



Bay Mills Indian Community

12140 West Lakeshore Drive
Brimley, Michigan 49715
(906) 248-3241 Fax-(906) 248-3283



RESOLUTION

Resolution No. 19-4-8-F Addition of Chapter XXII to Tribal Code

- WHEREAS:** The Bay Mills Indian Community is a federally recognized Indian tribe with a Constitution enacted pursuant to the Indian Reorganization Act of 1934, 25 U.S.C. sec. 461, *et seq.*, and
- WHEREAS:** The General Tribal Council is empowered to enact laws to protect the general health, safety, and welfare of persons on the Bay Mills Reservation and governing the conduct of tribal members and establishing proper law enforcement agencies under Article VI, Section 1(f) of the Tribe's Constitution, and
- WHEREAS:** Exercise of these powers has been delegated to the Executive Council by General Tribal Council Resolution of April 13, 1970, and
- WHEREAS:** Pursuant to this delegation, the Executive Council has periodically amended Chapter VI of the Tribal Code, as determined necessary from time to time, and
- WHEREAS:** The Tribe recently modified its criminal code to eliminate penalties for the personal possession and use of marijuana by adult Tribal members, so as to ensure that its members are not prosecuted for actions which are legal under Michigan law for non-members, and
- WHEREAS:** The Executive Council has determined that it is a miscarriage of justice for its members to have a criminal record for acts which are no longer a crime under the laws of the Tribe.
- NOW, THEREFORE BE IT RESOLVED,** that the Bay Mills Indian Community, through its Executive Council, hereby approves and enacts Chapter XXII of the Tribal Code, the text of which is attached hereto.

APPROVED:

ATTEST:

Bryan T. Newland, President
Bay Mills Indian Community
Executive Council

Brian P. Kinney, Secretary
Bay Mills Indian Community
Executive Council

CERTIFICATION

I, the undersigned, as Secretary of the Bay Mills Indian Community, do hereby certify that the above resolution was adopted and approved at a meeting of the Executive Council held at Bay Mills, Michigan, on the 8th day of April, 2019, with a vote of ____ for, ____ opposed, ____ absent, and ____ abstaining. As per provisions of the Bay Mills Constitution, the President must abstain except in the event of a tie.

Brian P. Kinney, Secretary
Bay Mills Indian Community
Executive Council

Chapter XXII

VACATING COURT CONVICTIONS

2201. PURPOSE – It is the purpose of this Chapter to establish the terms and conditions under which related marijuana offense convictions can be vacated by the Bay Mills Tribal Court.
2202. CIRCUMSTANCES UNDER WHICH VACATING CONVICTIONS CAN BE SOUGHT – Any person may seek an order from the Tribal Court vacating any marijuana related offense that is now authorized by the Bay Mills Law and Order Code.
- A. As such any person convicted of a marijuana offense under Bay Mills Law and Order Code, Chapter VI Section 640 or Section 641, may submit a petition to the Bay Mills Tribal Court for a vacation of the applicant's record of conviction for the offense.
 - B. The Bay Mills Tribal Court shall vacate the record of conviction by: (1) permitting the applicant to withdraw the applicant's current plea of guilty and to enter a plea of not guilty; or (2) if the applicant has been convicted, the Court shall set aside the verdict of guilty; and (3) the Court shall dismiss the complaint, or citation against the applicant and vacate the judgement and sentence.
2203. COSTS INCURRED – All costs incurred by the Court and probation services shall be paid by the person making the motion to vacate the record unless a determination is made by the Court that the person making the motion is indigent, at the time the motion is brought.
2204. DUTIES OF THE COURT – The Clerk of the Court shall immediately transmit the order vacating the conviction to the Bay Mills Law Enforcement or any local law enforcement agency, if any, which holds criminal history information for the person who is subject of the conviction.

The Bay Mills Law Enforcement or any such local law enforcement agency shall immediately update their records to reflect the vacation of the conviction, and shall transmit the order vacating the conviction to the federal bureau of investigation.

A conviction that has been vacated under this section may not be disseminated or disclosed by the Bay Mills Law Enforcement or any such local law enforcement agency to any person, except other criminal justice enforcement agencies.