

# LEECH LAKE BAND OF OJIBWE JUDICIAL CODE

## TITLE 12D: SOCIAL HOST ORDINANCE

### Chapter 1. Policy and Findings

#### **Section 1. Short Title**

This Title of the Leech Lake Band of Ojibwe Judicial Code, Title 12D: Social Host Ordinance shall be known and may be cited as the “Leech Lake Social Host Ordinance” or “Social Host Ordinance.”

#### **Section 2. Findings**

The Leech Lake Reservation Business Committee (LLRBC) hereby finds that:

- (1) Consumption of alcoholic beverages by persons under the age of twenty-one (21) at parties or gatherings present numerous problems for the Leech Lake Band of Ojibwe (the “Band”), minors, law enforcement, the tribal court system, the health system and relative services provided by the Band;
- (2) Alcohol abuse is linked to numerous health issues for our youth, including sexual assault, unprotected sexual activity, teenage pregnancy, sexually transmitted infections, physical assault and academic difficulties;
- (3) Events and gatherings held on tribal, private or public property where alcohol is possessed or consumed by persons under the age of twenty-one (21) are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement;
- (4) Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions;
- (5) Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by actions of an irresponsible user;
- (6) Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when a parent(s) is/are present and, condone the activity, and in some circumstances provide the alcohol.
- (7) Even though giving or furnishing alcohol to an underage person is a crime, it is difficult to prove, and an ordinance is necessary to help further combat underage consumption; and

- (8) A deterrent effect will be created by holding a person civilly responsible for hosting an event or gathering where underage possession or consumption occurs.

### **Section 3. Purpose.**

The LLRBC, as the governing body of the Band, declares that the purpose of the Leech Lake Social Host Ordinance is:

- (a) To protect public health, safety, and general welfare of the people of the Leech Lake Indian Reservation;
- (b) To exercise the inherent sovereign power of the Band to govern itself within the boundaries of the Leech Lake Indian Reservation;
- (c) To enforce law prohibiting the consumption of alcohol by persons under the age of twenty-one;
- (d) To reduce the cost of providing police services to parties, gatherings, or events that call for a response by requiring that social hosts ensure persons under the age of twenty-one are not consuming alcoholic beverages;
- (e) To discourage underage possession and consumption of alcoholic beverages within the exterior boundaries of the Leech Lake Indian Reservation, even if done within the confines of a private residence; and
- (f) To hold persons civilly responsible who host events or gatherings where persons under the age of twenty-one (21) years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol.

### **Section 4. Definitions**

For purposes of this ordinance, these terms have the following meanings:

- (a) Alcohol – ethyl alcohol, hydrated oxide of ethyl , or spirits of wine, whiskey, rum, brandy, gin, or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.
- (b) Alcoholic Beverage – compound produced and sold for human consumption as a drink that contains more than 0.5% or more of alcohol by volume and which fit for beverage purposes either alone or when diluted, mixed, or combined with other substances; the term also includes, but is not limited to, beer, hard cider, liquor, malt beverages, table wine, and wine.
  - (1) Beer – malt beverage containing not more than 7% of alcohol by weight.
  - (2) Hard Cider – alcoholic beverage that is made from the alcoholic fermentation of the juices of apples or pears and that contains not less than 0.5% alcohol by volume and not more than 6.9% alcohol by volume, including but not limited to, flavored, sparkling, or carbonated cider.
  - (3) Liquor – alcoholic beverage except beer and table wine.

- (4) Malt Beverage – alcoholic beverage made by the fermentation of an infusion or decoction, or a combination of both, in potable brewing water, of malted barley with or without hops or their products and with or without other malted cereals and with or without the addition of unmalted or prepared cereals, other carbohydrates, or products prepared from carbohydrates and with or without other wholesome products suitable for human consumption.
- (5) Table Wine – wine that contains not more than 16% alcohol by volume and includes cider.
- (6) Wine – alcoholic beverage made from or containing the normal alcoholic fermentation of the juice of sound, ripe fruit or other agricultural products without addition or abstraction, except as may occur in the usual cellar treatment of clarifying and aging and that contains more than 0.5% but not more than 24% of alcohol by volume. Wine may be ameliorated to correct natural deficiencies, sweetened, and fortified in accordance with applicable federal regulations and the customs and practices of the industry. Other alcoholic beverages not defined in this section but made in the manner of wine and labeled and sold as wine in accordance with federal regulations are also wine.
- (c) Event or Gathering – any group of three or more persons who have assembled or gathered together for a social occasion or other activity.
- (d) Emergency Responders – law enforcement officers, firefighters, emergency medical service personnel, and any other person having emergency response duties.
- (e) Enforcement Services or Response Costs – the monetary cost of salaries and benefits of emergency responders for the amount of time spent responding to or remaining at an event, gathering, or party and administrative costs attributable to the incident; the costs for medical treatment for any injured emergency responder, and the costs of repairing any damage to the emergency responder equipment or vehicles, and the cost of such equipment or vehicle.
- (f) “Host” or “Allow” – to aid, conduct, entertain, organize, supervise, control, or permit a gathering or event.
- (g) Immediate Family – a spouse, dependent child or children, or dependent parents.
- (h) Parent – any person having legal custody of a juvenile:
  - (1) as natural, adoptive parent, or step-parent;
  - (2) as a legal guardian; or
  - (3) as a person to whom legal custody has been given by order of the court.
- (i) Person – any individual, business association, partnership, corporation, or other legal entity and an individual acting or purporting to act for or on behalf of a joint-stock company, unincorporated association or society, or other corporation of any

character whatsoever as defined in the LLBO Tribal Court Codes. A person does not include any city, county, or state agency.

- (j) Reservation – the area within the exterior boundaries of the Leech Lake Band of Ojibwe Reservation.
- (k) “Residence”, “Premises”, or “Public or Private Property” – any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park, pavilion, or any other place of assembly, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation.
- (l) Social Host – any person, who conducts, allows, organizes, supervises, controls, permits, or aids another in conducting, allowing, organizing, supervising, controlling, or permitting a party, event, or other gathering of any number of individuals. The definition shall include, but not limited to the following:
  - (1) any person or persons who own, rent, lease, or otherwise control the premises where an event, a gathering, activity, or party takes place;
  - (2) the person or persons in charge of or responsible for the premises; or
  - (3) the person or persons who organized the activity, event, gathering, or party.The definition shall not include a property owner or parent who does not have knowledge that the activity, event, gathering, or party, whether or not the activity, event, gathering, or party was permitted or allowed, would result in an underage person being in possession of or consuming an alcoholic beverage.
- (m) Underage Person, Minor, Juvenile – any individual under twenty-one (21) years of age.

## Chapter 2. Jurisdiction and Applicable Laws.

### **Section 1.**

- a) Jurisdiction:

The Leech Lake Tribal Court shall have exclusive jurisdiction over all violations of this Social Host Ordinance when committed by a member of the Tribe, by non-member Indians who are members of any recognized Tribe under Federal jurisdiction, or by any other person consenting to jurisdiction, as hereinafter provided.
- b) Authority of the Tribal Court:

The Leech Lake Tribal Court, sitting without a jury, shall have jurisdiction to hear and determine all cases arising under this Social Host Ordinance, in accordance with its terms and Leech Lake Rules of Procedure, Title 2, except where the specific provisions of this Social Host Ordinance require otherwise.

**Section 2. Implied Consent to Tribal Jurisdiction by Nonmembers of the Leech Lake Band of Ojibwe.**

- a) Any person who is not a member of the Leech Lake Band of Ojibwe shall be deemed as having consented to the jurisdiction of the Leech Lake Band of Ojibwe, by doing so personally through an employee, through an agent or through a subsidiary, any of the following acts within the exterior boundaries of the Leech Lake Indian Reservation:
  - 1. The transaction of any business;
  - 2. The commission or omission of an act which results in a tort action;
  - 3. The ownership use or possession of any property situated within the exterior boundaries of the Leech Lake Indian Reservation;
  - 4. Engaging in any employer-employee relationship;
  - 5. Leasing or permitting of any land or property;
  - 6. Residing on the Leech Lake Indian Reservation;
  - 7. Any contractual agreement entered into within the exterior boundaries of the Leech Lake Indian Reservation;
  
- b) Service of process upon any person subject to implied consent may be made by service within or without the Leech Lake Indian Reservation in the same manner provided for service within the Leech Lake Indian Reservation.

**Section 3. “Indian” Defined: Territorial Jurisdiction.**

For the purpose of the enforcement of this Ordinance, an Indian shall be deemed to be any person of Indian descent who is a member of any recognized Indian Tribe now under Federal jurisdiction. The Leech Lake Indian Reservation shall be taken to include all territory within the original Reservation boundaries, including fee patent lands, roads, waters, bridges, and lands use for agency purposes.

**Section 4. Applicable Laws**

The Leech Lake Band of Ojibwe shall apply any laws of the United States that may be applicable, any authorized regulations of the Interior Department, and any ordinances of the Tribe, not prohibited by Federal law.

Chapter 3. Prohibited Activities and Penalties.

**Section 1. Prohibited Acts**

- (a) It is unlawful for any person(s) to:
  - (1) host or allow an event or gathering;
  - (2) at any residence, premises, or on other private or public property within the exterior boundaries of the Leech Lake Indian Reservation;

- (3) where alcohol or alcoholic beverages are present;
  - (4) when the person knows that an underage person will or does (i) consume any alcohol or alcoholic beverage; or (ii) possess any alcohol or alcoholic beverage with the intent to consume it; and
  - (5) the person fails to take reasonable steps, including, but not limited to, notifying law enforcement, to prevent possession or consumption by the underage person(s).
- (b) A person is civilly responsible for violating Section 1(a) above if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.
  - (c) A person who hosts an event or gathering does not have to be present at the event or gathering to be civilly responsible.

## **Section 2. Exceptions**

This Social Host Ordinance does not apply to the following:

- (a) to conduct solely between an underage person and his/her parent(s) while present in their household;
- (b) to legally protected religious observances;
- (c) to retail intoxicating liquor or 3.2 percent malt liquor licensees, municipal liquor stores, or bottle club permit holders who are regulated by Minnesota state statutes;  
or
- (d) to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

## **Section 3. Penalties**

- (a) A person convicted of violating this ordinance shall be punished as follows:
  - (1) For the first offense, penalties shall be a fine not less than Two-Hundred Fifty Dollars (\$250) or more than Five-Hundred Dollars (\$500), plus Court costs; and any other penalties the court deems applicable;
  - (2) For the second offense, penalties shall be a fine not less than Five-Hundred Dollars (\$500) or more than Two Thousand, Five-Hundred Dollars (\$2,500), plus Court costs; and any other penalties the court deems applicable;
  - (3) For the third and/or subsequent offense, penalties shall be a fine of not less than Two Thousand, Five-Hundred Dollars (\$2,500) or more than Five Thousand Dollars (\$5,000), plus Court costs; and any other penalties the court deems applicable;
- (b) If upon the third and/or subsequent offense, the Band prosecutor reasonably believes the accused poses a risk to the safety, health, and welfare of the people of the Leech Lake Indian Reservation, the Band prosecutor may motion for a transfer to state court for the imposition of criminal liability. Upon motion, the court shall defer to Section 5 of this Chapter regarding transfers to other Courts.

- (c) The imposition or execution of the first five (5) days of any sentence of jail may not be suspended and the Court may not defer imposition of sentence.
- (d) Notwithstanding the penalties listed above, a person convicted of violating this Social Host Ordinance shall be responsible for reimbursing the cost of enforcement services or response costs to agencies furnishing emergency responders. Any claims for restitution, including, but not limited to, those for enforcement services or response costs, must be filed with the Court within ninety (90) days of a conviction under this Social Host Ordinance.
- (e) A prosecution for violation of this Social Host Ordinance may not be deferred.

**Section 4. Transfers from Other Courts**

The Tribal Court may accept or decline transfers from other state or tribal courts involving an alleged violation of the Leech Lake Social Host Ordinance for the purposes of adjudication and/or disposition.

**Section 5. Transfers to Other Courts**

The Tribal Court may transfer any Leech Lake Social Host Ordinance matter to a state or tribal court of competent jurisdiction for adjudication and/or disposition when the Tribal Court has determined such a transfer to be in the best interest of the safety and welfare of the people of the Leech Lake Indian Reservation, or, when the resources available from the Band are insufficient to correct the problem which brought the social host before the court.

**Section 6. Initiation of Proceedings**

All prosecutions for alleged violations of this Social Host Ordinance shall be initiated by serving either a citation or a complaint upon the defendant and filing the same with the Administrator of the Leech Lake Tribal Court.

**Section 7. Citation Requirements**

A Citation may be issued by a duly authorized law enforcement officer and shall contain, at a minimum, the name, address, and age of the defendant; the time and place of the alleged violation with reference to the section of the code alleged to have been violated; a brief description of the act(s) complained of and the amount of the fine for the violation(s). The citation shall also contain a conspicuous notice to the defendant to appear before the Leech Lake Tribal Court at a given time and date for the purpose of answering the citation. The officer issuing the citation shall sign and date the same, swearing that the person named as a defendant committed the offense charged.

A person who has been issued a citation may, in lieu of appearing in Tribal Court on the date specified in the citation, may enter a plea of guilty by signing the citation in the space provided on the citation, and paying the amount of the fine stated thereon to the Tribal Court at any time prior to the date set forth for his/her court appearance.

### **Section 8. Default Judgment and / or Citation for Contempt of Court**

Any person who has been duly served with a citation in accordance with this Social Host Ordinance who fails to appear as required by the Tribal Court, or who has not paid a designated fine, without just cause, shall be subject to a default judgment and citation for contempt of the Tribal Court pursuant to Section 9 of this Chapter.

Notice of intent to seek a default judgment and/or an Order to Show Cause issued by the Tribal Court as to why the defendant should not be held in contempt, shall be served upon him/her by the Band prosecutor either personally or by mail at least twenty (20) days prior to the date set for hearing on the motion for a default judgment.

In conspicuous writing, the notice shall inform the defendant of the following: (1) the additional fine for contempt of court which may be imposed pursuant to Section 9 of this Chapter; and (2) the enforcement mechanisms and penalties which the Tribal Court is authorized to order pursuant to Sections 3 and 9 of this Chapter.

At the hearing on a motion for entry of a default judgment, the Band prosecutor shall prove or make an offer of proof to the Tribal Court on each element of the underlying offense charged and the contempt.

### **Section 9. Contempt of Court**

Any person who, having been issued a citation or summons to appear in the Leech Lake Tribal Court who fails to appear as required; or any person who is found guilty of having committed the offense charged and is ordered to pay a fine, and fails to pay the fine within the time permitted or required by the court; or any person commits any act constituting contempt of court shall be subject to an additional penalty not to exceed Five- Hundred Dollars (\$500).

In addition to the penalties set forth in Section 3, the Leech Lake Tribal Court is authorized and empowered to do any or all of the following in order to enforce the penalties imposed for violations of this Social Host Ordinance and for contempt of court:

- (a) Order that the citation be reported to the Minnesota Department of Public Safety;
- (b) Order that the citation be reported to the defendant's landlord; or
- (c) Use any of the means permitted in Leech Lake Code, Title 2 for the execution and enforcement of judgments.



**Section 10. Recordkeeping and Dissemination of Information**

Information collected and maintained in the administration of this Social Host Ordinance shall be kept on file with the Tribal Court for a period of at least five (5) years, and shall otherwise be maintained in accordance with the data practices procedures of the Band.

Information collected and maintained in the administration of this Social Host Ordinance shall not be released to other law enforcement agencies or courts of another jurisdiction unless authorized by formal agreement between the Leech Lake Band and such other jurisdiction.

**Section 11. Amendment and Effective Date**

The provisions of this Social Host Ordinance may be amended by resolution of the Reservation Business Committee.

This Social Host Ordinance supersedes and replaces any prior codes or ordinances regulating social host activity within the Leech Lake Indian Reservation and shall be effective upon certification by the Leech Lake Code Reviser pursuant to the requirements of Title 1, Part 1, Section 5.D.