

**FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA**

**ORDINANCE #04/15**

**RESERVATION BUSINESS COMMITTEE CODE OF ETHICS**

Adopted by Resolution #1262/15 of the Fond du Lac Reservation Business Committee on September 2, 2015.

## TABLE OF CONTENTS

CHAPTER 1	AUTHORITY; PURPOSE; SCOPE . . . . .	1
CHAPTER 2	DEFINITIONS . . . . .	3
CHAPTER 3	STANDARDS OF CONDUCT . . . . .	4
CHAPTER 4	TRIBAL COURT PROCEEDINGS . . . . .	6
CHAPTER 5	EFFECTIVE DATE, AMENDMENTS, SEVERABILITY . . . . .	10
	CERTIFICATION . . . . .	10

**FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA**

**ORDINANCE #04/15**

**RESERVATION BUSINESS COMMITTEE CODE OF ETHICS**

---

**CHAPTER 1  
AUTHORITY; PURPOSE; SCOPE**

---

**Section 101 Authority**

This Ordinance is enacted by the Fond du Lac Reservation Business Committee pursuant to the inherent sovereign authority of the Fond du Lac Band of Lake Superior Chippewa, as reserved under the Treaty of LaPointe, 10 Stat. 1109, and as recognized under Section 16 of the Indian Reorganization Act, 25 U.S.C. § 476; under Article VI of the Revised Constitution of the Minnesota Chippewa Tribe; under the Reservation Business Committee Bylaws, Fond du Lac Ordinance #01/64; and under the common law of the United States.

**Section 102 Purpose**

The purpose of this Ordinance is to establish ethical standards for members of the Fond du Lac Reservation Business Committee.

**Section 103 Scope**

- (a) Individuals. The standards of conduct contained in this Ordinance apply only to the Reservation Business Committee chairperson, secretary/treasurer, and district representatives.
- (b) Time. The standards of conduct contained in this Ordinance apply only to events occurring after the effective date of this Ordinance. In the event that this Ordinance is amended, the amended provisions shall only apply to events occurring after the effective date of the amendment.

**Section 104 Other Ordinances and Provisions**

- (a) This Ordinance is intended to supplement the Reservation Business Committee Bylaws, Fond du Lac Ordinance #01/64. In the event that any provision in this Ordinance is determined to be inconsistent with a provision in the Reservation Business Committee Bylaws, the provision in the Reservation Business Committee Bylaws shall prevail.
- (b) This Ordinance is intended to supplement Article X of the Minnesota Chippewa Tribe Constitution and the Minnesota Chippewa Tribe Ordinance Implementing Constitutional Petition and Censure Processes. Nothing in this Ordinance authorizes the removal or

suspension of a member of the Reservation Business Committee. Any removal or suspension of a member of the Reservation Business Committee must comport with Article X of the Minnesota Chippewa Tribe Constitution.

**Section 105 Reservation of Rights**

The Reservation Business Committee reserves the right to amend or repeal all or any part of this Ordinance at any time. There shall be no vested private right of any kind created by this Ordinance. All the rights, privileges, or immunities conferred by this Ordinance or by acts done pursuant thereto shall exist subject to the powers of the Fond du Lac Band. Nothing in this Ordinance shall be construed to constitute a waiver of the sovereign immunity of the Fond du Lac Band or a consent to jurisdiction by any government or forum not expressly authorized to exercise jurisdiction under this Ordinance.

---

**CHAPTER 2  
DEFINITIONS**

---

**Section 201 Definitions**

For the purposes of this Ordinance, the following definitions shall apply:

- (a) **“Elective office”** means any office regularly filled by a vote of the eligible members of the Band.
- (b) **“Band member”** means an enrolled member of the Fond du Lac Band of Lake Superior Chippewa.
- (c) **“Complainant”** the individual signing a complaint against a Reservation Business Committee Official.
- (d) **“Conflict of interest”** means a real or apparent incompatibility between an official’s personal interests and his or her duties to serve the interests of the Fond du Lac Band.
- (e) **“Immediate family”** means spouse, domestic partner, parent, child, sibling, grandparent, and grandchild.
- (f) **“Official”** or **“Reservation Business Committee Official”** means the Reservation Business Committee chairperson, secretary/treasurer, or district representatives.
- (g) **“Personal interests”** means result or effect of an official’s actions which uniquely benefits the official or his or her immediate family. Personal interests do not necessarily occur when an official acts on a matter or issue that results in an incidental benefit to immediate family, and may be determined by an objective review of the circumstances surrounding the action and its beneficial effects.
- (h) **“Standard of conduct”** refers to the standards contained in Section 301 of this Ordinance.
- (i) **“Subject”** or **“Subject of the complaint”** means the Reservation Business Committee official alleged in a complaint to have violated a standard of conduct.
- (j) **“Tribal Court”** means the Fond du Lac Band of Lake Superior Chippewa Tribal Court.

---

## CHAPTER 3 STANDARDS OF CONDUCT

---

### **Section 301 Standards of Conduct**

Reservation Business Committee officials are expected to treat service to the Band as a solemn public trust with fiduciary responsibility to the Band requiring that they place loyalty to the Band and its constitution, laws and ordinances above personal and private gain. The following represents standards of conduct important to the maintenance of trust and ethical behavior for Reservation Business Committee officials:

- (a) An official shall protect and conserve Band property and only use it for duly authorized purposes. A purpose is duly authorized if it is approved by the Reservation Business Committee in a duly-convened meeting.
- (b) An official shall conduct all official business in accordance with the laws of the Band and other applicable law.
- (c) An official shall disclose instances when they believe there is fraud, waste, abuse, or corruption to the appropriate authorities.
- (d) An official shall not disclose materials:
  - a. Pertaining to matters discussed in executive session except by the consent of the Reservation Business Committee; or
  - b. Matters protected as confidential under Band or federal law.
- (e) An official shall not solicit or accept, directly or indirectly, anything of value if the gift could reasonably be expected to influence the vote, official actions, or judgment of the official, or could reasonably be considered a reward for any official action or inaction. An official may accept gifts only if there is no likelihood of improper influence or the appearance of improper influence and the item is one of the following:
  - a. A noncash gift of nominal value, such as are received at holidays or provided as honoraria (i.e., blankets);
  - b. Gifts available to the general public under the same conditions as they are available to the official;
  - c. Civic, charitable, educational or religious organization awards for recognition of service and accomplishment;
  - d. Gifts because of kinship, marriage, or social relationship apart from any business

with the Band; or

- e. Trips, guest accommodations, or other travel expenses that could otherwise be reimbursed as a legitimate business expense and that involve formal representation of the Band or the conduct of Band business.
- (f) If a decision with respect to a matter will have a direct and predictable effect on the financial interest of the official or immediate family member, the official shall disclose the nature of the effect to the Reservation Business Committee.
- (g) An official shall not threaten, intimidate, or discipline any employee in reprisal for the employee acting within the scope of the employee's official duties.

---

**CHAPTER 4**  
**TRIBAL COURT PROCEEDINGS**

---

**Section 401**    **Eligibility to File a Complaint**

- (a) Any Band member may file a complaint against a Reservation Business Committee official based on allegations that the standards of conduct in this Ordinance were violated during the official's current term in office.
- (b) A complaint under this Ordinance shall be separate from and cannot be joined with proceedings under other ordinances.
- (c) Only one complainant can file a complaint and other individuals cannot file duplicate complaints. In the event that two or more individuals file substantially similar complaints, only the first complaint filed shall be allowed to proceed and the duplicate complaints shall be stayed pending resolution of the first complaint.

**Section 402**    **Contents of Complaint**

A complaint shall be in writing and shall contain the following:

- (a) The name of the Reservation Business Committee official alleged to have violated the standards of conduct.
- (b) The provisions of this Ordinance that have been violated (i.e., Section 301(b) and Section 301(e)).
- (c) A statement describing the alleged violation(s). The statement must describe particular and specific facts, which if proven, would establish that a violation occurred. The statement must include the date, time, and place of the alleged violation.
- (d) The year that the official was last elected or appointed to the official's position and a statement that the alleged violation(s) occurred during the official's current term in office.
- (e) Documentation establishing a reasonable probability that the alleged facts can be established at trial. If such documentation is not provided, the complaint must provide a plausible explanation of why such documentation cannot be reasonably obtained.
- (f) A statement that the information provided is true, accurate, and complete to the best of the informant's knowledge.
- (g) The name and address of the complainant. Only one complainant can be designated.
- (h) The complainant's notarized signature.

**Section 403 Filing and Serving the Complaint**

- (a) The original complaint with supporting documentation must be filed with the Tribal Court by mail or in person. A \$50 filing fee must be paid at the time of filing.
- (b) The Tribal Court shall serve a photocopy of the complaint with supporting documentation upon the Reservation Business Committee official alleged to have violated the standards of conduct.

**Section 404 Statement Requesting Dismissal**

Within 15 calendar days after the complaint is served upon the subject of the complaint, the subject of the complaint may file a written statement requesting dismissal. There is no required form for the written statement and the subject may choose not to file a response. The subject may include supporting documentation with the statement. The statement may be used to bring to the court's attention any facts, explanations, or documentation that may be helpful to the court.

The Tribal Court shall serve a copy of the statement requesting dismissal with supporting documentation on the complainant.

**Section 405 Review of Complaint**

After a statement requesting dismissal is filed or the time for filing the statement has passed, the Tribal Court shall review the complaint with supporting documentation to determine whether a hearing should be scheduled or the complaint should be dismissed. This review shall be conducted regardless of whether the subject of the complaint has filed a statement requesting dismissal. If the complaint does not strictly comply with the requirements of Section 402, the complaint must be dismissed.

If a complaint contains multiple allegations, the Tribal Court may dismiss some or all allegations in the complaint. In reviewing the complaint, the Tribal Court shall apply the following standards:

- (a) If an allegation is not supported by a statement describing particular and specific facts, which if proven, would establish that a violation occurred during the official's current term in office, the allegation must be dismissed.
- (b) If an allegation is not supported by affidavits based on first-hand knowledge establishing a reasonable probability that the alleged facts can be established at trial and the complaint does not provide a plausible explanation of why such affidavits cannot be reasonably obtained, the allegation must be dismissed.
- (c) If an allegation is substantially similar to a previously dismissed allegation, regardless of who filed the allegation, and the complaint does not provide materially different claims or documentation, the allegation must be dismissed.

#### **Section 406 Scheduling a Hearing**

If the complaint is not dismissed, the Tribal Court shall schedule a hearing about the complaint. The Tribal Court shall serve, by mail or personal delivery, a notice of the hearing date on the complainant and subject. The notice shall be served at least 20 calendar days before the hearing.

#### **Section 407 Answer to the Complaint**

If a hearing is scheduled about the complaint, the subject of the complaint may file an answer to the complaint. There is no required form for the answer and the subject may choose not to file an answer.

The answer may be used to admit to allegations in the complete, deny allegations in the complete, or to offer affirmative defenses. Any allegation not admitted will be deemed to have been denied.

At least five (5) business days before the hearing, the answer, if any, must be filed with the Tribal Court. The Tribal Court shall serve a copy of the answer on the complainant.

#### **Section 408 Witnesses**

- (a) Upon request from the complainant or subject, the Tribal Court may issue a subpoena to obtain testimony by a witness, subject to the court's jurisdiction, at the hearing. The requesting party shall be responsible for serving the subpoena and obtaining the presence of the witness at the hearing.
- (b) At the hearing, the subject of the complaint may choose to testify but cannot be required to testify at the hearing.
- (c) Before any witness is called to testify, the Tribal Court may request a summary of what the witness will testify about. If the Tribal Court determines that the proposed testimony will be irrelevant, immaterial, or duplicative, the Tribal Court may deny the request to call the witness.

#### **Section 409 Burden of Proof**

At the hearing, the complainant shall have the burden of providing clear and convincing evidence that the subject of the complaint violated a standard of conduct.

#### **Section 410 Findings and Judgment**

After the hearing, the Tribal Court shall issue a judgment containing findings of fact and conclusions of law. For each allegation contained in the complaint not previously dismissed, the Tribal Court must make one of the conclusions:

- (a) That the allegation is dismissed for failure to meet the burden of proof; or

(b) That the allegation was proven at the hearing.

In addition, the Tribal Court must make findings of fact in support of each conclusion. The findings of fact and conclusions of law may be issued at the end of the hearing or the matter may be taken under advisement.

If all allegations in the complaint are dismissed, then the Tribal Court shall issue a judgment dismissing the complaint in its entirety. If some allegations are proven and others are dismissed, then the Tribal Court shall issue a judgment upholding the complaint in part and dismissing it in part. If all allegations are proven, then the Tribal Court shall issue a judgment upholding the complaint.

#### **Section 411 Civil Penalties**

If the Tribal Court finds that a violation was intentional, repeated, or made in bad faith, the Tribal Court may impose a civil penalty. The civil penalty shall be \$500 or the value of the benefit obtained by the subject or his or her immediate family, whichever is greater. The civil penalty, if any, shall be contained in the judgment.

#### **Section 412 Frivolous Complaints**

If a complaint is dismissed in its entirety, the Tribal Court may make a finding about whether the complaint was submitted for purposes of harassment, submitted for other improper purposes, or was completely without merit. If the Tribal Court makes such a finding, the complainant shall be liable for and shall pay to the subject of the complaint the reasonable costs, including attorneys fees, associated with defending against the complaint.

#### **Section 413 Application of the Fond du Lac Civil Code**

The Civil Code of the Fond du Lac Band of Lake Superior Chippewa, Fond du Lac Ordinance #04/92, shall apply to proceedings under this ordinance, except where the Civil Code is inconsistent with provisions in this Ordinance.

---

**CHAPTER 5**  
**EFFECTIVE DATE; AMENDMENTS; SEVERABILITY**

---

**Section 501**    **Effective Date**

The provisions of this Ordinance shall become effective immediately upon adoption by the Reservation Business Committee.

**Section 502**    **Amendment or Recission**

The Reservation Business Committee may amend this Ordinance as it deems necessary to protect the public health, safety and welfare of the Fond du Lac Reservation. The provisions of this Ordinance may be amended by resolution of the Reservation Business Committee.

**Section 503**    **Severability**

If any section, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance will not be affected thereby.

**CERTIFICATION**

We do hereby certify that the foregoing Ordinance #04/15 was duly presented and adopted by Resolution #1262/15 by a vote of 3 for, 0 against, 0 silent, with a quorum of 4 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on September 2, 2015, on the Fond du Lac Reservation.

  
\_\_\_\_\_  
Karen R. Diver  
Chairwoman

  
\_\_\_\_\_  
Ferdinand Martineau, Jr.  
Secretary/Treasurer