

**Constitution
of the
Nonremovable Mille Lacs Band of Ojibwe**

Preamble

We the Mille Lacs Band Ojibwe Anishinabe, in order to preserve our inherent rights as indigenous native peoples, to protect the natural order and relationships gifted to us by the Creator, and to promote the cultural values, customs, traditions, and beliefs descended from our original People, do hereby establish this constitution and government.

Article I - Sovereignty

Sec. 1. Sovereignty. The Band possesses sovereignty. The source of the Band's sovereignty is the People of the Band.

Article II – Division of Powers

Sec. 1. Branches of Government. The People of the Band hereby establish a division of authority among the Legislative, Executive, and Judicial branches. The authority to make laws shall be vested in the Legislative branch. The authority to execute, administer, and enforce the laws shall be vested in the Executive branch. The authority to resolve disputes shall be vested in the Judicial Branch.

Sec. 2. Balance of Authority. To accomplish a fair and just exercise of authorities conferred by the people in this Constitution, the authorities of government shall be balanced by dividing such authorities so that no one person or governmental entity shall have absolute power. Except as

specifically authorized by any provision of this Constitution, no official of one Branch shall exercise the authority of any other Branch, or take any action which serves to undermine or encroach upon the distribution of the authority of the Band as set forth in this Constitution.

Article III - Territory

Sec. 1. Territories. The Territory of the Band shall be comprised of:

- (a) the Reservation, which shall mean all land within the exterior boundary described in the Treaty of 1855, to wit: the following fractional townships, viz: forty-two north, of range twenty-five west; forty-two north, of range twenty-six west; and forty-two and forty-three north, of range twenty-seven west; the three islands in the southern part of Mille Lacs; and also the exterior boundary of Sandy Lake Reservation as described in the Treaty of 1855, and contiguous waters; and,
- (b) the areas described in the Treaty of 1837 for purposes of exercising reserved hunting, fishing, gathering, and other rights; and,
- (c) all lands held in trust by and for the Band or its Members; and
- (d) all lands held in fee by the Band or any corporate entity of the Band; and,
- (e) all lands within the Reservation held or acquired by the Minnesota Chippewa Tribe or by the United States for or on behalf of Minnesota Chippewa Tribe or for and on behalf of the Band; and,
- (f) all lands held or acquired by Minnesota Chippewa Tribe or by the United States for or on behalf of the Minnesota Chippewa Tribe or the Band outside the Reservation but within the ceded territory as

described in the Treaty of 1855; and

- (g) all lands acquired by Minnesota Chippewa Tribe or by the United States on behalf of the Minnesota Chippewa Tribe which were formerly held as trust allotments by the Band or members of the Band; and
- (h) all lands held in trust by Minnesota Chippewa Tribe or by the United States on behalf of the Minnesota Chippewa Tribe outside the ceded territory which are also outside the reservation of any other Minnesota Chippewa Tribe Band and under concurrent jurisdiction with Minnesota Chippewa Tribe.

Sec. 2. Composition of Territory. The Territory shall include all real property, all natural resources, the surface, subsurface, and submerged lands, minerals, water, air, and airspace, notwithstanding the issuance of any patent or right-of-way.

Article IV - Jurisdiction

The Jurisdiction of the Band shall extend to the Territory, and to all persons, property, corporations, and activities within the Territory. The Jurisdiction of the Band shall extend to any action affecting the political integrity of the Band or the health, welfare, or safety of the people. All persons entering the Territory shall be deemed to have consented to the Jurisdiction of the Band. Any employee of the Band or its subdivisions shall, by accepting employment, be deemed to have submitted to the Jurisdiction of the Band. The Jurisdiction of the Band shall extend to all lands and waters described in the Treaty of 1855 for the purpose of exercising and regulating all rights reserved in the treaty of 1837 and the treaty of 1855, to fish, hunt, trap, gather, harvest, and other usual rights of occupancy. The Jurisdiction of the Band shall not extend to cultural activities and properties including sacred sites, burial

sites, and other sites of historical or traditional significance except for the sole purposes of protecting such properties and sites from desecration or from regulation by any other government.

Article V - Bill of Rights

Sec. 1. Limitations on Government. The government of the Band shall not make or enforce any law or take any executive action:

- (a) prohibiting the free exercise of the rights to hunt, fish, gather, and harvest;
- (b) prohibiting any individual freedom of any Band Member to exercise traditional, cultural, or religious practices or ceremonies, and the customs and traditions of the Band shall be based upon Anishinabe/Ojibwe culture;
- (c) prohibiting the freedom of speech;
- (d) infringing on the freedom of the People to a private press;
- (e) prohibiting the right of the People peaceably to assemble, and to petition the government for redress of grievances;
- (f) prohibiting the right of the People to keep and bear arms;
- (g) violating the right of the People to be secure in the privacy of their persons and personal information, houses, vehicles, electronic data and communications, papers, and effects against unreasonable searches and seizures, nor causing warrants to be issued but upon probable cause, supported by oath or affirmation signed by a Judge and particularly describing the place, person, house, or things to be searched, the object and scope of such search, and the person or

thing to be seized, nor executing an arrest without probable cause; provided, that unsubstantiated information regarding an alleged crime provided by a private citizen shall not, alone, constitute probable cause;

- (h) subjecting any person to criminal charges, prosecution, or punishment more than once for the same offense arising out of the same incident;
- (i) subjecting any persons to search or arrest without informing them of their right to remain silent and that anything they say can be held against them in a court of law, their right to have access to an attorney, their right to have all these rights explained at the time of arrest, and their right to be asked if they understand these rights;
- (j) denying to any person in a criminal proceeding the right to be presumed innocent until proven guilty, to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him or her, to have compulsory process for obtaining witnesses in his or her favor, and to have the assistance of counsel for his or her defense subject to income guidelines established by law;
- (k) denying to any person within its jurisdiction the equal protection, application, or opportunity under the law;
- (l) depriving any person of liberty and property without due process of law;
- (m) taking any private real property for public use without due process and just compensation;
- (n) imposing the punishment of death for conviction of any crime;

- (o) denying to any person in a civil proceeding the right to a jury trial;
- (p) requiring excessive bail, imposing excessive fines, or inflicting cruel and unusual methods of interrogation or punishment.

Sec. 2. Reserved Rights. Powers not granted to the government shall be reserved to the People.

Article VI – Membership

Sec. 1. Requirements. Membership in the Band shall consist of:

- (a) All Ojibwe Anishinabe persons who are enrolled members as of the date of the adoption of this Constitution, which shall be known as the base membership roll of the Band as corrected by the Chief Executive subject to ratification by the Band Assembly; and,
- (b) All biological children of a Band Member, provided, that such children possess at least twenty-five percent Ojibwe Anishinabe blood.

Sec. 2. Department of Enrollment Composition and Powers.

- (a) There shall be one Department of Enrollment with the responsibility to determine Membership by enrolling births and new members, and otherwise maintaining the official Membership Roll of the Band.
- (b) There shall be one Commission which shall hear and decide appeals of Departmental decisions and which shall make rules and regulations governing Membership, after providing due notice and opportunity for public comment, to protect the Band against

fraudulent enrollments, subject to the power of the Band Assembly to modify such rules and regulations by law.

Sec. 3. Dual Enrollment and Membership. No person shall be eligible for enrollment if enrolled as a member of another tribe.

Article VII - Band Assembly

Sec. 1. Composition. The Legislative Branch of government shall be comprised of one Band Assembly. The Band Assembly shall be comprised of five Representatives.

Sec. 2. Selection. One Representative shall be elected from each voting District.

Sec. 3. Voting Districts.

(a) The voting Districts shall be as follows:

- (i) District 1 shall be known as Nay-ah-Shing;
- (ii) District 2 shall be known as Mi-ni-si-na-kwang, which shall include the areas known as Ga-me-ta-wa-ga-gi-mog (Sandy Lake), Minnewawa, and Mi-ni-si-na-kwang (East Lake);
- (iii) District 3 shall be known as Chi-mi-ni-sing (Isle);
- (iv) District 4 shall be known as Ah-sho-moog (Lake Lena), which shall include the areas known as Ne-shi-gwa-go-gog (Pine City), A-sin-ni-ga-ning (Sandstone), and Ga-shi-gwa-na-bi-go-gog (Hinckley);
- (v) District 5 shall be known as the At-large District, which shall

include everything not included in Districts 1 through 4.

- (b) The Band Assembly shall have the authority to establish by law the boundaries of each Voting District at least nine months prior to the filing deadline for each General Election.

Sec 4. Legislative Leaders. The Assembly shall select one Speaker of the Assembly from among the five seated District Representatives.

Sec. 5. Terms. District Representatives shall serve four-year staggered terms of office with two seats or three seats becoming vacant every two years. The oath of office shall be administered to Representatives, and Representatives shall be seated no later than thirty days after the General Election.

Sec. 6. Eligibility and Qualifications.

- (a) A District Representative shall be an enrolled Member of the Band.
- (b) A candidate for District Representative shall be at least twenty-one years old prior to the date of the General Election.
- (c) A candidate for District Representative shall have maintained an actual physical residence within their respective District at least twelve consecutive months prior to the Primary Election;
- (d) A District Representative shall maintain an actual physical residence within the respective District for the duration of the term.
- (e) No person who has ever been convicted of embezzlement shall be eligible to be a candidate for, or serve as, a District Representative, regardless of expungement or pardon; no person who has ever been convicted of any felony other than embezzlement in any

jurisdiction shall be eligible to serve as a District Representative unless ten years or more has passed from completion of all conditions of sentencing, regardless of expungement or pardon.

Sec. 7. Compensation. District Representatives shall be paid a reasonable salary as established by law. Any increases in salary shall be established by law and shall not take effect until after the next General Election.

Sec. 8. Powers and Duties.

- (a) The Band Assembly shall have the power to enact laws and resolutions. The Band Assembly shall not have the power to make executive decisions unless otherwise expressly permitted by this Constitution.
- (b) The Band Assembly shall have the power to enact one comprehensive Annual Budget.
- (c) The Band Assembly shall have the power to ratify any nomination made by the Chief Executive; provided, that persons nominated and ratified shall be subject to final appointment by the Chief Executive. If the Band Assembly fails to act on nominations within thirty days, then the nomination shall be deemed confirmed.
- (d) The Band Assembly shall have the power to create Commissions and Boards by law which shall be located within the executive branch of government and subject to the laws.
- (e) The Band may enter into intergovernmental agreements, which shall be authorized by the Band Assembly by law, subject to negotiation and execution by the Chief Executive, and subject to ratification by the Band Assembly; provided, that the Band

Assembly may waive the requirement for ratification in its initial authorization. Ratification of an intergovernmental agreement by the Band Assembly shall be embodied in a written document certifying the action and such document shall be made public, shall be submitted to the Chief Executive, and shall have the force of law.

Sec. 9. Legislative Actions.

- (a) Bills. The Band Assembly shall utilize a written Bill to enact proposals into law. In order to enact Bills, the Band Assembly shall follow a public process, which shall include maintaining a legislative calendar and holding public hearings. The names and votes of each Representative on every Bill shall be recorded and published.
 - (i) All Bills enacted by the Band Assembly shall be subject to signature or veto by the Chief Executive within five calendar days of receipt of the Bill from the Band Assembly. If the Chief Executive fails to sign or veto a Bill, then such Bill shall become law.
 - (ii) A Bill shall become law upon signature by the Chief Executive or the passage of five calendar days without signature or without veto by the Chief Executive.
 - (iii) Upon the veto of a Bill, the Band Assembly may call a public reconciliation session to determine if an agreement may be reached to advance the Bill or a modified Bill acceptable to the Band Assembly and the Chief Executive; provided, that if no agreement is reached, then the Band Assembly shall have the power by majority vote to call a Referendum Election for the voters of the Band to determine whether the Bill shall

become law.

- (iv) Any Bill that becomes law shall be subject to Judicial Review.
- (b) Resolutions. The Band Assembly shall have the power to pass Resolutions, which shall be considered statements, proclamations, or declarations. A Resolution shall not have the force of law and shall not be enforceable. A Resolution shall not be subject to veto by the Chief Executive.
- (c) Legislative Orders. The Band Assembly shall have the power to pass Legislative Orders, which shall be limited to administrative matters entirely within the Legislative Branch of government such as establishing procedures for the Band Assembly or employing legislative staff.
- (d) All Bills and Resolutions shall be subject to Judicial Review.

Sec. 10. Budgets.

- (a) There shall be one comprehensive Annual Budget based on projections of all revenue derived from any source and all projections of expenditures. All revenue from any source shall be deposited into the Treasury, except that the Band Assembly shall have the power to authorize businesses owned by the Band to retain revenue for business operational purposes. The Annual Budget shall include funding for each branch of government to fulfill its constitutional functions. No item shall be funded in the Annual Budget unless it has been previously authorized by law.
- (b) In order to enact an Annual Budget, the Band Assembly shall follow a public process, which shall include placing on the legislative calendar and holding public hearings. The names and

votes of each Representative shall be recorded and published.

- (i) The Band Assembly may accept or modify the Proposed Annual Budget prepared by the Chief Executive and shall enact one comprehensive Annual Budget by September 15th of each year by a majority vote of the entire Band Assembly. In the event that the Band Assembly fails to enact an Annual Budget by September 15th, then the Proposed Annual Budget shall be deemed enacted.
 - (ii) The Chief Executive shall have the power to veto in total an Annual Budget passed by Band Assembly within five calendar days of receipt.
 - (iii) The Band Assembly shall have the power to override a veto within five calendar days by at least four Members of the Band Assembly voting in favor of the override. If a veto override is unsuccessful, then the Proposed Annual Budget shall be deemed approved as the Annual Budget.
- (c) The fiscal year shall begin on October 1st and shall end on September 30th of each year.
- (d) The Band Assembly shall have the authority to enact one mid-year modification of the Annual Budget; provided, that specific supplemental appropriations of Band funds for the Annual Budget shall be permitted at any time if an external funding source requires a contributing expenditure of Band funds.

Sec. 11. Sessions of the Band Assembly. The Band Assembly shall meet in a Regular Session or Special Session in order to enact the budget or any law or resolution.

- (a) There shall be two Regular Sessions of the Band Assembly per year. The First Regular Session of the Band Assembly shall begin on the second Tuesday of January of each year and end the last Thursday in April. The Second Regular Session of the Band Assembly shall begin on the second Tuesday in July and end on last Thursday in October.
- (b) The Speaker of the Assembly or any four District Representatives may call a Special Session of the Band Assembly for any stated purpose and the Special Session shall be limited to such purpose. The Chief Executive shall have the authority to call a Special Session of the Band Assembly for the purpose of ratifying nominations. A Special Session shall not be held during a Regular Session.
- (c) A Bill introduced during a Regular Session must be acted on during such Session. A Bill introduced during a Special Session must be acted on during a subsequent Regular or Special Session.

Article VIII - Executive Branch

Sec. 1. Composition. The Executive Branch shall be comprised of one Chief Executive, one Secretary-Treasurer, one Cabinet, and any Department, Agency, Commission, Board, or any other governmental entity established by this Constitution or by law. There shall be Departments of Gaming, Health and Human Services, Commerce, Education, Administration, Natural Resources, Community Development, and any other Department established by law.

- (a) Cabinet. The Cabinet shall be comprised of the heads of all Departments except the Department of the Treasury. The head of each Department shall be called Deputy Chief Executive except the head of the Department of Justice shall be called the Attorney

General and the head of the Department of the Treasury shall be called the Deputy Treasurer. The Chief Executive shall have the power to appoint Deputy Chief Executives and the Attorney General after nomination by the Chief Executive subject to ratification by the majority vote of the Band Assembly. Department heads may be removed by the Chief Executive for cause. The Chief Executive shall preside over all proceedings of the Cabinet.

(b) Commissions.

- (i) There shall be one Election Commission, one Gaming Commission, and any other departmental Commission established by law.
- (ii) Departmental Commissions shall have powers to adopt regulations upon public notice and comment, to hear administrative appeals from within the respective Department or Division, and to make determinations on investigation, compliance, and prosecution. Actions of the Commission shall be final for purposes of Judicial Review.
- (iii) The Gaming Commission, as well as any other Commission if required by law, shall have one Executive Director to see that the rules and regulations of the Commission are faithfully administered.
- (iv) Each Commission shall be comprised of at least five Commissioners. Members of Commissions shall be selected by nomination by the Chief Executive subject to ratification by the Band Assembly. The Chief Executive shall post notice of any vacancies prior to making any nominations and shall post the nominations prior to submitting for ratification.

Three nominations shall be made for each vacancy. In the event that the Chief Executive fails to make nominations at least thirty days prior to the expiration of the term of office, then the Secretary-Treasurer shall make nominations. If the Band Assembly fails to act on nominations within thirty days, then the Chief Executive shall make a final appointment from among the three nominees. Commissioners may be removed by the Chief Executive for cause.

- (c) Boards. Each Board shall be comprised of at least five Board Members. Boards shall have executive powers. Each Board shall have one Executive Director to see that all laws are faithfully executed. Boards shall have the power to make final determinations which shall be subject to Judicial Review. The manner of selection of Board Members shall be established by law either by nomination by the Chief Executive subject to ratification by the Band Assembly, or by election by the voters of the Band.
- (d) District Representatives shall not serve on any Commission or Board. No person may serve on both a Commission and Board simultaneously within the same Department.

Sec. 2. Selection. The Chief Executive and the Secretary-Treasurer shall each be elected by the voters of the Band.

Sec 3. Terms. The terms of office for the Chief Executive and Secretary-Treasurer shall be four years.

Sec 4. Qualifications.

- (a) Each candidate for Chief Executive and Secretary-Treasurer must be an enrolled Member of the Band.

- (b) Each candidate for Chief Executive and Secretary-Treasurer shall be at least twenty-one years old prior to the date of the General Election.
- (c) The Chief Executive and the Secretary-Treasurer shall maintain actual physical residence within District 1 through 4 upon election and for their entire terms.
- (d) A candidate for Chief Executive and Secretary-Treasurer shall never have been convicted of any crime of embezzlement in any jurisdiction regardless of any expungement or pardon; no person who has been convicted of any felony other than embezzlement in any jurisdiction shall be eligible to serve as a Chief Executive and Secretary-Treasurer unless twenty years or more has passed from completion of all conditions of sentencing, regardless of expungement or pardon.

Sec. 5. Powers and Duties of the Chief Executive.

- (a) The Chief Executive shall faithfully and impartially execute, enforce, and administer the Constitution, laws, and Judicial Orders of the Band.
- (b) The Chief Executive shall conduct external relations with all other governments and their political subdivisions.
- (c) The Chief Executive shall prepare and present a Proposed Annual Budget to the Band Assembly by June 15th of each year.
- (d) A Bill passed by the Band Assembly shall be subject to signature or veto by the Chief Executive within five calendar days of receipt of the Bill from the Band Assembly. If the Chief Executive fails to sign or veto a Bill within five calendar days of receipt of the Bill

from the Band Assembly, then such Bill shall become law. The Chief Executive shall have the power to veto in total an Annual Budget passed by Band Assembly within five calendar days.

Sec. 6. Powers and Duties of the Secretary-Treasurer.

- (a) The Secretary-Treasurer shall see that the Annual Budget is faithfully administered. No moneys shall be withdrawn from the Treasury except upon approval by the Secretary-Treasurer; provided, that if the Secretary-Treasurer shall refuse to approve a budgeted expenditure, the Chief Executive shall have the authority to approve such expenditure.
- (b) The Secretary-Treasurer shall oversee the Department of Treasury. The head of the Department of Treasury shall be the Deputy Secretary-Treasurer. The Secretary-Treasurer shall have the power to appoint a Deputy Secretary-Treasurer after nomination by the Secretary-Treasurer, subject to ratification by the majority vote of the Band Assembly.
- (c) The Deputy Secretary-Treasurer may be removed for cause by the Secretary-Treasurer.

Article IX - Judicial Branch

Sec. 1. Composition of the Judicial Branch. There shall be one Judicial Branch comprised of one Trial Court and one Court of Appeals. Upon agreement by parties in a civil trial, the Chief Judge shall convene a traditional forum to resolve the dispute using tribal custom and traditions.

Sec. 2. Powers and Duties of the Judicial Branch. The Judicial power shall extend to all cases and controversies, criminal or civil, in law or in equity, arising under this Constitution and laws of the Band, over all

persons, property, and activities in the Territory, or any person who consents to the jurisdiction or whose activities affect the health, welfare, or safety of the Band or its members. Any person who does not reside upon trust lands within the Reservation and thus who has no right to participate in any governance shall be deemed to have consented to the Jurisdiction by entering the Territory. The Trial Court and Court of Appeals shall have the power to declare any Act by the Band Assembly or action by the Executive Branch unconstitutional. The Courts shall have the power to issue writs, judgments, orders requiring conduct, orders prohibiting conduct, certification of appeals, or any writs as are necessary in the furtherance of justice. Nothing in this grant of jurisdiction shall be deemed a waiver of the Sovereign Immunity of the Band.

Sec. 3. Primacy and Exhaustion. Any lawsuit arising within the Territory or over which the Band may have Jurisdiction shall be filed and exhausted in the Judicial Branch before it shall be filed in any other court.

Sec. 4. Trial Court.

- (a) Composition of Trial Court. The Trial Court shall be composed of one Chief Judge and other Associate Judges as authorized by law.
- (b) Qualifications. Each Trial Court judge shall be a Member of any Tribe or Band and an attorney in good standing in any state bar, and shall not have been convicted of a felony in any court unless ten years or more years has passed from completion of all of the conditions of sentencing, regardless of expungement or pardon.
- (c) Selection. The Chief Judge and all Associate Judges shall be selected by nomination by the Chief Executive, ratification by the Band Assembly, and final appointment by the Chief Executive.

- (d) Term of Office. The Chief Judge and Associate Judges shall serve a term of six years and shall, except in the case of removal, remain seated until a successor is sworn into office.
- (d) Powers and Duties of the Trial Court. The Trial Court shall have the power to interpret the Constitution and laws of the Band, and to make findings of fact and conclusions of law. The Trial Court shall have the power to declare the laws of the Band void if such laws are in violation of this Constitution. The Trial Court shall have the power to issue all remedies in law and in equity. The Trial Court shall maintain a written calendar, journal, and written record of its proceedings.

Sec 5. Court of Appeals.

- (a) Composition of the Court of Appeals. The Court of Appeals shall be composed of five Justices including one from each District.
- (b) Qualifications. A candidate for Chief Justice or Associate Justices shall be an Enrolled Member at least twenty-one years of age with a high school level diploma, or fifty-five years of age without a high school level diploma, and shall not have been convicted of a felony in any court unless ten years or more years has passed from completion of all of the conditions of sentencing, regardless of expungement or pardon.
- (c) Selection. Each of the five Justices shall be elected from the District in which they reside. After every General Election the five elected Associate Justices shall select from among themselves a Chief Justice who shall serve in that capacity for two years.
- (d) Terms. All Justices shall serve terms of six years and shall, except

in the case of removal, remain seated until a successor is sworn into office. The first election under this Constitution shall be held in the first even-numbered year after ratification of this Constitution and all seats shall be deemed vacant. In order to stagger terms, in the first election of Associate Justices, the Associate Justice from the At-Large District shall serve a six year term, the Associate Justices from Districts 1 and 4 shall serve four year terms, and the Associate Justices from Districts 2 and 3 shall serve two year terms, and all Associate Justices shall serve six year terms thereafter.

- (e) Powers and Duties of the Court of Appeals. The Court of Appeals shall have the power to interpret the Constitution and laws of the Band, and to make conclusions of law. The Court of Appeals shall have the power to declare the laws of the Band void if such laws are not in violation of this Constitution. The Court of Appeals shall have the power to issue all remedies in law and in equity. The Court of Appeals shall maintain a written calendar, journal, and written record of its proceedings. The Court of Appeals shall render a final written decision in every case filed, and the written decisions of the Court of Appeals shall be published. At least three Justices shall hear and finally decide each case on appeal. Decisions of the Court of Appeals shall be final.

Sec 6. Compensation. Judges and Justices shall be paid a reasonable compensation as established by law. Any increase or decrease in compensation shall not become effective until after the next General Election.

Sec 7. Rules. The Chief Justice shall have the power to establish rules for the Judicial Branch, including rules to practice before the courts, subject to the power of the Band Assembly to modify such rules by law.

Sec. 8. Code of Ethics. The Court shall establish a Code of Judicial and

Attorney Ethics and Conduct. Judge or Justices shall recuse from any matter in which they have a direct or indirect familial or financial interest.

Sec. 9. Fines and Fees. All monies paid into or ordered by the court or received by the court clerk in any case shall be deposited in the General Treasury.

Article X - Elections

Section 1. Voting. All Band Members eighteen years of age or older shall be eligible to vote in every Election.

Section 2. Voter Registration. All Band Members shall be deemed registered to vote in the District where they reside and they shall have the right to vote at a polling site within the District or by absentee ballot. A Member who is registered in a voting District shall remain registered in the District unless residency is established in another District.

Section 3. Election Commission. There shall be one Election Commission which shall have the responsibility to conduct fair and just elections. The voting Districts shall be equally represented on the Commission. Members and alternate Members of the Commission shall be appointed in odd-numbered years to serve staggered terms of six years.

Section 4. Independence of the Election Commission. In order to remain free of influence by the political branches or officials, determinations made by the Election Commission shall be final for purposes of Judicial Review.

Section 5. Ballots and Polling Places. The Election Commission shall provide for one polling site per District. Voting in Band Elections shall be by anonymous ballot and votes shall be private. The Election

Commission shall establish procedures for voting by Absentee Ballot in all Elections. Ballots shall be completed and published at least thirty calendar days prior to election day.

Section 6. Conflict of Interest. An Election Commissioner shall recuse from the Commission in any election in which a candidate is an immediate family member.

Section 7. Certification of Candidates. The Election Commission shall certify all candidates and publish the list of candidates within fourteen calendar days after the filing deadline. Any voter shall have the right to challenge the list of candidates within five calendar days after certification and the Election Commission shall make a final determination on any such challenge at least forty-five calendar days prior to the Primary Election day.

Section 8. Certification of Results. The Election Commission shall certify and publish election results within three calendar days after the election. In any election that ends in a tie the Election Commission shall conduct a mandatory recount of all ballots.

Section 9. Challenges to Results. Any candidate shall have the right to request a recount or to challenge certified election results by filing with the Election Commission within five calendar days after the election, and the Election Commission shall make a final determination on any recount request or challenge within seven calendar days after the challenge has been filed.

Section 10. Primary Election. The Election Commission shall cause to be conducted a Primary Election on the 10th Tuesday preceding the General Election.

Section 11. General Election. The General Election shall be held on the

2nd Tuesday in June.

Section 12. Oath. The Chief Justice shall administer the Oath of Office on the 2nd Tuesday in July to newly elected officials unless a challenge to the certified results of the election remains unresolved. Newly elected officials shall pledge to uphold the Constitution of the Mille Lacs Band.

Article XI – Recall, Removal, and Vacancies

Sec. 1. Recall. The People reserve the right to recall any elected official of the Band. District Representatives shall be subject to a recall vote called by petition signed by at least thirty-five percent of the voters in their respective District. The Chief Executive and Secretary/Treasurer shall be subject to a recall election called by petition signed by at least thirty-five percent of the voters of the Band.

- (a) The Election Committee shall provide a recall petition form to any Band Member upon request. The Election Commission shall prepare and issue a petition form to a Petitioner along with the names of the eligible voters of the District or Band as the case may be including the minimum number of signatures required for a valid petition. Petitioners shall have forty-five days to collect the requisite number of signatures on the recall petition. A separate recall petition shall be required for each person subject to recall. Completed recall petitions shall be filed with the Election Commission.
- (b) Upon receipt of a recall petition, the Election Commission shall have seven calendar days to determine if the petition is valid, and if Election Commission determines the petition to be valid, the Election Commission shall hold a recall election in the respective District or Districts within thirty calendar days. The outcome of a recall election shall be determined by a majority of all votes cast.

- (c) No Recall petition shall be initiated by the voters against any elected official until one year has elapsed from the date of inauguration into office.
- (d) A Representative shall be removable upon a written statement of charges, due process, and by the remaining four Representatives voting in favor of requiring the Representative to be subject to a recall election in their respective District, which shall be held within thirty days.

Sec. 2. Removal.

- (a) The Chief Executive and Secretary-Treasurer shall be removable upon a written statement of charges, due process, and by a unanimous vote of five Representatives voting in favor of removal.
- (b) The Band Assembly shall have the power to remove or discipline a Judge and Justice for just cause after providing the fullest extent of due process. Removal proceedings shall include notice of written charges, a public hearing process, and a public vote. The Chief Executive shall preside at a removal hearing and the Judge or Justice shall have the right to a compulsory process to present witnesses and evidence and to confront witnesses. A vote to remove a Judge or Justice shall be by affirmative vote of at least four District Representatives. The decision of the Band Assembly on removal shall be final.
- (c) If any elected or appointed official of any branch of government is convicted of a felony while serving, the Election Commission shall declare the seat vacant.

Sec. 3. Vacancies.

- (a) A vacancy in an Office of Representative shall be filled by the respective District in a Special Election. The Election Commission shall call and hold a Special Election within thirty calendar days of the vacancy and the person receiving the highest number of votes shall fill the vacancy for the unexpired term; provided, that if ninety or fewer calendar days remain before the next General Election, then the seat shall remain vacant.
- (b) A vacancy in the Office of Chief Executive or in the Office of Secretary-Treasurer shall be filled in a Special Election. The Election Commission shall call and hold a Special Election within thirty calendar days of the vacancy and the person receiving the highest number of votes shall fill the vacancy for the unexpired term. If a vacancy occurs in the Office of Chief Executive then the Secretary-Treasurer shall serve as Chief Executive until the next election is held and the replacement is seated. If a vacancy occurs in the Secretary-Treasurer then the Chief Executive shall serve as Secretary-Treasurer until the next election is held and the replacement is seated.
- (c) A vacancy in the Office of any Trial Court Judge shall be filled by the normal appointment process. A vacancy in the Office of Court of Appeals Justice shall be filled by Special Election which shall be held within thirty calendar days of the vacancy. The person receiving the highest number of votes shall fill the vacancy for the unexpired term.

Article XII - Referendum and Initiative.

Sec. 1. Referendum and Initiative. The People reserve the right to exercise direct democracy through Referendum and Initiative. The

People reserve the right to require a Referendum Election on any proposed Bill or enacted law and the right to have an Initiative Election on any matter upon petition signed by at least twenty percent of the eligible voters of the Band.

- (a) Upon request by any Member of the Band, the Election Commission shall provide a Referendum Petition Form or Initiative Petition Form and shall also provide in writing the requisite number of signatures that petitioners must collect for a valid petition.
- (b) The Petitioners shall have thirty calendar days to submit a completed petition to the Election Commission. The Election Commission shall have five calendar days to make a final determination on the validity of a petition. If the Election Commission determines a petition to be valid, the Election Commission shall then have thirty calendar days to conduct a Referendum or Initiative Election.
- (c) The Band Assembly shall have the authority to call an advisory or binding referendum election on any legislative matter and the Election Commission shall have thirty calendar days to conduct the election.
- (d) The results of a Referendum or Initiative Election shall be binding as law and shall not be modified by the Band Assembly for at least twelve months.

Article XIII - Sovereign Immunity

Sec 1. Sovereign Immunity. The Band possesses sovereign immunity. The Sovereign Immunity extends to the Band, and its officers, enterprises, departments, and employees except as provided by this

Constitution. Except as expressly provided herein, nothing in this Constitution shall be construed as a waiver of Sovereign Immunity.

Sec. 2. Limits on Sovereign Immunity. The Sovereign Immunity shall not apply in these express and limited circumstances:

- (a) Any duly enrolled Member of the Band may bring an action exclusively in the Judicial Branch against the Band or its officials only to enforce the terms of this Constitution for equitable, injunctive, and declaratory relief; provided, that this section (2)(a) shall not be deemed a waiver of Sovereign Immunity for purposes of any monetary damages whatsoever against the Band, and provided further, that all available administrative remedies have been exhausted.
- (b) The Band Assembly may authorize a waiver of the Sovereign Immunity by law, providing that such waiver is expressed in clear and unequivocal language.
- (c) The Band Assembly or its Members can neither sue nor be sued in their official capacity.

Article XIV – Amendments

Sec. 1. Requests for an Election.

- (a) The five Representatives on the Band Assembly, the Chief Executive, and Secretary/Treasurer may request a Special Election to amend the Constitution by unanimous agreement in writing to the Election Commission.
- (b) The Members of the Band may request a Special Election to amend the Constitution by filing a petition with the Election Commission

signed by at least twenty percent of the eligible voters of the Band.

- (i) Upon request by any Member of the Band, the Election Commission shall provide a Petition Form and shall also provide in writing the requisite number of signatures that petitioners must collect for a valid petition.
- (ii) The Petitioners shall have thirty calendar days to submit a completed petition to the Election Commission. The Election Commission shall have five calendar days to make a final determination on the validity of a petition. If the Election Commission determines a petition to be valid, the Election Commission shall then have thirty calendar days to conduct a Special Election to amend the Constitution.

Sec. 2. Requirements for the Election. The Constitution may be amended by a vote of at least two-thirds of the votes cast at a Special Election in favor of amendment; provided, that at least thirty percent of the eligible voters cast a vote in the Special Election. Amendments approved by the voters shall become effective immediately unless otherwise indicated in the amendment.

Article XV – Savings Clause

Sec. 1. Laws. Upon the adoption of this Constitution, all the existing laws of the Band shall remain in full force and effect unless such laws are contrary to the terms of this Constitution.

Sec. 2. Elected Officials.

- (a) Following the adoption of this Constitution, the incumbent Chief Executive, Secretary-Treasurer, and Representatives shall remain in office with the full authority to act in accordance with this

Constitution until such time as replaced in accordance with this Constitution.

- (b) Following the adoption of this Constitution, the Election Commission shall call and hold a Special Election to fill the Office of District Three Representative and the Office of District Five Representative. The Election Commission shall hold a Primary Election within thirty calendar days after the adoption of this Constitution, and a General Election within thirty calendar days after the Primary Election. The candidates who receive the two highest numbers of votes in the Primary Election for each available seat shall proceed to the General Election, and the candidates who receive the highest number of votes for each available seat in the General Election shall be declared the winner. The Election Commission shall administer the Oath of Office to the newly elected officials within three calendar days of the certification of the results of the Special Election or upon a final decision on any challenges filed to the results of the Special Election.