

## **CHAPTER 30A**

### **DOMESTIC RELATIONS CODE:**

#### **VISITATION RIGHTS FOR GRANDPARENTS AND OTHERS OF THE LAC DU FLAMBEAU BAND OF LAKE SUPERIOR CHIPPEWA INDIANS**

##### **Preamble**

This Code is enacted pursuant to the inherent sovereign authority of the Lac du Flambeau Band of Lake Superior Chippewa Indians to protect and preserve the integrity of families and traditional relationships of the Tribe, to define the rights and privileges to individuals entitled to the access and visitation to other family members, and to specify the manner in which such rights and privileges may be exercised which remains an inherent right afforded to our people. In the implementation of this inherent sovereign authority, Article VI, § 1(q) of the Lac du Flambeau Constitution and Bylaws of the Lac du Flambeau Band of Lake Superior Chippewa Indians, empowers the Tribal Council to: “To regulate the domestic relations of members of the Tribe.” Pursuant to this inherent sovereign authority, the Tribal Council hereby recognizes the traditional, cultural and societal importance of family cohesiveness. The family connections of the Tribe are an inherent and indispensable aspect of Tribal sovereignty. The Lac du Flambeau Band of Lake Superior Chippewa Indians recognizes the right for extended family member’s visitation rights as detailed under this chapter.

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HISTORY NOTE:

Current Ordinance:

Approved and placed for referendum June 12, 2025, Resolution No. 229(25)  
Adopted by referendum vote June 12, 2025, effective immediately.

## **SUBCHAPTER 30.1 - GENERAL PROVISIONS**

### **§ 30.101      Title.**

This Code shall be known as the Domestic Relations Code of the Lac du Flambeau Band of Lake Superior Chippewa Indians.

### **§ 30.102      Authority.**

This Code is enacted pursuant to the inherent sovereign authority of the Lac du Flambeau Band of Lake Superior Chippewa Indians. In the implementation of this inherent sovereign authority, Article V, § 1(q) of the Constitution and Bylaws of the Lac du Flambeau Band of Lake Superior Chippewa Indians, empowers the Tribal Council to: "To regulate the domestic relations of members of the Tribe."

### **§ 30.103      Declaration of Policy.**

It is the policy of the Lac du Flambeau Band of Lake Superior Chippewa Indians to exercise its sovereign capacity to preserve family relationships, by the best interests of the Lac du Flambeau Band of Lake Superior Chippewa Indians and its members. The Lac du Flambeau Band of Lake Superior Chippewa Indians recognizes that family relations include tradition and custom that include extended family relationships, including traditional relationships established under ceremony. This policy is designed to protect and enhance the connection for grandparents, step-parents, extended relatives and culturally significant designations such as namesakes and godparents. The family connections should be protected and encouraged incorporating tradition and culture, as well as mainstream societal relationships for purposes of visitation and to be guaranteed tribal court protection against unlawful interference.

### **§ 30.104      Purpose.**

The purpose of this Code is to protect and preserve the traditional family connections for families of the Lac du Flambeau Band of Lake Superior Chippewa Indians, to define the individuals entitled to access and visitation of family members through tribal court orders, and to specify the manner in which such access and visitation may be permitted.

### **§ 30.105      Territorial Applicability.**

This Code shall govern the visitation and access of grandparents, step-parents, and other individuals who have established a relationship with minor children through tradition and culture of the Tribe pursuant to the provisions of this Code under the jurisdiction and purview of the Lac du Flambeau Tribe.

### **§ 30.106      Effective Date.**

Except as otherwise provided in specific sections, the provisions of this Code shall be

effective on the date adopted by the Tribal Council.

**§ 30.107      Interpretation.**

The provisions of this Code:

(1) Shall be interpreted and applied as the minimum requirements applicable to the protection and preservation of the sovereign capacity of the Lac du Flambeau Band of Lake Superior Chippewa Indians;

(2) Shall be liberally construed in favor of the Tribe;

(3) Shall not be deemed a limitation or repeal of any other tribal power or authority.

**§ 30.108      Severability and Non-Liability.**

If any section, provision or portion of this Code is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Code shall not be affected thereby. The Tribe further asserts immunity on its part and that of its agencies, employees, and/or agents from any action or damages that may occur as a result of reliance upon and conformance with this Code.

**§ 30.109      Repeal of Inconsistent Tribal Codes.**

All Codes and resolutions inconsistent with this Code are hereby repealed. To the extent that this Code imposes greater restrictions than those contained in any other tribal law, code, Code or regulation, the provisions of this Code shall govern.

## **SUBCHAPTER 30.2 – DEFINITIONS**

### **§ 30.201    General Definitions.**

Any term not defined in this Section shall be given its ordinary meaning. The following terms, wherever used in this Code, shall be construed to apply as follows, except where the context indicates otherwise:

- (1) **"Adoptee"** means the individual, child or adult who is adopted or is to be adopted.
- (2) **"Adoptive Parent"** means the person establishing or seeking to establish a permanent parent-child relationship with a child who is not their biological child.
- (3) **"Best Interests of a Child"** means:
  - (a) The ability of the Tribe and reservation community to provide for the care of the Child;
  - (b) The wishes of the Tribe, parents, party or parties;
  - (c) The preference of the Child if the Child is of sufficient age to express a preference;
  - (d) The intimacy of the relationship between the parties and the Child; the Child's adjustment to the home, school and the Tribal community;
  - (e) The length of time the Child has lived in a stable, satisfactory environment and desirability of maintaining continuity;
  - (f) The permanence as a family unit, of the existing or proposed adoptive home;
  - (g) The mental and physical health of all individuals involved;
  - (h) The capacity and disposition of the parties to give the child love, affection, guidance and to continue educating the Child in the Child's tribal culture and heritage.
- (4) **"Best Interests of the Tribe"** means a variety of factors including but not limited to the ability of the Tribe and its members to provide for the Child; the ability of the Tribe and its members to provide for the continuation of the Tribe's culture, language, history, religion, traditions, and values through its children if those children are taken away and not taught these things throughout their lives. The ability of the Tribe to continue as a viable cultural entity will be hindered by the loss of its children. Every child is a gift from the creator and is viewed by the Tribe as crucial to the future of the Tribe as a whole.
- (5) **"Birth Parent"** means the biological parents listed on the child's birth certificate,

enrollment application or acknowledged as the birth parent by law.

(6) **"Child" or "Minor"** means a person who is a member of the Tribe, or is eligible for membership in the Tribe, whether or not resident or domiciled on the Reservation; or who is the child of a member of the Tribe; or who is an Indian child and resides within the boundaries of the Reservation; and who is under the age of eighteen (18) years of age.

(7) **"Customary Adoption"** means a traditional tribal practice recognized by the community and Tribe which gives a child a permanent parent-child relationship with someone other than the child's birth parent(s).

(8) **"Custodian"** means a person having care and custody of a child under any arrangement with the child's parent or guardian or pursuant to order of any Court of competent jurisdiction.

(9) **"Days"** means a twenty-four-hour time period. In computing any period of time prescribed or allowed by the Tribal Court, or any other Code or statute, the day of the act, event, or default from which the designated time period begins to run shall not be included. The last day of the period shall be included unless it is a day that the clerk of court's office is closed, in which case the period shall extend until the day that the clerk of court's office is open next. When the period of time prescribed or allowed is ten days or less, Saturdays and Sundays are excluded in the computation.

(10) **"Extended Family"** means all persons who are a child's relative pursuant to tribal customary law including but not limited to indaanikobijigan (blood lines such as brother, sister, grandparent, great-grandparent, aunt, great-aunt, uncle, great-uncle, first or second cousin, niece, nephew), wiidigendinaaniwan (marriage ties such as stepparent, stepbrother, stepsister, brother-in-law, sister-in-law), niyawenh'enh (namesake), nindoodem (clan member), and bami'aagan (customary adoption relative).

(11) **"Final Decree of Customary Adoption"** means a final order of the Tribal Court which established the permanent legal relationship between the child and the adoptive parent(s) and establishes any contact which may be allowed with the biological parent.

(12) **"Final Order Suspending Parental Rights"** means a final order of the Tribal Court which suspends the rights of a biological parent to provide for the care, custody and control of their child. A Final Order Suspending Parental Rights may establish the parameters of contact between the birth parent and the child if that contact is in the child's best interest.

(13) **"Guardian"** means a person appointed by any Court to be guardian of a child's person.

(14) **"Guardian Ad Litem"** means a person appointed by the Tribal Court to appear in any tribal court proceedings on behalf of a child.

(15) **"Law Enforcement Officer"** means any certified tribal, federal, state or county peace

officer of any jurisdiction within the boundaries of the United States.

(16) **“Reservation” or “Reservation Lands”** means those lands located within the exterior boundaries of the Lac du Flambeau Reservation lands as well as off-reservation lands under the jurisdiction and purview of the Lac du Flambeau Tribe.

(17) **“Substantial Parental Relationship”** means the acceptance and exercise of significant responsibilities for the daily supervision, education, protection, and care of a child, as evidenced by factors including but not limited to whether the parent has ever expressed concern for or interest in the support, care, or well-being of the child or custodial parent, and whether the parent has neglected or refused to provide support.

(18) **“Suspension of Parental Rights”** means the suspension of the rights, powers, privileges, immunities, duties, and obligations existing between parent and child, as agreed by the biological parent; however tribal membership, rights, privileges, entitlements, or obligations shall not be affected by such suspension for the child(ren).

(19) **“Tribe”** shall mean the Lac du Flambeau Band of Lake Superior Chippewa Indians, and includes all departments, divisions, business units, and other subdivisions of the Tribe as established under Article III §1 of the Tribe’s Constitution.

(20) **“Tribal Court”** means the court of the Lac du Flambeau Band of Lake Superior Chippewa Indians as established under Article X *et seq.* of the Tribe’s Constitution.

(21) **“Tribal Council”** means the duly elected leadership of the Lac du Flambeau Band of Lake Superior Chippewa Indians, pursuant to Article III §1 of the Tribe’s Constitution.

## **SUBCHAPTER 30.3 – GENERAL**

### **§ 30.301      Jurisdiction of the Tribe over Domestic Relations Matters.**

The Tribal Court shall have jurisdiction over domestic relations matters where any party to the action, or any child who is the subject of an action, is a member of the Tribe or where any party, or any subject child, may reside on the Reservation, or otherwise consents to the subject-matter and personal jurisdiction of the Tribal Court, subject to any additional requirements for each type of action set forth in this chapter, Article VI §1(q) and Article X §3.

### **§ 30.302      Procedure.**

Where specific rules of procedure are not prescribed in this chapter, the rules set forth in the Tribal Court Code, Chapter 80, shall apply.

### **§ 30.303      Purpose of this Chapter.**

The purpose of this chapter is to preserve the opportunity of children who are members of the Tribe, or eligible for membership in the Tribe, to form and maintain meaningful relationships with grandparents, stepparents, and others who play an important role in their care, development, education, or nurturance.

### **§ 30.304      Visitation Rights Established.**

Upon petition by a child's grandparent, great-grandparent, stepparent, aunt, uncle, or other person with an interest in the child, except a parent, the Court may order visitation rights with the child.

### **§ 30.305      Procedure for Petitions.**

- (1) The Clerk of Court shall schedule a hearing on the petition to be held within 30 days of its filing. A copy of any petition filed under this section shall be served on each of the child's parents, and any guardian other than a parent, together with a notice of hearing which specifies that the hearing shall be on the merits of the petition and that the Tribal Court may make a visitation award at the close of the hearing.
- (2) A copy of the petition may be filed with a Guardian-ad-litem, either appointed upon request of the petitioner or on the Tribal Court's own motion, see §30.309, in any case upon the filing of a petition under this section.

### **§ 30.306      Standards for Determination.**

- (1) The Court may order visitation rights if it finds that such an order would be in the best



interests of the child. The Court shall take into account the following factors:

- (a) The family relationship of the petitioner to the child, provided that visitation rights may be awarded notwithstanding the death or termination of parental rights of either or both of the child's parents.
- (b) The length and quality of the relationship of the petitioner with the child.
- (c) The family relationship, and length and quality of the relationship, between the petitioner and each of the child's parents and any other guardian.
- (d) The nature of each of the parent's and other guardian's relationships with the child, and the parents' and guardians' ability to provide appropriate care to the child without visitation by the petitioner.
- (e) The relationship between the child's parents, provided that visitation rights may be awarded whether or not the parents' relationship is intact.
- (f) The child's wishes, taking into account the age of the child.
- (g) The benefits and detriments to the child of awarding visitation rights to the petitioner.
- (h) The feasibility of fashioning an award of visitation rights while minimizing interference with the parents' custodial rights.
- (i) Such other factors as the Court deems appropriate.

**§ 30.307      Visitation Order.**

(1) Within 30 days of the hearing, the Court shall grant or deny the petition, or grant the petition conditionally or with such modifications as are in the best interest of the child. All orders shall be in writing and shall specify to the greatest extent practicable the particular rights, if any, that are awarded.

(2) An order may award visitation rights under the circumstances prevailing at the time of the order, and may also award contingent visitation rights under circumstances that may reasonably be expected to occur at a future time, provided that any such award of contingent rights is reviewable under §30.306(1) of this chapter.

(3) Any person(s) who has custody or placement of the child(ren) in the Tribal Court order and who is properly served with a copy of a notice and petition from the Tribal Court and with a copy of an order under this section, shall be required to comply with the terms of the order, and may be proceeded against for contempt of court for any interference therewith, see Chapter 80 §.

**§ 30.309      Guardian Ad Litem Appointment and Fees.**

- (1) The Court may appoint upon request of the parties or on its own motion Guardian-ad-litem to represent the minor children under this petition.
- (2) The Court may order the petitioner, parent, guardian, or any of them, to contribute to the payment of the guardian ad litem fees.

**§ 30.310      Order Modification.**

Any order issued under this section may be modified upon motion, notice, and hearing, or upon the agreement of all parties.