

## Chapter XIV

# MARRIAGE CODE

1400. TITLE. This Code shall be known and cited as the Bay Mills Indian Community “Marriage Code”.
1401. RECOGNITION OF MARRIAGES. The Bay Mills Indian Community shall recognize as a valid and binding marriage any marriage between a man and a woman formalized or solemnized in compliance with the laws of the jurisdiction in which such marriage was formalized or solemnized.
1402. MARRIAGE BETWEEN INDIAN PERSONS; LICENSE REQUIRED; ISSUANCE.
- A. License Required. No persons shall be married by the Tribal Chairman, or a judge of the Tribal Court unless they shall have a validly issued and effective marriage license.
- B. License Issuance. The Clerk of the Tribal Court or any Judge thereof, shall be authorized and empowered to issue a license to marry to any Indian male or female, whether or not they shall be enrolled members of the Bay Mills Indian Community, who desires to join with another in marriage. Such license shall be issued by the Tribal Court within three (3) secular days of the filing of an application for a marriage license, signed by both seeking to marry, upon an application form to be prescribed by the Tribal Court and upon the payment of a license fee in an amount which shall from time to time be set by administrative order of the Court. Such license shall remain effective and valid for a period of 33 days after the period of issuance, and shall specify the person authorized to solemnize the marriage.
1403. MAINTENANCE OF PERMANENT RECORDS. All applications for marriage licenses which shall be filed with the Tribal Court and copies of all marriage licenses issued by the Court shall be indexed by date and the names of the parties, and shall be maintained as permanent public records of the Bay Mills Indian Community. Such records shall be periodically duplicated and a separate, duplicate set thereof shall be placed for safekeeping in a location other than that where the originals are retained.

1404. ISSUANCE OF MARRIAGE LICENSES; QUALIFICATIONS OF APPLICATIONS.

- A. Indian Applicant Required. No licenses for a marriage shall be issued by the Tribal Court for a marriage to be performed by a member of the clergy, the Tribal Chairman, or a judge of the Tribal Court unless at least one of the parties to the proposed marriage is an Indian person. No license to marry shall be issued by the Court where the marriage is to be performed by a medicine or spiritual leader (other than a member of the clergy, the Tribal Chairman or a Tribal Judge) unless both parties to the proposed marriage are Indian persons.
- B. Minimum Qualifications of Applicants. No license for marriage shall be issued by the Tribal Court for a marriage to be performed pursuant to this Chapter unless the applicants for the license shall demonstrate to the Court's satisfaction that:
1. The parties are a man and a woman; and
  2. The parties are at least 18 years of age, or if less than that age, comply with the parental consent requirements contained in Michigan law, as that may from time to time be amended; and
  3. The parties do not propose to marry a parent, child, sibling, stepparent, grandparent, grandchild, aunt, uncle, niece, or nephew; and
  4. Neither party is subject to court jurisdiction due to mental incapacity, or suffers from untreated syphilis or gonorrhea; and
  5. Each party has received counseling regarding the transmission and prevention of venereal disease and HIV infection and has been offered testing for these conditions, and documents counseling and test offering with a certificate to that effect signed by a physician or tribal health provider.

1405. PERSONS ENTITLED TO SOLEMNIZE MARRIAGES. No marriage performed pursuant to a license issued by the Tribal Court shall be valid and recognized unless performed by a clergyman duly designated by the governing body of his/her faith as having the authority to perform marriages; the Tribal Chairman; a Tribal Judge of the Bay Mills Indian Community Tribal Court or a Court of another federally recognized Indian tribe, who is authorized by tribal law to perform marriages; or an Indian medicine man or spiritual leader who is commonly recognized as such by Indian people and who has been approved as such by the Court. A marriage performed pursuant to a tribal license by one

authorized to solemnize a marriage as herein provided may be performed at any location within or without the Reservation.

1406. QUALIFICATIONS TO PERFORM TRADITIONAL INDIAN MARRIAGE.

- A. Definitions. For the purposes of this Chapter, a traditional Indian marriage shall be defined as one performed by an Indian person who claims the authority to solemnize and formalize marriage between Indian persons, in accordance with commonly accepted Indian customs and traditions of any recognized Indian tribe by virtue of such person's status as a medicine man or Indian spiritual leader.
- B. Recognition of Status by Court. It is the express policy of the Bay Mills Indian Community to recognize traditional Indian marriages so performed, provided that the person who has been designated to solemnize and formalize the said marriage by the license applicants shall be recognized as a medicine man or traditional spiritual leader by a significant number of Indian persons and further, that such person shall be recognized by the order of the Tribal Court as a medicine man or traditional spiritual leader. Such recognition may come about on the Court's own motion or upon the motion of any other person, and such order of recognition shall not be unreasonably withheld.
- C. No Fee for Recognition. No filing fee shall be required in a proceeding wherein the Tribal Court recognition of a medicine man or traditional spiritual leader is sought, and such proceedings may be held on an *ex parte* basis without notice.
- D. Appeal of Non-Recognition. An order denying such recognition shall be appealable in the same fashion and manner as any other order of the Court.

1407. PROCEDURE FOR RECOGNITION OF MARRIAGE AFTER

SOLEMNIZATION. After the solemnization or formalization of marriage performed pursuant to a license to marry issued by the Court, two fully executed and conformed copies of the marriage license, executed by two witnesses to the ceremony and the person who conducted the ceremony, shall be returned to the Clerk of the Tribal Court within 14 days. The Clerk shall endorse upon each such conformed copy its date of receipt, after which said document shall be delivered to the judge of the Court who authorized the issuance of the license, or his successor. Upon such delivery, said Judge shall, within three (3) secular days, examine the application for a marriage license, the license, and the certificate of the person performing the marriage to insure that the information

appearing thereon is properly completed and that the marriage was performed in accordance with the provisions of the license. Upon a determination that the application, the license and the certification are in proper form, and that there has been compliance with the terms of the license, the Court shall endorse its approval upon the license and shall cause a Certificate of Marriage to be issued by the Court over his/her signature. A copy of the Certificate of Marriage shall be maintained in the same file as the related application for license, and the license, while a certified copy of the Certificate shall be returned to the parties to the marriage. No charge shall be made for the issuance of the Marriage Certificate or the other activities specified above.

1408. MARRIAGE CERTIFICATE FILING AND RECORDING. It shall not be the responsibility of the Court to record or file the Certificate of Marriage with any state, county, or tribal government. Should the parties to any marriage performed under this Chapter desire that a Marriage Certificate be filed or recorded in another jurisdiction, they may obtain such certified copies from the Clerk of the Court as they may desire at the normal and customary charge.