

The Chippewa Cree Tribe of the Rocky Boy's Reservation

Phone: (406) 395-4478 or 4210 - Finance Office
(406) 395-4282 or 4321 - Business Committee

31 Agency Square
Box Elder, Montana 59521

A RESOLUTION

NO. 78-18

HEREBY AMENDING TITLE 24, THE CHIPPEWA CREE TRIBAL CODE, CHAPTER 1, DRUG FREE WORKPLACE ORDINANCE NO. 1-99 TO INCORPORATE ALL PROPOSED CHANGES.

WHEREAS, the Chippewa Cree Business Committee is the governing body of the Chippewa Cree Tribe of the Rocky Boy's Indian Reservation by the authority of the Constitution and By-Laws of the Chippewa Cree Tribe approved on the 23rd day of November, 1935, and;

WHEREAS, pursuant to their inherent sovereignty and Constitution and By-Laws of the Chippewa Cree Tribe, the Chippewa Cree Tribal Business Committee is charged with the duty to promote and protect the health, security and welfare of the Tribe, and;

WHEREAS, the summary of the suggested changes to Title XXIV, Chapter 1 of the Chippewa Cree Tribe of the Rocky Boy's Indian Reservation, Montana Tribal Codes have been posted and undergone three (3) readings prior to this final approval, and;

WHEREAS, the Chippewa Cree Business Committee understands that the changes aim to create a greater consistency and clarity within XXIV, Chapter 1 and also provide enhanced procedures to provide a safe, efficient, healthy, and productive work environment and minimizing the risk of accidents and injury, and;

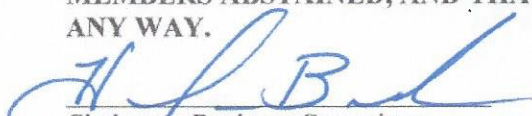
WHEREAS, the Chippewa Cree Business Committee affirms that all resolutions, or parts of the same, that are inconsistent with the provisions of this resolution, are hereby repealed to the extent of such inconsistency, now;

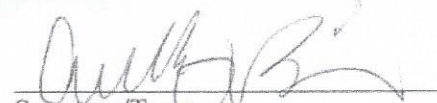
THEREFORE BE IT RESOLVED, the Chippewa Cree Business Committee hereby amends XXIV, the Chippewa Cree Tribal Code, Chapter 1- Drug Free Workplace Ordinance No. 1-99 all proposed changes.

BE IT FINALLY RESOLVED, that the newly revised Title XXIV the Chippewa Cree Tribal Code, Chapter 1- Drug Free Workplace Ordinance No. 1-99 is hereinafter attached. The effective date shall be September 17, 2018.

CERTIFICATION

I, THE UNDERSIGNED, AS SECRETARY/TREASURER OF THE BUSINESS COMMITTEE FOR THE CHIPPEWA CREE TRIBE, HEREBY CERTIFY THAT THE BUSINESS COMMITTEE IS COMPOSED OF NINE MEMBERS, OF WHOM five(5) MEMBERS CONSTITUTING A QUORUM WERE PRESENT AT A MEETING, DULY AND REGULARLY CALLED, NOTICED, CONVENED AND HELD ON THE 17TH DAY OF SEPTEMBER, 2018, AND THAT THE FOREGOING RESOLUTION WAS FULLY ADOPTED AT SUCH A MEETING BY THE VOTE OF three(3) MEMBERS FOR AND one(1) MEMBERS AGAINST AND zero(0) MEMBERS ABSTAINED, AND THAT THIS RESOLUTION HAS NOT BEEN RESCINDED OR AMENDED IN ANY WAY.


Chairman, Business Committee


Secretary/Treasurer

**REVIEWED
BY CCT-OAG**

TITLE 24

CHAPTER 1 – DRUG FREE WORKPLACE ORDINANCE NO. 1-99

Part 1. General Provisions

- 24-1-101. Introduction.
- 24-1-102. Definitions.
- 24-1-103. Drug Possession and Use.
- 24-1-104. Employee Responsibility to Report Impairment.

Part 2. Testing

- 24-1-201. Testing.
- 24-1-202. Testing Procedures.
- 24-1-203. Samples Declared “Diluted” or “Adulterated.”
- 24-1-204. Confidentiality.
- 24-1-205. Testing Violations.

Part 3. Investigation & Violations

- 24-1-301. Searches and Inspections.
- 24-1-302. Violations.
- 24-1-303. Criminal Charges and Convictions.
- 24-1-304. Employee Assistance.

Part 4. Supplemental Policies

- 24-1-401. Supplemental Policies.
- 24-1-402. Sovereignty.
- 24-1-403. Effective date.

Part 5. Drug Test Consent Form

- 24-1-501. Drug Test Consent Form Template.

24-1-101. Introduction.

The Chippewa Cree Tribe is a drug free workplace. The Chippewa Cree Tribe recognizes the importance of providing a safe, efficient, healthy, and productive work environment and minimizing the risk of accidents and injury. Employees are expected to perform their duties in a safe and efficient manner. Consequently, the Chippewa Cree Tribe maintains a zero tolerance for drug abuse by employees. This Ordinance applies to all employees including Chippewa Cree Tribal Elected Officials, full time, part time, temporary, seasonal, and contractual employees, and appointed board/commission members of the Tribe or Tribal Entities.

The CCT Title 24, Chapter 1, Drug Free Workplace Ordinance amendments passed as a 1st Reading on May 3, 2017 during the monthly Business Committee Meeting. The CCT Title 24, Chapter 1, Drug Free Workplace Ordinance amendments passed as a 2nd Reading on June 6, 2018 during the monthly Business Committee Meeting. 3rd and Final Reading passed on September 13, 2018 during the monthly Business Committee Meeting, and adopted by Resolution No. 78-18 passed on September 17, 2018

24-1-102. Definitions.

- (1) "Conviction" means a finding of guilt (including a plea of nolo contendere), an imposition of sentence, or both, by a judicial body charged with the responsibility to determine violations of Federal, Tribe or State criminal drug statutes.
- (2) Criminal drug statute means a Federal, Tribal or State criminal statute addressing the manufacture, distribution, dispensation, use, or possession of a controlled substance.

24-1-103. Drug Possession and Use.

- (1) Employees may not use, consume, possess, distribute, sell, dispense, illegal drugs, intoxicants or controlled substances on Chippewa Cree Tribal property, or while performing Chippewa Cree Tribal business while away from the Chippewa Cree Tribe premises. This prohibition also includes lawful controlled substances that have been illegally or improperly obtained, as well as abuse of a lawful substance.
- (2) Employees may not have any such substances or alcohol in their system while at work. This Ordinance does not prohibit the possession and proper use of lawfully prescribed drugs taken in accordance with the prescription, but does prohibit employees from having excessive amounts of otherwise lawful controlled substance in their systems or from working while impaired by a lawful medication. It is the employee's responsibility to determine from his/her physician in advance whether a prescribed drug may impair job performance. Upon request, the employee is responsible for obtaining a written note from their medical provider or physician to determine if a prescribed drug may impair job performance or present a safety hazard.
- (3) Compliance with this Ordinance is required as a condition of employment for qualified applicants or for continued employment of current employees. The presence of a detectable amount of any prohibited substance in an employee while working and/or during working hours may be deemed a violation of this Ordinance, regardless of when or where the substance entered the employee's system.
- (4) For the purposes of this Ordinance, Chippewa Cree Tribal property includes all property owned, leased by, or under the control of the Chippewa Cree Tribe, including but not limited to its offices, facilities, parking areas, grounds, buildings, structures, any and all work locations, vehicles, and equipment.
- (5) Ensure that all employees working on the federal contract understand their personal reporting obligations. Under this Ordinance, an employee must notify the employer within five (5) calendar days if he or she is convicted of a criminal drug violation.

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24-1-104. Employee Responsibility to Report Impairment.

All employees are jointly responsible for maintaining a safe and healthy working environment. Any employee who observes, suspects or has knowledge of another employee in a condition which impairs the employee to perform their job duties, or who presents a hazard to the safety and welfare of others, or is otherwise in violation of this Ordinance, is required to report that to a supervisor or manager as soon as practicable.

24-1-201. Testing.

(1) In order to enforce this Ordinance, the Chippewa Cree Tribe may require employees to undergo drug testing, including urinalysis, blood tests or other appropriate tests and, where appropriate, searches of all areas of the Chippewa Cree Tribe's premises, in the following circumstances and/or for the following reasons:

(a) Pre-Employment Screening offers of employment may be conditioned upon proper cooperation and participation in the Chippewa Cree Tribe's drug screening program. Pre-Employment Screening is defined as the employee's first drug test, which may occur during any stage of the employment process (including, but not limited to: the probationary period). Failure to successfully complete a drug and controlled substance screening test, or to provide consent for testing will be deemed a withdrawal of the candidate's application for employment. Applicants who test positive without a legitimate medical reason will be denied employment. In appropriate circumstances, the Chippewa Cree Tribe may, in its sole discretion, authorize a retest.

(b) Reasonable Suspicion Employees may be required to submit to drug screening if the Chippewa Cree Tribe has a reasonable suspicion that they have violated any of the rules set forth in this Ordinance. Reasonable suspicion may arise from, among other factors, supervisory observation while on the job performance, results of drug searches or other detection methods.

(c) Post-Accident any employee involved in an on-the-job accident, work-related vehicular accident, or workplace injury under circumstances that suggest possible use or influence of drugs in the accident or injury event may be asked to submit to a drug test. An employee's involvement is not strictly limited to the person who was or could have been injured, but also any employee who potentially contributed to the accident or injury event in any way.

(d) Annual Testing may be administered upon an employee who is not tested during a one (1) year period.

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- (e) Random Testing may be administered upon an employee. The random selection process must give an equal probability that any employees from a group of employees will be selected for a test.

24-1-202. Testing Procedures.

- (1) Prior to testing, employees will sign the applicable consent form. Refusal to do so is considered a violation of this Ordinance and may be subject to termination from employment.
- (2) Testing will be conducted by an appropriate testing facility designated by the Chippewa Cree Tribe. Applicants and employees must cooperate fully with reasonable procedures and requirements of the testing facility.
- (3) Each employee and applicant who is to be tested will be asked by the designated testing facility to list all legal and prescription drugs consumed during the prior period typically thirty days or as otherwise designated by the testing facility and will have an opportunity to explain the use of each such drug. Failure to report the use of any such drugs and subsequently testing “positive” on any required screening or other test is a violation of this Ordinance and subject to disciplinary action under **24-1-302**.

24-1-203. Samples Declared “Diluted” or “Adulterated.”

- (1) Any drug-testing sample with a testing disposition characterized as “diluted” or “adulterated” will result in the employee automatically submitting to a retest within a 2-hour period if practical. Failure to re-test within a 2-hour period if practical shall be treated as a positive test results and grounds for disciplinary action under **24-1-302**.
- (2) Retesting of positive samples does not prevent or delay disciplinary action of termination.

24-1-204. Confidentiality.

- (1) Test results will be maintained in a confidential manner in a separate file not part of the employee’s personnel file.
- (2) The Chippewa Cree Tribe will endeavor to keep the results of any drug, substance abuse or other such test confidential. Test results and voluntary reports of drug problems will not be revealed by the Chippewa Cree Tribe to any person except those persons whom the Chippewa Cree Tribe believes have a need to know because of such reasons as supervision of the employee involved, personnel administration or as otherwise deemed necessary or proper by the Chippewa Cree Tribe or as required by law.

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24-1-205. Testing Violations.

(1) The following behaviors constitute violations of this Ordinance and may be subject to disciplinary action under **24-1-302**:

- (a) Testing positive on a required or requested drug test or screen.
- (b) Refusing either to take a drug test or to release information regarding a required or requested drug test or screen.
- (c) Admitting use or use of a “masking substance” for purpose of degrading, disguising, or rendering a false negative test result.

24-1-301. Searches and Inspections.

In order to enforce this Ordinance and these procedures, and to maintain a safe and healthy working environment, the Chippewa Cree Tribe may investigate potential violations, search any area on the Chippewa Cree Tribe premises and condition entry to the Chippewa Cree Tribe premises upon the right to search the person or personal property of any entrant for illegal and unauthorized drugs, drug paraphernalia, controlled substances, alcoholic beverages and unauthorized weapons.

In addition, the Chippewa Cree Tribe reserves the right to inspect vehicles, lockers, work areas, desks, purses, briefcases, tool boxes and other locations or belongings without prior notice, in order to ensure a work environment free of prohibited substances. An employee may be asked to be present and remove a personal lock. The employee is hereby notified that locked areas or containers do not prevent a search and thus employees should understand there is no expectation of privacy on the Chippewa Cree Tribe premises. Where the employee is not present or refuses to remove a personal lock, the Chippewa Cree Tribe may do so for him or her, and compensate the employee for the lock.

24-1-302. Violations.

Employees who violate this Ordinance will be removed from the workplace immediately and subject to discipline. The Chippewa Cree Tribe may also bring the matter to the attention of appropriate law enforcement authorities.

(1) Violation: Termination/ Dismissal.

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- (a) An employee who is terminated in accordance with this Ordinance is prohibited from seeking employment with the Chippewa Cree Tribe for a thirty (30) calendar day period.

24-1-303. Criminal Charges and Convictions.

Any conviction for criminal conduct involving illegal drugs, intoxicants, or controlled substances, whether on or off duty, or any violation of this Ordinance, including having a positive drug-test result, may lead to disciplinary action under **24-1-302**.

24-1-304. Employee Assistance.

Employees are encouraged to voluntarily seek assistance and treatment for substance abuse and dependency problems. However, it is the responsibility of the employee to seek and accept assistance before drug problems lead to disciplinary action under **24-1-302**. Failure to enter, remain or successfully complete a prescribed treatment program may result in termination of employment.

Entrance into a treatment program does not relieve an employee of the obligation to satisfy the Chippewa Cree Tribe's standards regarding an employee's performance, or relieve his/her responsibility to perform his/her job in a satisfactory, safe and efficient manner.

Participation in a treatment program will not prevent the Chippewa Cree Tribe from administering disciplinary action under **24-1-302**.

The Human Resource Department shall inform employees of the dangers of workplace substance use; review the requirements of this Ordinance; and offer information about any counseling, rehabilitation, or employee assistance programs (EAPs) that may be available.

24-1-401. Supplemental Policies.

Tribal Departments are authorized to develop supplemental policies and procedures that apply only to those specific program areas to provide more protections for employees than what is available under existing tribal law. For instance, tribal departments may develop supplemental policies specific to random drug testing, alcohol testing, stricter violations, and hair follicle drug testing. In no case shall tribal departments create supplemental policies that fall below the standards required under this Ordinance.

24-1-402. Sovereignty.

Nothing in this Drug Free Workplace Ordinance No. 1-99 is intended to waive or alter the sovereignty of the Tribe, Tribal departments, entities or employees acting in their official capacities.

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24-1-403. Effective date.

The amendments to this Drug Free Workplace Ordinance No. 1-99 shall be considered as adopted and shall become **effective on September 17, 2018.**

24-1-501. Drug Test Consent Form.

See Exhibit A

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EXHIBIT A
DRUG TEST CONSENT FORM
EMPLOYEE AGREEMENT AND CONSENT TO
DRUG TESTING

I hereby agree, upon a request made under the Drug Free Workplace Ordinance No. 1-99 of the Chippewa Cree Tribe, to submit to a drug test and to furnish a sample of my urine, breath, and/or blood for analysis. I understand and agree that if I at any time refuse to submit to a drug test under the Drug Free Workplace Ordinance, or if I otherwise fail to cooperate with the testing procedures, I will be subject to immediate termination. I further authorize and give full permission to have the Chippewa Cree Tribe and/or its Wellness Coordinator and/or authorized Representative send the specimen or specimens so collected to a laboratory for a screening test for the presence of any prohibited substances under the Drug Free Workplace Ordinance, and for the laboratory or other testing facility to release any and all documentation relating to such test to the Chippewa Cree Tribe and/or to any governmental entity involved in a legal proceeding or investigation connected with the test. Finally, I authorize the Chippewa Cree Tribe to disclose any documentation relating to such test to any governmental entity involved in a legal proceeding or investigation connected with the test.

I understand that only duly-authorized Chippewa Cree Tribal officers, employees, and agents will have access to information furnished or obtained in connection with the test; that they will maintain and protect the confidentiality of such information to the greatest extent possible; and that they will share such information only to the extent necessary to make employment decisions and to respond to inquiries or notices from government entities.

I will hold harmless the Chippewa Cree Tribe, its Wellness Coordinator, authorized Representative, and any testing laboratory the Chippewa Cree Tribe might use, meaning that I will not sue or hold responsible such parties for any alleged harm to me that might result from such testing, including loss of employment or any other kind of adverse job action that might arise as a result of the drug test, even if the Chippewa Cree Tribe or laboratory representative makes an error in the administration or analysis of the test or the reporting of the results. I will further hold harmless the Chippewa Cree Tribe, its Wellness Coordinator, authorized Representative, and any testing laboratory the Chippewa Cree Tribe might use for any alleged harm to me that might result from the release or use of information or documentation relating to the drug test, as long as the release or use of the information is within the scope of this Drug Free Workplace Ordinance and the procedures as explained in the paragraph above.

This Ordinance and authorization have been explained to me in a language I understand, and I have been told that if I have any questions about the test or the Drug Free Workplace Ordinance, they will be answered.

I UNDERSTAND THAT THE CHIPPEWA CREE TRIBE WILL REQUIRE A DRUG SCREEN UNDER THIS ORDINANCE WHENEVER I AM INVOLVED IN AN ON-THE-JOB ACCIDENT OR INJURY UNDER CIRCUMSTANCES THAT SUGGEST POSSIBLE INVOLVEMENT OR INFLUENCE OF DRUGS IN THE ACCIDENT OR INJURY EVENT, AND I AGREE TO SUBMIT TO ANY SUCH TEST.

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Signature of Employee

Date

Employee's Name - Printed

Authorized Representative

Date

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