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Mashkisibi Center

**BAD RIVER BAND OF LAKE SUPERIOR  
TRIBE OF CHIPPEWA INDIANS**  
P.O. Box 39, Odanah, WI 54861

RESOLUTION NO. 4-22-88-148

WHEREAS, the Bad River Band of Lake Superior Tribe of Chippewa Indians is a federally recognized Tribe of which the Tribal Council is the governing body; and

WHEREAS, the Tribal Council has the authority under the Bad River Constitution and By-laws under Article VI Section 1(q) to establish an Indian Court and define its duties and powers; and

WHEREAS, the Tribal Council currently is designated as the Appeals Court for the Tribal Court under Chapter 121 of the Tribal Code; and

WHEREAS, there are currently Tribal Judges from surrounding Reservations willing to serve as Appellate Judges for the purposes of appeal; and

WHEREAS, the use of such Judges would be appropriate for hearing appeals and would alleviate the burden of hearing appeals from the Tribal Council; and

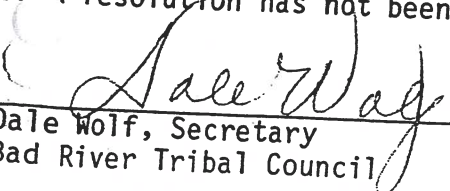
WHEREAS, the Tribal Council will still maintain its authority to select such appellate judges,

NOW THEREFORE BE IT RESOLVED that the Tribal Council hereby approves and adopts the amended Chapter 121,

AND BE IT FURTHER RESOLVED that the former Chapter 121 is hereby rescinded.

**CERTIFICATION**

I, the undersigned, as Secretary of the Bad River Band of Lake Superior Tribe of Chippewa Indians, an Indian Tribe organized under Section 16 of the Indian Reorganization Act, hereby certify that the Tribal Council is composed of 7 members, of whom 6 members, constituting a quorum, were present at a meeting hereof duly called, noticed, convened, and held on the 22 day of April, 1988; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of 5 members; 0 against; and 0 abstaining, and the said resolution has not been rescinded or amended.

  
Dale Wolf, Secretary  
Bad River Tribal Council

## **CHAPTER 121 - APPEALS**

### **Section 121.1**

The Bad River Tribal Council shall select three judges from courts other than the Bad River Tribal Court to hear any appeals from that Tribal Court. Within 30 days of receipt of the notice of appeal, the Clerk of Court shall submit to the Tribal Council, a list of Judges willing to serve as Appellate Judges for each particular case. Any person found in violation of tribal ordinances by the Bad River Tribal Court may request a review by the Appellate Court by giving written notice outlining the grounds for the appeal within ten (10) days, not including Saturdays, Sundays or holidays after the Tribal Court's decision, posting such bond as may be applicable.

### **Section 121.2**

The appellate court shall review the evidence adduced at the Tribal Court hearing, shall hear arguments of counsel, petitioners or individuals speaking on behalf of parties, and shall receive written arguments and summaries as submitted by the Tribal Court and Appellant, and may, in its discretion receive oral testimony from specified witnesses.

### **Section 121.3**

The appellate court, after the aforementioned review, may by majority vote, affirm or reverse the trial judgement or reduce the penalty imposed. If the trial court decision is reversed or penalty modified, the cash deposit shall be refunded to the appellant. In any case where the party has perfected the right of review as established herein, the judgement of the trial judge shall not be executed until after the final disposition of the Appellate Court.

### **Section 121.4**

Following a request for review, the tribal court judge shall submit a summary of evidence and his or her findings to the Appellate Court Judges. If a Clerk of Court was present during the initial hearing, the judge may assign the duty of submitting such a summary to the Clerk of Court. Simultaneous with submission of said summary, a copy shall either be delivered or sent by mail to the appellant and the respondent at the latest addresses reflected in the court files. The appellant will be notified that he or she may submit a written statement of his or her own within 30 days of receipt of the summary, specifying his

## **CHAPTER 121 - APPEALS**

or her own summary of evidence and the points of contention and/or error. The respondent shall also be allowed to respond within 30 days of receipt of the appellant's summary. The Appellate Court shall schedule a hearing on the appeal after all summaries are received. The date of the hearing shall be at the convenience of the Appellate Judges.

### **Section 121.5**

The appellant shall post with Clerk of Court such appeal bond as shall have been determined by the court. Unless otherwise set by the court, a bond in the amount of any fine imposed shall be applicable. The Court may, in its discretion, provide that an appeal bond be waived, or may, where sentence is limited to a monetary fine or payment of a fine is provided as alternative to a jail sentence, said appeal bond may be in any amount not exceeding twice the amount of fine thus provided. In case of an appeal from a determination wherein a jail sentence is provided without the alternative of a fine, the court may set bond in such amount as it deems appropriate or may deny bail pending appeal.

### **Section 121.6**

Any request to present further testimony to the Appellate Court shall be made at the time of submission of the aforementioned summaries with a statement explaining why such additional testimony would be helpful.

### **Section 121.7**

Upon request by a defendant who is incarcerated and unable to post bond, or where release on bond has been denied, appellant's review shall be completed within five (5) days, and a decision issued.

### **Section 121.8**

The appeals court may make such orders prior to its decision as it deems appropriate, as to a case pending before it.

### **Section 121.9**

All final action by the appeals court shall be in writing.