the care of minor children is a significant part of its activities, and for which payment is required.

(c) "Day care home" means a residence on the Reservation within which children are cared for by a non-relative.

(d) "Non-relative" means a caregiver who is not a parent, grandparent, brother, sister, step-parent, step-brother, step-sister, uncle, aunt, nephew, niece, or first cousin of the minor child.

(e) "Reservation" means the Reservation of the Bay Mills Indian Community.

Section 3. License Required.

Any person or entity who seeks payment for providing care, supervision and protection of non-relative minor children by a tribal, state, or non-profit agency, in a day care home or a child care facility shall be licensed by the Child Welfare Committee of the Bay Mills Indian Community.

Section 4. Application for License.

The Child Welfare Committee shall provide application forms for any person or entity who desires to be licensed, and may establish a reasonable fee, not to exceed \$50.00, for the license application.

Section 5. Home Study and Inspection.

A home study and/or facility inspection shall be conducted and a report filed with the Child Welfare Committee within 30 days of the license application. The report shall verify the contents of the application and compliance by the applicant with the Licensing Standards adopted by the Committee under Section 11 of this Ordinance. The study and/or inspection and report may be made by the Tribe's Child Care Coordinator, an employee of the Tribe's Social Services Department, or any other person determined by the Child Welfare Committee to possess the requisite knowledge and experience to conduct the study or inspection.

Section 6. License Issuance and Content.

Within ten (10) days of receipt of the report, the Child Welfare Committee shall determine whether or not a license shall be issued to the applicant. If an application is denied, the reasons for such denial shall be given in writing to the applicant, who may appeal such denial under the provisions of Chapter II of the Tribal Code. If an application is granted, the license shall specify the person or entity to whom it is issued, the location of the residence or facility which is licensed, the age(s) and maximum number of children for whom licensed care is authorized.

Section 7. Duration of License and Renewals.

A 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 an application for renewal is filed not less than 30 days prior to the expiration date. The requirements for renewal of a license are the same as those for an initial application, as specified in Sections 4 through 6 of this Ordinance.

Section 8. License Records.

The Child Welfare Committee shall maintain a listing of all persons and entities which are licensed to care for

minor children on the Reservation, and shall provide written verification of licensed status to any person or agency requesting that information. Any other information shall be subject to the confidentiality provisions of Section 12 of this Ordinance.

Section 9. License Termination and Revocation.

(a) A license issued by the Child Welfare Committee will terminate under any of the following circumstances:

- (1) The licensed person or entity voluntarily relinquishes the license; or
- (2) The residence or location of the licensed person or entity changes; or
- (3) The licensed person dies or becomes incapacitated, or the entity dissolves or otherwise ceases to function as a child care giving entity; or
- (4) The license term ends and is not under consideration for renewal under Section 7 of this Ordinance.

(b) A license issued by the Child Welfare Committee is subject to revocation by the Committee under any of the following circumstances:

- (1) Physical, emotional or sexual abuse of any minor child occurs in the licensed residence or facility; or
- (2) The licensed person or entity fails, after receipt of written notice of non-compliance and demand for remedial action within a specified time period, to correct conditions which violate the Committee's Licensing Standards; or
- (3) The licensed person becomes incapacitated to an extent that the ability to provide adequate care, custody, and protection of minor children is substantially impaired.

(c) Revocation of a license by the Child Welfare Committee shall not occur in the absence of a hearing before the Committee, at which the licensed person or entity is invited to attend and present evidence, and at which the preponderance of the evidence heard by the Committee demonstrates that grounds for revocation of the license exist.

(d) The decision of the Child Welfare Committee to revoke a license is subject to appeal under Chapter II of the Tribal Code.

Section 10. Licensee's Duty to Report Change in Circumstance.

Any person or entity issued a license under this Ordinance shall report to the Child Care Coordinator any material change in the condition of the licensed residence or facility, or the circumstances of persons living within the licensed residence, within five (5) days of such change. Material change includes, but is not limited to, the following:

- (a) Change of residence or facility location.
- (b) Change in household size or in facility staff numbers.
- (c) Change in marital status of holder of day care home license.
- (d) Death or total incapacitation of holder of day care home license.
- (e) Dissolution of entity or modification of scope of services provided.
- (f) Change in employment status of holder of day care home license.
- (g) Filing of any civil case or criminal charge concerning the care provided to minor non-relative children by the licensed person or entity or any caregiver under the licensed person or entity's supervision or control.

Section 11. Standards for Home Daycare Licensees.

The Child Welfare Committee shall establish written standards for the following, and provide copies to any license applicant:

- (a) The minimum physical requirements for any residence and facility which may be licensed to care for minor children;
- (b) The minimum qualifications for caregivers of minor children in a licensed residence or facility;
- (c) The minimum standards for adequate care, control and protection of minor children; and

(d) The minimum requirements for on-going training and education of caregivers during the term of the license.

Section 12. Confidentiality of Records.

The Child Welfare Committee and any person acting under its authority under this Ordinance shall maintain as confidential material all applications, home studies, investigations, reports and revocation hearing materials, except under any of the following circumstances:

(a) Confidentiality is waived in writing by the person or entity which is the subject of the application or license; provided, that if a specific child is the subject of any such record, the parent or legal custodian of such child also waives confidentiality in writing;

(b) A criminal prosecution by the Bay Mills Indian Community or by the United States of America is initiated against a licensed person or entity which concerns a child for whom the person or entity provided care;

(c) A subpoena for such records is issued by a court of competent jurisdiction; or

(d) The contents of any record is the basis of, or material to, a license revocation hearing or appeal.

Section 13. Liability for License Issuance.

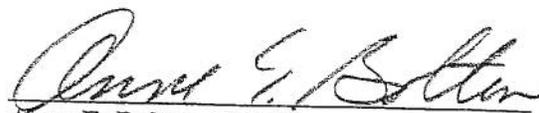
(a) Nothing contained in this Ordinance constitutes a waiver of immunity from unconsented suit by the Child Welfare Committee or its members acting in their official capacity in carrying out the responsibilities delegated by the Bay Mills Indian Community in this Ordinance.

(b) No person acting on behalf of the Bay Mills Indian Community shall be held liable for any claim for damages to any person or property arising out of the issuance or non-issuance of any home day care license.

Pursuant to Article VI, Section 4 of the Constitution and By-laws of the Bay Mills Indian Community the attached Home Daycare Licensing Ordinance of the Bay Mills Indian Community, is approved effective this date.

Date:

14 JUN 2002



Anne E. Bolton, Field Representative
Michigan Field Office