

Laws and Rules of the Non-Removable Mille Lacs Band of Ojibwe



Supplement - 2021

Introduction

On December 3, 2020, the Chief Executive signed into law Ordinance 08-21, adopting a Revisor of Statutes Code. The law is codified into Band statutes as Title 25. Section 10 allows the Revisor to publish a supplement to the Laws and Rules of the Non-Removable Mille Lacs Band of Ojibwe. The Laws and Rules of the Non-Removable Mills Lacs Band of Ojibwe must be published no later than May 1.

During the fiscal year 2021, the following twelve Titles were amended. Please continue to check the Tribal Register for the most current law.

A handwritten signature in cursive script that reads "Hanna Valento". The signature is written in black ink and includes a long horizontal flourish extending to the right.

**Hanna Valento
Revisor of Statutes**

Table of Contents

Title 3 – Legislative Branch 4

Title 8 – Children and Families 22

Title 11 – Environment, Natural Resources, Animals And Plants 76

Title 12 – Community Development..... 93

Title 13 – REPEALED..... 146

Title 14 – REPEALED..... 147

Title 15 – Gaming Regulatory Act..... 148

Title 17 – Banks And Banking 156

Title 21 – Real and Personal Property 162

Title 24 – Judicial Proceedings 171

Title 25 – Revisor of Statutes 184

Title 26 – Compensation of Elected Officials 196

TITLE 3 - LEGISLATIVE BRANCH

Section

1. **Definitions.**
2. **Band Assembly.**
3. **Legislative Power.**
4. **Initiative and Referendum.**
5. **Band Assembly Members.**
6. **Terms of Office.**
7. **Powers and Duties of Speaker of Assembly.**
8. **Powers and Duties of the Secretary-Treasurer.**
9. **Powers and Duties of District Representatives.**
10. **Parliamentarian/Clerk of the Band Assembly.**
11. **Record of Proceedings.**
12. **Rules of Band Assembly.**
13. **Membership of Band Assembly.**
14. **Quorum.**
15. **Roll Call Vote.**
16. **Compensation.**
17. **Passage of Laws.**
18. **Annulment of Commissioner's Orders and Opinions of Solicitor General.**
19. **Appropriation Bills Prior to End of Fiscal Year.**
20. **Fiscal Year.**
21. **Petitions of Members of Band.**
22. **Legislative Privilege.**
23. **Assembly Powers of Inquiry.**
24. **Multi-Topic Bills.**
25. **Joint Session of Band Assembly.**
26. **Removal of Elected Officials or Appointees.**
27. **Elections.**
28. **Legislative Orders.**
29. **Style of Laws.**
30. **Effective Date for Bills, Orders, and Resolutions.**
31. **Interpretation of Title.**
32. **Construction of Title.**

§ 1. Definitions.

The definitions in this section shall apply to this Title.

- (a) **“Band”** means the Non-Removable Mille Lacs Band of Ojibwe.

- (b) **“Band Assembly”** means the Band’s legislative branch, established pursuant to 3 MLBS § 1, and comprised of the duly elected Speaker of the Assembly and three (3) District Representatives.
- (c) **“Bill”** means proposed legislation under consideration by the Band Assembly.
- (d) **“Chief Executive”** means the elected official who leads the Band’s executive branch pursuant to 4 MLBS § 6.
- (e) **“Clerk of the Band Assembly”** means the appointed official pursuant to 3 MLBS § 10 who is responsible for managing the session proceedings, record-keeping, and bill drafting.
- (f) **“Formal Public Hearing”** means a hearing conducted by the Band Assembly pursuant to 3 MLBS § 17(a).
- (g) **“Joint Session of the Band Assembly”** means a meeting with the four (4) members of the Band Assembly and the Chief Executive, convened pursuant to 3 MLBS § 25.
- (h) **“Opinion”** means a written interpretation of Band laws, policies, or legislative, secretarial, or commissioner’s orders pursuant to 4 MLBS § 18.
- (i) **“Ordinance”** means a law adopted by the Band Assembly and signed by the Chief Executive.
- (j) **“Parliamentarian”** means the appointed official pursuant to 3 MLBS § 10 who is trained in parliamentary law and in the rules, precedents, and practices of the Band Assembly.
- (k) **“Resolution”** means a formal expression of opinion, will, or intention voted on by the Band Assembly.
- (l) **“Resolution of the Joint Session of the Band Assembly”** means a resolution of the Joint Session of the Band Assembly, which is voted on by the Band Assembly, including the Speaker of the Assembly, and the Chief Executive.
- (m) **“Secretary-Treasurer”** means the elected official who has the powers and duties in administrating the Band’s financial affairs pursuant to 3 MLBS § 8.
- (n) **“Speaker of the Assembly”** means the elected official who leads the Band’s legislative branch pursuant to 3 MLBS § 7.
- (o) **“Statute”** means an ordinance that has been codified into Band law pursuant to Title 25.

Historical and Statutory Notes

Source:

Band Ordinance 38-21.

§ 2. Band Assembly.

- (a) All legislative political authority of the Non-Removable Mille Lacs Band of Ojibwe shall be vested in the Legislative Branch of government. The Legislative Branch of government shall be known as the Band Assembly. It shall be comprised of the duly elected representatives of the legislative districts of the Mille Lacs Reservation. Each District shall elect one representative. The Districts are as follows:
 - (1) District 1: Nay-Ah-Shing (Vineland);
 - (2) District 2: Mi-ni-si-na-kwang (East Lake), Chi-mini-sing (Isle), Ga-me-ta-wa-ga-gi-mog (Sandy Lake), and Chi-manoominikaang (Minnewawa); and
 - (1) District 3: Ga-shi-gwa-na-bi-go-gog (Hinckley), Ah-zhoo-moog (Lake Lena), Ne-shi-gwa-go-gog (Pine City), and A-sin-ni-ga-ning (Sandstone).
- (b) The Secretary-Treasurer shall be the leader of the Band Assembly. The Secretary-Treasurer shall exercise his/her legislative duties under the title "Speaker of the Assembly." The Secretary-Treasurer shall exercise his/her financial duties under the title "Secretary of Treasury."
- (c) Unless otherwise specified by Band Statute, all legislative authority of the Mille Lacs Reservation Business Committee shall be exercised by the Band Assembly. The Band Assembly is and shall be the body referred to in the Constitution as the Reservation Business Committee.

Historical and Statutory Notes

Source:

Band Statute 1141-MLC-2, § 4.01.
Band Ordinance 38-21.

Cross References

Designation of band districts, *see* 2 MLBS§ 11.
Functions of governmental authority, *see* 2 MLBS § 4.
Reservation Business Committee, *see* Const. Art. 3, § 2.

§ 3. Legislative Power.

It shall be the authority and duty of the Legislative Branch to enact laws which regulate internal and external affairs of the Band in order to promote the general welfare of the people. The Band Assembly shall have power:

- (a) to enact laws which promote the general welfare of the people;
- (b) to appropriate all Band revenue regardless of source;
- (c) to confirm appointments of the Chief Executive, which are by law required to be with the advice and consent of the Band Assembly;
- (d) to adopt resolutions;
- (e) to annul any Commissioner's Order or any opinion of the Solicitor General in conformity with 3 MLBS § 18;
- (f) to ratify agreements, contracts, cooperative and reciprocity agreements and memoranda of understanding; and
- (g) to perform all other legislative functions conferred by the provisions of Article VI of the Constitution of the Minnesota Chippewa Tribe.

Historical and Statutory Notes

Source:

Band Statute 1141-MLC-2, § 5.
Band Ordinance 38-21.

Cross References

Consolidated Nay-Ah-Shing School Board; powers reserved to Band Assembly, *see* 9 MLBS § 15.
Education-related funds, appropriation authority, *see* 9 MLBS § 27.
Gaming, Compacts with State of Minnesota, *see* 15 MLBS § 106.
Management agreements, ratification, *see* 15 MLBS § 105.
Negotiation and execution of agreements, contracts, etc., *see* 4 MLBS § 3.
Recommendation of agreements, contracts, etc., *see* 4 MLBS § 6.
Violation of approved Tribal Ordinance, *see* 24 MLBS § 1211.

§ 4. Initiative and Referendum.

- (a) The legislative authority of the Non-Removable Mille Lacs Band of Ojibwe is vested in the Band Assembly, but there is reserved to the people the power to propose bills and laws and to enact or reject the same at the polls, independent of the Band Assembly and at their own option, to approve or reject at the polls any item, section

or part of any bill or law passed by the Band Assembly, subject to election regulations promulgated by the Band Assembly.

- (b) The power of the people to approve or reject at the polls any item, section or part of any bill or law passed by the Band Assembly shall be exercised by filing a petition with the Secretary-Treasurer, signed by at least five percent (5%) of the Band members entitled to vote in tribal elections based on the total number of registered voters at the last preceding tribal election, within 20 calendar days after the passage of such bill or law. Newly enacted bills and laws shall be posted in each district within five (5) calendar days of enactment and shall remain posted until 20 calendar days have passed after enactment. The same petition requirements, excluding the 20-day limitation, shall apply to the power of the people to propose new bills and laws. An election regarding such initiative or referendum shall be held within 30 calendar days after the filing of the petition.
- (c) The people shall not have the power to approve or reject at the polls any item, section or part of any bill or law passed by the Band Assembly prior to September 19, 1992.

Historical and Statutory Notes

Source:

Band Statute 1141-MLC-2, § 6.

Band Ordinance 08-93.

Band Ordinance 38-21.

§ 5. Band Assembly Members.

The Band Assembly shall be comprised of the popularly-elected Secretary-Treasurer who shall be the Speaker of the Assembly, and the popularly elected District Representatives from each of the three (3) districts within the territorial jurisdiction of the Reservation. Each District Representative shall have one (1) vote in the Band Assembly.

Historical and Statutory Notes

Source:

Band Statute 1141-MLC-2, § 7.

Band Ordinance 38-21.

§ 6. Terms of Office.

The terms of office of the members of the Band Assembly shall be the term prescribed for the Secretary-Treasurer and Committeemen of the Reservation Business Committee in Article IV, § 3, of the Constitution.

Historical and Statutory Notes

Source:

Band Statute 1141-MLC-2, § 8.

§ 7. Powers and Duties of Speaker of Assembly.

- (a) The Speaker of the Assembly shall be the leader of the Legislative Branch of Government and have the following authority in exercising said authority of government:
 - (1) to convene the Band Assembly for due cause at any time. In the event that he/she shall fail to do so upon request of any two District Representatives, the Assembly may be convened after 48 hours' notice by any member of the Band Assembly;
 - (2) to be considered as a member of the Band Assembly for purposes of establishing a quorum;
 - (3) to require the prompt recording of the Band Assembly's acts and deeds;
 - (4) to schedule all special hearings of the Band Assembly upon request of any two District Representatives;
 - (5) to have the powers of authorization for issuance of all subpoenas and official documents on behalf of the Band Assembly; and
 - (6) to maintain order in all sessions of the Band Assembly.
- (a) The Speaker of the Assembly shall not be a voting member of the Band Assembly.

Historical and Statutory Notes

Source:

Band Statute 1141-MLC-2, § 9.
Band Ordinance 38-21.

§ 8. Powers and Duties of Secretary-Treasurer.

The Secretary-Treasurer shall have the following general powers and duties in administrating the financial affairs of Band government:

- (a) to superintend and manage all fiscal operations, planning and budgeting of the Non-Removable Mille Lacs Band of Ojibwe as authorized by the Band Assembly;
- (b) to enforce on behalf of the Band, all judgments and claims rendered in its favor;
- (c) to receive and receipt for all monies paid into the Band treasury and safely keep the same until lawfully disbursed by formal appropriation;
- (d) to have powers of investigations of financial irregularity;
- (e) to require the production of such books, accounts, documents and property under any lawful financial inquiry in all things that will aid him/her in the performance of his/her duties;
- (f) to levy, impound or attach any financial account of the Non-Removable Mille Lacs Band of Ojibwe or any political subdivision thereof to prevent serious financial jeopardy or acts in violation of law. This authority shall not be exercised to contravene any lawful acts of the Band Assembly;
- (g) to issue Secretarial Orders to implement decisions concerning matters of the fiscal affairs of the Band consistent with the powers herein delegated. Such written orders shall be in uniform format, numbered consecutively and have expiration dates;
- (h) to nominate in conjunction with the Chief Executive a suitable person to act as the Commissioner of Finance;
- (i) the Secretary-Treasurer shall post a fidelity bond in favor of the Non-Removable Mille Lacs Band of Ojibwe in an amount satisfactory to the Band Assembly; and
- (j) the Secretary-Treasurer shall coordinate with the Commissioner of Finance for the Office of Management and Budget, to ensure that financial planning and operations are consistent.

Historical and Statutory Notes

Source:

Band Statute 1141-MLC-2, § 10.
Band Ordinance 38-21.

Cross References

Commissioner of Finance, *see* 22 MLBS § 101 et seq.
Public Works Commission, financial record system, *see* 13 MLBS § 14.

Review of proposed procurement actions, *see* 7 MLBS § 6.
Violation of Secretarial Orders, *see* 24 MLBS § 1212.

§ 9. Powers and Duties of District Representatives.

- (a) The District Representatives shall have the following individual authority in the exercise of legislative powers of Band government:
 - (1) To introduce into the Band Assembly appropriate bills promoting the general welfare of the people for enactment into the laws of the Band.
 - (2) To establish district committees within their respective districts for the purpose of aiding them in the performance of their legislative duties.
 - (3) To chair public hearings on any proposed law within their appropriate district.
 - (4) To attend all sessions of the Band Assembly when called upon by the Speaker of the Assembly. The failure to attend any session of the Band Assembly shall require the official consent of the Band Assembly in order to consider said absence as excused.
 - (5) To represent the community interests of the district from which the Representative was elected. The Representative shall exercise this duty fairly and impartially in order to promote the general welfare of all district residents.
 - (6) To authorize the use of district community centers according to written standards that are fair and reasonable.
 - (7) To comply with the provisions of the oath of office of a District Representative.
 - (8) To refrain from the disclosure or distribution of any privileged or confidential information or documents that may come into their possession as a result of their office.
 - (9) To perform all legislative and other duties as may be assigned by the Speaker of the Assembly or the Band Assembly.
- (b) No popularly-elected District Representative to the Band Assembly shall exercise any of the authority properly belonging to either the Executive or Judicial branches of government or to any officer who is appointed to serve the Non-Removable Mille Lacs Band of Ojibwe.

Historical and Statutory Notes

Source:

Band Statute 1141-MLC-2, § 11.
Band Ordinance 38-21.

Cross References

Community centers, use, *see* Exec. Order 033.
Division of powers, *see* 2 MLBS § 3.
Functions of Band government, *see* 2 MLBS § 4.

§ 10. Parliamentarian/Clerk of the Band Assembly.

The Band Assembly shall appoint an individual, not a member of the Band Assembly, who shall act as Parliamentarian and Clerk of the Band Assembly. The Parliamentarian shall be independent of any supervisory authority in the Band Assembly. All parliamentary decisions shall be rendered in an impartial manner. The Parliamentarian may be removed from office by unanimous vote of the Band Assembly in concurrence with the Speaker of the Assembly.

Historical and Statutory Notes

Source:

Band Statute 1141-MLC-2 § 12.
Band Ordinance 38-21.

§ 11. Record of Proceedings.

It shall be the duty of the Clerk of the Band Assembly to record all official minutes of the proceedings of the Band Assembly. The Clerk of the Band Assembly shall add the meeting minutes to the next scheduled Band Assembly agenda for Band Assembly approval. The official record of the proceedings of the Band Assembly shall be prima facie evidence of the facts stated therein in the Court of Central Jurisdiction and any other court of competent jurisdiction.

Historical and Statutory Notes

Source:

Band Statute 1141-MLC-2, § 12.01.
Band Ordinance 38-21.

§ 12. Rules of Band Assembly.

The Band Assembly shall establish the rules of its proceedings, decide upon its adjournment and discipline of its members through censure for improper conduct as a Band Assembly member;

or other disciplinary action, provided, however, that removal shall be governed by 3 MLBS § 25(a), but not twice for the same offense.

Historical and Statutory Notes

Source:

Band Statute 1141-MLC-2, § 13.
Band Ordinance 38-21.

§ 13. Membership of Band Assembly.

The Band Assembly shall be defined as all popularly-elected or appointed members, in the case of vacancies that may be filled pursuant to the provisions of Minnesota Chippewa Tribal Election Ordinance Number 4. The Chief Executive shall not be a member of the Band Assembly.

Historical and Statutory Notes

Source:

Band Statute 1141-MLC-2, § 14.

§ 14. Quorum.

Any three (3) members shall constitute a quorum to transact business of the Band Assembly. The Speaker of the Assembly shall be considered as a member of the Band Assembly for the purpose of establishing a quorum.

Historical and Statutory Notes

Source:

Band Statute 1141-MLC-2, § 14.01.

§ 15. Roll Call Vote.

In all votes of the Band Assembly, a roll call vote may be utilized upon the request of any Representative and their roll call vote shall be entered for the record. Otherwise, all other votes may be consensual.

Historical and Statutory Notes

Source:

Band Statute 1141-MLC-2, § 15

§ 16. Compensation.

The compensation for members of the Band Assembly shall be prescribed by Band Law provided that sufficient funds are available for said compensation. No increase in compensation shall take effect during the period for which the existing membership of the Band Assembly has been elected after July 1, 1984.

Historical and Statutory Notes

Source:

Band Statute 1141-MLC-2, § 16.

§ 17. Passage of Laws.

- (a) The Band Assembly shall conduct formal public hearings on any bill which alters, amends, or repeals Titles 1, 3, 4 and 5, Chapter 1 of Title 2, and Subchapters 1 to 3 of Chapter 3 of Title 24 of the Mille Lacs Band Statutes. The Band Assembly may conduct formal public hearings on any or all other bills at their discretion. Formal public hearings shall be held in all appropriate districts of the Band's Reservation prior to the time that the Band Assembly seeks to formally act upon said bill. Additionally, each bill shall be posted in a conspicuous location for ten (10) calendar days after said bill has been introduced at a formal public hearing. This provision shall not apply to any bill on which no formal public hearing has been held.
- (b) A majority vote of the three (3) District Representatives shall be required for the passage of each bill.
- (c) After the formal action of the Band Assembly, no later than 72 hours after said action, each bill shall be personally delivered to the Chief Executive, who shall have five (5) calendar days from the date of receipt to either sign the bill into law, or veto the bill and return it to the Band Assembly with a written veto message containing the objections to the bill. In the event the Chief Executive neither signs the bill nor vetoes it, it shall become law without the Chief Executive's signature after the expiration of five (5) calendar days from date of receipt of the bill.
- (d) The Clerk of the Band Assembly shall certify the date and time that each bill has been forwarded to the Chief Executive for action. This date shall be utilized to determine the appropriate five (5) calendar day time period found in subsection (c).
- (e) Any bill which has been vetoed and returned by the Chief Executive shall have a compromise hearing within five (5) calendar days of the return. Failure of the Band Assembly to act within the five (5) calendar days shall halt further action on said bill for 180 calendar days. Should the Band Assembly hold a compromise hearing with the Chief Executive within the allocated time, 15 calendar days shall be available to negotiate an agreement for the bill's passage into law. Should an agreement not be concluded within the allotted time, further action on the bill is precluded for 180

calendar days from said date. Appropriation bills shall be excluded from the above time schedule.

- (f) An appropriation bill which has been returned by the Chief Executive shall have a compromise hearing within three (3) calendar days of the return to the Band Assembly. Negotiations shall commence with the Chief Executive on the fourth calendar day thereafter and shall continue until a compromise has been achieved. During this time the Band Assembly is precluded from adjourning.
- (g) A veto by the Chief Executive is a total veto of the entire bill. Sectional vetoes shall be prohibited pursuant to the provisions of this section.

Historical and Statutory Notes

Source:

Band Statute 1141-MLC-2, § 17.
Band Ordinance 38-21.

Cross References

Approval of laws by Tribal Executive Committee, *see* Const. Art. 15, § 3.
Chief Executive's powers and duties, *see* 4 MLBS § 6.
Great Lakes Indian Fish and Wildlife Compact withdrawal, *see* 2 MLBS § 1157.
Land consolidation, applicability of federal law and regulations, *see* 21 MLBS § 104.
Review of laws by Secretary of Interior, *see* Const. Art. 15, § 2.
Violation of approved Tribal Ordinance, *see* 24 MLBS § 1211.

§ 18. Annulment of Commissioner's Orders and Opinions of Solicitor General.

The Band Assembly shall have five (5) calendar days from the date of receipt of such order or opinion to submit notice of its intent to annul any Commissioner's Order or the Opinion of the Solicitor General. Said notice shall be directed to the attention of the Chief Executive and the appropriate Commissioner or Solicitor General. Within ten (10) consecutive days thereafter, the Band Assembly shall hold a hearing on the proposed annulment of the Commissioner's Order or the Opinion of the Solicitor General. At such hearing the appropriate Commissioner or the Solicitor General shall appear before the Band Assembly to justify the particular Commissioner's Order or Opinion of the Solicitor General. The Band Assembly, within five (5) consecutive days after said hearing, may act to either accept the said Commissioner's Order or Opinion of the Solicitor General or act to annul, in whole or in part, the particular Commissioner's Order or Opinion of the Solicitor General.

Historical and Statutory Notes

Source:

Band Statute 1141-MLC-2, § 19.
Band Ordinance 38-21.

Cross References

Commissioner of Corporate Affairs, Commissioner's Orders, *see* 16 MLBS § 6.
Commissioner's Orders, *see* 4 MLBS § 7
Opinions of Solicitor General, *see* 4 MLBS § 18.

§ 19. Appropriation Bills.

Should the Band Assembly fail to pass an appropriation bill before the start of the Band's biennium or should said bill be vetoed by the Chief Executive, all fiscal operations of the Band shall cease as of midnight of the last day of the biennium, unless the Band Assembly adopts a continuing resolution prior to such time.

Historical and Statutory Notes

Source:

Band Statute 1141-MLC-2, § 20.
Band Ordinance 23-99, §§ 2, 3.

Cross References

Preparation and submission of budget requests, *see* 4 MLBS § 3.

§ 20. Fiscal Year.

The fiscal year of the Non-Removable Mille Lacs Band of Ojibwe shall be October 1 through September 30 of each calendar year.

Historical and Statutory Notes

Source:

Band Statute 1141-MLC-2, § 20.01.
Band Ordinance 38-21.

§ 21. Petitions of Members of Band.

The Band Assembly shall pass no law or legislative order which abridges the rights of the membership to petition the Band Assembly on matters of the Band government.

Historical and Statutory Notes

Source:

Band Statute 1141-MLC-2, § 21.

§ 22. Legislative Privilege.

No member of the Band Assembly shall be subject to suit or criminal prosecution brought against him or her for acts performed and remarks made in any session of the Band Assembly. This shall not, however, preclude judicial review in a proper case, of the constitutionality or legality of acts and decisions taken by the Band Assembly.

Historical and Statutory Notes

Source:

Band Statute 1141-MLC-2, § 22

§ 23. Assembly Powers of Inquiry.

- (a) The Band Assembly shall have the power to hold Hearings of Inquiry on any issue affecting the general welfare of the Band or its members. Said power shall include the power to issue subpoenas and cause them to be served and enforced, and the power to impound records or documents that will aid the Band Assembly in fulfilling its responsibility to the members of the Band.
- (b) All official Hearings of Inquiry of the Band Assembly shall be held according to 4 MLBS §§ 13 and 14.

Historical and Statutory Notes

Source:

Band Statute 1141-MLC-2, § 23.
Band Ordinance 38-21.

§ 24. Multi-Topic Bills.

The Band Assembly may pass any bill with many topics and shall not be limited to one topic for any one bill.

Historical and Statutory Notes

Source:

Band Statute 1141-MLC-2, § 24.
Band Ordinance 38-21.

§ 25. Joint Session of Band Assembly.

- (a) The Joint Session of the Band Assembly may be convened for the purpose of considering removal of members and officers as prescribed in Article X of the

Constitution of the Minnesota Chippewa Tribe. Vacancies on the Band Assembly shall also be filled by appointment of the Joint Session of the Band Assembly. Appointees shall serve until the next election prescribed by the Election Ordinance Number 4. The Joint Session of the Band Assembly may be convened only by the Speaker of the Assembly. In the event that the Speaker of the Assembly shall refuse to convene the Joint Session of the Band Assembly under extraordinary circumstances, the remaining four members of the Joint Session of the Band Assembly may convene said session by presenting to the Speaker of the Assembly a notice of intent to hold said meeting and describing the time and place for said meeting.

- (b) The membership of the Joint Session of the Band Assembly shall be the Speaker of the Assembly, who shall preside, the District One Representative, the District Two Representative, the District Three Representative, and the Tribal Chairman/Chief Executive.
- (c) Except as specifically authorized by any provision of the Constitution of the Minnesota Chippewa Tribe, the Joint Session of the Band Assembly shall take no action which serves to undermine or encroaches upon the distribution of the authority of the Band as found in Titles 1 to 5 of the Mille Lacs Band Statutes.

Historical and Statutory Notes

Source:

Band Statute 1141-MLC-2, § 25.
Band Ordinance 38-21.

Cross References

Division of powers, *see* 2 MLBS § 3.
Functions of government authority, *see* 2 MLBS § 4.
Powers and duties of Chief Executive, *see* 4 MLBS § 6.

§ 26. Removal of Elected Officials or Appointees.

- (a) The Joint Session of the Band Assembly shall have powers of impeachment over popularly-elected officials of the Non-Removable Mille Lacs Band of Ojibwe, as well as appointees of the Chief Executive as stated and defined in Title 4 of the Mille Lacs Band Statutes. The cause of removal shall be as found in Article X, Section 2, of the Constitution of the Minnesota Chippewa Tribe. All removal proceedings of the Joint Session of the Band Assembly shall be made in concert with the provisions of Article X, Section 3 of the Constitution of the Minnesota Chippewa Tribe.
- (b) On matters of removal, the Speaker of the Assembly shall have one (1) vote and the Chief Executive shall have one (1) vote. A two-thirds majority vote of the Joint

Session of the Band Assembly shall be required to remove any popularly-elected officer of the Band.

- (c) No popularly-elected official of the Joint Session of the Band Assembly shall vote on any issue related to removal of said officer in which that officer is the topic of the removal proceedings.

Historical and Statutory Notes

Source:

Band Statute 1141-MLC-2, § 26.
Band Ordinance 38-21.

Cross References

Commissioner for corporate Affairs, removal from office, *see* 16 MLBS § 3.
Consolidated Nay-Ah-Shing School Board, removal from office, *see* 9 MLBS § 6.
Court of Appeals Justices, removal for cause, *see* 5 MLBS §§ 5, 11.
District Court Judge, removal for cause, *see* 5 MLBS §§ 7, 10, 11.
Employee Credit Union, Board of Directors, terms and removal, *see* 17 MLBS § 4.
Recall of appointed officials, *see* 4 MLBS § 15.

§ 27. Elections.

The Joint Session of the Band Assembly shall have the power to call an election at any time; however, elections established under Article IV, Section 1 of the Constitution and By-Laws of the Minnesota Chippewa Tribe shall be held when directed by the two-thirds majority vote of the Tribal Executive Committee of the Minnesota Chippewa Tribe. Upon the official action of the Joint Session of the Band Assembly or the Tribal Executive Committee, the Chief Executive shall cause to have prepared and distributed an official Writ of Election.

Historical and Statutory Notes

Source:

Band Statute 1141-MLC-2, § 27.

§ 28. Legislative Orders.

- (a) The Band Assembly of the Non-Removable Mille Lacs Band of Ojibwe may issue Legislative Orders on any subject matter within the Legislative Branch of government pursuant to authority conferred by this Title and the Constitution of the Minnesota Chippewa Tribe. Any said Legislative Order shall be authorized by a majority vote of the members of the Band Assembly. All members of the Band Assembly, as well as the Speaker of the Assembly, shall affix their signatures to any said Legislative Order, however, the failure of one or two members of the Band Assembly to

countersign any Legislative Order shall not invalidate the Order provided it is passed by a majority vote of the Band Assembly under its rules of procedure.

- (b) All said Legislative Orders shall be consecutively numbered and bear the signature of the Solicitor General as to form and execution and have the official seal of the Band affixed thereto.
- (c) The Clerk of the Band Assembly shall be responsible for safe keeping of original copies of all Legislative Orders. All Legislative Orders shall have the full force of law of the Band until amended or repealed. The Clerk of the Band Assembly shall produce and distribute all Legislative Orders within 24 hours after formal enactment of the Band Assembly.

Historical and Statutory Notes

Source:

Band Statute 1141-MLC-2, § 28.
Band Ordinance 38-21.

§ 29. Style of Laws.

The style of laws of the Non-Removable Mille Lacs Band of Ojibwe shall be: "Be it enacted by the Band Assembly of the Non-Removable Mille Lacs Band of Ojibwe." And no laws shall be enacted except by bill.

Historical and Statutory Notes

Source:

Band Statute 1141-MLC-2, § 29.
Band Ordinance 38-21.

§ 30. Effective Date for Bills, Orders, and Resolutions.

- (a) If a Bill does not have an effective date, the effective date shall be immediately upon a majority vote of the Band Assembly and either the signature of the Chief Executive or the absence of action by the Chief Executive as prescribed in § 17(c).
- (b) If a Legislative Order does not have an effective date, the effective date shall be immediately upon a majority vote of the Band Assembly.
- (c) If a Secretarial Order does not have an effective date, the effective date shall be immediately upon the signature of the Secretary-Treasurer.

Historical and Statutory Notes

Source:

Band Ordinance 38-21.

§ 31. Interpretation of Title.

Should there be any doubt as to the proper interpretation of any part of this title, or of 2 MLBS Chapter 1, the Speaker of the Assembly or the Band Assembly as an entity may submit such question to the Solicitor General, who shall give a written Opinion thereon, and such Opinion shall be binding unless annulled in whole or in part, by the Court of Central Jurisdiction, or amended by the Band Assembly pursuant to the enactment of the law. The Exterior Legal Counsel of the Band shall, on request, assist the Solicitor General in the proper interpretation of this or any other Band statute upon official request of the Band Assembly.

Historical and Statutory Notes

Source:

Band Statute 1141-MLC-2, § 32.
Band Ordinance 38-21.

Cross References

Legal counsel, *see* 4 MLBS § 16.

§ 32. Construction of Title.

The Solicitor General or the Exterior Legal Counsel and the Court of Central Jurisdiction, whichever is applicable, shall liberally construe the provisions of this title, or of 2 MLBS Chapter 1, so as to provide for the full force and effect of the purposes therein stated.

Historical and Statutory Notes

Source:

Band Statute 1141-MLC-2, § 33.

TITLE 8 – CHILDREN AND FAMILIES

CHAPTER 12

CHILD SUPPORT

<u>Subchapter</u>	<u>Section</u>
1. General Provisions	2001
2. Paternity	2031
3. Enforcement	2051

SUBCHAPTER 1

GENERAL PROVISIONS

<u>Section</u>
2001. Findings and Purpose.
2002. Sovereign Immunity.
2003. Definitions.
2004. Band Authority.
2005. Judicial Proceedings.
2006. Support Order.
2007. Providing Income Information.
2008. Calculation of Gross Income.
2009. Income from Self-Employment or Operation of a Business.
2010. Social Security or Veterans' Benefit Payments Received on Behalf of a Child.
2011. Potential Income.
2012. Deduction from Gross Income for Non-Joint Children.
2013. Presumptive Child Support Obligation.
2014. Guideline Used in Child Support Determinations.
2015. Non-Cash Support.
2016. Parenting Expense Adjustment.
2017. Written Findings.
2018. Equitable Distribution of Child Support.
2019. Modification of Orders or Decrees.
2020. Child Care Support.
2021. Medical Support.
2022. Ability to Pay; Self-Support Adjustment.
2023. Deviation from Presumptive Child Support Obligation.
2024. Notice to Band Authority.

Historical and Statutory Notes

The Preamble of Ordinance 26-94 provides: “Be it enacted by the Band Assembly of the Mille Lacs Band of Chippewa Indians for the purpose of establishing Child Support and Enforcement for adequate support and nurturing of the children under the jurisdiction of the Band.”

The title of Ordinance 06-10 is: “An Ordinance repealing Subchapter I of Chapter 12 (Child Support) in Title 8 of the Mille Lacs Band Statutes Annotated, and amending this Subchapter in order to ensure that the children under the jurisdiction of the Mille Lacs Band of Ojibwe are provided with parental support and the financial means to promote healthy growth development; and to establish a child support enforcement program within the Band government. This Bill also creates Subchapter II (Paternity) of Chapter 12 of Title 8 to ensure that the father of every child subject to the jurisdiction of the Band is identified and paternity established in order to protect, promote and help provide for the child’s best interest. In addition, this Bill amends Subchapter III (Enforcement) of Chapter 12 of Title 8 to create a consistent enforcement system of child support collection.”

The Preamble of Ordinance 06-10 provides: “It is enacted by the Band Assembly of the Mille Lacs Band of Ojibwe for the purpose of repealing Subchapter I of Chapter 12 in Title 8 of the Mille Lacs Band Statutes Annotated in its entirety to ensure that the children under the jurisdiction of the Mille Lacs Band of Ojibwe are provided with parental support and the financial means to promote healthy growth development; and to establish a child support enforcement program within the Band government. This Bill also creates Subchapter II (Paternity) of Chapter 12 of Title 8 to ensure that the father of every child subject to the jurisdiction of the Band is identified and paternity established in order to protect, promote and help provide for the child’s best interest. In addition, this Bill amends Subchapter III (Enforcement) of Chapter 12 of Title 8 to create a consistent enforcement system of child support collection.”

Cross References

Removal of child from proposed adoptive home, support orders, *see* 8 MLBS § 617.

§ 2001. Findings and Purpose.

The Band Assembly finds and determines:

- (a) The health and well-being of the Band depends on the healthy growth, development and well-being of the Band’s children.
- (b) The healthy growth, development and well-being of the Band’s children require that proper care and support be given to them.
- (c) The healthy growth, development and well-being of the Band’s children are jeopardized by financial difficulties and hardship facing many Band children due to a lack of parental support.
- (d) It is a purpose of this chapter and in the best interest of the Band to provide for the establishment of child support obligations that are consistent with traditional Ojibwe values and that motivate parents to provide their children with regular and adequate support in accordance with the parents’ resources and abilities.

- (e) It is a purpose of this chapter and in the best interest of the Band to utilize the civil justice system of the Court of Central Jurisdiction and the Band Authority to implement and enforce the child support obligations established in accordance with this chapter.
- (f) This chapter reaffirms Band sovereignty and self-determination by providing for the exercise of Band jurisdiction over child support and paternity cases involving Band children and families.

Historical and Statutory Notes

Source:

Band Ordinance 26-94, Ch. 29, T. I, § 1.
Band Ordinance 06-10, Title I, § 1, Exhibit A, § 2001.
Band Ordinance 01-21.

§ 2002. Sovereign Immunity.

Nothing in this chapter shall be construed as a waiver of the sovereign immunity of the Mille Lacs Band of Ojibwe.

Historical and Statutory Notes

Source:

Band Ordinance 26-94, Ch. 29, T. II, § 9.
Band Ordinance 06-10, Title I, §1, Exhibit A, § 2002.

§ 2003. Definitions.

For the purposes of this chapter, the following terms shall have the meaning assigned to them in this section.

- (a) **“Apportioned Veterans’ Benefits”** means the amount the Veterans Administration deducts from a veteran’s award and disburses to a child or a child’s representative payee. The appointment of veteran’s benefits shall be that determined by the Veterans Administration and governed by the U.S. Code of Federal Regulations (C.F.R.), Title 38, §§ 3.450-3.458.
- (b) **“Arrears”** are the amounts that accrue pursuant to an obligor’s failure to comply with a support order. Past support contained in a support order is arrears if the court order does not contain repayment terms. Arrears also arise by the obligor’s failure to comply with the terms of a court order for repayment of past support. An obligor’s failure to comply with the terms for repayment of amounts owed for past support turns the entire amount owed into arrears.
- (c) **“Band”** means the Mille Lacs Band of Ojibwe.

- (d) **“Band Authority”** means the Mille Lacs Band Child Support Enforcement Program.
- (e) **“Band coverage”** means medical, dental, or other health care benefits provided by the Indian Health Service or the Band’s Circle of Health program.
- (f) **“Basic support”** means the basic support obligation determined under the child support guideline in § 2014 of this Title. Basic support includes support for a child’s housing, food, clothing, transportation, and education costs, and other expenses relating to the child’s care. Basic support does not include monetary contributions for a child’s childcare expenses or medical or dental expenses.
- (g) **“Bona fide career change”** or **“aandanokiid awiya,”** as used in this chapter, means an educational pursuit or change of profession that is made in good faith. Any party claiming a bona fide career change for purposes of calculating child support shall bear the burden of proof.
- (h) **“Child”** means a person who is younger than eighteen (18) years old and has not been emancipated by order of a court of competent jurisdiction, or a person for whom child support may be ordered pursuant to § 2006 (i).
- (i) **“Court”** means the Band’s Court of Central Jurisdiction of the Mille Lacs Band of Ojibwe.
- (j) **“Financial Institution”** means a savings association, bank, trust company, credit union, industrial loan and thrift company, bank and trust company, or savings association, and includes a branch or detached facility of a financial institution.
- (k) **“Gross Income”** means the income of a parent calculated under § 2008 of this Title.
- (l) **“Health care coverage”** means medical, dental or other health care benefits that are provided by one or more health plans. Health care coverage includes fee for service, health maintenance organization, and other types of private health insurance and public health care coverage under which medical services are available to the dependent child(ren).
- (m) **“Health plan”** means a plan, other than any form of public medical, dental or other health care assistance, that provides medical, dental, or other health care benefits and is:
 - (1) provided on an individual or group basis;
 - (2) provided by an employer or union;
 - (3) purchased in the private market; or

- (4) available to a person eligible to carry insurance for a joint child, including a party's spouse or parent.
- (n) **“IV-D case”** means a case where a party has applied for child support services from a public authority or has assigned to a tribe or a state rights to child support because of the receipt of public assistance under Title IV-D of the Social Security Act, 45 U.S.C. § 309.
- (o) **“Joint child”** means a child of both parents in a support proceeding, whether child support is sought from one or both parents in the proceeding.
- (p) **“Medical support”** means providing medical, dental or other health care benefits for a joint child by carrying health care coverage for the joint child or by contributing to the cost of health care coverage, public coverage, unreimbursed medical expenses, or uninsured medical expenses of the joint child.
- (q) **“Non-cash support”** means support provided in the nature of goods and/or services rather than in cash, which contributes directly to meeting the needs of a child. Non-cash support may include services such as making repairs to an automobile or a home, the clearing or upkeep of property, providing a means for travel, providing needed resources for a child's participation in tribal customs and practices, or other goods or services that contribute to the needs of a child, and can be reasonably assigned a cash value.
- (r) **“Non-joint child”** means a child of one but not both of the parents in a support proceeding.
- (s) **“Obligee”** means a person to whom child support payments are owed.
- (t) **“Obligor”** means a person obligated to pay child support.
- (u) **“Parentage proceeding”** means the proceeding in which paternity is established through a contested or uncontested process.
- (v) **“Parental Income for determining Child Support (PICS)”** means gross income calculated under §2008 of this Title minus deductions for non-joint children allowed under §2012 of this Title.
- (w) **“Payer of funds”** means a person or entity that provides funds to an obligor, including an employer as defined under 26 U.S.C. § 3401(d), an independent contractor, a payer of workers' compensation benefits or unemployment insurance benefits, a financial institution, or a tribe making per capita payments.
- (x) **“Parent”** means the lawful mother or father of a child or, where applicable throughout this statute, a third-party guardian.

- (y) **“Per capita income”** and **“per capita payments”** mean monthly bonus payments, minor trust payments to enrolled tribal members authorized by a Tribal Net Revenue Allocation Plan, or both. Per capita payments do not include economic support payments, stimulus payments, or any settlement monies.
- (z) **“Primary physical custodian”** means the parent who provides the primary residence for a child and is responsible for the majority of the day-to-day decisions concerning a child.
- (aa) **“Public assistance”** means temporary financial assistance given to needy persons by a tribal or state government agency.
- (bb) **“Public authority”** means a local unit of government acting on behalf of a tribe or a state that is responsible for child support enforcement and includes but is not limited to the Band Authority.
- (cc) **“Social Security benefit”** means the monthly retirement, survivors, or disability insurance benefits that the Social Security Administration provides to a parent for that parent’s own benefit or for the benefit of a joint child. Social Security benefits do not include Supplemental Security Income benefits that the Social Security Administration provides to a parent for the parent’s own benefit or to a parent due to the disability of a child.
- (dd) **“Support payment”, “support obligation”, “child support payment” or “child support obligation”** means a payment or obligation for basic support, childcare support, and/or medical support of a child pursuant to a support order.
- (ee) **“Support order”** means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by any court (including but not limited to the Band’s Court) or administrative agency of a competent jurisdiction in a marriage dissolution, legal separation, annulment, parentage, custody, child support or other proceeding that establishes or modifies a child support obligation.
- (ff) **“Survivors and dependents’ educational assistance”** means funds disbursed by the Veterans Administration under 38 U.S.C. chap. 35 to a child or the child’s representative payee.
- (gg) **“TANF”** means Temporary Assistance to Needy Families provided under Title IV-A of the Social Security Act.
- (hh) **“Third-Party Guardian”** means a person legally appointed by a parent, spouse, or court of competent jurisdiction having the duty and authority to provide care and control of a child.
- (ii) **“Title IV-A”** refers to Title IV-A of the Social Security Act under which the federal government provides funds to tribes or states to provide temporary financial

assistance to families using federal dollars.

- (jj) **“Title IV-D”** means Title IV-D of the Social Security Act under which the federal government provides funds to tribes and states to administer child support programs that provide services related to child support.
- (kk) **“Tribal Court”** means a court established by a tribe, including but not limited to the Band’s Court.
- (ll) **“Tribe”** or **“tribal”** mean a state or federally recognized Indian tribe, including but not limited to the Band.
- (mm) **“Tribunal”** means a tribal or state court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.
- (nn) **“Uninsured medical expenses”** means a joint child’s reasonable and necessary medical, dental, or other health-related expenses if the joint child is not covered by a health plan, Band coverage, or public coverage when the expenses are incurred.
- (oo) **“Unreimbursed medical expenses”** means a joint child’s reasonable and necessary medical, dental, or other health-related expenses if the joint child is covered by a health plan, Band coverage, or public coverage and the plan or coverage does not pay for the total cost of the expenses when the expenses are incurred. Unreimbursed medical expenses do not include the cost of premiums. Unreimbursed medical expenses include, but are not limited to deductibles, co-payments and expenses for orthodontia, prescription eyeglasses and contact lenses, but not over-the-counter medications if coverage is under a health plan.

Historical and Statutory Notes

Source:

Band Ordinance 26-94, Ch. 29, T I, § 4.04.
Band Ordinance 06-10, Title I, § 1, Exhibit A, § 2003.
Band Ordinance 01-21.

§ 2004. Band Authority.

- (a) There is hereby established the Mille Lacs Band Child Support Enforcement Program (the Band Authority) within the Band’s Department of Administration.
- (b) The Band Authority is authorized to provide child support enforcement services to all parents and children subject to the jurisdiction of the Band. The Band Authority is authorized, among other things, to:
 - (1) locate custodial parents and noncustodial parents, as well as their sources of

- income, assets, and debts;
- (2) seek a determination of parentage;
 - (3) seek the establishment or modification of child support;
 - (4) enforce support orders and laws relating to the duty of support;
 - (5) make reasonable information requests from state and tribal governments, to include other Band departments, for the purpose of establishing, modifying, and enforcing a child support obligation; and
 - (6) seek Court orders authorizing holds on Band members' monthly per capita (or other bonus) payments to facilitate either a determination of parentage or the administration of a child support obligation.
- (c) In providing child support enforcement services, the Band Authority may provide the services of an attorney or an attorney's representative to a party seeking to establish, modify or enforce a child support obligation.
- (1) The provision of such services shall not create an attorney-client relationship between the attorney or attorney's representative and the party to whom such services are provided. Attorneys and attorney's representatives employed by or under contract with the Band Authority have an affirmative duty to inform applicants for and recipients of services from the Band Authority that no attorney-client relationship exists or will be formed between the attorney or attorney's representative and the applicant for or recipient of such services. In providing such services, the Band Authority shall be the sole client of the attorney or attorney's representative and an attorney-client relationship shall exist between the attorney or attorney's representative and the Band Authority.

Historical and Statutory Notes

Source:

Band Ordinance 06-10, Title I, § 1, Exhibit A, § 2004.
Band Ordinance 01-21.

§ 2005. Judicial Proceedings.

- (a) The Court shall have jurisdiction under this chapter over all parents and children subject to the jurisdiction of the Band. Except as otherwise provided by Federal law, such jurisdiction shall include, but not be limited to:
 - (1) all persons who are members of or are eligible for membership who reside within the Band's geographic limits,

- (2) all persons who are alleged to be the parent of a child, including an unborn child, and whose parenting partner is a member of or is eligible for membership in the Band or is a member of or eligible for membership in another tribe and resides within the Band's geographic limits, and
 - (3) all persons who knowingly consent to the jurisdiction of the Band under this chapter.
- (b) Except as otherwise provided by Federal law, if another federal, state or tribal court has jurisdiction over any matter provided for in this chapter, the Band Court shall have concurrent jurisdiction over the same matter.
 - (c) An action to establish, modify, or enforce a child support obligation may be filed separately or may be joined with an action for divorce, annulment, legal separation, or child custody or guardianship.
 - (d) Unless an action to establish, modify, or enforce a child support obligation has been joined with an action for child custody or guardianship, in establishing, modifying, or enforcing a child support obligation, the Court shall not change or modify the custody or guardianship of the child.
 - (e) Except as otherwise expressly provided in this chapter, in every action under this chapter:
 - (1) the Court shall inform the parties to the action that they have the right to have a lawyer or other person(s) they have selected represent them in the proceeding at their own expense;
 - (2) if it appears that a party to the action cannot afford private counsel, the Court shall inform the party of available services that might provide counsel at a reduced fee or pro bono;
 - (3) the parties to the action shall have the opportunity to introduce, examine, and cross-examine witnesses in accordance with the Court's rules;
 - (4) the parties to the action shall have the opportunity to discover, offer, or inspect evidence in accordance with the Court's rules; and
 - (5) the parties to the action shall have the opportunity to present arguments and statements in accordance with the Court's rules.
 - (f) All judicial proceedings in an action to establish, modify, or enforce a child support obligation are confidential. In accordance with this provision:
 - (1) When providing service by publication in such an action, the names of the children subject to the action shall not be disclosed. Only the children's

initials shall be used.

- (2) Court files and hearings in such an action will be closed to outside observers. Only the parties directly involved, necessary witnesses, and Court personnel shall be present at hearings. The Court may utilize its discretion to permit other observers, provided that the Court has offered all parties the opportunity to object.
 - (3) Any person, including but not limited to any employee or official of the Band, who willfully discloses otherwise confidential information related to an action to establish, modify, or enforce a child support obligation, except as expressly authorized and provided for by Court order or otherwise pursuant to this chapter, and who is found guilty of an unauthorized disclosure of information, may be subject to a civil fine not to exceed Five Hundred Dollars (\$500.00).
- (g) Child support proceedings should not be discussed with the children involved or with other children in the household. Parents are to refrain from using their children as tools against each other.
 - (h) If the Court has knowledge that a protective order exists with respect to a party involved in a child support proceeding, the Court shall not release any private data regarding the physical or employment location of the party protected by the protective order to the party or their representatives against whom the protective order was established. The Court may utilize its discretion to authorize separate proceedings to ensure the safety of the protected party while encouraging the utmost participation by the parties.
 - (i) To ensure an equal distribution of child support amongst a supported child or children, the Court may schedule a hearing to address multiple child support orders pertaining to the same child or children. The Court may utilize its discretion to determine how such a hearing will be structured.

Historical and Statutory Notes

Source:

Band Ordinance 26-94, Ch. 29, T. I, § 2.
Band Ordinance 06-10, Title I, § 1, Exhibit A, § 2005.
Band Ordinance 01-21.

Cross References

Disclosure by judge of information relating to pending case, *see* 5 MLBS § 117.

§ 2006. Support Order.

- (a) **General.** Incorporation of support order in decree of dissolution, legal separation, or

- annulment; provision for child support in other proceedings. The Court shall incorporate in every decree of dissolution, legal separation, or annulment an order providing for the support of the parties' children as provided in this chapter. The Court shall also provide for the support of the parties' children in any other proceeding related to custody, parenting time, or support.
- (b) **Designation of support and maintenance payments.** Every support order incorporated in a decree of dissolution, legal separation, or annulment shall clearly designate whether payments ordered are for child support or for maintenance of the spouse or former spouse.
 - (1) If payments are ordered for child support and spousal maintenance, the order shall clearly state the amount that is for child support and the amount that is for spousal maintenance.
 - (2) An award of payments from future income or earnings of the parent who is the primary physical custodian of the child or children subject to the order is presumed to be for spousal maintenance, and an award of payments from the future income or earnings of the parent who is not the primary physical custodian of the child or children subject to the order is presumed to be for child support, unless otherwise designated by the Court.
 - (c) **Marital misconduct not to affect support obligations.** The Court may order either or both parents owing a duty of support to a child of the marriage to pay an amount reasonable or necessary for the child's support, without regard to marital misconduct.
 - (d) **Stipulations for child support.** The Court shall approve a child support stipulation of the parties if each party is represented by independent counsel or if the Court makes a finding that the stipulation is fair to both parties and is in the best interest of the child.
 - (e) **Percentage payments.** The Court may order an obligor to pay child support in the form of a percentage of the obligor's net bonuses, commissions, or other forms of compensation, in addition to, or if the obligor receives no base pay, in lieu of, an order for a specific dollar amount.
 - (f) **Lien on property; appointment of trustee.** With the exception of property held by the United States in trust for an obligor, the Court may make any support order a lien or charge upon the property of the obligor, either at the time of the entry of the order or by subsequent order upon proper application. In addition, the Court may appoint a trustee to receive funds or other property awarded as support money. When appropriate, the Court may name the Band Authority as trustee.
 - (g) **Payments made to Band Authority or other public authority.** In any support order, the Court may require that child support payments be made to the Band Authority or other public authority for the benefit of the obligee.

- (h) **Seasonal income.** The Court shall establish the annual child support obligation of an obligor with a seasonal income so that the obligor makes either the same monthly payments throughout the year or monthly payments that reflect variations in the obligor's income.
- (i) **Duration of support payments.**
 - (1) Child support payments shall stop when the child is 18 years old unless the Court finds that:
 - (i) it would be in the best interests of the child to continue support payments until the child is 21 years old; and
 - (ii) the child is (i) disabled or (ii) between 18 and 21 years old and enrolled in high school on a full-time basis.
 - (2) If the Court makes such findings, it may order that support payments shall continue while the child is between 18 and 21 years old, but only for so long as the child is disabled or enrolled in high school on a full-time basis.
 - (3) When a child's full-time high school enrollment status is in dispute, the Court shall make the determination.
- (j) **Notice of address or residence change.** Every obligor under a support order shall notify the obligee and the public authority responsible for collection of support money, if any, of a change of address or residence within 60 calendar days of the address or residence change.
 - (1) The Court may waive or modify the requirements of this paragraph by order if necessary to protect the obligee from contact by the obligor.
- (k) **Satisfaction of child support obligation.** The Court may conclude that an obligor has satisfied a child support obligation by providing a home, care, and support for the child while the child was living with the obligor, if the court finds that the child was integrated into the family of the obligor with the consent of the obligee and child support payments were not assigned to a public authority or other public agency.
- (l) **Other custodians.** If a child resides with a person other than a parent and the Court approves of the physical custody arrangement, the Court may order child support payments be made to the person having physical custody regardless of whether the person has legal custody. A duly executed Delegation of Parental Authority, on its own, does not establish physical custody.

- (m) **Adjustment to support order.** A support order issued under this section may provide that during any period of time of 30 consecutive days or longer that the child is residing with the obligor, the amount of support otherwise due under the order may be reduced.
- (n) **Determination of controlling order.** In situations in which more than one support order involving the same obligor and child exists, the obligor, the obligee, or the public authority responsible for collection of support money, if any, may request that the Court determine which order is the controlling order. The Court shall presume that the latest order that involves the same obligor and child is controlling in the absence of proof to the contrary.

Historical and Statutory Notes

Source:

Band Ordinance 26-94, Ch. 29, T. I, § 4.
Band Ordinance 06-10, Title I, § 1, Exhibit A, § 2006.
Band Ordinance 01-21.

§ 2007. Providing Income Information.

- (a) In any proceeding for dissolution, legal separation, or annulment where the parties have joint children for whom a support order must be entered under this chapter, or in any other proceeding in which a support order may be entered under this chapter, the parties shall serve and file with their initial pleadings or motion documents a financial affidavit disclosing all sources of income for purposes of calculating gross income under § 2008 of this Title.
 - (1) The financial affidavit shall include relevant supporting documentation necessary to calculate gross income and parental income for determining child support including, but not limited to, pay stubs for the previous three months and employer statements or statements of receipts and expenses if self-employed. The supporting documentation shall also include relevant copies of each parent's most recent federal tax returns including W-2 forms, 1099 forms, unemployment benefit statements, workers' compensation statements, and all other documents evidencing earnings or income as received that provide verification for the financial affidavit, including verification of per capita income, if applicable.
- (b) In addition to the requirements of § 2007(a), at any time after a proceeding seeking child support payments has been commenced or when a child support order is in effect, a party to the proceeding, the obligor or obligee under the support order, or the Band Authority may request that a party to the proceeding or the obligor or the obligee under the support order produce a copy of the most recent federal tax returns filed with the Internal Revenue Service by the person to whom the request is directed.

- (1) The person to whom the request is directed shall provide a copy of the tax returns to the person making the request within 30 calendar days of receipt of the request unless the request is not made in good faith. A request under this paragraph may not be made more than once every two years, in the absence of good cause for more frequent requests.
- (c) If a parent subject to the jurisdiction of the Court does not serve and file the financial affidavit and supporting documentation with the parent's initial pleading or motion documents, the Court shall set income for that parent based on credible evidence before the Court or in accordance with § 2011 of this Title. The Court may consider credible evidence from one party that the financial affidavit submitted by the other party is false or inaccurate.
- (d) If the Court determines that a party does not have access to documents that are required to be disclosed under this section, the Court may consider the testimony of that party as credible evidence of that party's income.

Historical and Statutory Notes

Source:

Band Ordinance 26-94, Ch. 29, T. I, § 4.01.
Band Ordinance 06-10, Title I, § 1, Exhibit A, § 2007.
Band Ordinance 01-21.

§ 2008. Calculation of Gross Income.

- (a) Subject to the exclusions and deductions in this section, gross income includes any form of periodic payment to a parent including, but not limited to, salaries, wages, commissions, self-employment income as defined in § 2009 of this Title, workers' compensation, unemployment benefits, annuity payments, military and naval retirement, pensions and disability payments, spousal maintenance payments pursuant to a court order entered in a prior proceeding or in the current proceeding, Social Security and veterans benefits, including Social Security and veterans benefits provided for a joint child to the extent specified in § 2010 of this Title, potential income as defined in § 2011 of this Title, and per capita payments authorized by a Tribal Net Revenue Allocation Plan.
 - (1) Salaries, wages, commissions, or other compensation paid to a parent by third parties shall be included in gross income notwithstanding the parent's participation in an employer-sponsored benefit plan that allows the parent to pay for a benefit or expense using pretax dollars, such as flexible spending plans and health savings accounts.
 - (2) Pension deductions not exceeding ten percent of gross wages shall not be included in gross income.

- (b) A parent's gross income does not include compensation received by the parent for employment in excess of a 40-hour week, provided that:
 - (1) Child support is ordered in an amount at least equal to the presumptive child support obligation calculated under § 2013 of this Title based on gross income not excluded under this clause; and
 - (2) The parent demonstrates and the Court finds that:
 - (i) The excess employment began after the filing of the petition for dissolution, legal separation, or annulment or a petition related to custody, parenting time, or support;
 - (ii) The excess employment reflects an increase in the work schedule or hours worked over that of the two years immediately preceding the filing of the petition;
 - (iii) The excess employment is voluntary and not a condition of employment;
 - (iv) The excess employment is in the nature of additional, part-time or overtime employment compensable by the hour or fraction of the hour; and
 - (v) The parent's compensation structure has not been changed for the purpose of affecting the parent's child support obligation.
- (c) Expense reimbursements or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business shall be included in the parent's gross income if they reduce the parent's personal living expenses.
- (d) A parent's gross income may be calculated either on an annual or monthly basis. Weekly income shall be translated to monthly income by multiplying weekly income by 4.33.
- (e) A parent's gross income does not include child support payments received by the parent.
- (f) It is a rebuttable presumption that adoption assistance payments, guardianship assistance payments, and foster care subsidies are not gross income. This presumption may be rebutted if such payments are used for the recipient's personal living or other expenses unrelated to the adoption, guardianship, or foster care.
- (g) A parent's gross income does not include the income of the parent's spouse.
- (h) Child support or spousal maintenance payments ordered by a court for a non-joint

child or former spouse or ordered payable as part of the current proceeding shall be deducted from other periodic payments received by the parent making such payments for purposes of determining that parent's gross income.

- (i) A parent's gross income does not include public assistance benefits received under the TANF program, the Minnesota Family Investment Program, or other programs of public assistance based on need.
- (j) A parent's gross income does not include grants and/or scholarships for post-secondary education.
- (k) For purposes of calculating gross income of a third-party guardian or other custodial party who is not a biological parent, the Court shall not utilize the third-party guardian's income.

Historical and Statutory Notes

Source:

Band Ordinance 26-94, Ch. 29, T. I, § 4.03.
Band Ordinance 06-10, Title I, § 1, Exhibit A, § 2008.
Band Ordinance 01-21.

§ 2009. Income from Self-Employment or Operation of a Business.

- (a) For purposes of this chapter, a parent's income from self-employment or operation of a business, including joint ownership of a partnership or closely held corporation, is defined as the parent's share of gross receipts minus the costs of goods sold minus ordinary and necessary expenses required for self-employment or business operation.
- (b) The following items shall be excluded from ordinary and necessary expenses in calculating a parent's income from self-employment or operation of a business: amounts allowable by the Internal Revenue Service for the accelerated component of depreciation expenses; investment tax credits; and any other business expenses determined by the Court to be inappropriate or excessive for determining gross income for purposes of calculating child support.
 - (1) If challenged, the parent seeking to deduct an expense, including depreciation, has the burden of proving that the expense is ordinary and necessary.

Historical and Statutory Notes

Source:

Band Ordinance 26-94, Ch. 29, T. I., § 4.02.
Band Ordinance 06-10, Title I, § 1, Exhibit A, § 2009.

§ 2010. Social Security or Veterans' Benefit Payments Received on Behalf of a Child.

- (a) The amount of the monthly Social Security benefits or apportioned veterans' benefits provided for a joint child shall be included in the gross income of the parent on whose eligibility the benefits are based.
- (b) The amount of the monthly survivors' and dependents' educational assistance provided for a joint child shall be included in the gross income of the parent on whose eligibility the benefits are based.
- (c) If Social Security or apportioned veterans' benefits are provided for a joint child based on the eligibility of the obligor, and are received by the obligee as a representative payee for the child or by the child attending school, then the amount of the benefits shall be subtracted from the obligor's presumptive child support obligation as calculated under § 2013 of this Title.
- (d) If the survivors' and dependents' educational assistance is provided for a joint child based on the eligibility of the obligor, and is received by the obligee as a representative payee for the child or by the child attending school, then the amount of the assistance shall also be subtracted from the obligor's presumptive child support obligation as calculated under § 2013 of this Title.

Historical and Statutory Notes

Source:

Band Ordinance 26-94, Ch. 29, T. I, § 5.01.
Band Ordinance 06-10, Title I, § 1, Exhibit A, § 2010.

§ 2011. Potential Income.

- (a) **General.** This section applies to child support orders including orders for past support. If a parent is voluntarily unemployed, underemployed, or employed on a less than full-time basis, or there is no direct evidence of any income, child support must be calculated based on a determination of potential income.
 - (1) For purposes of this determination, it is a rebuttable presumption that a parent can be gainfully employed on a full-time basis. As used in this section, "full time" means 40 hours of work in a week except in those industries, trades, or professions in which most employers, due to custom practice, or agreement use a normal work week of more or less than 40 hours in a week.
- (b) **Methods.** Determination of a parent's potential income must be made according to one of the following two methods, as appropriate:
 - (1) the parent's probable earnings level based on employment potential, recent work history, and occupational qualifications in light of prevailing job

opportunities and earnings level in the community; or

- (2) if the parent is receiving unemployment compensation or workers' compensation, the parent's income may be calculated using the actual amount of the unemployment compensation or workers' compensation benefit received.
- (c) **Parent not considered voluntarily unemployed, underemployed, or employed on a less than full-time basis.** A parent is not considered voluntarily unemployed, underemployed, or employed on a less than full-time basis upon a showing by the parent that:
- (1) the unemployment, underemployment, or employment on a less than full-time basis is temporary and will ultimately lead to an increase in income;
 - (2) the unemployment, underemployment, or employment on a less than full-time basis represents a bona fide career change that outweighs the adverse effect of the parent's diminished income on the child; or
 - (3) the unemployment, or underemployment, or employment on a less than full-time basis is because the parent is physically or mentally incapacitated or incarcerated, except where the reason for incarceration is the parent's nonpayment of support.
- (d) **TANF Recipient.** If the parent of a joint child is a recipient of a TANF cash grant, no potential income is to be imputed to the parent.
- (e) **Caretaker.** If a parent stays at home to care for a child who is subject to the child support order, the Court shall consider the following factors when determining whether the parent is voluntarily unemployed, underemployed, or employed on a less than full-time basis:
- (1) parenting and child care arrangements before the child support action;
 - (2) the stay-at-home parent's employment history, recent employment earnings, and the availability of jobs within the community for an individual with that parent's qualifications;
 - (3) the relationship between the employment-related expenses including, but not limited to, child care and transportation costs required for the parent to be employed, and the income the stay-at-home parent could receive from available jobs within the community for an individual with that parent's qualifications;
 - (4) the child's age and health including whether the child is physically or mentally disabled; and

- (5) the availability of child care providers.

This paragraph does not apply if the parent stays at home only to care for non-joint children.

- (f) **Economic Conditions.** A self-employed parent is not considered to be voluntarily unemployed, underemployed, or employed on a less than full-time basis if that parent can show that the parent's net self-employment income is lower because of economic conditions that are directly related to the source or sources of that parent's income.
- (g) **Per Capita Income.** If income is imputed to an obligor and the obligor received per capita income, the Court shall not include the per capita income as part of the obligor's gross income. This provision shall not prevent the Band Authority from intercepting per capita income in order to enforce any child support order.

Historical and Statutory Notes

Source:

Band Ordinance 26-94, Ch. 29, T. I, §§ 5.02 to 5.04.
Band Ordinance 06-10, Title I, § 1, Exhibit A, § 2011.
Band Ordinance 01-21.

§ 2012. Deduction from Gross Income for Non-Joint Children.

- (a) When a parent is legally responsible for a non-joint child or children, a deduction from that parent's gross income shall be calculated under this section if:
 - (1) the non-joint child or children primarily resides in that parent's household;
and
 - (2) that parent is not obligated to pay basic child support for the non-joint child or children to the other parent or a legal custodian of the non-joint child or children under an existing order.
- (b) The Court shall use the guideline under § 2014 of this Title to determine the basic child support obligation for the non-joint child or children by using the gross income of the parent for whom the deduction is being calculated. If the number of non-joint children to be used for the determination is greater than two, the determination must be made using the number two instead of the greater number.
- (c) The deduction from gross income for a non-joint child or children is 50 percent of the guideline amount determined under § 2012(b).

Historical and Statutory Notes

Source:

Band Ordinance 26-94, Ch. 29, T. I, § 5.02.
Band Ordinance 06-10, Title I, § 1, Exhibit A, § 2012.

§ 2013. Presumptive Child Support Obligation.

- (a) To determine the presumptive child support obligation of a parent, the Court shall follow the procedure set forth in this section.
- (b) To determine the obligor's basic support obligation, the Court shall:
 - (1) determine the gross income of each parent under § 2008 of this Title;
 - (2) calculate the parental income for determining child support (PICS) of each parent by subtracting from gross income the deduction, if any, for each parent's non-joint children under § 2012 of this Title;
 - (3) determine the percentage contribution of each parent to the combined PICS by dividing the combined PICS into each parent's PICS;
 - (4) determine the combined basic support obligation by application of the guideline in § 2014 of this Title;
 - (5) determine the obligor's share of the basic support obligation by multiplying the percentage figure from § 2013(b)(3) by the combined basic support obligation from § 2014(b)(4); and
 - (6) determine the parenting expense adjustment, if any, as provided in § 2016 of this Title and adjust the obligor's basic support obligation accordingly. If the parenting time of the parties is presumed equal, § 2016 (c) of this Title applies to the calculation of the basic support obligation and the determination of which parent is the obligor.
- (c) The Court shall determine the obligor's child care support obligation as provided in § 2020 of this Title.
- (d) The Court shall determine each parent's medical support obligation as provided in § 2021 of this Title. Unreimbursed and uninsured medical expenses are not included in the presumptive amount of support owed by a parent and are calculated and collected as described in § 2021 of this Title.
- (e) Subject to the provisions of § 2013(f), the Court shall determine each parent's total presumptive child support obligation by adding together each parent's basic support, child care support, and medical support obligations as provided in this section.

- (f) If Social Security benefits or veterans' benefits are received by one parent as a representative payee for a joint child based on the other parent's eligibility, the other parent's presumptive child support obligation shall be reduced by the amount of such benefits in accordance with § 2010 of this Title.
- (g) A parent's actual child support obligation may be different than the parent's presumptive child support obligation under the circumstances described in § 2006 (d) of this Title, if the provisions in § 2022 of this Title are applicable, or as a result of the Court's consideration of the factors identified in § 2023 of this Title.
- (h) A final child support order shall separately designate the amount owed for basic support, child care support, and medical support.

Historical and Statutory Notes

Source:

Band Ordinance 26-94, Ch. 29, T. I, § 5.06.
Band Ordinance 06-10, Title I, § 1, Exhibit A, § 2013.

§ 2014. Guideline Used in Child Support Determinations.

- (a) **Use of guideline.**
 - (1) The guideline in this section establishes a rebuttable presumption of the appropriate level of basic support for a joint child and shall be used in any judicial or administrative proceeding to establish or modify a support obligation under this chapter. The actual level of basic support for a joint child may deviate from the guideline level in accordance with other provisions of this chapter.
 - (2) The presumptive basic support obligation for a joint child shall be determined by referencing the guideline for the appropriate number of joint children and the combined parental income for determining child support of the parents.
 - (3) If a joint child is not in the custody of either parent and a support order is sought against one or both parents, the basic support obligation shall be determined separately for each parent against whom a support order is sought by referencing the guideline for the appropriate number of joint children and that parent's individual parental income for determining child support, not the combined parental incomes for determining child support of both parents.
- (b) **Basic support; guideline.** Unless otherwise agreed to by the parents and approved by the Court when establishing basic support, the Court must order that basic support be divided between the parents based on their proportionate share of the parents' combined monthly parental income for determining child support (PICS). The presumptive level of basic support must be computed in accordance with MINN. STAT.

§ 518A.35, or other Minnesota child support statute, subject to any contrary Mille Lacs Band law.

- (c) **More than six children.** If a child support proceeding involves more than six children, the Court may derive a support order without specifically following § 2014(b). However, the Court must consider the basic principles encompassed by the guideline and both parents' needs, resources, and circumstances.

Historical and Statutory Notes

Source:

Band Ordinance 26-94, Ch. 29, T. I, § 5.07.
Band Ordinance 06-10, Title I, § 1, Exhibit A, § 2014.
Band Ordinance 01-21.

§ 2015. Non-Cash Support.

An obligor's provision of non-cash support may satisfy up to 50 percent of the obligor's child support obligation, but only under the following circumstances:

- (a) The obligor and obligee agree to the type of non-cash support that will be provided and the extent to which it will satisfy the obligor's child support obligation;
- (b) The Court approves the provision of non-cash support in a written order that:
 - (1) states the specific dollar amount of the obligor's total child support obligation;
 - (2) describes the type(s) of non-cash support that will be provided;
 - (3) states that no more than 50% of the obligor's total child support obligation may be satisfied by the provision of such non-cash support; and
 - (4) provides that the non-cash support shall not satisfy any portion of the obligor's child support obligation that has been or in the future is assigned to a public authority or other public agency.

Historical and Statutory Notes

Source:

Band Ordinance 06-10, Title I, § 1, Exhibit A, § 2015.

§ 2016. Parenting Expense Adjustment.

- (a) **General.** The parenting expense adjustment under this section reflects the presumption that while exercising parenting time, a parent is responsible for and

incurs cost of caring for the child, including, but not limited to, costs of food, transportation, recreation, and household expenses.

- (1) Every child support order shall specify that the percentage of parenting time means the percentage of time a child is scheduled to spend with the parent during a calendar year according to a court order. Parenting time includes time with the child whether it is designated as visitation, physical custody, or parenting time or is otherwise designated. The percentage of parenting time may be determined by calculating the number of overnights that a child spends with a parent, or by using a method other than overnights if the parent has significant time periods or separate days where the child is in the parent's physical custody and under the direct care of the parent but does not stay overnight. The Court may consider the age of the child in determining whether a child is with a parent for a significant period of time.
- (2) If there is no court order awarding parenting time, the Court shall determine the child support award without consideration of the parenting expense adjustment.

If a parenting time order is subsequently issued or is issued in the same proceeding, then the child support order shall include application of the parenting expense adjustment.

- (b) Calculation of parenting expense adjustment. The obligor is entitled to a parenting expense adjustment calculated as provided in this paragraph. The Court shall:
 - (1) find the adjustment percentage corresponding to the percentage of parenting time allowed to the obligor as follows:

Percentage Range of Parenting Time	Adjustment Percentage
Less than 10 percent	No adjustment
10 percent to 45 percent	12 percent
45.1 percent to 50 percent	Presume parenting time is equal

- (2) multiply the adjustment percentage by the obligor's basic child support obligation to arrive at the parenting expense adjustment; and
 - (3) subtract the parenting expense adjustment from the obligor's basic child support obligation. The result is the obligor's basic support obligation after the parenting expense adjustment.
- (c) Calculation of basic support when parenting time is presumed equal.
 - (1) If the parenting time is presumed equal under § 2016(b) and the parental incomes for determining child support of the parents also are equal, no basic support shall be required unless the Court determines that the expenses for the

child are not equally shared.

- (2) If the parenting time is equal but the parents' incomes for determining child support are not equal, the parent having the greater parental income for determining child support shall be obligated for basic support calculated as follows:
 - (i) Multiply the combined basic support calculated under § 2014 of this Title by 0.75;
 - (ii) Prorate the amount under § 2016(c)(2)(i) between the parents based on each parent's proportionate share of the combined PICS; and
 - (iii) Subtract the lower amount from the higher amount. The resulting figure is the basic support obligation after the parenting expense adjustment for the parent with the greater parental income for determining child support.

Historical and Statutory Notes

Source:

Band Ordinance 26-94, Ch. 29, T. I, § 6.
Band Ordinance 06-10, Title I, § 1, Exhibit A, § 2016.

§ 2017. Written Findings.

- (a) **No deviation.** If the Court does not deviate from the presumptive child support obligation under § 2013 of this Title, the Court must make written findings that state:
 - (1) Each parent's gross income;
 - (2) Each parent's PICS; and
 - (3) Any other significant evidentiary factors affecting the child support determination.
- (b) **Deviation.** If the Court deviates from the presumptive child support obligation under § 2013 of this Title, the Court must make written findings that state:
 - (1) Each parent's gross income;
 - (2) Each parent's PICS;
 - (3) The amount of the presumptive child support obligation calculated under § 2013 of this Title;

- (4) The reasons for the deviation; and
 - (5) How the deviation serves the best interests of the child.
- (c) **Written findings required in every case.** The provisions of this section apply whether or not the parties are each represented by independent counsel and have entered into a written agreement. The Court must review any stipulations presented to it for conformity with § 2013 of this Title. The Court is not required to conduct a hearing, but the parties must provide sufficient documentation to verify the child support determination and to justify any deviation.

Historical and Statutory Notes

Source:

Band Ordinance 26-94, Ch. 29, T. I, § 6.91.
Band Ordinance 06-10, Title I, § 1, Exhibit A, § 2017.

§ 2018. Equitable Distribution of Child Support.

Where practical, the Court should seek to establish child support orders that equally apportion child support to all of the children of an obligor.

- (a) **One Order.** Where multiple joint children are supported by one child support order, the Court may order support on a per-child basis.
- (b) **Multiple Orders.** Where an obligor owes child support to separate obligees, the Court may equitably apportion child support by determining the maximum child support amount that the obligor is able to pay and thereafter ensuring that each child is supported equally to the maximum extent possible.

Historical and Statutory Notes

Source:

Band Ordinance 26-94, Ch. 29, T. I, § 5.071.
Band Ordinance 06-10, Title I, § 1, Exhibit A, § 2018.
Band Ordinance 01-21.

§ 2019. Modification of Orders or Decrees.

- (a) **Authority.** After entry of a temporary or permanent support order under this subchapter, on motion of either of the parents, a copy of which must be served on a public authority of payments are made through it, or on motion of a public authority, the Court may, from time to time, modify any term or condition of the order or make a new order respecting any matter which it might have made in the original proceeding, to the extent and under the circumstances described in this section.

- (1) A parent or a public authority may also bring a motion for contempt of court if the obligor is in arrears in support payments.

(b) **Modification.**

- (1) The terms of an existing support order may be modified or a new order may be made upon a showing that there has been a substantial change in circumstances from those prevailing when the existing order was entered and that one or more of the terms of the existing order is unreasonable and unfair under the new circumstances.

- (2) Any one or more of the following facts is sufficient to establish that there has been a substantial change in circumstances from those prevailing when the existing order was entered:

- (i) substantially increased or decreased gross income of an obligor or obligee;
- (ii) substantially increased or decreased need of an obligor or obligee of the child or children that are subject to the proceedings;
- (iii) receipt of assistance under the TANF program;
- (iv) a change in the cost of living for either party as measured by the Federal Bureau of Labor Statistics;
- (v) extraordinary medical expenses of the child not provided for under § 2021 of this Title;
- (vi) a change in the availability of appropriate health care coverage or a substantial increase or decrease in health care coverage costs;
- (vii) the addition of work-related or education-related child care expenses of the obligee or a substantial increase or decrease in existing work-related or education-related child care expenses; or
- (viii) the emancipation of the child.

- (3) Any one or more of the following facts is sufficient to create a rebuttable presumption that the terms of the existing support order are unreasonable and unfair under the new circumstances:

- (i) the application of the child support guideline in § 2014 of this Title to the current circumstances of the parties results in a calculated basic support obligation that is at least 20 percent and at least \$75.00 per month higher or lower than that provided in the existing support order

or, if the basic support obligation under the existing support order is less than \$75.00, it results in a calculated basic support obligation that is at least 20 percent higher or lower;

- (ii) the medical support provisions of the order established under § 2021 of this Title are not enforceable by a public authority or the obligee;
 - (iii) health coverage ordered under § 2021 of this Title is not available to the child for whom the order is established by the parent ordered to provide such coverage;
 - (iv) the existing support obligation is in the form of a statement of percentage and not a specific dollar amount;
 - (v) the gross income of an obligor or obligee has decreased by 20 percent through no fault or choice of the party; or
 - (vi) a deviation from the child support guideline was granted based on the factor identified in § 2023 (a)(4) of this Title and the child no longer resides in a foreign country or the factor is otherwise no longer applicable.
- (4) By itself, the fact that an obligor or obligee has become responsible for the support of an additional non-joint child since the entry of an existing support order is not a substantial change in circumstances from those prevailing when the existing order was entered and does not create a rebuttable presumption that the terms of the existing order are unreasonable and unfair. However, § 2012 of this Title shall be considered if there are other grounds which allow a modification of the existing order.
- (5) If an obligor is receiving per capita income, incarceration and corresponding inability to earn an income shall not serve as a basis for modification of a child support order.
- (6) On a motion for modification of support, the Court:
- (i) shall apply §§ 2013 and 2014 of this Title, and shall not consider the financial circumstances of either parent's spouse, if any; and
 - (ii) shall not consider compensation received by a parent for employment in excess of a 40-hour week if the parent demonstrates, and the Court finds, that:
 - (A) the excess employment began after entry of the existing support order;

- (B) the excess employment is voluntary and not a condition of employment;
- (C) the excess employment is in the nature of additional, part-time employment, or overtime employment compensable by the hour or fractions of an hour;
- (D) the parent's compensation structure has not been changed for the purpose of affecting a support obligation; and
- (E) in the case of an obligor, existing child support payments are at least equal to the presumptive child support obligation calculated under § 2013 of this Title based on income not excluded under this subparagraph;

provided that, in the case of an obligor who is in arrears in child support payments to the obligee, any net income from excess employment must be used to pay the arrearages until the arrearages are paid in full.

- (7) A modification of support may be made retroactive only with respect to any period during which the petitioning party has pending a motion for modification but only from the date of service of notice of the motion on the responding party and on the Band Authority or other public authority if public assistance is being furnished.
 - (8) Subject to the requirements of § 2017 of this Title, the Court need not hold an evidentiary hearing on a motion for modification of support if both parents agree to modify the child support award and submit an Agreed Order to the Court for approval.
 - (9) An enactment, amendment, or repeal of law does not constitute a substantial change in the circumstances for purposes of modifying a child support order except as expressly provided in such enactment, amendment, or repeal.
 - (10) In the event that a single obligor owes child support to separate obligees, the Band Authority may move the Court to simultaneously modify all of the obligor's child support orders within the Court's jurisdiction in order to equally distribute the support amount amongst all of the children.
- (c) **Child Support on Death of Obligor.** Unless otherwise agreed in writing or expressly provided in a support order, provisions for the support of a child are not terminated by the death of a parent obligated to support the child. When a parent obligated to pay support dies, the amount of support may be modified, revoked, or commuted to a lump-sum payment, to the extent just and appropriate under the circumstances.
 - (d) **Child Support on Death of Obligee.** When a custodial party receiving arrears

payments becomes deceased, the Court shall make a determination as to whether the arrears should be expunged or whether the payments should continue and the Band Authority should be appointed as a trustee to disburse ongoing arrears payments to the child(ren), regardless of whether the child(ren) have reached the age of majority.

- (1) If children receiving arrears payments have reached the age of majority, the children may become a party to the child support matter and may motion the Court for forgiveness of the obligor's arrears.
- (2) If the Band Authority is appointed as a trustee, the Court may require regular reports on how the arrears payments have been disbursed.

(e) **Automatic Termination of Support.**

- (1) Unless a support order provides otherwise, a child support obligation that specifies a specific amount for a specific child terminates with respect to that child automatically and without any action by the obligor to reduce, modify, or terminate the order when the requirements of § 2006(i) of this Title have been met.
- (2) Unless a support order provides otherwise, a child support obligation for two or more children that is not based on and does not otherwise specify a specific amount for each child continues in the full amount until all of the children for whose benefit the order was made are 18 years old unless modified by the Court. The obligor may request modification of the child support obligation under such an order when one or more of the children become 18 years old. Upon such request, the Court shall determine the new child support obligation under all applicable provisions of this subchapter on the basis of the income of the parties at the time the modification is sought.

(f) **Form.** The Band Authority shall prepare and make available to Court administrators, obligors, and persons to whom child support is owed a form to be submitted by the obligor or the person to whom child support is owed in support of a motion for modification of an order for support or for contempt of court.

(g) **Child Care Exception.** Child care support must be based on actual child care expenses. The Court may provide that a decrease in the amount of child care support based on a decrease in actual child care expenses is effective as of the date the expense is decreased.

Historical and Statutory Notes

Source:

Band Ordinance 26-94, Ch. 29, T. I, §§ 5.05, 5.08, Title II, §§ 1, 2.05.
Band Ordinance 06-10, Title I, § 1, Exhibit A, § 2019.
Band Ordinance 01-21.

§ 2020. Child Care Support.

- (a) **Child Care Costs.** Unless otherwise agreed by the parents and approved by the Court, the Court must order that work-related or education-related child care costs of joint children be divided between the obligor and obligee based on their proportionate share of the parents' combined monthly PICS.
- (1) The amount of work-related or education-related child care costs required by this section to be divided between the obligor and obligee is the total amount received by the child care provider from the obligee and any public agency for the joint child or children.
 - (2) Child care costs shall be adjusted by the amount of the estimated federal and state child care credit payable on behalf of the joint child.
- (b) **Determining Costs.**
- (1) The Court must require verification of employment or school attendance and documentation of child care expenses from the obligee and the public authority, if applicable.
 - (2) If child care expenses fluctuate during the year because of the obligee's seasonable employment or school attendance, or because the obligor has extended periods of parenting time with the child or children, the Court must determine child care expenses based on an average monthly cost.
 - (3) The amount allocated for child care expenses is considered child support but is not subject to a cost of living adjustment under § 2019 of this Title.
 - (4) The Court may allow the additional parenting time to a parent with whom a joint child does not reside to care for the joint child while the parent with whom the joint child does reside is working or attending school, if the Court determines this arrangement is reasonable and in the best interests of the child. In making this determination, the Court shall consider:
 - (i) the ability of the parents to cooperate;
 - (ii) methods for resolving disputes regarding the care of the child, and the parents' willingness to use those methods; and
 - (iii) whether domestic abuse has occurred between the parties.

Historical and Statutory Notes

Source:

Band Ordinance 26-94, Ch. 29, Title II, § 2.04.
Band Ordinance 06-10, Title I, § 1, Exhibit A, § 2020.

§ 2021. Medical Support.

(a) **Medical support order.**

- (1) A completed national medical support notice issued by the Band Authority or a Court order that complies with this section is a qualified medical child support order under the Federal Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. § 1169(a).
- (2) Every order addressing child support must state:
 - (i) The names, last-known addresses, and Social Security numbers of the parents and the joint child that is subject of the order unless the Court prohibits the inclusion of an address or Social Security number and orders the parents to provide the address and Social Security number to the administrator of the health plan providing health care benefits for the joint child.
 - (ii) If a joint child does not presently have appropriate health care coverage, whether appropriate health care for the joint child is available and, if so:
 - (A) The parents' responsibilities for carrying health care coverage;
 - (B) The cost of premiums and how the cost is allocated between the parents; and
 - (C) The circumstances, if any, under which an obligation to provide health care coverage for the joint child will shift from one parent to the other.
 - (iii) If appropriate health care coverage is not available for the joint child, whether a contribution for medical support is required; and
 - (iv) How unreimbursed or uninsured medical expenses will be allocated between the parents.

(b) **Determining appropriate health care coverage.** In determining whether a parent has appropriate health care coverage for a joint child, the Court must consider the following factors:

- (1) Comprehensiveness of health care coverage providing medical and dental benefits, as well as benefits pertaining to the child's vision.
 - (i) Dependent health care coverage providing medical benefits is presumed comprehensive if it includes medical, dental, and hospital

coverage and provides for preventive, emergency, acute, and chronic care.

- (ii) If both parents have dependent health care coverage providing medical and dental benefits that is presumed comprehensive under this subparagraph, the Court must determine which parent's coverage is more comprehensive by considering what other benefits are included in the coverage.

(2) **Accessibility.**

- (i) Dependent health care coverage is accessible if the covered joint child can obtain services from a health plan provider with reasonable effort by the parent with whom the joint child resides. Health care coverage is presumed accessible if:

- (A) Primary care is available within 30 miles of the joint child's residence and specialty care is available within 60 miles of the joint child's residence;

- (B) The health care coverage is available through an employer and the employee can be expected to remain employed for a reasonable amount of time; and

- (C) No pre-existing conditions exist to unduly delay enrollment in health care coverage.

(3) **The joint child's special medical needs.**

(4) **Affordability.**

- (i) Dependent health care coverage is affordable if it is reasonable in cost.

- (ii) If both parents have dependent health care coverage available for a joint child that is comparable with regard to comprehensiveness of medical and dental benefits, accessibility, and the joint child's special needs, the least costly health care coverage is presumed to be the most appropriate health care coverage for the joint child.

(c) **Ordering Health Care Coverage.**

- (1) If a joint child is presently enrolled in a health care plan or plans providing medical and dental benefits, the Court must order that the parent who currently has the joint child enrolled continue that enrollment unless the parents agree otherwise or a parent requests a change in health care coverage and the Court determines that other health care coverage is more appropriate.

- (2) If a joint child is not presently enrolled in a health care plan or plans providing medical and dental benefits, upon motion of a parent or the Band Authority, the Court must determine whether appropriate health care coverage providing medical and dental benefits for the joint child is available to one or both parents.
- (3) If appropriate health care coverage providing medical and dental benefits to the joint child is only available to one parent, the Court must order that parent to carry the coverage for the joint child.
- (4) If appropriate health care coverage providing medical and dental benefits to the joint child is available to both parents, the Court must order the parent with whom the joint child resides to carry the coverage for the joint child, unless:
 - (i) A parent expresses a preference for health care coverage providing medical and dental benefits to the joint child that is available to the parent with whom the joint child does not reside;
 - (ii) The parent with whom the joint child does reside is already carrying dependent health care coverage providing medical and dental benefits for other children and the cost of contributing to the premiums of the other parent's coverage would cause the parent with whom the joint child does not reside extreme hardship; or
 - (iii) The parents agree as to which parent will carry health care coverage providing medical and dental benefits to the joint child and agree on the allocation of costs.
- (5) If the exception in § 2021(c)(4)(i) or (ii) applies, the Court must determine to which parent the most appropriate health care coverage providing medical and dental benefits to the joint child is available and order that parent to carry health care coverage for the joint child.
- (6) If appropriate health care coverage providing medical and dental benefits to the joint child is not available to either parent, the Court must order the parents to contribute toward the actual health care costs of the joint child based on a pro rata share, unless § 2021(c)(7) shall apply.
- (7) If the joint child is receiving any form of public coverage, the parent with whom the joint child does not reside shall contribute a monthly amount toward the actual cost of public coverage.
 - (i) The amount of the noncustodial parent's contribution is determined by applying the noncustodial parent's PICS to the premium schedule for public coverage. If the noncustodial parent's PICS meets the eligibility

requirements for public coverage, the contribution is the amount of the premium for the highest eligible income on the appropriate premium schedule for public coverage. For purposes of determining the premium amount, the noncustodial parent's household size is equal to one parent plus the number of children who are the subject of the child support order.

Historical and Statutory Notes

Source:

Band Ordinance 06-10, Title I, § 1, Exhibit A, § 2021.
Band Ordinance 01-21.

§ 2022. Ability to Pay; Self-Support Adjustment.

(a) **Ability to pay.**

- (1) It is a rebuttable presumption that a child support obligation should not exceed the obligor's ability to pay. To determine the amount of child support the obligor has the ability to pay, the Court shall follow the procedure set out in this section.
- (2) The obligor's income available for support is the obligor's monthly gross income minus a monthly self-support reserve equal to 120 percent of the federal poverty guidelines for one person. If the obligor's income available for support is equal to or greater than the obligor's child support obligation calculated under §§ 2013 and 2023 of this Title, the Court shall order child support under §§ 2013 and 2023.
- (3) If the obligor's income available for support is more than the minimum support amount under § 2022(b), but less than the amount calculated under §§ 2013 and 2023 of this Title, the Court shall reduce the child support obligation calculated under § 2013 in the following order, until the child support obligation is equal to the obligor's income available for support:
 - (i) Medical support obligations;
 - (ii) Child care support obligation; and
 - (iii) Basic support obligation.
- (4) If the obligor's income available for support is equal to or less than the minimum support amount under § 2022 (b) or if the obligor's gross income is less than 120 percent of the federal poverty guidelines for one person, the Court shall order child support in the minimum support amount under § 2022(b).

- (5) If the obligor receives no income and completely lacks the ability to earn income, the Court shall not order child support.
 - (6) This section does not apply to an obligor who is incarcerated. The Court shall not reduce the child support obligation of an obligor who is incarcerated under this section.
- (b) **Minimum support amount.**
- (1) The minimum support amount is:
 - (i) For one or two children, \$50 per month;
 - (ii) For three or four children, \$75 per month; and
 - (iii) For five or more children, \$100 per month.
 - (2) If the Court orders the obligor to pay the minimum support amount under this paragraph, the obligor is presumed unable to pay child care support and medical support.

Historical and Statutory Notes

Source:

Band Ordinance 06-10, Title I, § 1, Exhibit A, § 2022.

§ 2023. Deviation from Presumptive Child Support Obligation.

- (a) **General factors.** The Court must take into account the factors listed in this section in establishing or modifying a child support obligation. These factors are in addition to the child support guideline in § 2014 of this Title and the other factors used to calculate the presumptive child support obligation under § 2013 of this Title. On the basis of the factors listed in this section, the Court may deviate upward or downward from the presumptive child support obligation. The Court may deviate from the presumptive child support obligation in order to encourage prompt and regular payment of child support, to prevent either parent or the joint child or children from living in poverty, or for other purposes. Among the factors to be considered are the following:
- (1) All earnings, income, circumstances, and resources of each parent, including real and personal property, but excluding income from excess employment of the obligor or obligee that meets the criteria of § 2008 (b) of this Title;
 - (2) The extraordinary financial needs and resources, physical and emotional conditions, and educational needs of the child to be supported;

- (3) The standard of living the child would enjoy if the parents were currently living together, but recognizing that the parents now have separate households;
- (4) Whether the child resides in a foreign country or more than one year that has a substantially higher or lower cost of living than this country;
- (5) Which parent is entitled to claim the child as a dependent for income tax purposes and the financial benefit that parent receives from claiming the child as a dependent;
- (6) The parents' debts as provided in §2023(b);
- (7) The obligor affirmatively demonstrates having made significant contributions toward the support of the child that have not otherwise been quantified or considered; and
- (8) Whether the obligor's total payments for court-ordered child support exceed the limitations set forth in 24 MLBS §3353.

(b) **Debt owed to private creditors.**

- (1) In establishing or modifying a support obligation, the Court may consider debts owed to private creditors, but only if:
 - (i) The right to support has not been assigned;
 - (ii) The Court determines that the debt was reasonably incurred for necessary support of the child or parent or for the necessary generation of income.
 - (A) If the debt was incurred for the necessary generation of income, the Court may consider only the amount of debt that is essential to the continuing generation of income; and
 - (iii) The parent requesting a deviation from the presumptive child support obligation produces a sworn schedule of the debts, with supporting documentation, showing goods or services purchased, the recipient of them, the original debt amount, the outstanding balance, the monthly payment, and the number of months until the debt will be fully paid.
- (2) A schedule prepared under § 2023(b)(1)(iii) must contain a statement that the debt will be fully paid after the number of months shown in the schedule, barring emergencies beyond the parent's control.
- (3) Any deviation below the presumptive child support obligation that is based on

a consideration of debts owed to private creditors must not exceed 18 months in duration. After 18 months the support obligation must increase automatically to the level determined by the Court without consideration of such debts. In addition, the Court may order one or more step increases in the support obligation during the 18-month period to reflect debt retirement.

- (4) If payment of debt is ordered pursuant to this section, the payment must be ordered to be in the nature of child support.
- (c) **Evidence.** The Court may receive evidence on the factors in this section to determine if the presumptive child support obligation should be modified in a particular case.
- (d) **Payments assigned to a public authority.** If the child support payments are assigned to a public authority or other public agency under MINN. STAT. §256.741, the Court may not deviate downward from the presumptive child support obligation unless the Court specifically finds that the failure to deviate downward would impose an extreme hardship on the obligor.
- (e) **Joint legal custody.** An award of joint legal custody is not a reason for deviation from the presumptive child support obligation.
- (f) **Self-support limitation.** If the obligor establishes that, after payment of income and payroll taxes, their monthly income is less than the monthly self-support reserve described in § 2022(a)(2) of this Title, the Court may provide for a downward deviation from the presumptive child support obligation.

Historical and Statutory Notes

Source:

Band Ordinance 06-10, Title I, § 1, Exhibit A, § 2023.
Band Ordinance 01-21.

§ 2024. Notice to Band Authority.

The petitioner shall notify the Band Authority of all proceedings for dissolution, legal separation, annulment, determination of parentage, or the custody of a child if either parent is receiving public assistance or applies for it subsequent to the commencement of the proceeding. The notice must contain the full names of the parties to the proceeding and their birth dates.

Historical and Statutory Notes

Source:

Ordinance 06-10, Title I, § 1, Exhibit A, § 2024.

SUBCHAPTER 2

PATERNITY

Section

- 2031. Purpose.**
- 2032. Paternity Proceedings Generally.**
- 2033. [Reserved].**
- 2034. Establishing Paternity Through Court Order.**
- 2035. Establishing Paternity by Acknowledgment.**
- 2036. Paternity Established by Other Jurisdiction.**

§ 2031. Purpose.

The purpose of this subchapter is to ensure that the father of every child subject to the jurisdiction of the Band is identified and paternity established in order to protect, promote, and help provide for the child's best interests. This shall include—but not be limited to—the health, education, and support of the child; the child's receipt of survivorship, inheritance, and Social Security benefits; and the transmission of the customs and traditions of the Band to the child.

Historical and Statutory Notes

Source:

Band Ordinance 06-10, Title II, § 2, Exhibit B, § 2031.
Band Ordinance 01-21.

§ 2032. Paternity Proceedings Generally.

- (a) This subchapter provides for the establishment of paternity through court order and by acknowledgment. Establishment of paternity by court order is generally a contested process but may also be used if an alleged father is deceased or otherwise unavailable. Establishment of paternity by acknowledgment is an uncontested process allowing a father to swear under oath that he is the biological parent of a child.
- (b) An unwed father is not entitled to treatment as a parent under this Title unless his name appears on the child's birth certificate or unless his paternity is established or acknowledged as provided in this subchapter.

Historical and Statutory Notes

Source:

Band Ordinance 06-10, Title II, § 2, Exhibit B, § 2032.

§ 2033. [Reserved].

Historical and Statutory Notes

Source:

Band Ordinance 06-10, Title II, § 2, Exhibit B, § 2033.

§ 2034. Establishing Paternity Through Court Order.

- (a) **Who may file.** A child, a child's legal guardian, a child's biological mother, an alleged father of a child, or the Band Authority may file a petition requesting the Court to establish paternity. The biological mother and an alleged father may file jointly.
- (b) **Petition.**
 - (1) A petition to establish paternity shall include the following:
 - (i) The names, dates of birth, addresses, and tribal affiliations, if any, of the biological mother, the alleged father(s), the child, and all others who have legal rights of custody, visitation, or support of the child;
 - (ii) A short statement alleging facts to establish a reasonable possibility of the requisite sexual contact between the biological mother and alleged father;
 - (iii) The marital status of the biological mother and the alleged father(s);
 - (iv) The consent, if any, of the biological mother and the alleged father to establish the alleged father as the biological father of the child;
 - (v) Whether any party has filed an action to determine paternity in any other court or with any agency and, if so, whether a judgment or other determination of paternity has been rendered by any other court or agency;
 - (vi) A copy of the child's certified birth certificate attached as a supporting document; and
 - (vii) The notarized signature of the petitioner verifying the truth of the information in the Petition.
 - (2) In a case where domestic violence has been an issue, an address is not required for the aggrieved party.
- (c) **Notice.** All parties, including the biological mother and each man alleged to be the

biological father, shall be notified of the petition and of all hearings, and shall be given an opportunity to be heard. The party required to provide notice shall do so in compliance with the notice requirements found in the Federal Rules of Civil Procedure.

- (d) **Summons.** The summons to be served on the alleged father(s) along with the Petition shall include the following notice, in addition to providing a time and date for appearance:

NOTICE TO RESPONDENT:

- (1) You have been named in a petition alleging paternity. A judgment of paternity would legally designate the child as your child, grant parental rights to you, create the right of inheritance for the child, obligate you to pay child support until the child reaches the age of eighteen (18), or, if the child is disabled or is attending high school on a full-time basis and the Court so orders, until the child reaches the age of twenty-one (21), and make your failure to pay child support punishable by contempt of court.
- (2) You may request genetic tests which will indicate the probability that you are or are not the father of the child. The Court will order genetic tests on request by you, the Band Authority, or any other party. Any person who refuses to take court-ordered genetic tests may be punished for contempt of court.
- (3) The petitioner has the burden of proving by a preponderance of the evidence that you are the father. If a genetic test shows that you are not excluded as the father and that the statistical probability of your being the father is ninety-two percent (92%) or higher, you are presumed to be the father.
- (4) The following defenses are available to you:
 - (i) That you were sterile or impotent at the time of conception;
 - (ii) That you did not have sexual intercourse with the mother of the child during the conception period; or
 - (iii) That another man did have intercourse with the mother of the child during the conception period.

- (5) If you fail to appear at any state of the proceedings, including a scheduled genetic test, the Court may enter a default judgment finding you to be the father. A default judgment will take effect twenty-eight (28) days after it is served on or mailed to you, unless within those twenty-eight (28) days you present yourself to the Court and establish good cause for your failure to appear and present yourself for the genetic test. The Court's entry of a default judgment does not make a child eligible for enrollment in the Mille Lacs Band of Ojibwe.
- (e) **Hearing.** The following rules apply to paternity hearings:
- (1) The mother of the child and the alleged father(s) may be compelled to testify at the hearing.
 - (2) Testimony of a physician concerning the medical circumstances of the pregnancy and the condition and characteristics of the child upon birth is not privileged.
 - (3) The hearing shall be conducted by the judge with no jury.
 - (4) Paternity hearings will be closed to outside observers. Only the parties directly involved, necessary witnesses, and Court personnel shall be present at hearings. The Court may utilize its discretion to permit other observers, provided that the Court has offered all parties the opportunity to object.
- (f) **Genetic Tests.**
- (1) If the alleged father(s) is alive and available, the Court may require the child, mother, and alleged father(s) to submit to genetic tests, unless the Court determines it would not be in the best interest of the child in accordance with § 2034(i) of this Title.
 - (2) An alleged father may be excused from the requirement to submit to a genetic test if the Court determines that there is no reasonable possibility that sexual contact occurred at or near the time of conception.
 - (3) If genetic testing is required by the Court, such testing shall be performed by an expert in paternity genetic testing approved by the Court.
 - (i) If such test confirms parentage, the disputing parent shall pay the cost of testing. If the test disproves parentage, the petitioner shall pay the cost of testing.
 - (ii) The Band Authority shall not be required to pay for any genetic testing ordered by the Court in a non-child support matter.
 - (4) The Court may order additional genetic tests by other experts qualified in

paternity genetic testing upon reasonable request of a party, at that party's expense.

(g) **Evidence.** The Court may consider the following types of evidence in paternity cases:

- (1) Genetic test results, including the impossibility or the statistical probability of an alleged father's paternity, presented by either expert testimony or a written report accompanied by an affidavit. The following types of genetic tests are admissible as evidence of paternity provided that the results of all tests, when taken together, either exclude an alleged father or yield a statistical probability of at least ninety-two percent (92%) that the alleged father is the biological father: DNA, HLA (Human Leukocyte Antigens), red blood cell enzyme, red blood antigen, and serum protein tests;
- (2) Evidence of sexual intercourse between the mother and the alleged father(s) at any possible time of conception;
- (3) An expert's opinion concerning the statistical probability of an alleged father's paternity, based upon the duration of the mother's pregnancy;
- (4) Medical or anthropological evidence relating to an alleged father's paternity of the child based on tests which may be ordered by the Court and performed by experts;
- (5) Cultural evidence, a reputation in the community as to paternity, or both; or
- (6) Any other reliable evidence which is relevant to the issue of paternity of the child.

(h) **Presumption of Paternity.** A man is presumed to be the biological father of a child if he and the biological mother were married at the time of the child's birth or if the child was born within three hundred (300) days after the marriage was terminated. The presumption can only be overcome by genetic testing proving another man is the father by a statistical probability of ninety-two percent (92%).

(i) **Best Interest of the Child Not to Establish Paternity.** The Court may determine that it is not in the best interest of the child to establish paternity if:

- (1) The child was conceived as a result of rape, incest, sexual abuse of a minor, or sexual assault;
- (2) A legal proceeding for adoption is pending before a court of competent jurisdiction; or
- (3) The cooperation of the child's custodian in the establishment of paternity is reasonably likely to result in physical or emotional harm to the child or to the

child's custodian.

- (j) **Judgment of Paternity After Failure to Appear.** If the respondent is the alleged father and fails to appear for a Court proceeding or for a genetic or other test at any time not waived by the Court, the Court may, if no good cause to the contrary exists, enter an order that the respondent is the father, which shall be served on respondent personally, or by registered or certified mail to his last known address, or by publication if the respondent's address is not known.
 - (1) Such order shall take effect twenty-eight (28) days after service unless, within that time, the respondent presents to the Court evidence of good cause for his failure to appear at the proceeding or to undergo the genetic or other test.
 - (2) No default order shall be entered by the Court unless the respondent was properly served with notice of the proceeding or test at which he failed to appear in accordance with § 2034(c) and (d) and the Federal Rules of Civil Procedure.
- (k) **Judgment of Paternity.** The judgment or order of the Court determining the existence or nonexistence of paternity shall be based on a preponderance of the evidence and shall be final subject only to an appeal to the Band's Court of Appeals.
 - (1) If the judgment or order of the Court is different from the child's birth certificate, the Band Authority shall send the order to the Department of Vital Statistics of the state in which the child was born. The Court shall order the child's parents to reimburse the Band Authority for any associated expenses.
- (l) **Reopening Default Judgment of Paternity.** A default judgment declaring a person to be the father of a child may be reopened upon petition for good cause shown within ninety-one (91) calendar days of the default judgment.
- (m) **Time for Filing Paternity Action.** A petition to determine paternity may be filed at any time for the purpose of establishing the existence of a father and child relationship. If a petition to determine paternity is brought before the birth of the child, no hearing or other proceeding shall be conducted until after the birth unless the court shall determine that an action is necessary in order to preserve testimony.
- (n) **Hearing Closed, Records Sealed.** Paternity proceedings shall be closed and all records shall be sealed except as ordered by the Court for the purpose of requesting an amended birth certificate, or for any purpose consistent with the best interest of the child.

Historical and Statutory Notes

Source:

Band Ordinance 06-10, Title II, § 2, Exhibit B, § 2034.

Band Ordinance 01-21.

§ 2035. Establishing Paternity by Acknowledgment.

- (a) **Request for recognition.** The mother and alleged father of a child born to a mother who was not married to the child's alleged father nor to any other man when the child was conceived nor when the child was born may, in a writing signed by both of them before a notary public and filed with the Court, state and acknowledge under oath that they are the biological parents of the child and wish to be recognized as the biological parents.
 - (1) The recognition must be on the form prepared by the Band Authority under § 2035(f), except that it may also include the joinder in recognition provisions under § 2035(b). The requirement that the mother not be married when the child was conceived nor when the child was born does not apply if her husband or former husband joins in the recognition under § 2035(b).

- (b) **Joinder in recognition by husband.** A man who is a presumed father under § 2034(h) of this Title may join in a recognition of parentage that recognizes that another man is the child's biological father.
 - (1) The man who is the presumed father under § 2034(h) must sign an acknowledgment under oath before a notary public that he is renouncing the presumption under § 2034(h) and recognizing that the father who is executing the recognition under this section is the biological father of the child.
 - (2) A joinder in a recognition under this paragraph must be executed within one year after the child's birth and the joinder must be filed with the Court.
 - (i) The joinder must be on a form prepared by the Band Authority.
 - (ii) Failure to properly execute a joinder in a recognition does not affect the validity of the recognition under this section.
 - (iii) A joinder without a corresponding recognition of parentage has no legal effect.

- (c) **Revocation of recognition.** A recognition may be revoked in a writing signed by the mother or father before a notary public and filed with the Court within sixty (60) calendar days after the recognition is executed or the date of a hearing in an action relating to the child in which the revoking party is a party.
 - (1) A joinder in a recognition may be revoked in a writing signed by the person who executed the joinder and filed with the Court within sixty (60) calendar days after the joinder is executed.
 - (2) Upon receipt of a timely revocation of the recognition of parentage or joinder in a recognition, the Court shall forward a copy of the revocation to the non-

revoking parent, or, in the case of a joinder in a recognition, to the mother and father who executed the recognition, and the recognition shall have no further force or effect.

(d) **Effect of recognition.** Once a recognition has been properly executed and filed with the Court in accordance with § 2035(a), if there are no competing presumptions of paternity under § 2034(h) of this Title or if any such presumption has been renounced under § 2035(b), and if neither the recognition nor the joinder in recognition, if any, has been revoked under § 2035(c) and no other recognition has been filed for the same child, the recognition:

- (1) has the force and effect of a judgment or order determining the existence of the parent-child relationship, is determinative for all purposes related to the existence of the parent and child relationship, and is entitled to full faith and credit in other jurisdictions;
- (2) precludes any further action to determine parentage regarding the signatory of the recognition, except as provided in § 2035(e); and
- (3) is a basis for bringing an action:
 - (i) to award legal and physical custody or parenting time to either parent, provided that, until an order is entered granting custody to another, the mother shall have sole custody of the child;
 - (ii) to establish a child support obligation, which may be retroactive for up to two years immediately preceding the commencement of the action;
 - (iii) to obtain an order for contribution to the reasonable expenses of the mother's pregnancy and confinement; and/or
 - (iv) to obtain an order for reimbursement of the costs of blood or genetic testing.

(e) **Action to vacate recognition.**

- (1) An action to vacate a recognition of paternity may be brought by the mother, father, husband or former husband who executed a joinder, the child who was the subject of the recognition, or the Band Authority.
 - (i) A mother, father, or husband or former husband who executed a joinder must bring the action within one year of the execution of the recognition or within six months after the person bringing the action obtains the results of blood or genetic tests that indicate that the person who executed the recognition is not the father of the child.

- (ii) A child must bring an action to vacate within six months after the child obtains the results of blood or genetic tests that indicate that the person who executed the recognition is not the father of the child, or within one year of reaching the age of majority, whichever is later.
 - (iii) If the Court finds a prima facie basis for vacating the recognition, the Court shall order the child, mother, father, and husband or former husband who executed a joinder to submit to blood or genetic tests.
 - (A) If the Court issues an order for the taking of blood or genetic tests, the Court shall require the party seeking to vacate the recognition to make advance payment for the costs of the blood or genetic tests.
 - (B) If the party fails to pay for the costs of the blood or genetic tests, the Court shall dismiss the action to vacate with prejudice.
 - (C) The Court may also order the party seeking to vacate the recognition to pay the other party's reasonable attorney's fees, costs, and disbursements.
 - (D) If the results of the blood or genetic tests establish that the person who executed the recognition is not the father, the court shall vacate the recognition.
 - (E) If a recognition is vacated, any joinder in the recognition under § 2035(b) is also vacated.
 - (F) The Court shall terminate the obligation of a party to pay ongoing child support based on the recognition.
 - (G) A modification of child support based on a recognition may be made retroactive with respect to any period during which the moving party has pending a motion to vacate the recognition but only from the date of service of notice of the motion on the responding party.
- (2) The burden of proof in an action to vacate the recognition is on the moving party. Such request must be on the basis of fraud, duress, or material mistake of fact.
- (i) The legal responsibilities in existence at the time of an action to vacate, including child support obligations, may not be suspended during the proceeding, except for good cause shown.

- (f) **Recognition form.** The Band Authority shall prepare a form for the recognition of parentage under this section. In preparing the form, the Band Authority shall consult with the individuals specified in § 2035(g). The recognition form must be drafted so that the force and effect of the recognition, the alternatives to executing a recognition, and the benefits and responsibilities of establishing paternity are clear and understandable. The form must include a notice regarding the finality of a recognition, the revocation procedure under § 2035 (c), and the procedure for vacating the recognition under § 2035 (e). The form must include a provision for each parent to verify that the parent has read or viewed the educational materials prepared by the Band Authority describing the recognition of paternity. The individual providing the form to the parents for execution shall provide oral notice of the rights, responsibilities, and alternatives to executing the recognition. Notice may be provided by audiotape, videotape, or similar means. Each parent must receive a copy of the recognition.
- (g) **Paternity educational materials.** The Band Authority shall prepare educational materials for new and prospective parents that describe the benefits and effects of establishing paternity. The materials must include a description and comparison of the procedures for establishment of paternity through a recognition of parentage under this section and an adjudication of paternity under § 2034 of this Title. The Band Authority shall consider the use of innovative audio or visual approaches to the presentation of the materials to facilitate understanding and presentation. In preparing the materials, the Band Authority shall consult with child advocates and support workers, battered women’s advocates and advocates for domestic abuse victims, social service providers, educators, attorneys, hospital representatives, and people who work with parents in making decisions related to paternity. The Band Authority will make the materials available without cost to hospitals, requesting agencies, and other persons for distribution to new parents.
- (h) **Hospital distribution of educational materials; recognition form.** Hospitals that provide obstetric services and the Band Authority shall distribute the educational materials and recognition of parentage forms prepared by the Band Authority to new parents and shall assist parents in understanding the recognition of parentage form in accordance with § 2035 (f).
- (i) **More than one recognition.** If the Court receives more than one recognition of parentage for the same child, the Court shall notify the signatory on each recognition that the recognition is no longer effective and that each man has only a presumption of paternity.

Historical and Statutory Notes

Source:

Band Ordinance 06-10, Title II, § 2, Exhibit B, § 2035.
Band Ordinance 01-21.

§ 2036. Paternity Established by Other Jurisdiction.

- (a) The Court shall give full faith and credit to properly issued court and administrative orders, judgments, or decrees of other Indian tribes, states, or federal agencies establishing paternity.
 - (1) Such orders will be considered properly issued when the issuing court or administrative agency had personal jurisdiction over the person claimed to be bound by the order and subject-matter jurisdiction over the matter, proper service of process under the law of the issuing jurisdiction was made on such person, and the order was issued pursuant to the laws of that jurisdiction and does not violate the laws of the Band.
- (b) An order described in § 2036(a) must be authenticated by reasonable proof that the document tendered to the Clerk of the Court is a true copy of the order as it is recorded in the agency or court of the issuing jurisdiction.
 - (1) An authentication stamp issued by a clerk of court or custodian of records, or a court seal, is sufficient evidence of authenticity.
- (c) Unless defects in jurisdiction are apparent on the face of an order described in § 2036(a), the person contesting enforcement of the order has the burden of showing the order is not valid. Upon a failure to respond to a notice of the order and to timely contest it, the Court shall enforce it as a Band Court Order.
- (d) Where an order described in § 2036(a) is invalid by reason of a lack of personal jurisdiction in the agency or court of the issuing jurisdiction, the Court may adopt some or all of its provisions as an original order of the Court to the extent that it does not violate the laws of the Band.
- (e) An order described in § 2036(a) does not automatically establish paternity for Band enrollment purposes.

Historical and Statutory Notes

Source:

Band Ordinance 06-10, Title II, § 2, Exhibit B, § 2036.

SUBCHAPTER 3

ENFORCEMENT

Section

- 2051. Withholding.**
- 2052. Withholding Upon Notice from Obligee or Public Authority.**
- 2053. Withholding Hearing; Service of Withholding Order.**
- 2054. Effect of Notice or Order for Withholding; Commencement and Amount of Withholding; Orders from Other Jurisdictions.**
- 2055. Priority.**
- 2056. Employer Expenses.**
- 2057. Notice from Obligor to Employer.**
- 2058. Notice to Court Upon Termination of Employment.**
- 2059. Order Terminating Income Withholding.**

§ 2051. Withholding.

- (a) Court-ordered child support shall be withheld from the obligor's income, regardless of the source, in accordance with this subchapter.
- (b) If a determination is made that an obligor has made excess child support payments, the Band Authority must be responsible to immediately reimburse the obligor. To recover its costs, the Band Authority may motion the Court to recoup the excess payments from the obligee.

Historical and Statutory Notes

Source:

Band Ordinance 26-94, Ch. 29. T. II, § 1.
Band Ordinance 06-10, Title III, § 2, Exhibit C, § 2051.
Band Ordinance 01-21.

§ 2052. Withholding Upon Notice from Obligee or Public Authority.

- (a) Except as provided in § 2052(c), an employer or other payer of funds must withhold income or other payments from an obligor upon notice from an obligee or public authority when the following conditions are met:
 - (1) the obligor is at least 30 days in arrears in making Court-ordered child support payments to the obligee;
 - (2) the obligee or public authority serves written notice of income withholding, showing the current child support obligation and the amount of the arrearage,

on the obligor at least 20 days before serving the notice of income withholding and a copy of the Court's order establishing the child support obligation on the employer or other payer of funds;

- (3) within the 20-day period, the obligor fails to move the Court for an order denying or changing the amount of withholding on the grounds that an arrearage of at least 30 days did not exist as of the date of the notice of income withholding, or that the notice contains a mistake of fact with respect to the amount of the current child support obligation or the amount of the arrearage; and
 - (4) the obligee or public authority serves a copy of the notice of income withholding, showing the current child support obligation and the amount of the arrearage, a copy of the Court's order, and the provisions of this subchapter on the employer or other payer of funds.
- (b) The obligor may, at any time, waive the written notice required by § 2052(a)(2).
- (c) Income or other payments shall not be subject to withholding where:
- (1) Either the custodial or noncustodial parent demonstrates, and the Court enters a finding, that there is good cause not to require withholding of income or other payments; or
 - (2) A signed written agreement is reached between the noncustodial and custodial parent, which provides for an alternative to withholding, and the agreement is reviewed and entered into the record by the Court.

Historical and Statutory Notes

Source:

Band Ordinance 26-94, Ch. 29, T. II, §§ 2.01, 2.03.

Band Ordinance 06-10, Title III, § 2, Exhibit C, § 2052.

§ 2053. Withholding Hearing; Service of Withholding Order.

- (a) Within 30 days from the date an obligor files a motion with the Court to deny or change the amount of withholding under § 2052(a)(3) of this Title, the Court shall hold a hearing on the motion and notify the parties of its decision.
 - (1) If the Court finds an arrearage of at least 30 days did not exist as of the date of the notice of income withholding, the Court shall enter an order denying withholding.
 - (2) If the Court finds that an arrearage of at least 30 days existed as of the date of the notice of income withholding, but that there was a mistake in the amount

of the current support obligation or the amount of the arrearage, the Court shall order income withholding in the corrected amount. If the Court finds there was no mistake of fact, the Court shall order income withholding in the amount specified in the notice. If the Court orders income withholding, it shall order withholding to begin no later than the first pay period that occurs after 14 days following the date of the hearing.

- (b) The Band Authority will promptly refund amounts which have been improperly withheld.
- (c) If the Court issues an order for withholding under § 2053(a), it shall provide a copy of the order to the Band Authority. The Band Authority shall serve notice of the order on the obligor's employer or other payer of funds using the standard Federal withholding form together with a copy of the order. The Band Authority must allocate amounts across multiple withholding orders to ensure that in no case shall allocation result in a withholding for one of the support obligations not being implemented.

Historical and Statutory Notes

Source:

Band Ordinance 26-94, Ch. 29, T. II, § 3.
Band Ordinance 06-10, Title III, § 2, Exhibit C, § 2053.
Band Ordinance 01-21.

§ 2054. Effect of Notice or Order for Withholding; Commencement and Amount of Withholding; Orders from Other Jurisdictions.

- (a) Notwithstanding any law to the contrary, a notice of withholding served in accordance with § 2052(a) of this Title or a withholding order issued and served in accordance with § 2053 of this Title, is binding on an employer or other payer of funds who is subject to the jurisdiction of the Band
- (b) Withholding shall begin no later than the first pay period that occurs after 14 days following the date of service of the notice to the obligor's employer or other payer of funds under § 2052(a)(4) of this Title or § 2053(c) of this Title.
 - (1) An employer shall not discharge, refuse to hire, or otherwise discipline an employee as a result of a wage or salary withholding authorized by this subchapter.
 - (2) An employer who is found to have violated this provision shall be subject to a fine of \$500.00.
- (c) Except as provided in § 2054(d) and (h), an employer or other payer of funds shall withhold and pay to the obligee or public authority, as specified in the notice served on the employer or other payer of funds:

- (1) the obligor's current child support obligation; and
 - (2) an additional amount not to exceed 20 percent of the current monthly obligation until the arrearage is paid.
- (d) An employer or other payer of funds shall not withhold an obligor's earnings more than the maximum amount permitted under the Consumer Credit Protection Act, 15 U.S.C. § 1673(b)(2).
 - (e) Absent an order to the contrary, if an arrearage exists at the time a support order would otherwise terminate, income withholding shall continue in effect or may be implemented in an amount equal to the support order until all arrears have been paid in full.
 - (f) If an employer or other payer of funds fails to withhold income or other payments in accordance with this subchapter, the employer or other payer of funds will be liable for the accumulated amount the employer or other payer of funds should have withheld from the obligor.
 - (g) The Band Authority is responsible for receiving and processing income withholding orders from States, Tribes, and other entities, and ensuring that such orders are properly and promptly served on employers and other payers of funds within the Band's jurisdiction. The Band Authority will extend the full range of services available to respond to all requests from, and cooperate with, State and Tribal IV-D agencies.
 - (h) The Band, the Court, and the Band Authority will recognize child support orders issued by other Tribes and Tribal organizations and by States, in accordance with the requirements under the Full Faith and Credit for Child Support Orders Act, 28 U.S.C. § 1738B. The Court may not delay enforcement of any foreign child support orders.

Historical and Statutory Notes

Source:

Band Ordinance 26-94, Ch. 29, T. II, §§ 2.02, 4, 5.02.
Band Ordinance 06-10, Title III, § 2, Exhibit C, § 2054.
Band Ordinance 01-21.

§ 2055. Priority.

- (a) A notice or order for withholding under this subchapter or execution or garnishment upon a judgment for child support arrears shall have priority over any other attachment, execution, garnishment, or wage assignment and shall not be subject to the statutory limitations on amounts levied against the income of the obligor, except as provided for in this subchapter. Amounts withheld from an employee's income shall not exceed the maximum permitted by law.

- (b) In the event that there is more than one withholding order for child support for an obligor, the employer or other payer of funds shall put the orders into effect, giving priority first to amounts currently due and not in arrears up to the maximum amount allowed by law. If there are two or more orders for child support which cumulatively exceed the maximum amount allowed by law, the amount each obligee receives from the withholding shall be determined as the amount equal to the number of each obligee's children for whom support payments are due as a percentage of the total number of children for whom support payments are due. This paragraph pertains to withholding only and shall not affect the actual amount of support ordered.

Historical and Statutory Notes

Source:

Band Ordinance 26-94, Ch. 29, T. II, § 5.
Band Ordinance 06-10, Title III, § 2, Exhibit C, § 2055.
Band Ordinance 01-21.

§ 2056. Employer Expenses.

An employer or other payer of funds may deduct two dollars from the obligor's remaining income or other payments for each payment made pursuant to a withholding order under this subchapter to cover the expenses involved in the withholding.

Historical and Statutory Notes

Source:

Band Ordinance 2-94, Ch. 29, T. II, § 6.
Band Ordinance 06-10, Title III, § 2, Exhibit C, § 2055.

§ 2057. Notice from Obligor to Employer.

When an individual is hired for employment, the employer shall request that the individual disclose whether or not the individual has Court-ordered child support obligations that are required by law to be withheld from income and the terms of the Court order. The individual shall disclose this information at the time of hiring. When an individual discloses that the individual owes child support that is required to be withheld, the employer shall begin withholding according to the terms of the order and under this subchapter.

Historical and Statutory Notes

Source:

Band Ordinance 26-94, Ch. 29, T. II, §7.
Band Ordinance 06-10, Title III, § 2, Exhibit C, § 2057.

§ 2058. Notice to Court Upon Termination of Employment.

When withholding is in effect and the obligor's employment is terminated, the obligor and the obligor's employer or other payer of funds shall notify the Court and the obligee or public authority responsible for child support enforcement of the termination within ten days of the termination date. The notice shall include the obligor's home address and the name and address of the obligor's new employer or payer of funds, if known. Information disclosed under this subchapter shall not be divulged except to the extent necessary for the administration of child support or when authorized by law.

Historical and Statutory Notes

Source:

Band Ordinance 26-94, Ch. 29, T. II, § 7.01.
Band Ordinance 06-10, Title III, § 2, Exhibit C, § 2058.

§ 2059. Order Terminating Income Withholding.

Whenever an obligation for child support terminates under the terms of the order of this chapter, and where the obligation is enforced by income withholding from the obligor, the Court shall enter an order directed to the obligor's employer or other payer of funds, which terminates the income withholding. The order terminating income withholding must specify the effective date of the order, referencing the initial order or decree establishing the support obligation.

Historical and Statutory Notes

Source:

Band Ordinance 26-94, Ch. 29, T. II, § 8.
Band Ordinance 06-10, Title III, § 2, Exhibit C, § 2059.

TITLE 11 – ENVIRONMENT, NATURAL RESOURCES, ANIMALS AND PLANTS

CHAPTER 1

ENVIRONMENTAL PROTECTION

<u>Subchapter</u>	<u>Section</u>
1. General Provisions	1
2. Environmental Protection Ordinance	101
3. Litter	201

SUBCHAPTER 2

ENVIRONMENTAL PROTECTION ORDINANCE

<u>Section</u>
101. Title of Subchapter.
102. Statement of Purpose.
103. Definitions.
104. Jurisdiction.
105. Enforcement.
106. Violations and Penalties.
107. Injunctions.
108. Notice of Violation.
109. Default.
110. Setting Hearing Date.
111. Sewage Disposal System Permits.
112. Permits Generally.
113. Environmental Assessments and Impact Statements.
114. Format for The Environmental Impact Statement.
115. Variances
116. Water-Policy and Goals.
117. Water-Definitions.
118. Water-Standards.
119. Air-Policy and Goals.
120. Air-Definitions.
121. Air-Standards.
122. Soils-Policy and Goals.
123. Soil-Definitions.
124. Soils-Standards.

- 125. Subsurface Resources.**
- 126. Forestry-Policy and Goals.**
- 127. Forestry-Standards.**
- 128. State Civil Jurisdiction.**

Historical and Statutory Notes

The Preamble of Band Statute 1091-MLC-24 provides: "It is enacted by the Band Assembly of the Mille Lacs Band of Chippewa Indians in order to exercise a more effective form of tribal government to regulate the natural resources of the Mille Lacs Band of Chippewa Indians."

§ 101. Title of Subchapter.

This subchapter shall be known as the Mille Lacs Band of Chippewa Indians Environmental Protection Ordinance.

Historical and Statutory Notes

Source:

Band Statute 1163-MLC-21, T.II, § 1.

§ 102. Statement of Purpose

The Mille Lacs Band of Chippewa Indians Natural Resource Protection Ordinance to protect the natural resources within the jurisdiction of the Mille Lacs Band of Chippewa Indians as defined under the Constitution of the Minnesota Chippewa Tribe pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984), amended June 15, 1935 (49 Stat. 3781) and approved by the Secretary of Interior on July 24, 1936. This subchapter is to provide a uniform set of standards which are necessary to supplement the Mille Lacs Reservation's Conservation Code, so that hunting, fishing, trapping, wild rice and all other natural resources of Reservations' and Bands' may be preserved and protected. Where such Band laws and standards do not exist and are not promulgated, these laws and standards will apply. And whereas the Mille Lacs Band of Chippewa Indians finds that water is the primary resource of the natural resources system, the protection of the quality and quantity of the water resources is the primary objective of these laws and furthermore, the inter-relationships of water and other natural resources is such that the management of soil, timber, air and mineral resources has both direct and indirect effects upon the quality and quantity of the water, fish, wild rice and wildlife resources. These and all other interaction of resources will be considered when planning and management activities are engaged.

Historical and Statutory Notes

Source:

Band Statute 1091-MLC-24, § 1.01.
Band Statute 1163-MLC-21, T.II, § 1.01.

Cross References

Natural Resources Protection Code, *see* 11 MLBS § 2001.

§ 103. Definitions.

- (a) **"Band"** means the Mille Lacs Band of Chippewa Indians and the constituent Bands of the Non-Removable Mille Lacs Band of Chippewa Indians.
- (b) **"Clearcutting"** means any timber harvested and timber cutting on any and all tracts of land where the standing timber remains after harvesting or cutting is less than 40 trees of 8 inches or greater dbh per acre.
- (c) **"Day"** means a 24-hour period which shall be from 12:00:00 a.m. to 11:59:59 p.m. in the Central Time zone of the United States.
- (d) **"Lake"** means anybody or accumulation of water, whether natural or artificial, the majority of which is open water, which is an area 10 acres or more, and in depth at least 15 feet at some point.
- (e) **"Marsh, Wetland"** means anybody or accumulation of water whether natural or artificial, whether or not seasonal, where a majority area of the surface water contains emergent vegetation.
- (f) **"Non-Point Source"** means man-made or man-induced pollution from any and all sources not included in the point source definition.
- (g) **"Open Water"** means a water surface absent of emergent vegetation.
- (h) **"Person"** means any municipality, governmental sub-division, public or private corporation, individual, partnership, or other entity, including but not limited to association, commission or any interstate body, and includes any officer or governing or managing body of any municipality, governmental subdivision, or public or private corporation or other entity.
- (i) **"Point Source"** means any discernible, confined, and discrete conveyance, including but not limited to any pipe, stack, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.
- (j) **"Pollution, Water Pollution, Air Pollution"** means the man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of the waters or atmosphere of the Mille Lacs Band of Chippewa Indians.

- (k) **"Pond"** means anybody or accumulation of water, whether natural or artificial, the majority of which is open water, which is an area less than 10 acres, whether or not seasonal.
- (l) **"River, Stream"** means any waterway or watercourse, whether natural or artificial, whether or not seasonal, which follows a flow channel to any lake, pond, marsh, river or to any other accumulation of water.
- (m) **"Road"** means any roadway, whether paved; graveled or otherwise surfaced, which is maintained for public use of four-wheeled vehicles.
- (n) **"Standard"** means water quality and quantity standards, air quality standards and soil protection standards as outlined in this Mille Lacs Band of Chippewa Indians Resource Protection Ordinance.
- (o) **"Waters of the Mille Lacs Band of Chippewa Indians"** means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifer, irrigation system, drainage systems and all other accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon lands of the Mille Lacs Band of Chippewa Indians, and which are contained with, flow through or border upon any other lands where Mille Lacs Band of Chippewa Indians member's rights of hunting, fishing, trapping and gathering rice are reserved.

Historical and Statutory Notes

Source:

Band Statute 1091-MLC-24, § 2.
 Band Statute 1163-MLC-21, T.I, § 2.

§ 104. Jurisdiction.

- (a) The jurisdiction of the Mille Lacs Band of Chippewa Indians under this subchapter shall extend to:
 - (1) All lands within the exterior boundaries of the constituent Bands of the Non-Removable Mille Lacs Band of Chippewa Indians as created by treaty, Executive Order, or federal act, notwithstanding the issuance of any patent and including rights-of-way running through said land.
 - (2) All dependent Mille Lacs Band of Chippewa communities within the state of Minnesota.
 - (3) All Mille Lacs Band of Chippewa Indians allotments, whether within or without the boundaries of member Bands, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

- (b) Jurisdiction shall extend over all persons or corporations whether Indian or non-Indian.

Historical and Statutory Notes

Source:

Band Statute 1091-MLC-24, § 3.
Band Statute 1163-MLC-21, § 3.

Cross References

Jurisdiction, Court of Central Jurisdiction, *see* 5 MLBS § 111.

§ 105. Enforcement.

This Title shall be enforced by Reservation Conservation Officers or any other duly appointed officers of the Mille Lacs Band of Chippewa Indians or its member Bands or any other persons as provided by the Ordinance of the Mille Lacs Band of Chippewa Indians or its member Bands.

Historical and Statutory Notes

Source:

Band Statute 1091-MLC-24, § 4.
Band Statute 1163-MLC-24, T. II, § 4.

Cross References

Law enforcement and natural resources officers, powers, environmental protection, *see* 11 MLBS § 13.

§ 106. Violations and Penalties.

Any violation of this subchapter shall be considered a civil offense subject to the following penalties:

- (a) Pay the cost of any necessary cleanup, restoration or reclamation caused by the violation, as ordered by the Court of Central Jurisdiction, or by any administrative body with jurisdiction.
- (b) Pay any actual damages for injury to property, life or resources of any person, corporation, or public body or governmental agency.
- (c) Pay as punitive damages a penalty of up to five hundred dollars per day for each day of continuing violation.

Historical and Statutory Notes

Source:

Band Statute 1091-MLC-24, § 5.

Band Statute 1163-MLC-21, T.II, § 5.

Cross References

Civil penalties, environmental protection, *see* 11 MLBS § 15.

Criminal penalties, environmental protection, *see* 11 MLBS § 14.

§ 107. Injunctions.

All violations of this subchapter may be enjoined by order of any court with jurisdiction to prevent continuing violations. Any violation of said order shall be in addition to said above penalties and subject to punishment for contempt of court. Punishment for said contempt shall be at the discretion of the court, subject only to those limitations prescribed by law.

Historical and Statutory Notes

Source:

Band Statute 1091-MLC-24, § 5.04.

Band Statute 1163-MLC-21, T. II, § 5.04.

Cross References

Actions for declaratory or equitable relief, environmental protection, *see* 11 MLBS § 18.

§ 108. Notice of Violation.

The Mille Lacs Band of Chippewa Indians or its member Bands through their duly appointed officers shall give a written notice to any violators of this subchapter. Said notice shall be served upon any violator by giving a copy of said notice to the violator if he/she can be located within the jurisdiction of the Mille Lacs Band of Chippewa Indians or its member Bands. Service of said notice may be given to serving a copy to said violator or leaving the notice at the residence or place of business of said violator, with any adult and who resides in the residence or is employed at the business of the violator. In the event the person or business causing the violation is not within the jurisdiction of the Mille Lacs Band of Chippewa Indians or its member Bands, then a notice may be posted on the land where offense is occurring. It shall be posted in a conspicuous place. A copy shall also be mailed to the last known residence or business address of the violator.

Said notice shall specify the nature of the violation, the location of the violation, and the section of this subchapter being violated. It shall set a date for a hearing before the court or administrative body as established by Band law. Said hearing shall be no sooner than five days after service of said notice. In the event that no actual service can be made on a violator because he cannot be found, does not have a residence or place of business within the jurisdiction of the Mille Lacs Band of Chippewa Indians, then said notice of violation shall be published twice during two consecutive weeks in a newspaper in the county where said violation occurred. An

affidavit of said publication shall be filed with the appropriate court or administrative body and shall constitute proof of service of said notice.

Historical and Statutory Notes

Source:

Band Statute 1091-MLC-24, § 6.
Band Statute 1163-MLC-21, T.II, § 6.

§ 109. Default.

In the event a defendant fails to appear before the court or appropriate administrative body on the date set for a preliminary appearance, the court or administrative body may declare the defendant to be in default and award any appropriate relief to the complainant as provided by this subchapter.

Historical and Statutory Notes

Source:

Band Statute 1091-MLC-24, § 6.01.
Band Statute 1163-MLC-21, T.II, § 6.01.

§ 110. Setting Hearing Date.

In the event a defendant does appear on the date set in the notice of violation, the court or administrative body hearing said matter shall set a date as soon as practicable for a full evidentiary hearing on the violation if the defendant denies the violation or responsibility for the violation.

Historical and Statutory Notes

Source:

Band Statute 1091-MLC-24, § 6.02.
Band Statute 1163-MLC-21, T.II § 6.02.

§ 111. Sewage Disposal System Permits.

- (a) Permits shall be required for all of the following activities and application for said permits shall be on forms supplied by the Mille Lacs Band of Chippewa Indians:
 - (1) Construction of septic systems and drainfields, and any other type of individual or multifamily sewage disposal system, whether the construction is for a new system or for the up-grading of an old system.
 - (2) Municipal, community, and village sewage treatment plant, and any other sewage disposal system.

- (b) Approval for said permits shall be obtained from the Public Works Commissioner on the reservation where said activity will occur.
- (c) Fees for said permits shall be the sum specified by the Band Ordinance and so stated on the appropriate application form.

Historical and Statutory Notes

Source:

Band Statute 1091-MLC-24, § 7.
Band Statute 1163-MLC-21, T.II, § 7.

§ 112. Permits Generally.

Permits shall be required for all of the following activities and application for said permits shall be on forms supplied by the Mille Lacs Band of Chippewa Indians. Approval for said permits must be obtained from the Department of Natural Resources on the reservation where said activity will occur. Fees for said permits shall be the sum specified by the Ordinance and so stated on the appropriate application form.

- (a) Any and all excavation, mining, road building, draining, dredging, filling, and any other earth removal or disposition projects with the exception of excavation necessary for single family housing units.
- (b) Any and all insecticide, herbicide, fungicide, algacide, and any other pesticide use, no matter the application procedure, with the exception for household use of pesticides for public health measures.
- (c) Any and all industrial and commercial point source discharges into the Mille Lacs Band of Chippewa Indians waters.
- (d) Any and all commercial and private non-point source discharges into the Mille Lacs Band of Chippewa Indians waters.
- (e) Any and all commercial and private air emissions relating to the production of goods, products or materials.
- (f) Any and all forestry clearcutting activities and cutting of timber by any method where the tract to be logged is adjacent to any lake, stream, pond or road.
- (g) Any and all developments and improvements of parks, landings, beaches, harbors and canals and other related facilities, whether public or private.

Historical and Statutory Notes

Source:

Band Statute 1091-MLC-24, § 8.
Band Statute 1163-MLC-21, T.II, § 8.

Cross References

Herbicides, use on noxious weeds, *see* Nat. Res. Comm. Order 133-90.

§ 113. Environmental Assessments and Impact Statements.

The issuance of any and all permits will be preceded by an Environmental Assessment Worksheet. These assessments shall be completed by the MLBC Research Laboratory, based upon work plans submitted by the permittee and site inspection, laboratory analysis and any other pertinent data. If in the findings of the assessment, an Environmental Impact Statement is proposed, then a public hearing to determine the necessity of the Environmental Impact Statement will be conducted. If an Environmental Impact

Statement is requested by the Mille Lacs Band of Chippewa Indians Environmental Board, the MLBC Research Laboratory will produce and present, within ninety days of the date of request, and at the permittee's expense, an EIS for public hearing before said Mille Lacs Band of Chippewa Indians Environmental Board. The decision of the Mille Lacs Band of Chippewa Indians Environmental Board for issuance or non-issuance of the permit based on the findings of the EIS shall be final.

Historical and Statutory Notes

Source:

Band Statute 1091-MLC-24, § 9.
Band Statute 1163-MLC-21, T.II, § 9.

§ 114. Format for the Environmental Impact Statement.

The components of all Environmental Impact Statements shall be as follows:

- (a) environmental impacts, both beneficial and degrading;
- (b) social impacts, both beneficial and degrading; and
- (c) economic impacts, both beneficial and degrading.

Historical and Statutory Notes

Source:

Band Statute 1091-MLC-24, § 10.

Band Statute 1163-MLC-21, T.II, § 10.

§ 115. Variances.

Any and all requests for a variance from the provisions of this subchapter shall be presented before, and subject to the approval of the appropriate Mille Lacs Band Assembly in the manner they shall prescribe. The decision of the Mille Lacs Band Assembly shall be final.

Historical and Statutory Notes

Source:

Band Statute 1091-MLC-24, § 11.
Band Statute 1163-MLC-21, T.II, § 11.

§ 116. Water-Policy and Goals.

The waters of the Mille Lacs Band of Chippewa Indians will be protected from degradation. The quality of the water will be maintained or improved to guarantee the treaty rights of the members of the Mille Lacs Band of Chippewa Indians.

Historical and Statutory Notes

Source:

Band Statute 1091-MLC-24, § 12.
Band Statute 1163-MLC-21, T.II, § 12.

Cross References

Injection wells, *see* Nat. Res. Comm. Order 107-89.

§ 117. Water-Definitions.

- (a) **"Ambient"** means that concentration which exists without point source pollution as established by MLBC Research Lab.
- (b) **"LC₅₀"** means the concentration of toxicant that is lethal (fatal) to 50 percent (50%) of the sensitive resident species organisms tested under the test conditions in a specific time.
- (c) **"Toxicant, Toxic Substance"** means those pollutants or combination of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available to the MLBC, cause death, disease, behavioral abnormalities, cancer, genetic

mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformation, in such organism or its offspring.

Historical and Statutory Notes

Source:

Band Statute 1163-MLC-21, T.II, §§ 13.01-13.03.

Band Statute 1091-MLC-24, §§ 13.01-13.03.

§ 118. Water-Standards.

- (a) All standards will be interpreted to mean a maximum allowable limit unless otherwise stated.

<u>Constituent</u>	<u>Concentration or Limits</u>
Alkalinity	20 mg/l or more as CaCO ₃ for fresh water aquatic life except where natural concentration are less
Ammonia	.02 mg/l as (un-ionized ammonia) for fresh water aquatic life
Arsenic	50 ug/l for domestic water supply
Barium	1 mg/l for domestic water supply
Beryllium	11 ug/l for the protection of aquatic life in soft fresh water 1,100 ug/l for the protection of aquatic life in hard fresh water
Boron	750 ug/l
Cadmium	10 ug/l for domestic water supply.
	<u>Aquatic Life</u> Soft Water: 0.4 ug/l Hard Water: 1.2 ug/l
Chlorine	2.0 ug/l for salmonid fish 10 ug/l for other fresh water fish
Chromium	50 ug/l for domestic water supply 100 ug/l for fresh water aquatic life
Fecal Coliform Bacteria	200 colonies/100 ml.
Color	75 color units on platinum-cobalt scale for domestic water supplies

Copper	1 mg/l for domestic water supply 0. 1 X 96 hours LC ₅₀ for fresh water aquatic life								
Cyanide	5.0 ug/l for fresh water aquatic life								
Gases, total dissolved	110% of saturation at existing atmosphere and hydrostatic pressures								
Iron	0.3 mg/l for domestic water supply 1.0 mg/l for fresh water aquatic life								
Lead	50 ug/l for domestic water supply 0. 1 X 96 hour LC ₅₀ for fresh water aquatic life								
Manganese	50 ug/l for domestic water supply and fresh water aquatic life								
Mercury	2.0 ug/l for domestic water supply .05 ug/l for fresh Water aquatic life								
Nickel	. 01 X 96 hour LC ₅₀ for fresh water aquatic life								
Nitrate, Nitrite	10 mg/l nitrate nitrogen for domestic water supply, not to exceed ambient NO ₂ -NO ₃ for all water systems, as established by MLBC Research Lab								
Oil and Grease	Domestic water supplies virtually free from oil and grease .01 X 96 hour LC ₅₀ for fresh water aquatic life								
Dissolved Solids and Salinity	250 mg/l for chlorides and sulfates in domestic water supply.								
	<table border="1"> <thead> <tr> <th>Natural Salinity %</th> <th>% Variation Permitted</th> </tr> </thead> <tbody> <tr> <td>0-3.5</td> <td>1</td> </tr> <tr> <td>3.5-13.5</td> <td>2</td> </tr> <tr> <td>13.5-35</td> <td>4</td> </tr> </tbody> </table>	Natural Salinity %	% Variation Permitted	0-3.5	1	3.5-13.5	2	13.5-35	4
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3.5-13.5	2								
13.5-35	4								
Settleable and Suspended Solids and Turbidity	Fresh water fish and other aquatic life; settleable and suspended solids should not reduce the depth of the compensation point for photosynthetic activity								
Sulfide	2 ug/l undissociated H ₂ S for fresh water aquatic life								
Sulfate	Not to exceed ambient SO ₄ for all waters, as established by MLBC Research Lab								

Temperature	No thermal pollution shall be discharged into any waters on the reservations
Dissolved O ₂	5.0 mg/l minimum for fresh water aquatic life
Pesticides	No measurable amounts of any pesticide or any other toxicant will occur in any surface or groundwater
pH	5-9 for domestic water supply 5.5-9.0 for fresh water aquatic life
Phenol	1 ug/l for all waters
Phosphorus	Not to exceed ambient total phosphorus for all water systems as established by MLBC Research Lab
Polychlorinate Biphenyls (PCB)	.001 ug/l for all waters
Phthalate esters	.1 ug/l for fresh water aquatic life
Selenium	10 ug/l for domestic water supply .01 X 96 hour LC ₅₀ for fresh water aquatic life
Silver	50 ug/l for domestic water supply .01 X 96 hour LC ₅₀ for fresh water aquatic life
Zinc	5 mb/l for domestic water supply .01 X 96 hour LC ₅₀ for fresh water aquatic life

- (b) Any and all man made or man induced regulation of water flow on or through any Reservation of the Mille Lacs Band of Chippewa Indians shall be subject to the stipulations set forth in this subchapter for the provision of adequate water quantities for the preservation and protection of natural resources.
- (c) No littering, refuse or garbage disposal will be permitted in any waters of the Mille Lacs Band of Chippewa Indians.

Historical and Statutory Notes

Source:

Band Statute 1091-MLC-24, §§ 13, 14.
 Band Statute 1163-MLC-21, T.II, §§ 13, 14.

Cross References

Litter, *see* 11 MLBS § 201.
Solid waste disposal, *see* 11 MLBS § 1001.

§ 119. Air-Policy and Goals.

The air quality within the reservations is affected by many pollutants and chemicals, which may travel through the atmosphere from distant sources. These chemicals and pollutants are deposited on reservation lands and waters, the result being a direct threat to the natural resources of the reservation. Pursuant to Class I-Air Quality.

Historical and Statutory Notes

Source:

Band Statute 1091-MLC-24, § 15.
Band Statute 1163-MLC-21, T. II, § 15.

§ 120. Air-Definitions.

"**BACT, best available control technology**" means that method of limiting emissions to the minimum amount possible.

Historical and Statutory Notes

Source:

Band Statute 1091-MLC-24, § 16.
Band Statute 1163-MLC-21, T.II, § 16.

§ 121. Air-Standards.

These standards will be those as set forth by 42 U.S.C. § 7474 and the Clean Air Act. (42 U.S.C. § 7401 et seq.)

Historical and Statutory Notes

Source:

Band Statute 1091-MLC-24, § 17.
Band Statute 1163-MLC-21, T.II, § 17.

§ 122. Soils-Policy and Goals.

The soils within the jurisdiction of the Mille Lacs Band of Chippewa Indians are an integral part of the total natural resource spectrum. Fish, furbearers, wild rice and other wildlife are directly

affected by the types of, and the maintenance of, vegetative cover upon the soils. The management of these soils will be within this context. The Band and its members shall make every reasonable effort to use alternatives to harmful chemicals upon the soils. Notwithstanding the previous sentence, herbicides, pesticides, and other chemicals may be used on the soils to the extent determined necessary, subject to approval of the appropriate permit under § 112.

Historical and Statutory Notes

Source:

Band Statute 1091-MLC-24, § 18.
Band Statute 1163-MLC-21, T.II, § 18.
Band Ordinance 55-21.

§ 123. Soil-Definitions.

"Soil" means all soils, metals, minerals, gases, liquid, gravels or other elemented or complexed materials, in any physical state, which lie on or in the earth's surface to a depth of 15 feet.

Historical and Statutory Notes

Source:

Band Statute 1091-MLC-24, § 19.
Band Statute 1163-MLC-21, T.II, § 19.

§ 124. Soils-Standards.

- (a) Natural erosion rectification measures, such as seeding, planting or otherwise establishing vegetative cover, will be utilized by the landowner.
- (b) Permits will be required for any project or development other than farming which involves excavation, soil removal or disposition, and shall include provisions for the seeding or planting to establish vegetative cover.
- (c) Agricultural lands shall be protected from wind and water erosion through the use of sound agricultural principles, including but not limited to, terracing, tree breaks, grass waterways and maintaining vegetative cover on tilled lands during the non-growing season.

Historical and Statutory Notes

Source:

Band Statute 1091-MLC-24, § 20.
Band Statute 1163-MLC-21, T.II, § 20.

§ 125. Subsurface Resources.

Groundwater-refer to 11 MLBS § 103. All other subsurface resources will be managed at the discretion of the Mille Lacs Band of Chippewa Indians-Department of Natural Resources. Management will include analysis of potential environmental effects for all exploration, mining, or extractions, which are or may be practiced on the lands under the jurisdiction of the Mille Lacs Band of Chippewa Indians.

Historical and Statutory Notes

Source:

Band Statute 1091-MLC-24, § 21.
Band Statute 1163-MLC-21, T.II, § 21.

§ 126. Forestry-Policy and Goals.

The forestry resource on the lands under the jurisdiction of the Mille Lacs Band of Chippewa Indians will be managed to preserve and protect said lands in a perpetually productive state. This will be done by applying sound silvicultural practices to the harvesting of the timber, and by making provision for new forest growth as timber is removed. The guiding document shall be CFR 25, Part 141, Forestry Manual 53 BIAM, dated June 21, 1978, and supplements. Any superseding documents pertaining to forestry management on Indian lands will be subject to the approval of the governing body of the Mille Lacs Band of Chippewa Indians.

Historical and Statutory Notes

Source:

Band Statute 1091-MLC-24, § 22.
Band Statute 1163-MLC-21, T.II, § 22.

Cross References

Firewood harvest, *see* 11 MLBS § 2401.

§ 127. Forestry-Standards.

- (a) No clearcutting of timber will be permitted within a 100-foot border of any lake, pond or river.
- (b) No clearcutting of timber will be permitted within 100 feet of any road.
- (c) Permits for logging will include stipulations for the re-seeding of logged area and logging equipment trails.
- (d) Users of insecticides, herbicides, or any other chemical or pesticides for forestry management activities will be required to obtain a permit.

Historical and Statutory Notes

Source:

Band Statute 1091-MLC-24, § 23.
Band Statute 1163-MLC-21, T. II, § 23.

§ 128. State Civil Jurisdiction.

Any person, upon a violation of Subchapter 1 or 2 of this chapter, may bring a civil cause of action in the appropriate state court seeking damages pursuant to the provisions of Title 28, United States Code, § 1360; P.L. 83-280 which states:

"Any tribal ordinance or custom heretofore or hereafter adopted by an Indian tribe, band or community in the exercise of any authority which it may possess shall, if not inconsistent with any applicable civil law of the State, be given full force and effect in the determination of civil causes of action pursuant to this Section."

Historical and Statutory Notes

Source:

Band Statute 1091-MLC-24, § 24.
Band Statute 1163-MLC-21, T. II, § 24.

Cross References

Actions to recover penalties or damages, environmental protection, *see* 11 MLBS § 17.

TITLE 12 – COMMUNITY DEVELOPMENT

<u>Chapter</u>	<u>Section</u>
1. Commissioner of Community Development	1
2. Public Works Commission	101
3. Capital Improvements Authority	201
4. Housing Department	301
5. Native American Veteran Direct Loan Program	401

CHAPTER 1

COMMISSIONER OF COMMUNITY DEVELOPMENT

Section

1. Powers and Duties of the Commissioner of Community Development.
2. Term of Office.

§ 1. Powers and Duties of the Commissioner of Community Development.

The Commissioner of Community Development shall have the responsibility to administer, manage, supervise and coordinate activities for Community Development, Public Works, Facilities Management, Transportation and the Housing Department of the Mille Lacs Band of Ojibwe Indians. In carrying out the responsibilities within his or her jurisdiction, the Commissioner of Community Development shall have the following powers and duties:

- (a) to provide an effective and efficient system of administration to plan, direct and evaluate the functions of Community Development, Public Works, Facilities Management Transportation and the Housing Department;
- (b) to provide technical assistance to the Chief Executive, Band Assembly and other departments of the Mille Lacs Band as requested and to recommend or initiate any appropriate action as required with respect to such matters;
- (c) to provide information to Band members and other members of the public on programs and services of the various departments under the jurisdiction of the Commissioner of Community Development;
- (d) to conduct investigations in order to ensure appropriate resolution of complaints of Band members as well as the general public and order specific actions when justified not inconsistent with other applicable law;

- (e) to supervise employees, assign or delegate tasks, define levels of expected performance, and evaluate the performance of department heads and staff not inconsistent with other applicable law;
- (f) to prepare and recommend operating and capital improvement budgets for the Band, including but not limited to construction and maintenance projects as well as equipment acquisition and replacement;
- (g) to oversee the Debris Clearance and Restoration portion of an Emergency Operation Plan and coordinate responsibilities for a Blizzard Emergency Preparedness Plan;
- (h) to develop, oversee and chair Community Development Committees;
- (i) to develop and coordinate a Facilities Management Plan on behalf of the Mille Lacs Band of Ojibwe, and direct the maintenance of all Band Facilities not inconsistent with other applicable law;
- (j) to negotiate contracts on behalf of the Mille Lacs Band of Ojibwe and when authorized to do so by Band Statute to enter into such contracts not otherwise inconsistent with other applicable law;
- (k) to inspect and ensure the safety of all buildings and facilities within the jurisdiction of the Mille Lacs Band of Ojibwe and to condemn the same when appropriate;
- (l) To acquire through gift, lease, purchase, in the name of the Band, lands or any interest in lands deemed suitable for the future interests of the Band;
- (m) to obtain through grant proposals funds that may be available to meet the housing and community needs of the Band;
- (n) to ensure that all contractors and/or any sub-contractor comply with minimum wage and maximum hours of labor or any attached conditions as stipulated in any agreement relating to a federal, state or agency financial assistance housing program;
- (o) to develop a Strategic Housing Plan that meets the Band's Housing vision and mission and ensure that the Housing Board approves the same with ratification by Band Assembly before implementation;
- (p) to develop Housing Policies that meets the Band's Housing vision and mission and ensure that the Housing Board approves the same with ratification by Band Assembly;
- (q) to join or cooperate with any other public housing agency or agencies operating under the laws or ordinance of a state or another tribe for the purpose of financing, planning, undertaking, owning, constructing, operating or contracting with respect to a housing project(s) serving Band Members;

- (r) to lease property from the Band and others, for such periods as are authorized by law, and to hold and manage or to sublease the same;
- (s) to serve Band members through home loans, renovation loans or any new housing program loan as stipulated by loan agreement; and
- (t) to purchase insurance from any stock or mutual company for any property or against any risk or hazards.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 2. Term of Office.

The Commissioner of Community Development shall serve a four-year term of office expiring June 30, 1999 and on this date every four years hence.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

CHAPTER 2

PUBLIC WORKS COMMISSION

<u>Subchapter</u>	<u>Section</u>
1. General Provisions	101
2. Bylaws	201
3. Rules and Regulations	301
4. Plan of Operation	401
5. Policies	501

SUBCHAPTER 1

GENERAL PROVISIONS

Section

- 101. Charter.
- 102. Board of Supervisors.

- 103. Regulation and Maintenance of Utilities.**
- 104. Construction and Operation of Utilities.**
- 105. Licenses and Permits.**
- 106. Bylaws.**
- 107. Public Works Association.**
- 108. Rates, Charges, and Fees.**
- 109. Failure to Submit Payment.**
- 110. Employees.**
- 111. Service Contracts.**
- 112. Obligations.**
- 113. Vesting of Property Upon Dissolution.**
- 114. Uniform System of Records and Accounting.**
- 115. Administrative Regulations.**
- 116. Meetings.**

§ 101. Charter.

- (a) A commission to be known as the Mille Lacs Band of Ojibwe Public Works Commission is hereby chartered within the Executive Branch of Band Government. The Public Works Commission shall have the powers enumerated within this Chapter and as expressly delegated by the Band Assembly. The Commission shall be within the subject matter jurisdiction of the Commissioner of Community Development.
- (b) The Commission shall be a body politic which is an instrumentality of the Mille Lacs Band of Chippewa Indians with the right to initiate, and defend the Commission in, any legal action before any court of competent jurisdiction.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 102. Board of Supervisors.

- (a) The governing body of the Public Works Commission shall be a five member Board of Supervisors, with each member having the title of Supervisor and one vote at regular and special meetings. The Board shall ensure accurate record keeping of all meetings and all transcripts thereof. Such records shall be prima facie evidence of the facts therein stated.
- (b) The Public Works Administrator shall be the Chair of the Board of Supervisors and ensure the lawful operation of the Commission. The Director of Operations for Public Works shall also be a member of the Board. The Chief Executive shall nominate three individuals from the Band membership as Supervisors who

shall be confirmed by the Band Assembly. The terms of office shall be perpetual.

- (c) Any Supervisor may be removed from office for just cause as determined by 4 MLBS § 15(g).
- (d) In exercising any powers granted in this chapter, no Supervisor shall be immune from any liability which arises from the willful, knowledgeable and unacceptable performance of their duties.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 103. Regulation and Maintenance of Utilities.

The Public Works Commission shall have the power to regulate and maintain Band-owned and operated utilities. The Commission shall have jurisdiction over any and all matters pertaining to such utilities.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 104. Construction and Operation of Utilities.

The Commission shall have the power, subject to Band Assembly approval, to construct, own and operate facilities for the provision of utility services. This authority includes the power to enter into any and all related contracts and agreements.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 105. Licenses and Permits.

The Commission shall have the power to issue licenses and permits in connection with the operation and maintenance of utility facilities and to establish fees for such licenses or permits. The issuance of a license or permit by the Public Works Commission does not exempt any person or vendor from any other provisions of the Mille Lacs Band Statutes Annotated requiring procurement of licenses or permits.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 106. Bylaws.

The Commission shall adopt a set of Bylaws, which shall be distributed to the membership of the Commission. A copy of the Bylaws shall be available for inspection by the membership of the Association at each office of the Commission.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 107. Public Works Association.

The Commission shall have the power to establish membership in the Mille Lacs Band of Chippewa Indians-Public Works Association. Each person who resides on trust, allotted or private property within the jurisdiction of the Band shall enroll in the Association.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 108. Rates, Charges, and Fees.

The Commission shall have the power to establish and collect rates, charges and fees for the services provided by the Commission in the manner prescribed by its Bylaws.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 109. Failure to Submit Payment.

The Commission shall have the power to withhold service from any person who fails to submit payment for any fee legally established.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 110. Employees.

The Commission shall have the power to employ qualified individuals, who shall be employees of the Band.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 111. Service Contracts.

The Commission shall have the power to contract in writing with individuals for service to any utility facility provided sufficient funds for payment for such service exist.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 112. Obligations.

- (a) Subject to the limitations set forth in this section, the Commission shall have the authority to borrow money and incur indebtedness by issuing obligations, in its own name or in the name of and on behalf of the Mille Lacs Band of Chippewa Indians, for purposes of acquiring, constructing, maintaining, managing and improving utility systems on all property within the territorial jurisdiction of the Band consistent with the purposes of the Commission. Such obligations shall be issued and sold in the manner, amount and form and shall bear interest at the rate or rates set by the Commission. Each such obligation must be approved by the Band Assembly prior to its issuance.
- (b) All such obligations shall be payable solely:
 - (1) from revenues, income, receipts and profits derived by the commission from its operation and management of utility systems for the Band;

- (2) from the proceeds of evidences of indebtedness issued and sold by the Commission which are payable solely from such revenues, income, receipts and profits; or
 - (3) from federal or state grants or other money received by the Commission which are available therefor.
- (c) The Commission may pledge to the repayment of any such obligations, and the interest coming due thereon, any or all of the sources set forth in subsection (b), but is without power to pledge or encumber any other revenues, income or assets of the Mille Lacs Band of Chippewa Indians, or any other organization or instrumentality of the Band for the repayment of such obligations. The Band Assembly may, if deemed to be in the best interests of the Band to do so, pledge to the payment of any such obligations, or authorize any organization or instrumentality of the Band to pledge to the payment of such obligations, such specific revenues, income or assets of the Band or such organization or instrumentality as it may deem appropriate. In any event, no such obligations shall be payable from, nor be a charge upon, any funds other than the revenues specifically pledged to the payment thereof, nor shall the Band be liable thereon other than to the extent specifically provided in accordance with this section, and such limitation shall be expressly stated in each such obligation.
- (d) The Commission, with the approval of the Band Assembly, may provide for the refunding of any obligation of the Commission through the issuance of other obligations of the Commission, entitled to rights and priorities similar in all respects to those held by the obligations that are refunded.
- (e) In connection with the issuance of any obligation pursuant to this section the Commission is authorized to waive its sovereign immunity from suit should an action be commenced to enforce the terms of such obligation, and to consent to the jurisdiction of the courts of the United States of America or the State of Minnesota in connection with any such action; provided that the Commission is without power to waive the sovereign immunity of the Mille Lacs Band of Chippewa Indians, to consent to the jurisdiction of any court over the Band, or to consent to the levy of any judgment, lien or attachment upon any property or income of the Commission, the Band or any other organization or instrumentality of the Band other than that specifically pledged pursuant to subsection (c).

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 113. Vesting of Property Upon Dissolution.

Upon dissolution of the Commission, the title to all property owned by it shall vest in and become the property of the Band.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 114. Uniform System of Records and Accounting.

The Commission shall prescribe to the financial record system established by the Secretary of Treasury for the Mille Lacs Band of Chippewa Indians.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 115. Administrative Regulations.

The Commission shall have the power to make administrative rules and regulations consistent with those established by the Band Assembly. Enforcement responsibility shall rest with the Chief Executive of the Band.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 116. Meetings.

The Board of Supervisors of the Commission shall meet monthly with an agenda prepared in advance by the Public Works Administrator. All proceedings of the Board shall be open to the public except when an executive session is authorized by unanimous vote of the Board. All proceedings shall be documented in writing and copies distributed to the Chief Executive and Band Assembly not more than five days following any meeting.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

SUBCHAPTER 2

BYLAWS

Section

- 121. Establishment of Bylaws.
- 122. Name and Offices.
- 123. Fiscal Year.
- 124. Public Works Association Membership.
- 125. Association Meetings.
- 126. Management of Commission Affairs.
- 127. Appointment and Terms of Board.
- 128. Vice-Chair and Secretary of Board.
- 129. Compensation of Supervisors.
- 130. Board Meetings.
- 131. General Power of Board.
- 132. Removal of Supervisors from Office.
- 133. Powers and Duties of Chair.
- 134. Powers and duties of Vice-Chair; Vacancy in Office of Chair.
- 135. Powers and Duties of Secretary.
- 136. Signatures.
- 137. Accounting System.
- 138. Rates and Charges for Utility Services.
- 139. Alteration, Amendment, or Repeal of Bylaws.
- 140. Sovereign Immunity.

§ 121. Establishment of Bylaws.

The Band Assembly hereby establishes the following Bylaws for the Commission.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 122. Name and Offices.

The name of the Commission shall be the Mille Lacs Band of Chippewa Indians-Public Works Commission. The principal office of the Commission shall be on the Mille Lacs Reservation at Vineland, Minnesota, Mille Lacs County. The Commission may also have an office at such other place or places as the Commission may direct or as the operation of the Commission may require.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 123. Fiscal Year.

The fiscal year of the Commission shall begin on the first day of October and end the last day of September of each succeeding year.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 124. Public Works Association Membership.

All adult members of the Mille Lacs Band who are enrolled on the Minnesota Agency census roll of the Bureau of Indian Affairs and who reside on trust, allotted or private property within the jurisdiction of the Band shall be considered voting members of the Public Works Association. Each member shall be entitled to one vote. Members may, by vote, express a non-binding preference on any issue within the subject matter jurisdiction of the Commission. Voting by proxy will not be permitted. The rights, privileges and obligations of all members of the Association shall be equal. For the purposes of this provision, adult shall mean a Band member who is eighteen (18) years of age or older.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 125. Association Meetings.

- (a) The annual meeting of the Association shall be held at the Government Center, HCR 67, Vineland, Minnesota, County of Mille Lacs, on the second Thursday of October of each year. The meeting shall be called for the purpose of receiving the annual reports of Supervisors and the transaction of other business. This section shall constitute sufficient notice of the annual meeting.
- (b) Special meetings of the Association may be called at any time by the Chair of the Board or upon written petition to the Chair signed by 20% of the membership of the Association. The purpose of every special meeting shall be stated in the notice thereof, and no business shall be transacted except as is specified in the notice. A written notice of the special meeting shall be posted in public places at least ten (10)

days prior to the meeting, and shall include the nature, time, place and purpose of the meeting.

- (c) At least twenty-five (25) voting members of the Association present at a duly called meeting shall constitute a quorum for the transaction of Association business. In the event that a quorum is not present, informational packages shall be mailed to the membership.
- (d) Robert's Rules of Order shall govern at all meetings of the Association. All meetings of the Association held for the purpose of taking any action within the authority of the Association shall be open to the public, except that the public or any person may be excluded from a meeting for unduly interfering with the orderly conduct of business, in matters relating to personnel, in matters adjudicatory in nature, or in matters concerning purchases that can be made only from one source.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 126. Management of Commission Affairs.

The business and affairs of the Commission shall be managed by a board of five (5) Supervisors. The powers of the Commission are prescribed in 12 MLBS § 103 et seq.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 127. Appointment and Terms of Board.

The Board shall be appointed and have such terms as prescribed in 12 MLBS § 102(b).

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 128. Vice-Chair and Secretary of Board.

The Board shall elect by ballot a Vice-Chair and Secretary from the three Supervisors nominated by the Chief Executive, each of whom shall hold office until appointment and qualification of their successor, unless sooner removed by resignation or for just cause.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 129. Compensation of Supervisors.

The members of the Board shall receive no compensation for their service as Supervisors other than reimbursement for reasonable travel expenses.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 130. Board Meetings.

The Board shall hold meetings at such regular intervals as prescribed by law. A majority of the Board present in person at the meeting shall constitute a quorum for the conduct of business.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 131. General Power of Board.

The Board shall have the general power to act for the Commission in any manner not prohibited by this subchapter or the Mille Lacs Band Statutes Annotated.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 132. Removal of Supervisors from Office.

Any Supervisor may be removed from office as prescribed in 12 MLBS § 102(c).

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 133. Powers and Duties of Chair.

The Chair shall preside over all meetings of the Board of Supervisors and may call special meetings of the Board. The Chair shall have the power to perform such other duties as may be required by the Board.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 134. Powers and Duties of Vice-Chair; Vacancy in Office of Chair.

The Vice-Chair, in the absence or disability of the Chair, shall perform the duties of the Chair. However, in case of the resignation or permanent disability of the Chair, the Board may declare the office vacant and select a successor to fill the position until a new Public Works Administrator is appointed.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 135. Powers and Duties of Secretary.

The Secretary shall keep a record of the proceedings of all meetings of the Board. The Secretary shall serve or cause to be served the Bylaws of the Commission and shall make a full report of all matters and business pertaining to the office at the annual meeting, or at such other time or times as the Board may require. At the annual meeting, the Secretary shall submit a complete accounting for the past year and shall discharge such other duties as required by the Board.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 136. Signatures.

The signatures of both the Chair and Secretary shall be required in order to bind the Commission for any lawful action taken by the Board.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 137. Accounting System.

- (a) An accounting system shall be established as prescribed by 12 MLBS § 114, and include the implementation of Attachment P of OMB Circular A-102;
- (b) If the Commission shall at any time receive by way of grant any property of any Federal, State, Tribal or private agencies, the Board shall use the uniform system of records and accounting as prescribed in 12 MLBS § 114.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 138. Rates and Charges for Utility Services.

All rates and charges for utility services shall be established by the Board of Supervisors. The Board may negotiate with large users of a particular utility service for special rates and charges provided that such rates are fair and equitable to all other users of Commission services. The Board shall review the established rate schedule of charges at least annually to ensure that sufficient income will be generated in the coming year to cover anticipated expenses. This determination shall be based on the previous year's actual expenses and the estimated budget for the coming year.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 139. Alteration, Amendment or Repeal of Bylaws.

These Bylaws may be altered, amended or repealed. Any Bylaws that are altered, amended or repealed must be presented to the Band Assembly for ratification. New Bylaws may be adopted by a majority vote of the Board of Supervisors present at any regular or special meeting of the Board called for that specific purpose.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 140. Sovereign Immunity.

Nothing in these Bylaws shall be construed as a waiver of the sovereign immunity of the Mille Lacs Band of Chippewa Indians in any court of competent jurisdiction.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

SUBCHAPTER 3

RULES AND REGULATIONS

Section

- 141. Compliance with Bylaws.**
- 142. Application for Service.**
- 143. Water Service Generally.**
- 144. Multiple Water Services.**
- 145. Transfer of Water Prohibited.**
- 146. Connection with Private Water System; Inspection.**
- 147. Extension of Main and Service Lines.**
- 148. Maintenance of Water Lines.**
- 149. Maintenance of Sewer System; Liability for Property Damage.**
- 150. Sewer Service Charge.**
- 151. Billing for Water and Sewer Services.**

§ 141. Compliance with Bylaws.

The Rules and Regulations in this subchapter are issued in compliance with the Bylaws of the Commission and are designed to govern the supplying and receiving of services rendered by the Commission. They are subject to change from time to time. If a provision of the Rules and Regulations should conflict with a provision of the Bylaws, the Bylaws shall prevail.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 142. Application for Service.

Application for service shall be made as provided by the Board of Supervisors. Upon review and approval of the application by the Board, a membership certificate shall be issued and service provided. The Board may enter into special service contracts in cases where the applicant has unusual service requirements.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 143. Water Service Generally.

Water service shall consist of facilities to supply water at the normal operating pressure of the system to one residence or place of business. Water service shall be considered available when the Commission maintains the water supply at the normal pressure at the point of delivery in readiness for the member's use, regardless of whether or not the member made use of it, and charges shall be made for service as of this date.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 144. Multiple Water Services.

One member may have more than one water service pursuant to rules established by the Board.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 145. Transfer of Water Prohibited.

Water service is for the sole use of the member and the member's agents or tenants at the location where it is provided, and the transfer of water by any means to another dwelling or place of business is prohibited. With the exception of emergency conditions, the sharing or reselling of water is grounds for disconnection of water service by the Board.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 146. Connection with Private Water System; Inspection.

There shall be no physical connection between any private water system and the water service provided by the Commission. The Commission shall have the right, at all reasonable hours, to enter upon member's premises for the purpose of inspection and enforcement of this provision. Violation of this provision is cause for disconnection of a member's water service by the Board.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 147. Extension of Main and Service Lines.

Main and service lines laid beyond the member's existing water system must be installed to the Commission's specifications and be paid for by the individual installing such lines.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 148. Maintenance of Water Lines.

It is the responsibility of the Commission to maintain the water lines up to the curb stop, or if none, up to within five feet of the building. The building is the owner's responsibility, except for buildings that are being rented from the Housing Authority or the Mille Lacs Band.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 149. Maintenance of Sewer System; Liability for Property Damage.

The collection system and treatment facilities utilized in any sewer service provided by the Commission shall be maintained in good repair and operating order at all times, if possible. The Commission shall not be responsible for damage to members' property due to damage or malfunction of the facilities due to causes beyond its control.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 150. Sewer Service Charge.

All members are subject to a sewer service charge as soon as sewer service is available at the point of delivery in readiness for the member's use, regardless of whether or not the member made use of it.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 151. Billing for Water and Sewer Services.

Members shall be billed monthly for water and sewer services based upon approved rate schedules. Billing for water and sewer services shall be as provided for in 12 MLBS §§ 181, 182.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

SUBCHAPTER 4

PLAN OF OPERATION

Section

- 161. Operating Guidelines.**
- 162. Purpose of Commission.**
- 163. Address of Commission.**
- 164. Responsibilities of Commission.**
- 165. Maintenance Services.**
- 166. Amendment of Plan of Operation.**

§ 161. Operating Guidelines.

The Plan of Operation and any amendments thereto shall serve as the operating guidelines for the Commission. The General Policies of the Plan of Operation are established as provided in this subchapter.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 162. Purpose of Commission.

The purpose of the Commission shall be to acquire, construct, manage, operate and maintain utility systems for the Mille Lacs Band of Chippewa Indians.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 163. Address of Commission.

The Commission shall maintain an office in Vineland, Minnesota. Its address shall be: Public Works Commission, Mille Lacs Band of Chippewa Indians, HCR 67, Box 194, Onamia, Minnesota 56359.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 164. Responsibilities of Commission.

(a)

- (1) The Commission is responsible for providing safe, adequate water for a fee to those buildings connected to the mainlines of the community water system. Responsibility for maintenance will include water sources, storage tanks, controls, mainlines, valves and hydrants, and service lines up to the curb stops, or if none; up to within five feet of the building.
- (2) The Commission is responsible for providing sanitary disposal of domestic waste for a fee to those buildings connected to the mainlines of Band sewage

systems. Responsibility for maintenance will include treatment facilities, pumping stations, mainlines and manholes, and service lines to the property lines only.

- (3) The remainder of the sewer and water service lines and interior building plumbing shall be the responsibility of the member, excluding buildings rented from the Housing Authority or the Band, which are the responsibility of the appropriate entity.
- (b) To ensure the provision of adequate water and sewage service to its members, the Commission shall retain qualified personnel on duty or on call at all times. The Commission shall respond in a timely manner to breakdowns and other emergencies.
- (c) Services for individual septic tank systems may be available at the Commission's discretion in areas within the territorial jurisdiction of the Commission. The Commission may elect to provide for the pumping of individual septic tanks for a fee. The Commission shall have no responsibility for this service except in instances of such elective pumping. The Commission cannot guarantee the operation of improperly designed, constructed or operated septic tank systems.
- (d) The Commission may elect, as resources permit, to perform certain plumbing repairs or new installations for a fee in those buildings served by one of the Commission's systems.
- (e) Private wells are the responsibility of the individual property owner, and the Commission cannot guarantee the operation of improperly designed, constructed or operated well systems or their water quality.
- (f) The Commission may, in its discretion, agree to perform construction, operation or maintenance services under contract with tribal, governmental, or private bodies.
- (g) In its discretion, the Commission may assume responsibility to provide other utility services and adopt regulations governing the provision of such other services.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 165. Maintenance Services.

The Commission shall develop and follow a regular schedule of maintenance services for each water and sewage system under its control. These services shall include, but not be limited to, the following:

- (a) Inspect and operate valves and hydrants, inspect and repair water mains for leaks or damage, flush water lines, inspect storage tanks and level indicators, and adjust and service controls; and
- (b) Flush sewer mains, remove debris from manholes, control weeds and erosion at lagoons inspect and service lift station and mechanical aerators, and, where the responsibility has been assumed by the Commission, inspect individual septic tanks.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 166. Amendment of Plan of Operation.

The Plan of Operation may be amended by a simple majority of Supervisors in attendance at a meeting called for that purpose and the subsequent approval of the Band Assembly.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

SUBCHAPTER 5

POLICIES

Section

- 181. Billing and Payment Policy.**
- 182. Billing and Collection Policies.**
- 183. Enforcement Policies.**
- 184. Bookkeeping and Handling of Funds Policies.**
- 185. Management Policies.**
- 186. Public Service.**

§ 181. Billing and Payment Policy.

- (a) Billing for water and sewage services shall be done jointly. In instances where a member receives only one service, the member shall only be billed for that service. Each bill shall be based upon the usage of water and sewage services under an applicable rate schedule. The schedule shall provide for a minimum monthly service charge, regardless of usage, in addition to rates for water and sewage services in excess of the minimum monthly service charge.

- (b) Bills shall be sent to members by the sixth business day of each month for services rendered the previous month, and shall be due and payable at the location indicated on the face of the bill ten days thereafter. Unpaid bills shall become delinquent five days after the due date. The Commission shall then have three days in which to notify the member, either personally or by certified mail, that they are delinquent and subject to a penalty and disconnection of water and sewage service unless their account is paid in full. The member shall have two days after the mailing of notice or personal notification to pay the bill in full without penalty. Thereafter, the Commission may impose a twenty-five dollar (\$25.00) penalty, in addition to any other amounts due or chargeable, and may disconnect services at the member's expense.
- (c) Bills not paid by the due date shall be subject to a fifteen percent (15%) late charge on the unpaid balance in addition to any other service charges or penalties.
- (d) A minimum reconnection fee of twenty-five dollars (\$25.00) shall be charged for disconnected service. However, should the actual cost of reconnection exceed twenty-five dollars (\$25.00), the member shall be charged the actual cost. Any service which has been disconnected, whether due to delinquency or any other reason, shall be reconnected only upon payment of any past due amount and the reconnection fee.
- (e) Partial payments may be accepted, but shall not relieve the member of the responsibility for paying bills by their due date, nor does it extend the due or delinquent date.
- (f) Advance payments may be accepted and credited to the member's account monthly until exhausted.
- (g) All returned checks shall result in a delinquent account, if the check is not redeemed by the due date stated on the applicable bill. In the event that a returned check is not redeemed by the due date, the delinquent account procedures listed in subsection (b) shall apply.
- (h) All members who issue a dishonored check shall be charged a fee of fifteen dollars (\$15.00) to reimburse the additional administrative expenses associated with ensuring payment on these items.
- (i) The minimum monthly service charge shall be increased from six dollars (\$6.00) to eight dollars (\$8.00) for combined water and sewage services. In the event that a member only receives one service, the member shall only be assessed half the minimum monthly service charge.
 - (1) Notwithstanding any provision of this section to the contrary, members who have attained the age of fifty-five or who qualify for services from the Elderly Nutrition Program, irrespective of age, shall be exempt from any increase in

the minimum monthly service charge above the amount assessed as of January 1, 1985.

- (2) Notwithstanding any provision of this chapter to the contrary, members who have attained the age of fifty-five or who qualify for services from the Elderly Nutrition Program shall be exempt from the payment of all service fees if they have a gross monthly income of less than three hundred dollars (\$300.00). Verification of income shall be certified by the Contracting Officer of the Food Commodity Program or provided by the member seeking this exemption.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 182. Billing and Collection Policies.

Billing and collection policies shall be as follows:

- (a) the Commission shall maintain a complete and up-to-date record of all members served by those systems operated by the Commission. Additions and deletions to the records shall be made as soon as the Commission learns of the changes;
- (b) the Commission shall ensure that each member is billed for services in accordance with 12 MLBS § 181 and this Section;
- (c) members may make payments by cash or check or money order, payable to the Commission, by mailing payments to the Commission's office at the Mille Lacs Government Center or personally delivering payments thereto. Members shall receive a receipt for payments personally made at the Government Center;
- (d) members who live in buildings managed by the Housing Authority or other tribal enterprises shall include monthly water and sewage payments along with their rent or house payment. The agency collecting the payments shall then pay the Commission for services to all of its housing occupants. The agency shall receive a receipt for this payment; and
- (e) members requesting a new service, reconnection, plumbing repairs, or pumping of a septic tank shall make arrangements with the Director of Operations for Public Works for payment prior to receiving the services. Normally, such charges shall be due on the next month's bill.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 183. Enforcement Policies.

Enforcement policies shall be as follows:

- (a) the Commission is hereby authorized to collect fees for services and to disconnect services for nonpayment; and
- (b) the Commission shall enforce its regulations and fee collections by disconnecting services to any and all violators and delinquent members. The Commission shall not seek to attach members' property nor to have fines assessed by the Court of Central Jurisdiction, except in cases of blatant or continued abuse or destruction of property.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 184. Bookkeeping and Handling of Funds Policies.

Bookkeeping and handling of funds policies shall be as follows:

- (a) the Commission shall follow the established Band procedures for bookkeeping and banking. This will allow the convenient handling of Commission funds through the bank accounts of the Band, while also providing a separate accounting of the funds. The Public Works Administrator shall make a monthly accounting of the Commission's funds available to the Board;
- (b) actual handling of the Commission's funds shall be performed by the Band's Secretary of Treasury; and
- (c) all accounts and ledgers of the Commission shall be available for audit at any time by any auditor appointed by the Secretary of Treasury.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 185. Management Policies.

Management policies shall be as follows:

- (a) the Board may establish overall program objectives which shall be implemented by the Public Works Administrator;
- (b) the Public Works Administrator shall manage the daily operations of the Commission. The Public Works Administrator shall have responsibility to direct the work of all employees of the Commission and shall establish a direct chain of command for orderly functioning of the office and operation and maintenance of all utility systems;
- (c) job descriptions for all employees shall be developed and followed; and
- (d) employees of the Commission shall receive wages and benefits comparable to other employees of the Band. Employees shall have the right of appeal pursuant to the Band's personnel policies should any employment-related dispute not be resolved to their satisfaction by the Public Works Administrator or the Board.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 186. Public Service.

The Commission is created in order to serve the people of the Mille Lacs Band. Yearly meetings of the Board of Supervisors shall be open to the public, except as provided elsewhere in this Chapter. Members with particular problems or complaints shall request inclusion on the agenda of the next Board meeting.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

CHAPTER 3

CAPITAL IMPROVEMENTS AUTHORITY

Section

201. Establishment.

202. Board of Commissioners.

- 203. Removal of Board Members.**
- 204. Compensation.**
- 205. Quorum.**
- 206. Records of Board Meetings and Actions.**
- 207. Financial Records and Reports.**
- 208. Meetings.**
- 209. Enumerated Powers.**
- 210. Borrowing.**
- 211. Sovereign Immunity.**
- 212. Assets and Liabilities of the Authority.**

§ 201. Establishment.

The Mille Lacs Capital Improvements Authority of the Mille Lacs Band of Chippewa Indians is established as an instrumentality of the Executive Branch of Tribal Government with these powers expressly delegated by the Band Assembly. The Capital Improvements Authority of the Mille Lacs Band of Chippewa Indians is established to acquire, construct, finance, operate and maintain such public improvements of the Band as may from time to time be designated by the Band Assembly.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 202. Board of Commissioners.

- (a) The affairs of the Capital Improvements Authority shall be managed by a Board of Commissioners comprised of five persons. The Board members shall be nominated by the Chief Executive and ratified by the Band Assembly.
- (b) The Chief Executive shall select three among the Board members who shall serve a four-year term, and two who shall serve a two-year term. Subsequent appointments after these terms expire shall run for four years.
- (c) At least one member of the Board shall be a Band member residing in District 1; at least one member of the Board shall be a Band member residing in District 2; at least one member of the Board shall be a Band member residing in District 3. Each member shall hold office until a successor has been nominated and ratified.
- (d) The Chief Executive shall name one of the Board members as Chair of the Board. The Board shall select from among its own members a Vice Chair, a Secretary and a Treasurer, and any member may hold two of these positions. In the absence of the Chair, the Vice-Chair shall preside, and in the absence of both the Chair and the Vice-Chair, the Secretary shall preside.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 203. Removal of Board Members.

A member of the Board may be removed from office for just cause as defined by 4 MLBS § 15(g).

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 204. Compensation.

The Board members shall not receive compensation for their services but shall be entitled to reasonable reimbursement for their expenses, including travel expenses, incurred in the discharge of their duties.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 205. Quorum.

A majority of the full Board shall constitute a quorum for the transaction of business, but no Board action shall be taken by a vote of less than a majority of the full Board.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 206. Records of Board Meetings and Actions.

The Secretary shall keep full and accurate records of all meetings and actions taken by the Board. Records kept in accordance with this section shall be prima facie evidence of the information contained therein before any court of competent jurisdiction.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 207. Financial Records and Reports.

The Treasurer shall keep full and accurate financial records, make periodic reports to the Board, and submit a complete annual report in written form to the Band Assembly.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 208. Meetings.

Meetings of the Board shall be held as deemed appropriate with an agenda prepared in advance by the Chair. All proceedings of the Board shall be open to the public except when an executive session is authorized by unanimous vote of the Board. All proceedings shall be documented in writing and copies distributed to the Chief Executive and Band Assembly not more than five days following each meeting. Meetings may be held upon twenty-four hours actual notice.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 209. Enumerated Powers.

The Capital Improvements Authority shall have the following specifically enumerated powers:

- (a) to adopt and use an official seal;
- (b) subject to Band Assembly approval, to enter any contracts or agreements with any governmental agency, Federal, State, local or tribal, or with any person, partnership, corporation or Indian tribe; and to agree to any conditions attached to Federal or State financial assistance;
- (c) to lease property from the Band and others for such periods and to hold and manage or to sublease the same;
- (d) to borrow or lend money, to guarantee the obligations of other tribal entities of the Band, and to issue evidences of indebtedness in accordance with 12 MLBS § 210;

- (e) subject to Band Assembly approval, to pledge the assets and receipts of the Authority as security for debts;
- (f) subject to Band Assembly approval, to acquire, construct, sell, lease as lessor or lessee, exchange, transfer or assign real or personal property or interests therein;
- (g) to purchase land or interests in land or take the same by gift, and to lease land or interests in land to the extent provided by law;
- (h) to prudently invest such funds as are not required for immediate disbursement;
- (i) to establish and maintain such bank accounts as may be necessary or convenient;
- (j) to employ such officers and employees, permanent or temporary, as the Authority may require, and to delegate to such officers and employees such powers and duties as the Board deems proper;
- (k) to adopt bylaws which shall be submitted to the Band Assembly for approval; and
- (l) to take such further actions as are necessary to carry out the purposes as described in 12 MLBS § 201.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 210. Borrowing.

- (a) Subject to the limitations set forth in this Section, the Authority shall have the power to borrow money and incur indebtedness, or to guarantee the indebtedness of another agency, instrumentality or entity of the Band, by issuing its obligations, in its own name or in the name of and on behalf of the Mille Lacs Band of Chippewa Indians, for purposes of acquiring, constructing, maintaining, managing and improving any public improvements within the territorial jurisdiction of the Band consistent with the purposes of the Authority. Such obligations shall be issued and sold in such manner and shall be in the amount and form and bear interest at the rate or rates set by the Authority. Each obligation must be approved by the Band Assembly prior to its issuance.
- (b)
 - (1) All obligations incurred under this Section shall be payable solely:

- (i) from revenues, income, receipts and profits derived by the Authority from projects operated by it whether or not the projects were financed in whole or in part with the proceeds of such obligations;
 - (ii) from all or any part of the revenues of any business conducted by the Corporate Commission and allocated to the Authority by the Band Assembly;
 - (iii) from the proceeds of evidences of indebtedness issued and sold by the Authority which are payable solely from any of such revenues, income, receipts and profits; or
 - (iv) from federal or state grants or other money received by the Authority which are available therefor.
- (2) The Authority may further secure these obligations with any assets of the Authority as the Authority may specifically pledge to the payment of the obligations.
- (c) The Authority may pledge to the repayment of any such obligations and the interest coming due thereon any or all of the sources set forth in subsection (b), but is without power to pledge or encumber any other revenues, income or assets of the Mille Lacs Band of Chippewa Indians, or any other organization or instrumentality of the Band to the repayment of such obligations. The Band Assembly may, if it deems it to be in the best interests of the Band to do so, pledge to the payment of any such obligations, or authorize any organization or instrumentality of the Band to pledge to the payment of such obligations, any specific revenues, income or assets of the Band or any organization or instrumentality of the Band as it may deem appropriate. In any event, no such obligations shall be payable from, nor be a charge upon, any funds other than the revenues specifically pledged to the payment thereof, nor shall the Band be liable thereon other than to the extent specifically provided in accordance with this section. These limitations shall be expressly stated in each obligation issued pursuant to this section.
- (d) The Authority, with the approval of the Band Assembly, may provide for the refunding of any obligation of the Authority through the issuance of other obligations of the Authority, entitled to rights and priorities similar in all respects to those held by the obligations that are refunded.
- (e) In connection with the issuance of any such obligation, the Authority is authorized to waive its sovereign immunity from suit should an action be commenced to enforce the terms of the obligation, and to consent to the jurisdiction of the courts of the United States of America or the State of Minnesota in connection with any such action; provided that the Authority is without power to waive the sovereign immunity of the Mille Lacs Band of Chippewa Indians, to consent to the jurisdiction of any court over the Band, or to consent to the levy of any judgment, lien or attachment

upon any property or income of the Authority, the Band or any other organization or instrumentality of the Band other than that specifically pledged pursuant to subsection (c).

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 211. Sovereign Immunity.

- (a) As an instrumentality of the Mille Lacs Band of Chippewa Indians, the Authority shall be clothed by federal and tribal law with all the privileges and immunities of the Band, except as specifically limited by this chapter, including sovereign immunity from suit in any state, federal or tribal court. Nothing contained in this chapter shall be deemed or construed to be a waiver of sovereign immunity by the Authority from suit, which may be waived only in accordance with this chapter.
- (b) Sovereign immunity of the Authority may be waived only by formal resolution of the Board of Commissioners.
- (c)
 - (1) Waivers of sovereign immunity are disfavored and shall be granted only when necessary to secure a substantial advantage or benefit to the Authority. Any waiver of sovereign immunity shall be specific and limited as to:
 - (i) duration;
 - (ii) the grantee;
 - (iii) the particular transaction;
 - (iv) definite property or funds, if any, of the Authority;
 - (v) a particular court having jurisdiction pursuant thereto; and
 - (vi) the law that shall be applicable thereto.
 - (2) Any express waiver of sovereign immunity by resolution of the Board shall not be deemed a waiver of the sovereign immunity of the Mille Lacs Band of Chippewa Indians, a consent to the jurisdiction of any court over the Band, or a consent to the levy of any judgment, lien or attachment upon any property or income of the Authority, the Band or any other organization or instrumentality of the Band other than that specifically pledged or assigned.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 212. Assets and Liabilities of the Authority.

- (a) The Authority shall have only those assets specifically assigned to it by the Band or acquired in its name by the Band or the Authority on its own behalf. Nothing in this Chapter nor any activity of the Authority shall implicate or in any way involve the credit or assets of the Band or obligate the Band for the obligations of this Authority except for any liability or obligation specifically assumed in writing.
- (b) The property of the Authority is declared to be public property used for essential public and governmental purposes and such property and the Authority are exempt from all taxes and special assessments of the Band Assembly or the Band. However, for construction projects, nothing in this section shall prevent the Band from collecting the general sales tax contained in 22 MLBS § 502, or the public service occupations tax contained in 22 MLBS § 601.
- (c) All property of the Authority, including funds acquired or held by the Authority pursuant to this chapter, shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial powers shall issue against the same nor shall any judgment against the Authority be a charge or lien upon such property. The provisions of this section shall not apply to or limit the right of a secured party to pursue any remedies for the enforcement of any pledge or lien given by the Authority on its revenues or properties.
- (d) Upon dissolution of the Authority, the title to all property owned by it shall vest in and become the property of the Band.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

CHAPTER 4

HOUSING DEPARTMENT

Section

301. Purpose and Findings.

302. Definitions.

303. Housing Department.

- 304. **Executive Director.**
- 305. **Housing Board.**
- 306. **Board Member Selection Process.**
- 307. **Process to Fill Vacant Board Positions.**
- 308. **Officers.**
- 309. **Meetings.**
- 310. **Quorum.**
- 311. **Removal of Board Members.**
- 312. **Housing Board Bylaws.**
- 313. **Transfer of Ownership Interests.**

§ 301. Purposes and Findings.

- (a) There are currently a duplication of housing programs and services available to Band members and the Band Assembly recognizes a need to coordinate the housing programs to maximize the resources of the Band.
- (b) To eliminate the duplication of housing programs, a new structure known as the “Housing Department” will be administered under the direction of the Commissioner of Community Development.
- (c) To assist the Commissioner of Community Development with the scope of this task, there is a need to create a new position known as the “Executive Director of the Housing Department.” The Executive Director will be responsible for the daily administration of the Housing Department’s programs and services. The Executive Director shall report directly to the Commissioner of Community Development.
- (d) To accommodate the new housing structure, a newly created Housing Board will work in partnership with the Commissioner of Community Development and the Executive Director to ensure that long-term housing needs are clearly identified through the implementation of Strategic Planning.
- (e) The Band Assembly also recognizes that a new process must be established to continually assess and manage the housing needs as the demographics of the Band change.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 302. Definitions.

- (a) **“Band”** means the Mille Lacs Band of Ojibwe Indians.

- (b) **“Band Assembly”** means the legislative branch of the Mille Lacs Band of Ojibwe Indians.
- (c) **“Band Member”** means an enrolled person of the Mille Lacs Band of Ojibwe Indians.
- (d) **“Executive Director”** means the person responsible for the daily administration of the Housing Department who shall report directly to the Commissioner of Community Development.
- (e) **“Commissioner of Community Development”** means an appointed official of the Executive Branch who is responsible for the administration, management, supervision and coordination activities for Community Development, Public Works, Facilities Management, Transportation and the Housing Department.
- (f) **“Housing Board”** means the advisory board that works in partnership with the Commissioner of Community Development and the Executive Director of the Housing Department.
- (g) **“Housing Department”** means the structure created by statute to be responsible for new construction, renovations, residential land acquisition, residential services, maintenance, the Home Loan program and transitional housing.
- (h) **“Misconduct”** means a dereliction of duty, unlawful behavior, misdeed, impropriety, mismanagement, unfair treatment, or conduct that shows willful or wanton disregard of any Band member’s right to housing.
- (i) **“Service Area”** means the area designated to receive housing services as enacted in Band Assembly Bill 10-04-40-03 or as otherwise amended by the Band Assembly.
- (j) **“Strategic Housing Plan”** means the housing plan developed by the Commissioner of Community Development including but not limited to goals and objectives and an overview of the planned activities for the period.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 303. Housing Department.

- (a) A new structure known as the Housing Department is hereby established to administer the Mille Lacs Band of Ojibwe Indians housing programs and services.
- (b) The Housing Department shall be under the supervision of the Commissioner of Community Development.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 304. Executive Director.

A position known as the Executive Director of the Housing Department is hereby created. This position shall be responsible for the daily administration of housing programs and services to Band members. The Executive Director shall report directly to the Commissioner of Community Development.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 305. Housing Board.

- (a) No more than ninety (90) days after passage of this Chapter, a newly formed Housing Board shall be created to act in an advisory capacity to assist the Housing Department and Commissioner of Community Development with housing matters and such Board shall have those powers as delegated in sub-section (b) of this section.
- (b) Powers and Duties.
 - (1) To advise the Commissioner of Community Development and make recommendations on various housing matters relating to the Band's Housing vision and mission.
 - (2) To acknowledge Band members' housing needs and communicate concerns to the Executive Director of the Housing Department.
 - (3) To approve an annual Strategic Housing Plan with ratification by the Band Assembly.
 - (4) To ensure that the Housing Policies conform to the Band's Housing vision and mission and that Community Development and the Housing Department comply with the Housing Policies.
 - (5) To maintain a fair and equitable service level to all Band members.
 - (6) To approve home loans, renovation loans or other housing program loans that may be developed by the Housing Department.

- (7) To approve foreclosures in circumstances where a mortgagor defaults on their housing loan for a period of more than six (6) months.
- (8) To approve new Housing programs and Housing Policies developed by the Housing Department with ratification by the Band Assembly.
- (9) To approve Housing Meeting Minutes from the previous meeting and forward a copy to Band Assembly within ten (10) business days.
- (10) To approve any housing grants if such regulations require it.
- (11) To approve the quarterly reports developed by the Commissioner of Community Development and the Housing Department.
- (12) To maintain confidentiality of all housing client matters.
- (13) To treat all Band members fairly and equally without regard to family relationships.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 306. Board Member Selection Process.

- (a) This section establishes the rules for selection of Housing Board members, the number of Board members to be appointed and the term length of each Board member. The rules are as follows:
 - (1) The Housing Board is hereby organized and designated as a subdivision of the Housing Department of the Mille Lacs Band of Ojibwe Indians.
 - (2) The Housing Board shall be composed of seven (7) persons.
 - (3) Each Housing Board member must be an enrolled Band member of the Mille Lacs Band of Ojibwe Indians and at least eighteen (18) years of age.
 - (4) No person shall be barred from serving on the Board because he or she is a tenant or homebuyer. However, such Board member shall not participate in or be present at any portion of a meeting concerning any matter that involves his or her individual rights, obligations or status as a tenant or homebuyer.
 - (5) The Chief Executive shall select two (2) individuals and the Speaker of the Assembly shall nominate one (1) of the two to the Band Assembly for confirmation to the Housing Board. This Housing Board member shall serve

until June 30, 2007. Thereafter, this position shall be eligible for appointment to a four (4) year term beginning on June 30, 2007.

- (6) The Speaker of the Assembly shall select two (2) Elders and the Chief Executive shall nominate one of the two to the Band Assembly for confirmation to the Housing Board. This Housing Board member shall serve until June 30, 2006. Thereafter, this position shall be eligible for appointment to a four (4) year term beginning on June 30, 2006.
 - (7) The District I Representative shall select two (2) individuals and the Chief Executive shall nominate one of the two to the Band Assembly for confirmation to the Housing Board. This Board Member shall serve until June 30, 2007. Thereafter, this position shall be eligible for appointment to a four (4) year term beginning on June 30, 2007.
 - (8) The District II Representative shall select two (2) individuals and the Chief Executive shall nominate one of the two to the Band Assembly for confirmation to the Housing Board. This Board Member shall serve until June 30, 2006. Thereafter, this position shall be eligible for appointment to a four (4) year term beginning on June 30, 2006.
 - (9) The District III Representative shall select two (2) individuals and the Chief Executive shall nominate one of the two to the Band Assembly for confirmation to the Housing Board. This Board Member shall serve until June 30, 2006. Thereafter, this position shall be eligible for appointment to a four (4) year term beginning on June 30, 2006.
 - (10) The Chief Executive and the Speaker of the Assembly shall each select two (2) persons from the at Large area and the Band Assembly shall confirm two (2) of the four (4) for appointment to the Housing Board. These Board members shall serve until June 30, 2005. Thereafter, these positions shall be eligible for appointment to a four (4) year term beginning on June 30, 2005.
- (b) The nomination process established in this subsection shall apply to all future nominees who hold this position.
 - (c) If, for any reason, an elected official does not nominate a person in the manner set out hereinabove, that position shall be filled by nomination by the Chief Executive and Speaker of the Assembly. The Chief Executive and Speaker of the Assembly shall each nominate one (1) person from the pool where the vacancy occurs and the Band Assembly shall confirm one (1) person.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 307. Process to Fill Vacant Board Positions.

- (a) If, for any reason, a Board position becomes vacant, the elected official that originally nominated that person shall nominate a new person in the same manner to replace the vacant position for the remainder of that term. Thereafter, this position shall be filled in the manner set out above.
- (b) If, for any reason, the elected official does not nominate a person within thirty (30) days of the vacancy, that position shall be filled by nomination by the Chief Executive and Speaker of the Assembly. The Chief Executive and Speaker of the Assembly shall each nominate one (1) person from the pool where the vacancy occurs and the Band Assembly shall confirm one (1) person.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 308. Officers.

- (a) The Housing Board shall select from its members one person to serve as Chairperson of the Board, one person to serve as Vice-Chairperson, and one person to serve as Secretary. In the absence of the Chairperson, the Vice-Chairperson shall preside over the meeting. In the absence of the Chairperson and Vice-Chairperson, the Secretary shall preside. The Secretary shall keep a complete and accurate record of all meetings and any actions taken by the Board.
- (b) These offices shall be held for a two-year period beginning on June 30, 2004.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 309. Meetings.

- (a) The Housing Board shall meet at least one (1) time per month to attend to Housing Department business. If any Housing Board member is absent from three (3) consecutive meetings, they shall be removed from the Housing Board.
- (b) The Housing Board members shall be paid a stipend for their services, but payment of such stipend shall be limited to two (2) meetings per month. If more than two meetings within a month are required to handle housing business, no stipend shall be paid although mileage expenses will be allowed.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 310. Quorum.

A majority of the full Board, notwithstanding the existence of any vacancies, shall constitute a quorum for the transaction of business. No formal Board action shall be taken by a vote of less than a majority. A quorum is defined as four (4) members.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 311. Removal of Board Members.

- (a) A member of the Housing Board may be removed for misconduct of office, absence from three (3) consecutive meetings without cause, or neglect of duty, but only after notice and hearing before the Joint Session. The Commissioner of Community Development and the Executive Director shall submit in writing such reason for removal and submit the same to the Joint Session. The Joint Session shall hear the case and determine if valid reason exist to remove such Board member.
- (b) The Board Member shall receive such notice of removal hearing at least ten (10) days prior to the hearing date.
- (c) At any such hearing, the Board Member is entitled to be heard in person or through an attorney and to present witnesses on his or her behalf.
- (d) A confidential record of any such hearing shall be kept for a period of seven (7) years.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 312. Housing Board Bylaws.

The Housing Board shall operate according to bylaws established by them and the Commissioner of Community Development. The bylaws shall contain any operational requirements in order for the Board to carry out its powers and duties.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 313. Transfer of Ownership Interests.

- (a) All units owned by the Mille Lacs Band of Ojibwe Indians “Housing Authority” shall be transferred to the Mille Lacs Band of Ojibwe Indians “Housing Department.”
- (b) All leases held by the Mille Lacs Band of Ojibwe Indians “Housing Authority” shall be transferred to the Mille Lacs Band of Ojibwe Indians “Housing Department.”
- (c) Any land acquisition performed by the Mille Lacs Band of Ojibwe Indians Department of Natural Resources (“DNR”) that includes a house shall be leased to the Housing Department according to the following limitations:
 - (1) restricted to residential use; and
 - (2) follow the area zoning requirements for a residential dwelling.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

CHAPTER 5

NATIVE AMERICAN VETERAN DIRECT LOAN PROGRAM

Section

- 401. Findings and Determinations.**
- 402. Application of Chapter.**
- 403. Purpose to Provide Additional Remedies.**
- 404. Public Policy of Band.**
- 405. Definitions.**
- 406. Priority.**
- 407. Recording System.**
- 408. Filing.**
- 409. Log.**
- 410. Public Inspection and Copying.**
- 411. Leasehold Mortgage Foreclosure Proceedings.**
- 412. Service of Process and Procedures.**

- 413. **Cure of Default.**
- 414. **Entry of Judgment.**
- 415. **Unlawful Detainer.**
- 416. **Procedures for Service of Notice.**
- 417. **Complaint and Summons.**
- 418. **Service of Summons and Complaint.**
- 419. **Writ of Restitution.**
- 420. **Judgment.**
- 421. **Continuance in Cases Involving Secretary.**
- 422. **Enforcement.**

§ 401. Findings and Determinations.

- (a) The Band Assembly hereby finds and determines that there is a history of inadequate housing for Band members and that adequate housing and related services are vital to the health and well being of all members of the Band.
- (b) The Band Assembly hereby finds and determines that our Armed Service veterans made great sacrifices for our country, their communities and their families and are a valuable resources to the Band and that our veterans should have adequate housing and related services made available to them.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 402. Application of Chapter.

This chapter prescribes procedures for the recording, priority and foreclosure of leasehold mortgages given to secure loans made by the United States Department of Veterans Affairs under the Native American Veterans Direct Loan Program under Title 38 U.S.C. 3761.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 403. Purpose to Provide Additional Remedies.

The purpose of this chapter is to provide remedies for the Veterans Affairs Loan Program and nothing herein contained shall alter the ultimate financial liability of the owner of tenant for repairs or maintenance of any building located on lands under the jurisdiction of the Band.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 404. Public Policy of Band.

Any provisions, whether oral or written, of any lease or other agreement whereby any provisions of this chapter are waived by a tenant is contrary to public policy and void.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 405. Definitions.

- (a) **"Band"** shall refer to the Non-Removable Mille Lacs Band of the Mille Lacs Indian Reservation as defined in the Minnesota Chippewa Tribal Constitution and the statutes of the Non-Removable Mille Lacs Band.
- (b) **"Lease"** shall mean the lease of trust property for which a Leasehold Mortgage, as defined in this section, has or will be given.
- (c) **"Leasehold Mortgage"** shall mean the mortgage of a lease of trust property given to secure a loan made under the VA Native American Direct Loan Program and 38 U.S.C. 3761 et seq.
- (d) **"Leasehold Mortgage Foreclosure Proceeding"** shall mean a proceeding in the Court of Central Jurisdiction:
 - (1) To foreclose the interest of the Mortgagor(s), and each person or entity claiming through the Mortgagor(s), in a Lease for which a Mortgage has been given under the VA Native American Direct Loan Program and 38 U.S.C. 3761 et seq.; and
 - (2) To assign such Lease to the Secretary or the Secretary's assignee.
- (e) **"Lessor"** shall mean the beneficial or equitable owner of trust or otherwise restricted property under a Lease for which a Mortgage, as defined in this section, has been given, or the heir(s), successor(s), executor(s), administrator(s), or assign(s) of such Lessor.
- (f) **"Mortgagee"** shall mean the mortgagee under any Leasehold Mortgage as defined in this section or the successor(s) interest of any such mortgagee, including the

Secretary as defined in this section, or the Secretary's assignee under any such mortgage.

- (g) **"Mortgagor"** shall mean any Mille Lacs Band member who has executed a Leasehold Mortgage as defined in this section, or any member heir(s), successor(s), executor(s), administrator(s) or assign(s) of the Mille Lacs Band or any member.
- (h) **"Nuisance"** shall mean the maintenance on real property of a condition which:
 - (1) Unreasonably threatens the health or safety of the public or neighboring land users; or
 - (2) Unreasonably and substantially interferes with the ability of neighboring property users to enjoy the reasonable use and occupancy of their property.
- (i) **"Recording Clerk"** shall mean the person designated by the Mille Lacs Band to perform the recording functions required by this chapter or any deputy or designee of such person.
- (j) **"Secretary"** shall mean the Secretary of the United States Department of Veterans Affairs (VA) or designee.
- (k) **"Subordinate Lienholder"** shall mean the holder of any lien, including a subsequent mortgage, perfected subsequent to the recording of a Leasehold Mortgage under this chapter (except the Mille Lacs Band with respect to a claim for a tribal leasehold tax).
- (l) **"Tenant"** shall mean any person who occupies real property under a lease, rental agreement or other agreement with a lessor as defined in this section.
- (m) **"Tribal Court"** shall mean the Court of Central Jurisdiction as established by the laws of Mille Lacs Band of Ojibwe to exercise the powers and functions of a court of law.
- (n) **"Unlawful Detainer Action"** shall be a suit brought before the Court of Central Jurisdiction to terminate a tenant's interest in real property and/or to evict any person from occupancy of real property.
- (o) **"Waste"** is spoil or destruction by a tenant of land, buildings, gardens, trees or other improvements which result in substantial injury to the lessor's interest in the property.
- (p) **"Writ of Restitution"** is an order of the Tribal Court:
 - (1) Restoring an owner or lessor or the Secretary to possession of real property and,
 - (2) Evicting a tenant or other occupant therefrom.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 406. Priority.

A Leasehold Mortgage recorded in accordance with the recording procedures set forth in this chapter shall have priority over any lien not perfected at the time of such recording and any subsequent lien or claim excepting a lien or claim arising from a tribal leasehold tax assessed after the recording of the mortgage. Nothing in this chapter shall prevent any person or entity from recording a Leasehold Mortgage in accordance with State law or from filing a Leasehold Mortgage with the Bureau of Indian Affairs.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 407. Recording System.

The Band Recording Clerk shall maintain in the Department of Natural Resources Real Estate Division a system for the recording of leasehold Mortgages and such other documents as the Band may designate by law or resolution.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 408. Filing.

- (a) The Band Recording Clerk shall endorse upon any Leasehold Mortgage or other document received for recording:
 - (1) The date and time of receipt of the Leasehold Mortgage or other document; and
 - (2) The filing number, to be assigned by the Recording Clerk, which shall be a unique number for each Leasehold Mortgage or other document received; and
 - (3) The name of the Band Recording Clerk receiving the Leasehold Mortgage or document.

(b)

- (1) Upon completion of the above endorsements; the Tribal Recording Clerk shall make a true and correct copy of the Leasehold Mortgage or other document and shall certify the copy as follows:

MILLE LACS BAND OF OJIBWE

MILLE LACS RESERVATION: ss.

I certify that this is a true and correct copy of a document received for recording this date.

Given under my hand and seal this _____ day of _____ . (SEAL)

Signature

Title

- (2) The Band Recording Clerk shall maintain the copy in the records of the recording system and shall return the original of the Leasehold Mortgage or other document to the person or entity that presented the same for recording.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 409. Log.

The Band Recording Clerk shall also maintain a log of each Leasehold Mortgage or other document recorded in which there shall be entered:

- (a) The name(s) of the Mortgagor(s) of each Leasehold Mortgage, identified as such;
- (b) The name(s) of the Mortgagee(s) of each Leasehold Mortgage, identified as such;
- (c) The name(s) of the grantor(s), grantee(s), or other designation of each party named in any other documents;
- (d) The date and time of receipt;
- (e) The filing number assigned by the Band Recording Clerk; and

- (f) The name of the Band Recording Clerk receiving the Leasehold Mortgage or document.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 410. Public Inspection and Copying.

The certified copies of the Leasehold Mortgages and other documents and the log maintained by the Tribal Recording Clerk shall be made available for public inspection and copying.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 411. Leasehold Mortgage Foreclosure Proceedings.

Upon the default of the Mortgagor(s) under a Leasehold Mortgage, the Secretary may commence a Leasehold Mortgage foreclosure proceeding in the Tribal Court by filing:

- (a) A verified complaint:
 - (1) Naming the Mortgagor(s) and each person or entity claiming through the Mortgage(s) subsequent to the recording of the Leasehold Mortgage, including each Subordinate Lienholder (except the Band with respect to a claim for a tribal leasehold tax), as a defendant;
 - (2) Describing the property;
 - (3) Stating the facts concerning the execution of the Lease and the Leasehold Mortgage; the facts concerning the recording of the Leasehold Mortgage; the facts concerning the alleged default(s) of the Mortgagor(s); and such other facts as may be necessary to constitute a cause of action;
 - (4) Having appended as exhibits true and correct copies of each promissory note, Lease, Leasehold Mortgage, or assignment thereof relating to the property; and
 - (5) Including an allegation that all relevant requirements and conditions prescribed in (i) title 38 U.S.C. § 3761, (ii) the regulations promulgated thereunder by the Secretary, and (iii) the provisions of the Lease, have, been complied with by the Secretary.

- (b) A summons, issued as in other cases, requiring the Mortgagor(s) and each other defendant to appear for a trial upon the complaint on a date and time specified in the summons.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 412. Service of Process and Procedures.

The laws of the Band governing service of process and all other matters relating to the conduct of Court of Central Jurisdiction proceedings shall apply to any Leasehold Mortgage Foreclosure Proceeding pursuant to this chapter.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 413. Cure of Default.

Prior to the entry of a judgment of foreclosure, any Mortgagor or any Subordinate Lienholder may cure the default(s) under the Leasehold Mortgage. Any Subordinate Lienholder who has cured a default shall thereafter have included in its lien the amount of payments made by such Subordinate Lienholder to cure the default(s), plus interest on such amounts at the rate stated in the note for the Leasehold Mortgage.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 414. Entry of Judgment.

If the alleged default(s) have not been cured, and if the Court should find for the Secretary, the Court of Central Jurisdiction shall enter judgment:

- (a) Foreclosing the interest in the Lease of the Mortgagor(s) and each other defendant named in the complaint upon whom proper and timely service has been made, including each such Subordinate Lienholder; and
- (b) Assigning such Lease to the Secretary or the Secretary's assignee.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 415. Unlawful Detainer.

- (a) The provisions of this section shall apply to all persons and property subject to the governing authority of the Mille Lacs Band as established by the Laws of the Non-Removable Mille Lacs Band.
- (b) A tenant or other occupier of land shall be guilty of unlawful detainer if such person shall continue in occupancy of real property under any of the following situations:
 - (1) Without the requirement of any notice:
 - (i) After the expiration of the term of the lease or other agreement; or
 - (ii) If such person has entered onto or remains on the real property of another without the permission of the owner and without having any substantial claim of a lease or title of the property; or
 - (iii) After the Housing Department has terminated such person's tenancy pursuant to procedures providing such person a hearing before the Housing Authority involved; or
 - (iv) After the interest of such person in a lease has been foreclosed in a leasehold mortgage foreclosure proceeding in the Tribal Court.
 - (2) After having received 30 days' notice, the tenant or occupier shall remain in possession of the property contrary to the terms of the notice as follows:
 - (i) When such person has received notice:
 - (A) That he or she is in default in the payment of rent; and
 - (B) Requiring him or her, to either pay the rent or surrender possession of the occupied property; and such person has remained in possession after receipt of such notice without either surrendering possession of the property or paying the rent; or
 - (ii) When the lease of the property is for an indefinite time, with rent to be paid monthly or by some other period, and the lessor has given notice of termination of the tenancy at least 30 days prior to the end of such month or period; or

- (iii) When such person shall continue to fail to keep or perform any condition or covenant of the lease or agreement under which the property is held after he has been given notice to surrender the property; or
- (iv) When such person continues to commit or to permit waste upon or maintain a nuisance upon the occupied property after having been given notice, to either cease such waste or maintenance of nuisance or to surrender the property.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 416. Procedures for Service of Notice.

- (a) Notices required or authorized in 12 MLBS § 415 shall be given in writing by either:
 - (1) Delivering a copy personally to the tenant or occupier or to any adult members of his or her family residing on the premises; or
 - (2) Posting said notice in a conspicuous place near the entrance to said premises, and by sending an additional copy to the tenant or occupier by certified mail, return receipt requested, properly addressed, postage prepaid.
- (b) Proof of service by either of the above methods may be made by affidavit of any adult person stating that he or she has complied fully with the requirements of either of these two methods of service.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 417. Complaint and Summons.

The owner of real property or lessor or Secretary shall commence an action for unlawful detainer by filing with the Court, in writing, the following documents:

- (a) A complaint, signed by the owner, lessor, the Secretary, an agent, or attorney, stating:
 - (1) The facts on which he or she seeks to recover,

- (2) Describing the property so that it can be identified with reasonable certainty; and
 - (3) Any claims for damages or compensation due from the persons to be evicted;
- (b) A summons, issued as in other cases, requiring the defendants to appear for trial upon the complaint on a date and time specified in the summons. The trial date specified in the summons shall not be less than 20 nor more than 30 days from the date of service of the summons and complaint. The summons must notify the defendants that judgment will be taken against them in accordance with the terms of the complaint unless they file with the court an answer and appear for trial at the time, date and place specified in the summons.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 418. Service of Summons and Complaint.

A copy of the summons and complaint shall be served upon the defendants in the manner provided by the Mille Lacs Band Statute for service of process in civil matters.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 419. Writ of Restitution.

The Court of Central Jurisdiction shall enter a Writ of Restitution if:

- (a) Notice of suit and trial is given by service of summons and complaint in accordance with the procedures provided in this document; and
- (b) The Court of Central Jurisdiction shall find that the occupier of the real property is guilty of an act of unlawful detainer.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 420. Judgment.

- (a) Upon issuance of a Writ of Restitution the Court of Central Jurisdiction shall have the authority to enter against the defendants a judgment for the following:
 - (1) back rent,
 - (2) unpaid utilities,
 - (3) charges due the Band, Indian Housing Authority, or land owner under any lease or occupancy agreement (not including a leasehold mortgage); and
 - (4) damages caused by the defendants to the property other than ordinary wear and tear.
- (b) The Court of Central Jurisdiction shall have the authority to award to the prevailing party his costs and reasonable attorney's fees in bringing suit.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 421. Continuance in Cases Involving Secretary.

Except by agreement of all parties, there shall be no continuances in the cases involving the Secretary which will interfere with the requirement that the Writ of Restitution in a case involving the Secretary be enforced not later than 60 days from the date of service of the summons and complaint.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

§ 422. Enforcement.

Upon issuance of a Writ of Restitution by the Court of Central Jurisdiction law enforcement officers shall enforce the Writ of Restitution by evicting the defendants and their property from the premises which are unlawfully occupied. In all cases involving the Secretary, the Writ of Restitution shall be enforced not later than 60 days after the date of service of the summons and complaint.

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 4.

TITLE 13 - REPEALED

[REPEALED]

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 2.

Revisor's Note: Title 13 was repealed pursuant to Ordinance 61-21 and was enacted within Title 12 – Community Development as Chapters 1 and 2.

TITLE 14 - REPEALED

[REPEALED]

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 2.

Revisor's Note: Title 14 was repealed pursuant to Ordinance 61-21 and was enacted within Title 12 – Community Development as Chapter 3.

TITLE 15 – GAMING REGULATORY ACT

CHAPTER 2

DEPARTMENT OF ATHLETIC REGULATION

Subchapter

1. Athletic Regulation

Section

801

SUBCHAPTER 1

ATHLETIC REGULATION

Section

801. Professional Boxing and Mixed Martial Arts.

802. Purpose of the Department of Athletic Regulation.

803. Jurisdiction of the Department of Athletic Regulation Commission.

804. Department of Athletic Regulation Commission.

805. No Right of Action.

806. Medical Standards.

§ 801. Professional Boxing and Mixed Martial Arts.

- (a) This subchapter and the Rules and Regulations shall constitute the entire professional athletic activity laws, including amateur mixed martial arts (“MMA”), and regulations of the Band. No professional boxing, sparring, amateur mixed martial arts, or other professional athletic exhibitions shall be conducted, held, or given on the Mille Lacs Band of Ojibwe Reservation, except in accordance with the provisions of this subchapter and the Department’s Rules and Regulations adopted by the Department of Athletic Regulation (“DAR”).
- (b) The DAR, through its Executive Director and Athletic Regulation Commission, shall have the right to amend the Rules and Regulations as the need arises. The Band Assembly reserves the right to approve or revoke any changes to the DAR Rules and Regulations prior to implementation within 90 calendar days of receipt from the DAR. If no formal action is taken within the 90 calendar days, the change is automatically adopted.

Historical and Statutory Notes

Source:

Band Ordinance 45-06, § 1.
Band Ordinance 05-11, § I(2), Exh. A, § 801.
Band Ordinance 31-21.

§ 802. Purpose of the Department of Athletic Regulation.

- (a) With the exception of subsection (b), below, the purpose of the Department of Athletic Regulation is to regulate, administer, and oversee the conduct of all professional athletic, including professional boxing and amateur mixed martial arts, events held on the Mille Lacs Band of Ojibwe Reservation for the purpose of promoting the health, safety, and welfare of all persons engaged in such activities, and that of Band Members and the public. The Department of Athletic Regulation shall regulate such events through its Executive Director and Athletic Commissioners.
- (b) The Department of Athletic Regulation (“DAR”) may, upon invitation from another tribe or tribal entity, regulate a boxing or MMA event on behalf of such tribal entity for the purpose of promoting professionalism and safety in the sport. All such regulatory activities conducted on behalf of another tribe or tribal entity must be compensated by that tribe or tribal entity that extended the invitation to the DAR in an amount that is fair and reasonable, but no less than \$2,000.00 per event. Any monies earned in this manner by the DAR shall be deposited in the Band’s general fund within five (5) calendar days of the event.
- (c) The DAR Executive Director and at least two (2) Commission members shall be present at each place where amateur MMA or professional boxing, MMA or other professional athletic activities are to be held pursuant to the provisions of this subchapter. If the Executive Director is unable to attend such event due to illness or for any other reason, the Athletic Regulation Commission members shall oversee the regulation of such event.

Historical and Statutory Notes

Source:

Band Ordinance 45-06, § 2.
Band Ordinance 23-07, § I.
Band Ordinance 16-13, § 1.
Band Ordinance 31-21.

§ 803. Jurisdiction of the Department of Athletic Regulation Commission.

The Department of Athletic Regulation Commission shall have and is hereby vested with the sole discretion, management, control, and jurisdiction over all amateur and professional boxing, sparring, mixed martial arts, and other professional athletic exhibitions to be conducted, held, or given on the Mille Lacs Band of Ojibwe Reservation, and other Band Lands, and over all licensing of any and all persons who participate in such activities. All gyms, clubs, training camps, and other organizations that provide training facilities for persons preparing for participation in professional boxing, sparring, or mixed martial arts on Band lands are also included.

Historical and Statutory Notes

Source:

Band Ordinance 45-06, § 3.
Band Ordinance 05-11, § I(2), Exh. A, § 803.
Band Ordinance 31-21.

§ 804. Department of Athletic Regulation Commission.

- (a) **General.** The Department of Athletic Regulation shall be managed by an Executive Director and a five-member Board, referred to as the Athletic Regulation Commission (“Commission”). At all times, there shall be at least one (1) Commissioner from each District serving on the Athletic Regulation Commission. The Commission shall consist of five (5) members appointed in the following manner and have staggered terms as provided in subsection (b), below. The Commission shall have oversight of the Executive Director.
- (b) **Appointments process, terms, oath of office.** Each Commissioner shall be appointed using the following process:
 - (1) The Chief Executive shall nominate two (2) individuals and submit their names to the Secretary-Treasurer. Within ten (10) calendar days after receipt of the nominations by the Secretary-Treasurer, the Secretary-Treasurer shall ratify one (1) of the two (2) nominees to be a Commissioner on the Athletic Regulation Commission. Such Commissioner shall serve until September 30, 2008. Any subsequent appointment, other than to fill a vacancy that occurs prior to the end of a term, shall be for four (4) years.
 - (2) The Secretary-Treasurer shall nominate two (2) individuals and submit their names to the Chief Executive. Within ten (10) calendar days after receipt of the nominations by the Chief Executive, the Chief Executive shall ratify one (1) of the two (2) nominees to be a Commissioner of the Athletic Regulation Commission. Such Commissioner shall serve until September 30, 2008. Any subsequent appointment, other than to fill a vacancy that occurs prior to the end of a term, shall be for four (4) years.

- (3) Each District Representative shall nominate two (2) individuals and submit their names to the Chief Executive. Within ten (10) calendar days after receipt of the nominations by the Chief Executive, the Chief Executive shall ratify one (1) of the two (2) nominees to be a Commissioner of the Athletic Regulation Commission. Such Commissioner shall serve until September 30, 2009. Any subsequent appointment, other than to fill a vacancy that occurs prior to the end of a term, shall be for four (4) years.
- (4) If the Chief Executive or Secretary-Treasurer does not ratify one individual from any of the nominations sent to them within the time prescribed, then the Band Assembly shall select a Commissioner by majority vote.
- (5) If any person does not submit a nomination within 30 calendar days after a vacancy has occurred, then the Band Assembly shall nominate two (2) individuals by majority vote and submit their names to the Chief Executive for ratification to the Athletic Regulation Commission. The timing and process for ratification are as stated in clauses (1) and (4) above.
- (6) No person shall take office until swearing to the oath of office pursuant to 2 MLBS § 8.

(c) **Qualifications of Commissioners are as follows:**

- (1) Commissioners shall be individuals who are of high moral character and integrity, who have a reputation for being honest, fair, objective, and who are recognized as possessing sound judgment.
- (2) It is preferred that Commissioners be individuals with an interest in boxing or mixed martial arts or be individuals that have a background in amateur boxing, wrestling, or mixed martial arts.
- (3) Commissioners may not have been convicted of a felony within ten (10) years of the date of their appointment. Any Commissioner convicted of a felony during their term shall be automatically removed for such cause.
- (4) No fewer than three (3) Commissioners shall be Band members. There shall be at least one (1) Commissioner from each of the Band's three districts.
- (5) If the Corporate Commission or a Mille Lacs Band of Ojibwe gaming enterprise acts as a promoter in any type of amateur or professional athletic event to be regulated by the DAR, any Commissioner employed by the Corporate Commission or Band gaming enterprise, will not participate in the regulation of such event.
- (6) Commissioners shall be subject to criminal background investigations. The Office of Solicitor General shall conduct the criminal background investigation for the Athletic Regulation Commission and shall return the

results of an investigation to the Band Assembly within ten (10) business days of notice of ratification.

(d) **Commission officers.**

- (1) The Commission shall have a Chairperson, Vice-Chairperson, and a Secretary.
- (2) The Chairperson of the Commission shall be determined by a majority vote of the elected officials and selected from one of the current Commissioners or, if there is a vacancy, the individual who is appointed to fill such vacancy.
- (3) The Vice-Chairperson shall be selected by the Commission by majority vote.
- (4) The Secretary shall be selected by the Commission by majority vote.

(e) **Board duties and responsibilities.**

- (1) The Chairperson shall preside over meetings of the Commission and the Vice-Chairperson shall preside over meetings of the Commission in the absence of the Chairperson. The Secretary shall record, in writing, the minutes of all Board meetings and all official actions taken by the Commission. A copy of the minutes may be provided to the Band Assembly and Chief Executive upon request.
- (2) Commissioners shall serve part-time. The Commission shall meet a minimum of once per month, but no more than twice per month.
- (3) Each Commissioner is responsible for reading and reviewing the DAR Rules and Regulations, as well as this subchapter within 30 calendar days of her or his appointment to the Commission.
- (4) As part of each Commissioner's training, he or she shall, on a staggered basis, assist in pre-bout and post-bout duties and responsibilities, including weigh-ins, licensing, and payouts. Commissioners shall also work to ensure that all rules and regulations are followed during each athletic event.
- (5) As part of each Commissioner's training, he or she shall attend boxing inspection training at their earliest opportunity after appointment. Commissioners are also expected to take advantage of other types of trainings that may be offered locally to enhance their knowledge of the unarmed combat that they are appointed to regulate.

(f) **Vacancies.**

- (1) The DAR or Chairperson shall notify the Band Assembly and Chief Executive of any vacancy on the Commission at least 30 days prior to the end of term or,

in circumstances other than the end of a term, immediately upon the knowledge that a vacancy will occur.

- (2) If there is a vacancy on the Commission, then the vacancy shall be filled in the same manner as the vacating Commissioner who was originally appointed.
 - (3) Any Commissioner, including the Chairperson, appointed to fill a vacancy shall serve for the remainder of the vacant term. Any Commissioner may be re-appointed during this time period pursuant to subsection (c).
- (g) **Elected official.** No elected official shall serve as a Commissioner during her or his term of office.
- (h) **Removal.** A Commissioner may be removed by a super-majority vote of four (4) out of five (5) members of the elected officials. The determination of the elected officials is final and unappealable to the Court of Central Jurisdiction.
- (i) **Compensation.** Commissioners shall be paid two hundred fifty dollars (\$250.00) per attendance at official Department of Athletic Regulation meetings or events, not to exceed one thousand dollars (\$1,000.00) in one (1) month. Mileage and other travel expenses will be compensated on the same terms and conditions as applicable to Senior Executive Staff appointees as provided by Band law. Commissioner stipends are restricted to her or his attendance at official Department of Athletic Regulation meetings or events. For this subsection, “events” shall mean a pre-planned professional or amateur combative sport match including, but not limited to, boxing, mixed martial arts, and wrestling matches regulated by the Department of Athletic Regulation within the jurisdiction of the Non-Removable Mille Lacs Band of Ojibwe or as contracted with another federally recognized tribe.
- (j) **Training.**
- (1) Commissioners may attend one or more training seminars per year during their terms of membership. These seminars shall be sanctioned by the Association of Boxing Commissioners (“ABC) or other professional boxing or martial arts organization.
 - (2) Commissioners attending mandatory training seminars, who are also employees of the Band government, shall be compensated at their documented rate of pay for each hour they are in attendance at such training, plus mileage, and other travel expenses as stated in subsection (i) above. Commissioners, who are also employees of the Band government, shall not be required to use her or his accrued annual leave, but will be paid as if they were at work.
 - (3) Commissioners who are not Band government employees and are required to be absent from their employment to attend training pursuant to subsection (j)(1) above, shall be compensated at their previously documented hourly rate

of pay, but not to exceed fifteen dollars (\$15.00) per hour, for each hour that they are in attendance at such training, plus mileage, and other travel expenses as stated in paragraph (2) above.

(k) **Funding and Collection of Fees.** The DAR shall be funded as follows:

- (1) From ticket sales of unarmed combat events, there shall be a 10/90 split between the DAR and the appropriate Grand Casino budget. Ten percent (10%) shall be assigned to the DAR budget through the Office of Management and Budget.
- (2) The remaining budget requirements will be funded from Taxation Revenue to be appropriated each and every year by Band government budget process.
- (3) If an unarmed combat promoter chooses to negotiate a “4-wall” deal with Grand Casino, he or she shall be responsible for marketing and sale of tickets for such unarmed combat event. The promoter shall negotiate with Grand Casino as to all other matters except regulation. For regulation of a “4-wall” event, the promoter shall pay ten percent (10%) of the gross ticket sales to the DAR, but not to exceed two thousand five hundred dollars (\$2,500.00). If any comp has the potential to impact the regulation fee, the promoter shall be restricted to “comp” no more than ten percent (10%) of the gross ticket sales. Within ten (10) calendar days of the event, the promoter shall file a written report with the DAR listing all ticket sales and comps of the “4-wall” event.
- (4) The minimum payment to the DAR from a promoter for the regulation of any unarmed combat “4-wall” event shall be one thousand dollars (\$1,000.00). Such amount shall be paid according to the timeline established under the DAR Rules and Regulations.

Historical and Statutory Notes

Source:

Band Ordinance 45-06, § 4.
Band Ordinance 05-07.
Band Ordinance 23-07, § II.
Band Ordinance 05-11, § I(2), Exh. A, § 804.
Band Ordinance 31-21.
Band Ordinance 34-21.

§ 805. No Right of Action.

This subchapter does not create any right, cause of action, or benefit enforceable at law or in equity by any individual, entity, or party against the Non-Removable Mille Lacs Band of Ojibwe, its representatives, elected officials, Athletic Department, or the Commission.

Historical and Statutory Notes

Source:

Band Ordinance 45-06, § 5.
Band Ordinance 31-21.

§ 806. Medical Standards.

For each World Championship Event and all televised events, there shall be two (2) ringside physicians present at each professional boxing or mixed martial arts (“MMA”) or other professional athletic event. For all other non-championship athletic events or non-televised events, there shall be one (1) ringside physician present. At the earliest opportunity, all such physicians shall be registered with and attend training sessions with the American Association of Professional Ringside Physicians (“AAPRP”). All ringside physicians must be licensed in the United States and have professional qualifications suitable to professional boxing or mixed martial arts. Accepted medical background includes, but is not limited to, internal medicine, neurology, or general practice. All regulations adopted with the passage of this subchapter shall be followed.

Historical and Statutory Notes

Source:

Band Ordinance 45-06, § 6.
Band Ordinance 23-07, § III.
Band Ordinance 05-11, § I (2), Exh. A, § 806.

TITLE 17 – BANKS AND BANKING

CHAPTER 2

MILLE LACS BAND OF OJIBWE FOUNDATION

Section

- 101. Definitions.
- 102. Establishment of the Advisory Committee.
- 103. Composition of the Advisory Committee.
- 104. Chairperson of the Advisory Committee.
- 105. Vice-Chairperson of the Advisory Committee.
- 106. Powers and Duties of the Advisory Committee.
- 107. Limits on Distributions.
- 108. Null and Void Recommendations.
- 109. Advisor to the Advisory Committee.
- 110. Sovereign Immunity.

§ 101. Definitions.

Unless otherwise provided in this section, all words in this chapter shall be construed according to their ordinary meaning. The following terms are defined for purposes of this chapter:

- (a) **“Distribution”** means a disbursement of monies or other assets from the Fund in accordance with this chapter and Advisory Committee bylaws.
- (b) **“Fund”** means the Mille Lacs Band of Ojibwe Foundation.
- (c) **“St. Paul and Minnesota Foundation”** means the St. Paul and Minnesota Foundation or its successor organization.

Historical and Statutory Notes

Sources:

Band Ordinance 25-21.

§ 102. Establishment of the Advisory Committee.

The Mille Lacs Band of Ojibwe establishes the Advisory Committee to the Fund for the purpose of recommending to the Foundation distributions from the Fund to qualifying organizations.

Historical and Statutory Notes

Sources:

Band Ordinance 25-21.

§ 103. Composition of the Advisory Committee.

The Advisory Committee shall consist of the Chief Executive, the Secretary-Treasurer, and the three (3) popularly elected District Representatives. All five (5) members of the Advisory Committee shall be voting members.

Historical and Statutory Notes

Sources:

Band Ordinance 25-21.

§ 104. Chairperson of the Advisory Committee.

The Secretary-Treasurer shall serve as the Chairperson of the Advisory Committee. The Chairperson shall have the following duties:

- (a) to preside over the meetings of the Advisory Committee;
- (b) to communicate to the St. Paul and Minnesota Foundation in writing the name and address of the Chairperson;
- (c) to communicate to the St. Paul and Minnesota Foundation in writing all recommendations for distributions from the Fund passed by a majority vote of the Advisory Committee;
- (d) to communicate to the St. Paul and Minnesota Foundation in writing the name and address of the incoming Chairperson at least two (2) weeks prior to the seating of an incoming Chairperson;
- (e) to be solely responsible for all other communications to and from the St. Paul and Minnesota Foundation; and
- (f) to perform any other duties laid out in the bylaws of the Advisory Committee.

Historical and Statutory Notes

Sources:

Band Ordinance 25-21.

§ 105. Vice-Chairperson of the Advisory Committee.

The Chief Executive shall serve as Vice-Chairperson of the Advisory Committee. The Vice-Chairperson shall have the following duties:

- (a) to preside over meetings of the Advisory Committee in the absence of the Chairperson; and
- (b) to perform any other duties laid out in the bylaws of the Advisory Committee.

Historical and Statutory Notes

Sources:

Band Ordinance 25-21.

§ 106. Powers and Duties of the Advisory Committee.

- (a) The Advisory Committee shall:
 - (1) adopt bylaws by majority vote that are consistent with the provisions of this chapter;
 - (2) consult with the Commissioner of Finance prior to recommending any distribution from the Fund;
 - (3) communicate in writing, through the Chairperson, recommendations for distributions from the Fund to the St. Paul and Minnesota Foundation;
 - (4) announce or otherwise publish the name of each recipient organization and the purposes for which each approved distribution will be used;
 - (5) evaluate all applications that meet the standards established by the Advisory Committee, provided that the Advisory Committee has elected to solicit applications for distributions; and
 - (6) determine by majority vote which complete applications shall be recommended for distributions from the Fund and in what dollar amount and

priority, provided that the Advisory Committee has elected to solicit applications for distributions.

- (b) The Advisory Committee may:
- (1) solicit applications for distributions from the Fund; and
 - (2) establish procedures for solicitation of applications for distributions from the Fund, which if created shall specify:
 - (i) the information that applicants shall provide to the Advisory Committee before the application shall be considered complete;
 - (ii) the deadline for the receipt of the applications;
 - (iii) the timeframes in which the Advisory Committee shall consider applications;
 - (iv) the eligibility requirements to apply for distributions from the Fund established by the Advisory Committee or by rule of law; and
 - (v) the purposes for which distributions may be made from the Fund, including educational, cultural, environmental, or any other permissible charitable purpose under law.

Historical and Statutory Notes

Sources:

Band Ordinance 25-21.

§ 107. Limits on Distributions.

The Advisory Committee may establish in its bylaws an aggregate annual limit on distributions from the Fund and limitations on the maximum allowable distribution to any single applicant.

Historical and Statutory Notes

Sources:

Band Ordinance 25-21.

§ 108. Null and Void Recommendations.

- (a) Recommendations for distributions from the Fund shall be null and void if the recommendation meets any of the following criteria:
 - (1) a recommendation the recipient of which is an organization that does not meet the eligibility requirements for distributions from the Fund set by the Advisory Committee or by rule of law;
 - (2) a recommendation that is communicated to the St. Paul and Minnesota Foundation by any person other than the Chairperson of the Advisory Committee; or
 - (3) a recommendation that was approved in violation of the procedures established in this chapter, the bylaws of the Advisory Committee, or the policies of the St. Paul and Minnesota Foundation.
- (b) The Chairperson may not knowingly communicate to the St. Paul and Minnesota Foundation any recommendation that is null and void. If the Chairperson does communicate to the St. Paul and Minnesota Foundation a recommendation that is null and void, the Chairperson shall, immediately after learning that the recommendation is null and void, communicate to the St. Paul and Minnesota Foundation that such recommendation is null and void.

Historical and Statutory Notes

Sources:

Band Ordinance 25-21.

§ 109. Advisor to the Advisory Committee.

The Commissioner of Finance shall maintain financial records relevant to the deliberations of the Advisory Committee and advise the Advisory Committee as to the remaining amount of distributable funds prior to any vote by the Advisory Committee on any application for a distribution from the Fund.

Historical and Statutory Notes

Sources:

Band Ordinance 25-21.

§ 110. Sovereign Immunity.

Nothing in this chapter, nor any communication from the Advisory Committee to applicants or the St. Paul and Minnesota Foundation, shall be construed as waiving the sovereign immunity of the Mille Lacs Band of Ojibwe.

Historical and Statutory Notes

Sources:

Band Ordinance 25-21.

TITLE 21 – REAL AND PERSONAL PROPERTY

CHAPTER 4

FORCIBLE ENTRY AND UNLAWFUL DETAINER

<u>Subchapter</u>	<u>Section</u>
1. General Provisions	301
2. Unlawful Removal or Exclusion: Recovery of Possession	341
3. Additional Remedies	371

SUBCHAPTER 1

GENERAL PROVISIONS

Section

- 301. Recovery of Premises.
- 302. Limitation of Actions.
- 303. Complaint and Summons.
- 304. Answer and Hearing.
- 305. Adjournment.
- 306. Judgement, Execution, Non-Emergency Writ of Restitution, and Emergency Writ of Restitution.
- 307. Failure to Reach a Verdict.
- 308. Notice of Appeal.
- 309. Appeals.
- 310. Form of Verdict or Finding.
- 311. Form of Summons and Writ of Restitution.
- 312. Execution of Writ of Restitution.

§ 301. Recovery of Premises.

- (a) No person shall make entry into lands or tenements except in cases where his entry is allowed by law and in such cases he shall not enter by force but only in a peaceable manner.
- (b) When any person has made unlawful or forcible entry into lands or tenements and detains the same, or having peaceably entered, unlawfully detains the same, the

person entitled to the premises may recover possession thereof in the manner hereinafter provided.

(c)

(1) When any person holds over lands or tenements after a sale thereof on an execution or judgment, or on foreclosure of a mortgage an expiration of the time for redemption or after termination of contract to convey the same, or after termination of the time for which they are demised or let to him or to the persons under whom he holds possession, or contrary to the conditions or covenants of the lease or agreement under which he holds, or after any rent becomes due according to the terms of such lease or agreement, or when any tenant at will holds over after the determination or any such estate by notice to quit, in all such cases the person entitled to the premises any recover possession thereof, in the manner hereinafter provided.

(2)

(i) It shall be a defense to an action for recovery of premises following the alleged termination of a tenancy by notice to quit for the defendant to prove by a fair preponderance of the evidence that:

(A) The alleged termination was intended in whole or part as a penalty for the defendant's good faith attempt to secure or enforce rights under a lease or contract, oral or written, or under the laws of the Non-Removable Mille Lacs Band of Chippewa Indians.

(B) The alleged termination was intended in whole or part as a penalty for the defendant's report to a governmental authority of the plaintiff's violation of any health, safety, housing or building codes or ordinances.

(ii) If the notice to quit was served within ninety days of the date of any act of the tenant coming within the terms of clause (A) or (B) of subparagraph (i) the burden of proving that the notice to quit was not served in whole or part for the retaliatory purpose shall rest with the plaintiff.

(3) In any proceeding for the restitution of premises upon the ground of nonpayment of rent, it shall be a defense thereto, if the tenant establishes by a preponderance of the evidence that the plaintiff increased the tenant's rent or decreased the services as a penalty in whole or part for any lawful act of the tenant as described in § 301 (c)(2)(i)(B), providing that the tenant tender to the Court or to the plaintiff the amount of rent due and payable under his original obligation.

- (d) Nothing contained herein shall limit the right of the lessor pursuant to the provisions of § 301 (c)(2)(i)(B), to terminate a tenancy for a violation by the tenant of a lawful, material provision of a lease or contract, whether written or oral, or to hold the tenant liable for damage to the premises caused by the tenant or a person acting under his direction or control.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 6.

Cross References

Additional remedy for tenants, *see* 21 MLBS § 341.

§ 302. Limitation of Actions.

No restitution shall be made under this chapter of any lands or tenements of which the part complained of, or his ancestor, or those under whom he hold the premises, have been in quiet possession for three years next before the filing of the complaint, after the determination of the leasehold estate that he may have had therein.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 6.03.

§ 303. Complaint and Summons.

The person complaining shall file a complaint with a Magistrate describing the premises of which possession is claimed, stating the facts which authorize the recovery and praying for restitution thereof. The Magistrate shall thereupon issue a summons, commanding the person against whom such complaint is made to appear before him on a day and at a place in such summons named, which shall not be less than three, nor more than ten days from the day of issuing the same. A copy of the complaint shall be attached to the summons, which shall state that it is so attached and that the original has been filed. All summons shall be served in accordance with 24 MLBS § 2001 et seq.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 6.04.

§ 304. Answer and Hearing.

After the return of the summons at the time and place appointed therein, if the defendant appeared, he may answer the complaint and all matters in excuse, justification or avoidance of the allegations thereof, shall be set up in the answer and thereupon, the Magistrate shall hear and determine the action, unless he shall adjourn the trial as provided in 21 MLBS § 305, but either party may demand a trial by jury. The proceedings in such action shall be the same as in other civil actions in a Magistrate's Court, except as in this chapter, otherwise provided.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 6.05.

§ 305. Adjournment.

The Magistrate, in his discretion, may adjourn the trial, but not beyond six days after the return day, unless by consent of parties; but in all cases mentioned in 21 MLBS § 301, except in an action upon a written lease signed by both parties thereto, if the defendant, his agent or attorney shall make oath that he cannot safely proceed to trial for want of a material witness, naming him and that he has made due exertion to obtain the witness and believes that, if such adjournment be allowed, he will be able to procure the attendance of such witness at the trial or his deposition and shall give bond conditioned to pay to the plaintiff all rent which may accrue during the pendency of the action and all costs and damages consequent upon such adjournment, the Magistrate shall adjourn the trial for such time as may appear necessary, not exceeding three months.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 6.06.

§ 306. Judgement, Execution, Non-Emergency Writ of Restitution, and Emergency Writ of Restitution.

- (a) **Non-Emergency Writ of Restitution.** If upon the trial, the Magistrate or jury find for the plaintiff, the Magistrate shall immediately thereupon, enter judgment that the plaintiff have restitution of the premises and tax the cost for him or her. The Magistrate shall issue execution in favor of the plaintiff for such costs and also immediately issue a non-emergency writ of restitution. No stay of the non-emergency writ of restitution may be granted except upon a showing by the defendant that the restitution would work a substantial hardship upon the defendant. Upon a proper showing by the defendant of substantial hardship, the Magistrate may stay the non-emergency writ of restitution for a reasonable period not to exceed seven days, except that no stay of the non-emergency writ of restitution shall extend later than three days

prior to the date the rent is next due. If the Magistrate or jury shall find for the defendant, he shall enter judgment for the defendant, tax the costs against the plaintiff and issue execution therefore.

(b) **Personal Property.** No personal property shall be seized after entry of any judgment, by any law enforcement officer of the Band, or any other person, if said seizure involves a basic life-sustaining item required for the general welfare of any person under the jurisdiction of the Band between November 1-April 15, of any year.

(c) **Emergency Writ of Restitution.**

(1) An emergency writ of restitution, not available pursuant to the unlawful detainer procedure set forth in 21 MLBS § 301 et. seq., may be issued only in cases involving transitional housing and trespassers occupying Band-owned rental and elder units and used when it is imperative that the Band obtain or reacquire immediate possession (within 24 hours) of a Band-owned transitional, rental or elder unit due to:

(i) illegal drug activity;

(ii) abandonment; or

(iii) conduct that is either violent or harmful to the tribal community.

(2) Substance abuse of any kind in transitional housing and the prevention of substantial property damage to a Band-owned transitional, rental or elder unit in cases involving trespassers shall also justify the issuance of an emergency writ of restitution.

(3) If the Band possesses probable cause to believe that an occupant has engaged in any activity justifying the issuance of an emergency writ of restitution as stated in § 306 (c)(1) above, the Band may petition by motion to the Court of Central Jurisdiction for an emergency writ of restitution to be immediately enforced with the full assistance of the Mille Lacs Tribal Police Department. Upon the Band's showing of evidence of activity justifying the issuance of an emergency writ of restitution, the Court shall issue the same without the need of a hearing.

(4) The Band may also by administrative order issue an emergency writ of restitution if it is signed by three (3) Executive Officers listed in 4 MLBS § 4. The administratively issued emergency writ of restitution shall have the same force and effect as an emergency writ of restitution issued by the Court of Central Jurisdiction and shall describe the factual circumstances creating the need for immediate action. Upon the issuance of an administrative emergency writ of restitution, an Enforcement Officer of Tribal Police will serve a copy of the emergency writ of restitution on the occupant(s) and enforce it without

delay. After enforcement, the Band shall file a copy of the administratively issued emergency writ of restitution with the Court of Central Jurisdiction. Upon filing, the Court shall schedule a hearing where the Band must submit evidence justifying the issuance of the administrative emergency writ of restitution consistent with § 306 (c)(1) above.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, §§ 6.07, 6.10.
Band Ordinance 48-21, § 1.

Cross References

Petition, unlawful removal or exclusion of tenant, *see* 21 MLBS § 345.

§ 307. Failure to Reach a Verdict.

If the jury cannot agree upon a verdict, the Magistrate may discharge them, and issue a venire, returnable forthwith, or at some other time agreed upon by the parties or fixed by the justice for the purpose of impaneling a new jury.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 6.08.

§ 308. Notice of Appeal.

If the party against whom judgment for restitution is rendered or his attorney state to the Magistrate that he intends to take an appeal, a writ of restitution shall not issue for 72 hours after judgment. In an action on a lease, against a tenant holding over after the expiration of the term thereof, or a termination thereof, by a notice to quit, such writ may issue forthwith notwithstanding such notice of appeal, if the plaintiff give a bond conditioned to pay all costs and damages in case on the appeal the judgment of restitution be reversed and a new trial ordered.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 6.09.

§ 309. Appeals.

If either party feels aggrieved by the judgment he may appeal within ten days as in other cases triable before Magistrates except that if the party appealing remains in possession of the premises, his bond shall be conditioned to pay all costs of such appeal and abide the order the Court may make therein and pay all rents and other damages justly accruing to the part excluded from possession during the pendency of the appeal. Upon the taking of such appeal all further proceedings in the case shall be stayed, except that in an action on a lease against a tenant holding over after the expiration of the term thereof, or termination thereof, by notice to quit, if the plaintiff give bond as provided in 21 MLBS § 308, a writ of restitution shall issue as if no appeal had been taken and the appellate court shall thereafter issue all needful writs and processes to carry out any judgment which may be rendered in such court.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 6.10.

§ 310. Form of Verdict or Finding.

The verdict of the jury or the finding of the Court in favor of the Plaintiff in an action under this Chapter shall be substantially in the following form:

At Court held at _____, on the _____ day of _____, 20____, before _____, a _____ Magistrate in and for the County of _____, in an action between _____ Plaintiff, and _____ Defendant, the jury (or, if the action be tried without a jury, the Court) find that the facts alleged in the complaint are true, and the said Plaintiff ought to have restitution of the premises therein described without delay. If the verdict or finding be for the Defendant, it shall be sufficient to find that the facts alleged in the complaint are not true.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 6.11.

§ 311. Form of Summons and Writ of Restitution.

The summons and writ of restitution may be substantially in the following form:

FORM OF SUMMONS

Non-Removable Mille Lacs Band of Chippewa Indians

) ss.

District of _____)

Whereas, _____ of _____, hath filed with the undersigned, a Magistrate in and for said District, a complaint against _____, of _____, a copy whereof is hereto attached; Therefore, you are hereby summoned to appear before the undersigned on the _____ day of _____, 20____, at __ o'clock __m, at _____, then and there to make answer to and defend against the complaint aforesaid, and further to be dealt with according to law.

Dated at _____, this _____ day of _____ 20 _____.

Magistrate

FORM OF WRIT OF RESTITUTION

Non-Removable Mille Lacs Band of Chippewa Indians

) ss.

District of _____

The Non-Removable Mille Lacs Band of Chippewa Indians to any law enforcement officer of the Band aforesaid:

Whereas, _____, Plaintiff, of _____, in an action for an unlawful or forcible entry and detainer (or for an unlawful detainer, as the case may be) at a Court held at _____, in the District aforesaid, on the _____ day of _____, 20 _____, before _____, a Magistrate in and for said District, by the consideration of the Court recovered a judgment against _____, of _____, to have restitution of (here described the premises as in the complaint).

Therefore, you are hereby commanded that, taking with you the force of the District, if necessary, you cause the said _____ to be immediately removed from the aforesaid premises and the said _____ to have peaceable restitution of the same. You are also hereby commanded that of the goods and chattel of the said _____ with said District you cause to be levied, and the same being disposed of according to law, to be paid to the said _____ the sum of _____ dollars, being the costs taxed against the said _____ for the said _____ at the Court aforesaid together with \$1.00 for this writ; and thereof, together with this writ, make due return within thirty days from the date hereof, according to law.

Dated at _____, this _____ day of _____ 20 _____.

Magistrate

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, §§ 6.12, 6.13.

§ 312. Execution of Writ of Restitution.

The officer holding the writ of restitution shall execute the same by making a demand upon defendant if he can be found in the District or any adult member of his family holding possession of the premises, or other person in charge thereof, for the possession of the same and that the defendant remove himself, his family and all of his personal property from such premises within 24 hours after such demand. If defendant fail to comply with the demand, then the officer shall take with him necessary, the force of the District and whatever assistance may be necessary, at the cost of the complainant, remove the said defendant, his family and all his personal property from said premises detained, immediately and place the plaintiff in the possession thereof. In case defendant cannot be found in the District, and there is no person in charge of the premises detained, so that no demand can be made upon the defendant, then the officer shall enter into the possession of the premises, breaking in if necessary and remove all property of the defendant at the expense of the plaintiff. The plaintiff shall have a lien upon all of the goods upon the premises for the reasonable costs and expenses incurred for removing the personal property and for the proper caring and storing the same and the costs of transportation of the same to some suitable place of storage, in case defendant shall fail or refuse to make immediate payment for all the expenses of such removal from the premises and plaintiff shall have the right to enforce such lien by detaining the same until paid, and in case of non-payment for 60 days after the execution of the writ, shall have the right to enforce his lien and foreclose the same by public sale as provided for in case of sales.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 6.14.

Cross References

Additional remedy for tenants, *see* 21 MLBS § 341.

Petition, unlawful removal or exclusion of tenant, *see* 21 MLBS § 345.

TITLE 24 - JUDICIAL PROCEEDINGS

CHAPTER 2

CRIMINAL CAUSES OF ACTION

<u>Subchapter</u>	<u>Section</u>
1. General Provisions	1001
2. Department of Justice	1051
3. Offenses Involving Damage to the Person	1101
4. Offenses Against Property	1151
5. Offenses Against Public Administration	1201
6. Offenses Against Public Order, Health and Decency	1251
7. Wiidookodaadiwag	1301
8. Band Member Legal Services	1331

SUBCHAPTER 2

DEPARTMENT OF JUSTICE

Section

1051. Creation.

1052. Powers and Duties of Department of Justice.

1053. Department of Justice Members.

1054. Powers and Duties of Solicitor General.

1055. Powers and Duties of Chief Law Enforcement Officer.

1056. Meetings.

§ 1051. Creation.

There is hereby created a Department of Justice within the Executive Branch of Government in and for the constituent Bands of the Non-Removable Mille Lacs Band of Chippewa Indians for the expressed purpose of protecting the general welfare and safety of all those who enter lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians.

Historical and Statutory Notes

Source:

Band Statute 1164-MLC-6, § 2.

§ 1052. Powers and Duties of Department of Justice.

The Department of Justice is hereby authorized to promulgate policy governing the conduct and employment rules and regulations of all law enforcement of the Non-Removable Mille Lacs Band of Chippewa Indians in the interest of fair, equal and impartial enforcement of all laws of the Band. The Department of Justice shall have the power to review all actions of any law enforcement officer and to hold hearings upon receipt of any complaint from any enrolled member of the Non-Removable Mille Lacs Bands of Chippewa Indians. The Department of Justice shall have power to seek financial assistance from the United States, any of its subdivisions or any private foundation in the interests of enhancing the development of law enforcement and judiciary in general. The Department of Justice shall be authorized to take whatever lawful actions are deemed necessary in the interests of improving the general public interests, faith and confidence in the judicial systems.

Historical and Statutory Notes

Source:

Band Statute 1164-MLC-6, § 2.01.

§ 1053. Department of Justice Members.

The Department of Justice shall consist of the following:

- (a) Solicitor General, Deputy Solicitor General(s), and legal support staff;
- (b) Chief Law Enforcement Officer, Deputy Law Enforcement Officers and staff; and
- (c) MLBO Compliance Officer and staff.

The Solicitor General shall exercise day-to-day supervision over the Department of Justice.

Historical and Statutory Notes

Source:

Band Statute 1164-MLC-6, § 3.
Band Ordinance 16-09, § 1, Section 1053.
Band Ordinance 52-21, § 1.

Cross References

Solicitor General, *see* 4 MLBS § 17 et seq.

§ 1054. Powers and Duties of Solicitor General.

The Solicitor General shall be the leader of the Department of Justice (“Department”) and have the following authority:

- (a) To convene the department for due cause at any time. In the event that she or he fails to do so upon request of any two members of the Department, the Department may be convened after 48 hours written notice by any member of the Department.
- (b) As an appointed official and the Band's lead attorney, the Solicitor General is responsible to all Mille Lacs Band of Ojibwe elected officials.
- (c) The Solicitor General shall have the responsibility for ensuring the enforcement of all the laws of the Mille Lacs Band of Ojibwe.
- (d) The Solicitor General shall have a duty to supervise investigations of potential violations of the law.
- (e) The Solicitor General shall prosecute any and all violators of the law.
- (f) The Solicitor General's primary allegiance shall be to the laws of the Band and not to the Executive Branch. The Solicitor may conduct investigations and prosecute members of the Executive Branch, as well as the Legislative or Judicial Branches within the parameters of Band law.
- (g) The Solicitor General shall have the supervisory and administrative control of the Justice Department including Deputy Solicitor General(s) and staff, Law Enforcement Officers and staff, and MLBO Compliance Officer and staff.
- (h) The Solicitor General shall review the laws of the Mille Lacs Band of Ojibwe to assure their compliance with the Indian Civil Rights Act (25 U.S.C.A. § 1302).
- (i) The Solicitor General shall supervise and advise the Chief Law Enforcement Officer as to her or his duties and obligations.
- (j) The Solicitor General is authorized to perform background investigations for purposes of employment and election purposes.

Historical and Statutory Notes

Source:

Band Statute 1164-MLC-6, § 4.
Band Ordinance 16-09, §§ 1, 1054.
Band Ordinance 18-14.
Band Ordinance 52-21, § 1.

Cross References

Division of powers, *see* 2 MLBS § 3.
Solicitor General, *see* 4 MLBS § 17 et seq.

§ 1055. Powers and Duties of Chief Law Enforcement Officer.

The Chief Law Enforcement Officer shall have the following authority in the exercise of enforcement powers of Band government:

- (a) The Chief Law Enforcement Officer shall have the authority to enforce the laws of the Non-Removable Mille Lacs Bands of Chippewa Indians.
- (b) The Chief Law Enforcement Officer shall have the duty to promote public safety, protect members of the Band and Band property, preserve the peace, and enforce all Band laws.
- (c) The Chief Law Enforcement Officer shall have the authority to delegate his powers and duties to other officers under his command.
- (d) The Chief Law Enforcement Officer and other Officers under his command shall have the authority to make arrests. Law Enforcement Officers all have the authority to carry handguns, other firearms, and other weaponry for their personal protection and protection of others.
- (e) The Chief Law Enforcement Officer shall work with other law enforcement agencies to promote the peace.

Historical and Statutory Notes

Source:

Band Statute 1164-MLC-6, § 5.

Cross References

Domestic abuse prevention, immunity of Law Enforcement Officers, *see* 8 MLBS § 415.
Warrant, summons and arrest, *see* 24 MLBS § 4101 et seq.

§ 1056. Meetings.

The Department of Justice shall meet as it may deem necessary. Its meetings shall be tape recorded, transcribed and distributed to the Chief Executive, Speaker of the Assembly and the Chief Justice within five days following said meetings. The Solicitor General shall be responsible for compliance and he shall consider said minutes to be classified and prohibit any further distribution of such. The minutes shall be prima facie evidence of the facts therein state.

Historical and Statutory Notes

Source:

Band Statute 1164-MLC-6, § 6.

SUBCHAPTER 7

WIIDOOKODAADIWAG

Section

- 1301. Definitions.
- 1302. Authority to Possess and Administer Opiate Antagonists; Release from Liability.
- 1303. Health Care Professionals; Release from Liability.
- 1304. Individuals Seeking Medical Assistance; Immunity from Prosecution.
- 1305. Individual Experiencing an Overdose; Immunity from Prosecution.
- 1306. Persons on Probation or Release.
- 1307. Effect on Criminal Prosecutions.

§ 1301. Definitions.

The following terms are defined for the purposes of this subchapter:

- (a) **“Drug-related overdose”** means an acute condition, including mania, hysteria, extreme physical illness, or coma, resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance was combined, and that a layperson would reasonably believe to be a drug overdose that requires immediate medical assistance.
- (b) **“Good faith”** does not include seeking medical assistance during the course of the execution of an arrest warrant or search warrant or a lawful search.
- (c) **“Individual”** means a human being.
- (d) **“Opiate antagonist”** means naloxone hydrochloride or any similarly acting drug approved by the federal Food and Drug Administration for the treatment of a drug overdose.

Historical and Statutory Notes

Source:

Band Ordinance 48-21, § 2.

§ 1302. Authority to Possess and Administer Opiate Antagonists; Release from Liability.

- (a) An individual who is not a health care professional may possess or administer an opiate antagonist that is prescribed, dispensed, or distributed by a licensed health care professional pursuant to § 1303.

- (b) An individual who is not a health care professional who acts in good faith in administering an opiate antagonist to another person whom the person believes in good faith to be suffering a drug overdose is immune from criminal prosecution for the act and is not liable for any civil damages for acts or omissions resulting from the act.

Historical and Statutory Notes

Source:

Band Ordinance 48-21, § 2.

§ 1303. Health Care Professionals; Release from Liability.

A licensed health care professional who is permitted by law to prescribe an opiate antagonist, if acting in good faith, may directly or by standing order prescribe, dispense, distribute, or administer an opiate antagonist to an individual without being subject to civil liability or criminal prosecution for the act. This immunity shall apply even when the opiate antagonist is eventually administered in either or both of the following instances:

- (a) by someone other than the individual to whom it is prescribed; or
- (b) to someone other than the individual to whom it is prescribed.

Historical and Statutory Notes

Source:

Band Ordinance 48-21, § 2.

§ 1304. Individuals Seeking Medical Assistance; Immunity from Prosecution.

An individual acting in good faith who seeks medical assistance for another individual who is experiencing a drug-related overdose may not be charged with or prosecuted for the possession, sharing, or use of a controlled substance under Title 23. An individual qualifies for the immunities provided in this section if:

- (a) the evidence for the charge or prosecution was obtained as a result of the individual's seeking medical assistance for another individual; and
- (b) the individual seeks medical assistance for another person who is in need of medical assistance for an immediate health or safety concern, provided that the individual who seeks the medical assistance is the first person to seek the assistance, provides his or her name and contact information, remains on the scene until assistance arrives or is provided, and cooperates with the authorities.

Historical and Statutory Notes

Source:

Band Ordinance 48-21, § 2.

§ 1305. Individual Experiencing an Overdose; Immunity from Prosecution.

An individual who experiences a drug-related overdose and is in need of medical assistance may not be charged with or prosecuted for possession of a controlled substance under Title 23 or possession of drug paraphernalia. An individual qualifies for the immunities provided in this section only if the evidence for the charge or prosecution was obtained as a result of the drug-related overdose and the need for medical assistance.

Historical and Statutory Notes

Source:

Band Ordinance 48-21, § 2.

§ 1306. Persons on Probation or Release.

An individual's pretrial release, probation, furlough, supervised release, or parole shall not be revoked on the basis of an incident for which the individual would be immune from criminal prosecution under § 1304.

Historical and Statutory Notes

Source:

Band Ordinance 48-21, § 2.

§ 1307. Effect on Criminal Prosecutions.

- (a) The act of providing first aid or other medical assistance to someone who is experiencing a drug-related overdose may be used as a mitigating factor in a criminal prosecution for which immunity is not provided.
- (b) Nothing in this subchapter shall:
 - (1) be construed to bar the admissibility of evidence obtained in connection with the investigation or prosecution of other crimes or violations committed by an individual who otherwise qualifies for limited immunity under this subchapter;
 - (2) preclude the prosecution of a person on the basis of evidence obtained from an independent source;

- (3) be construed to limit, modify, or remove any immunity from liability currently available to public entities, public employees by law, or prosecutors; or
- (4) prevent probation officers from conducting drug testing of persons on pretrial release, probation, furlough, supervised release, or parole.

Historical and Statutory Notes

Source:

Band Ordinance 48-21, § 2.

SUBCHAPTER 8

BAND MEMBER LEGAL SERVICES

Section

1331. Definitions.

1332. Band Member Legal Services.

1333. Number and Appointment of Directors.

1334. Removal of Directors.

1335. Qualifications of Directors.

1336. Term of Office.

1337. Duties of the Board.

1338. Managing Attorney of Band Member Legal Services.

1339. Duties of the Managing Attorney of Band Member Legal Services.

1340. Service Area of Band Member Legal Services.

1341. Limitations on Representation by Band Member Legal Services.

§ 1331. Definitions.

The following terms are defined for the purposes of this subchapter:

- (a) **“Board”** means the board of directors of Band Member Legal Services.
- (b) **“Director”** means a member of the board.
- (c) **“Drug crime”** means any federal crime involving the possession or sale of illicit drugs, a state first or second-degree controlled substance crime, or any other crime for the sale of an illicit drug.

- (d) **“Good cause”** means any reason set forth in the personnel policy manual established under 6 MLBS § 1 or any reason recognized under the common law.
- (e) **“Indigent defense services”** means legal representation provided to those individuals who qualify to receive legal representation, whether free or otherwise, under the standards promulgated by the board.
- (f) **“Tribal public defender”** means an attorney employed by or contracted with Band Member Legal Services for the purpose of providing indigent defense services.

Historical and Statutory Notes

Source:

Band Ordinance 52-21, § 2.

§ 1332. Band Member Legal Services.

Band Member Legal Services shall be an independent entity established to provide indigent defense services to Band members, whose funding shall be provided by appropriations by the Band Assembly and, to the extent possible, by charitable or grant funds provided by outside entities. Band Member Legal Services shall be under the administrative control of the board.

Historical and Statutory Notes

Source:

Band Ordinance 52-21, § 2.

§ 1333. Number and Appointment of Directors.

The board shall consist of five (5) directors, who shall be appointed as follows:

- (a) one (1) director appointed by the District I Representative;
- (b) one (1) director appointed by the District II Representative;
- (c) one (1) director appointed by the District III Representative;
- (d) one (1) director appointed by the Chief Executive; and
- (e) one (1) director appointed by the Chief Justice.

Historical and Statutory Notes

Source:

Band Ordinance 52-21, § 2.

§ 1334. Removal of Directors.

Directors may be removed for good cause by the individual by whom the director was appointed to the board. A vacancy caused by removal or for any other reason shall be filled in a timely manner by the relevant appointing individual as identified under § 1333.

Historical and Statutory Notes

Source:

Band Ordinance 52-21, § 2.

§ 1335. Qualifications of Directors.

Directors must be attorneys licensed to practice law in the State of Minnesota, under the laws of the Band, or both. Directors shall remain in good standing with the bar of the relevant jurisdiction or jurisdictions during their term.

Historical and Statutory Notes

Source:

Band Ordinance 52-21, § 2.

§ 1336. Term of Office.

- (a) Initially, the directors appointed under § 1333(a) and (b) shall serve until December 31 of the year in which they were appointed, the directors appointed under § 1333(c) and (d) shall serve for two (2) years, and the director appointed under § 1333(e) shall serve for three (3) years.
- (b) All directors after the initial directors shall serve three (3) year terms. The term of office for directors shall begin on January 1 of the calendar year in which the appointment was due to be made and shall end on December 31 of the final year of the director's three (3) year term.
- (c) Any director appointed to fill a vacancy in the board shall serve until December 31 of the year in which that position on the board would normally be filled. At that time, the term will be completed and the appointing individual shall make an appointment for a full three (3) year term in that position.

Historical and Statutory Notes

Source:

Band Ordinance 52-21, § 2.

§ 1337. Duties of the Board.

The board shall have the following duties:

- (a) to develop standards governing the delivery of indigent defense services, including:
 - (1) standards governing eligibility for indigent defense services;
 - (2) standards for maintaining and operating regional tribal public defender officers, if any regional tribal public defender offices are established;
 - (3) standards prescribing minimum experience, training, and other qualifications for tribal public defenders;
 - (4) standards for tribal public defender caseloads;
 - (5) standards for the evaluation of tribal public defenders;
 - (6) standards for independent, competent, and efficient representation of clients whose cases present conflicts of interest; and
 - (7) such other standards as are necessary and appropriate to ensure the delivery of adequate indigent defense services;
- (b) to establish regional tribal public defender offices, if determined to be necessary and appropriate;
- (c) to adopt bylaws; and
- (d) to approve and submit to the Band Assembly a biennial budget request.

Historical and Statutory Notes

Source:

Band Ordinance 52-21, § 2.

§ 1338. Managing Attorney of Band Member Legal Services.

The board shall appoint a managing attorney who must be chosen on the basis of relevant training, experience, and such other qualifications considered appropriate. The managing

attorney must be an attorney licensed and eligible to practice law in the State of Minnesota or under the laws of the Band. The managing attorney shall serve a two-year term from his or her date of appointment and may be removed prior to completion of his or her term for good cause by a majority vote of the board.

Historical and Statutory Notes

Source:

Band Ordinance 52-21, § 2.

§ 1339. Duties of the Managing Attorney of Band Member Legal Services.

The managing attorney shall have the following duties:

- (a) to attend all meetings of the board as a non-voting member;
- (b) to assist the board in developing standards for the delivery of adequate indigent defense services;
- (c) to administer and coordinate delivery of indigent defense services and supervise compliance with board standards;
- (d) to recommend the establishment of regional tribal public defender offices, if determined to be necessary and appropriate;
- (e) to conduct regular training programs for tribal public defenders;
- (f) to hire, subject to policies and procedures established by the board, professional, technical, and support personnel, including attorneys to serve as tribal public defenders, considered reasonably necessary for the efficient delivery of indigent defense services;
- (g) to prepare and submit to the board a proposed annual budget for the provision of indigent defense services;
- (h) to prepare and submit to the board an annual report containing pertinent data on the operations, needs, and costs of Band Member Legal Services and any other information that the board may require;
- (i) to adopt a personnel policy for human resources purposes, which must be approved by the board; and
- (j) to perform other duties as assigned by the board.

Historical and Statutory Notes

Source:

Band Ordinance 52-21, § 2.

§ 1340. Service Area of Band Member Legal Services.

Band Member Legal Services shall have a service area including the counties of Aitkin, Crow Wing, Hennepin, Mille Lacs, Morrison, Pine, and Ramsey.

Historical and Statutory Notes

Source:

Band Ordinance 52-21, § 2.

§ 1341. Limitations on Representation by Band Member Legal Services.

- (a) Band Member Legal Services may represent Band members in all civil matters in administrative hearings, tribal court, state court, and federal court.
- (b) Band Member Legal Services may represent Band members in criminal matters in tribal court, state court, and federal court, provided that:
 - (1) the charge or charges do not implicate an act against another Band member;
 - (2) the representation is in accordance with any standards promulgated by the board; and
 - (3) the representation is not for a charge that constitutes a drug crime, unless it is a first-time possession offense that is a charge of second or lesser degree.

Historical and Statutory Notes

Source:

Band Ordinance 52-21, § 2.

TITLE 25 - REVISOR OF STATUTES

Section

1. Purpose.
2. Definitions.
3. Selection of Revisor.
4. Revisor's Powers.
5. Drafting Duties of Revisor's Office.
6. Other Office Duties During Legislative Session.
7. Prohibitions and Limitations.
8. Official Acts of the Non-Removable Mille Lacs Band of Ojibwe.
9. Laws and Rules of the Non-Removable Mille Lacs Band of Ojibwe; Contents.
10. Laws and Rules of the Non-Removable Mille Lacs Band of Ojibwe; Supplements.
11. Publication Powers.
12. Certificate of Correctness.
13. Sale and Distribution of Statutes and Laws.
14. Legal Status of Statutes, Orders, Opinions, Resolutions, and Policies.
15. Tribal Register.

§ 1. Purpose.

The purposes of this statute are to:

- (a) establish an independent Revisor's Office to ensure the annual compilation, updating, and publication of Band laws and official acts;
- (b) provide confidential drafting services of proposed legislation and policy revisions to District Representatives; and
- (c) establish a Tribal Register for the publication of Band statutes and policies, Executive Orders, Secretarial Orders, Commissioner's Orders, Legislative Orders, Chief Justice Orders, and other official notices.

Historical and Statutory Notes

Source:

Band Ordinance 08-21, § 2.

§ 2. Definitions.

- (p) **“Agency” or “Department”** means any division or section of the executive or legislative branches established by statute to carry out the functions of Band government, to include the departments of Administration, Athletic Regulation, Community Development, Education, Health and Human Services, Natural Resources, Gaming and Regulatory Authority, Mille Lacs Corporate Ventures, and the Office of Management and Budget.
- (q) **“Band”** means the Non-Removable Mille Lacs Band of Ojibwe.
- (r) **“Band Assembly”** means the Band’s legislative branch, established pursuant to 3 MLBS § 1, and comprised of the duly elected Speaker of the Assembly and three District Representatives.
- (s) **“Chief Executive”** means the elected official who leads the Band’s executive branch pursuant to 4 MLBS § 6.
- (t) **“Court”** means the Band’s Court of Central Jurisdiction established pursuant to 5 MLBS § 1.
- (u) **“Legislative Session”** means the period of time, occurring twice per calendar year, in which the Band Assembly is convened for the purpose of lawmaking.
- (v) **“MLBS”** means Mille Lacs Band Statutes, which is the preferred legal citation for the Laws and Rules of the Non-Removable Mille Lacs Band of Ojibwe.
- (w) **“Resolution,”** as used in this statute, means either a resolution of the Band Assembly or a resolution of the Joint Session of the Band Assembly.
- (x) **“Revisor”** means the selected official who leads the Band Revisor’s Office in accordance with this statute and is charged, among other things, with codifying new statutes in a manner consistent with the existing Band law without altering the substance of such statutes.
- (y) **“Speaker of the Assembly”** means the elected official who leads the Band’s legislative branch pursuant to 3 MLBS § 6.

Historical and Statutory Notes

Source:

Band Ordinance 08-21, § 2.

§ 3. Selection of Revisor.

The Band Assembly shall select a qualified individual with a federal Indian law background, when feasible, to the position of Revisor of Statutes. The Revisor must be licensed to practice law before the Court of Central Jurisdiction and shall have his or her salary fixed by the Band Assembly. The Revisor shall be considered a permanent, full-time employee not serving solely at the pleasure of any elected official. The Revisor shall be subject to the Band's Personnel Policy and Procedures.

Historical and Statutory Notes

Source:

Band Ordinance 08-21, § 2.

§ 4. Revisor's Powers.

- (a) **Regular staff; hiring and salaries.** The Revisor shall employ and may fix the salaries of drafters and technical, research, and clerical assistants necessary to do the work of the Revisor's Office.
- (b) **Additional staff; contractors.** When full-time employees are not available to do the work of the office, the Revisor may contract for drafting, technical, research, or clerical services.
- (c) **Contracting.** The Revisor may enter into contracts to provide necessary services and supplies to the office.
- (d) **Limitations of powers.** The exercise of the powers set forth in subsections (a) to (c) is subject to the control of the Band Assembly.
- (e) **Contract over \$5,000.** A contract for professional or technical services that is valued at more than \$5,000 may be made only with Band Assembly approval.

Historical and Statutory Notes

Source:

Band Ordinance 08-21, § 2.

§ 5. Drafting Duties of the Revisor's Office.

- (a) **Limitation.** As far as personnel and available appropriations permit, the Revisor's Office shall perform the drafting duties described in subsections (b) to (d).

- (b) **Drafting responsibilities.** On request, the Revisor’s Office shall draft bills, resolutions, and amendments solely for District Representatives of the Band Assembly. The Revisor’s work product shall be prioritized in the order received during that legislative session of Band Assembly, or as otherwise directed by a majority vote of the Band Assembly.
- (c) **Requests for drafting services.** The District Representatives may submit to the Revisor’s Office requests for drafting services. A request must state briefly the policy and purpose of the document to be drafted. Documents must be drafted to conform to the instructions given in the request.
- (d) **Drafting manual.** The Revisor’s Office shall prepare and issue a drafting manual containing styles and forms for drafting bills, resolutions, and amendments.

Historical and Statutory Notes

Source:

Band Ordinance 08-21, § 2.

§ 6. Other Office Duties During Legislative Session.

- (a) **Advice concerning effect of bills.** The Revisor’s Office shall give members of the Band Assembly advice concerning the legal effect of bills or proposed bills, but only at the request of the members.
- (b) **Report to Band Assembly.** As needed or at least once every two legislative sessions, the Revisor’s Office shall report to the Band Assembly any statutory changes recommended by any branch of government, including any statutory deficiencies or contradictions noted in any decision or opinion of the Court of Central Jurisdiction. The report must include any comment necessary to clearly outline the legislative problem reported.
- (c) **Technical bills.** The Revisor’s Office shall prepare and submit to the Band Assembly bills clarifying and correcting the statutes and executive branch policies that are required by statute to be ratified by the Band Assembly.
- (d) **Preparing and presenting the bills.** The Revisor’s Office shall assist in preparing any bill requested by a District Representative. In preparing a bill, the Revisor may correct misspelled words and other minor clerical errors. Bills are to remain under the supervision of the Parliamentarian.

- (e) **Other Services.** The Revisor’s Office shall perform other services requested by the District Representatives, provided that such requests adhere to the purposes of this statute.

Historical and Statutory Notes

Source:

Band Ordinance 08-21, § 2.

§ 7. Prohibitions and Limitations.

The Revisor, employees of the Revisor’s Office, and persons assisting the office as part-time employees or independent contractors are subject to the following prohibitions and limitations:

- (a) They may not reveal to any person not employed by the legislative branch the content or nature of a request for drafting services. The content of the request, as well as documents and communications relating to the drafting service supplied, is not public and is not subject to subpoena, search warrant, deposition, writ of mandamus, interrogatory, or other disclosure.
- (b) They may not overtly urge or oppose the substantive provisions of legislation, except in accordance with § 6(a) of this Title.
- (c) They may not use office time to conduct legal business other than the business of the Revisor’s Office.
- (d) They may not engage in activities outside of their work for the Revisor’s Office that would violate the duty to exercise independent professional judgment on behalf of the Revisor’s Office or the prohibition against representing multiple clients as set forth in the Minnesota Rules of Professional Conduct.
- (e) They may not take part in political management or political campaigns for Band office; use their official authority or influence for the purpose of interfering with or affecting the result of a Band election; knowingly solicit, accept, or receive a political contribution for a Band election; or run as a candidate for election to a Band political office.

Historical and Statutory Notes

Source:

Band Ordinance 08-21, § 2.

§ 8. Official Acts of the Non-Removable Mille Lacs Band of Ojibwe.

No later than January 15 of each year, the Revisor shall publish, for the previous two legislative sessions, in a publication called “Official Acts of the Non-Removable Mille Lacs Band of Ojibwe”:

- (a) Executive Orders;
- (b) Secretarial Orders;
- (c) Commissioner’s Orders;
- (d) Legislative Orders;
- (e) Chief Justice Orders;
- (f) Solicitor’s Opinions;
- (g) acts or ordinances;
- (h) resolutions; and
- (i) any new or revised department policy.

Historical and Statutory Notes

Source:

Band Ordinance 08-21, § 2.

§ 9. Laws and Rules of the Non-Removable Mille Lacs Band of Ojibwe; Contents.

- (a) **Permanent required contents.** The Revisor’s Office shall publish editions of the Laws and Rules of the Non-Removable Mille Lacs Band of Ojibwe. The Laws and Rules of the Non-Removable Mille Lacs Band of Ojibwe must contain the applicable constitution, all general and permanent statutes in force, rules of the Court, and any other information the Revisor considers desirable and practicable.
- (b) **Headnotes.** The headnotes of the sections of any edition of the Laws and Rules of the Non-Removable Mille Lacs Band of Ojibwe printed in boldface type are mere catchwords to indicate the contents of the section and are not any part of the statute.
- (c) **New laws incorporated.** No later than May 1 of each year, the Revisor shall incorporate into the text of the Laws and Rules of the Non-Removable Mille Lacs

Band of Ojibwe the permanent general laws enacted, with amendments made to the statutes, during the previous two legislative sessions. The Revisor shall also omit any sections expressly repealed. The Revisor shall assign appropriate chapter and section numbers to these laws and shall arrange them in proper order. After each section the Revisor shall place a source note indicating the chapter and section of the ordinances or acts from which the section was derived, in addition to explanatory historical and statutory notes.

- (d) **Form and style changes.** The form and style of the Laws and Rules of the Non-Removable Mille Lacs Band of Ojibwe may be changed as necessary to improve its quality and to permit the use of electronic data processing equipment, computer compatible media, and other related equipment in connection with its publication.

Historical and Statutory Notes

Source:

Band Ordinance 08-21, § 2.

§ 10. Laws and Rules of the Non-Removable Mille Lacs Band of Ojibwe; Supplements.

If the Revisor's Office does not publish an edition of the Laws and Rules of the Non-Removable Mille Lacs Band of Ojibwe in a given year, it may publish a supplement to the Laws and Rules of the Non-Removable Mille Lacs Band of Ojibwe. The supplement must be identified by the year of publication and to the extent possible must otherwise comply with § 9 of this Title. The Revisor's Office may not use supplements for more than eight consecutive legislative sessions without also publishing an edition of the Laws and Rules of the Non-Removable Mille Lacs Band of Ojibwe in accordance with § 9 of this Title.

Historical and Statutory Notes

Source:

Band Ordinance 08-21, § 2.

§ 11. Publication Powers.

- (a) **Editorial powers for statutes.** The Revisor's Office, in preparing a printer's copy for editions of statutes, may not alter the sense, meaning, or effect of any legislative act, but may:
 - (1) renumber sections or subsections and parts of sections or subsections;
 - (2) change the wording of headnotes;

- (3) rearrange sections or subsections;
 - (4) combine sections or subsections into other sections or other subsections, or both;
 - (5) divide sections or subsections into other sections or subsections so as to give to distinct subject matters a section or subsection number;
 - (6) substitute the proper section, chapter, or subsection numbers for the terms “this act,” “the preceding section,” and the like;
 - (7) substitute figures for written words and vice versa;
 - (8) substitute the date on which the law becomes effective for the words “the effective date of this act,” and the like;
 - (9) change capitalization for the purpose of uniformity;
 - (10) correct manifest clerical, typographical, grammatical, or punctuation errors;
 - (11) correct words misspelled in bills;
 - (12) change reference numbers to agree with renumbered chapters, sections, or subsections;
 - (13) delete the phrases “Laws and Rules of the Non-Removable Mille Lacs Band of Ojibwe” and other phrases identifying other editions of any supplements to the Laws and Rules of the Non-Removable Mille Lacs Band of Ojibwe if the phrases are used in a reference to a statutory section;
 - (14) replace gender-specific words with gender-neutral words and, if necessary, recast the sentences containing gender-specific words; and
 - (15) make similar editorial changes to ensure the accuracy and utility of the publication.
- (b) **Negotiated contracts.** The Revisor’s Office may negotiate for all or part of the editing and printing of the Laws and Rules of the Non-Removable Mille Lacs Band of Ojibwe, supplements to the Laws and Rules of the Non-Removable Mille Lacs Band of Ojibwe, and Official Acts of the Non-Removable Mille Lacs Band of Ojibwe and contract with a law book publisher for these services. All negotiated contracts require Band Assembly approval.

Historical and Statutory Notes

Source:

Band Ordinance 08-21, § 2.

§ 12. Certificate of Correctness.

In preparing an edition of the Laws and Rules of the Non-Removable Mille Lacs Band of Ojibwe, a supplement to the Laws and Rules of the Non-Removable Mille Lacs Band of Ojibwe, or an edition of Official Acts of the Non-Removable Mille Lacs Band of Ojibwe, the Revisor's Office shall compare each section in the edition with the original section of the statutes or with the original section in the act from which the section was derived, together with all amendments of the original section. In one copy of the edition, the Revisor shall attach a certificate certifying that this comparison has been made and that all sections appear to be correctly printed. The copy containing the Revisor's certificate must be filed locally within the Revisor's Office as a public record. All other copies of the edition must contain a printed copy of the certificate.

Historical and Statutory Notes

Source:

Band Ordinance 08-21, § 2.

§ 13. Sale and Distribution of Statutes and Laws.

- (a) **Number of copies printed.** The Revisor shall determine how many copies of the Laws and Rules of the Non-Removable Mille Lacs Band of Ojibwe, supplements to the Laws and Rules of the Non-Removable Mille Lacs Band of Ojibwe, and Official Acts of the Non-Removable Mille Lacs Band of Ojibwe are to be printed. Subject to the requirements of subsection (b), the Revisor shall determine how the copies are to be distributed.
- (b) **Free distribution.** The Revisor shall distribute without charge copies of each edition of the Laws and Rules of the Non-Removable Mille Lacs Band of Ojibwe, supplements to the Laws and Rules of the Non-Removable Mille Lacs Band of Ojibwe, and Official Acts of the Non-Removable Mille Lacs Band of Ojibwe to the persons or bodies listed in this subsection. Before distributing the copies, the Revisor shall inform these persons or bodies of the cost of the publication and the availability of statutes and official acts on the Internet, and shall ask whether their work requires the full number of copies authorized by this subsection. Unless a smaller number is needed, the Revisor shall distribute:
 - (1) one copy to the Revisor's Office in accordance with § 12 of this Title;

- (2) one copy to each elected official of the Band, to be personally owned by each official;
 - (3) three copies to the Legislative Branch;
 - (4) three copies to the Office of the Chief Executive;
 - (5) three copies to the Court;
 - (6) three copies to each Band department;
 - (7) three copies to the Office of the Solicitor General;
 - (8) three copies to Mille Lacs Band Member Legal Aid, or any successor organization;
 - (9) one copy to each judge of the district court and court of appeals;
 - (10) one copy each to other Band boards not specifically named in this subsection;
 - (11) one copy to the Parliamentarian;
 - (12) one copy to any educational institution under the control and jurisdiction of the Band;
 - (13) two copies to the Revisor from which the Revisor shall send the appropriate number to the Library of Congress and Minnesota State Law Library for copyright and depository purposes;
 - (14) two copies each to Mitchell Hamline School of Law, the Law School of the University of Minnesota, and University of St. Thomas School of Law;
 - (15) two copies each to the Minnesota Historical Society and Minnesota Secretary of State;
 - (16) one copy each to Bois Forte Band of Chippewa, Fond Du Lac Reservation, Grand Portage Band of Chippewa Indians, Leech Lake Band of Ojibwe, Lower Sioux Indian Community, Prairie Island Indian Community, Red Lake Band of Chippewa Indians, Shakopee Mdewakanton Sioux Community, Upper Sioux Community, and White Earth Reservation; and
 - (17) one copy each to the public library of the largest municipality of Aitkin County, Mille Lacs County, and Pine County.
- (c) **Marking of Band copies.** Copies of the Laws and Rules of the Non-Removable Mille Lacs Band of Ojibwe, supplements to the Laws and Rules of the Non-

Removable Mille Lacs Band of Ojibwe, and Official Acts of the Non-Removable Mille Lacs Band of Ojibwe that are distributed to public officers, except elected officials of the Band, must be marked with the words “Band Copy” and kept for the use of the office.

- (d) **Sale.** Any foreign entity may purchase from the Revisor a copy of the Laws and Rules of the Non-Removable Mille Lacs Band of Ojibwe, supplement to the Laws and Rules of the Non-Removable Mille Lacs Band of Ojibwe, or an edition of Official Acts of the Non-Removable Mille Lacs Band of Ojibwe. The Revisor shall fix a reasonable sale price for each publication. Revenue from the sale of any publication must be deposited in the general fund. With consent from the Band Assembly, the Revisor may offer any publications for sale to enrolled Band members at cost. The Revisor may also establish a public library containing Band laws and official acts.

Historical and Statutory Notes

Source:

Band Ordinance 08-21, § 2.

§ 14. Legal Status of Statutes, Orders, Opinions, Resolutions, and Policies.

Any volume of the Laws and Rules of the Non-Removable Mille Lacs Band of Ojibwe, supplement to the Laws and Rules of the Non-Removable Mille Lacs Band of Ojibwe, and Official Acts of the Non-Removable Mille Lacs Band of Ojibwe certified by the Revisor is prima facie evidence of the statutes, orders, opinions, resolutions, and policies contained in it in all courts and proceedings.

Historical and Statutory Notes

Source:

Band Ordinance 08-21, § 2.

§ 15. Tribal Register.

- (a) **Contents.** The Revisor shall publish an online Tribal Register containing:
- (1) Band statutes;
 - (2) Executive Orders;
 - (3) Secretarial Orders;

- (4) Commissioner's Orders;
 - (5) Legislative Orders;
 - (6) Chief Justice Orders;
 - (7) Solicitor's Opinions;
 - (8) Court rules;
 - (9) department policies;
 - (10) acts or ordinances;
 - (11) resolutions; and
 - (12) notice of any comment period pertaining to statutory revisions.
- (b) **Publication.** The Revisor shall update the Tribal Register whenever necessary, except that no material properly submitted for publication shall remain unpublished for more than ten (10) business days.
- (c) **Submission of items for publication.** Any agency which desires to publish a Commissioner's Order, policy, or other item shall submit a copy of the entire document, including dates when adopted, to the Revisor in addition to any other copies which may be required to be filed with the Revisor by other law.
- (d) **Distribution.** When an agency properly submits a Commissioner's Order, policy, or other item to the Revisor, the Revisor must then be accountable for the publication of the same in the Tribal Register.
- (e) **Cost.** The Tribal Register shall be made available to enrolled Band members and Band employees free of charge.

Historical and Statutory Notes

Source:

Band Ordinance 08-21, § 2.

TITLE 26 – COMPENSATION OF ELECTED OFFICIALS

Section

1. **Definitions.**
2. **Administration.**
3. **Salary, Salary Increase, Effective Date.**
4. **Severance.**
5. **Pension.**
6. **Pension Loan.**
7. **Withholding of Taxes.**
8. **Notice of Pension and/or Severance Amount, Timing of Benefit, Reduction, Denial or Termination.**
9. **Amendment.**

§ 1. **Definitions.**

The terms defined in this Title shall have the meanings given to them in this section.

- (a) **“Beneficiary”** means the individual(s) that is named on the Beneficiary Designation Form by the former elected official to receive any remaining severance and/or pension amount upon the death of the former elected official.
- (b) **“Elected Officials”** mean the Chief Executive, Secretary-Treasurer, and the District Representatives.
- (c) **“Elective Office”** means the positions held by the duly elected Chief Executive, Secretary-Treasurer, and District Representatives.
- (d) **“Length of Service”** means the years, months, weeks, and days, that a duly elected official has been in elective office. This time shall be calculated consecutively as well as non-consecutively taking into account any breaks of service. The time shall be calculated from the date the elected official takes the oath of office to the date that an official vacates elective office.
- (e) **“Pension”** means the monthly amount, based on length of service in elective office, that an individual is deemed qualified to receive after leaving elective office.
- (f) **“Pensioner”** means a former elected official who is eligible to receive a pension.

- (g) **“Pension Loan”** means a loan made to a current elected official or former elected official that is capped at 50% of his/her vested amount, but no more than \$20,000.00, according to the terms of this Pension Plan.
- (h) **“Retirement”** means the time after the date that an elected official has officially vacated his/her office for retirement purposes.
- (i) **“Salary”** means the gross annual rate of pay of elected officials for their employment with the Band calculated before any deductions.
- (j) **“Severance”** means the monthly payment representing 80% of the former elected official’s salary that is paid to the former elected official in the first six (6) months after leaving office.
- (k) **“Vacate”** or **“vacating”** means that an elected official no longer holds elective office for any reason.
- (l) **“Years of Service”** means the number of years an elected official serves in any elective office either consecutively or non-consecutively.

Historical and Statutory Notes

Source:

Band Ordinance 27-18, § 2.

§ 2. Administration.

The Commissioner of Finance shall administer the provisions of this Title and he/she shall also supply annual reports to the Band Assembly and Chief Executive to ensure that the Plan remains fully funded.

Historical and Statutory Notes

Source:

Band Ordinance 27-18, § 3.

§ 3. Salary, Salary Increases, Effective Date.

- (a) Newly elected officials, current elected officials, and those returning to elected office shall receive a salary based on the elective office held and the total number of years of service in any elective office.
- (b) Salary levels shall be adjusted annually for each respective elected office in accordance with the following:

- (1) Chief Executive.

First year: \$175,000.00

To be adjusted annually in the amount of \$5,000.00.

- (2) Secretary-Treasurer.

First year: \$175,000.00

To be adjusted annually in the amount of \$5,000.00.

- (3) District Representatives.

First year: \$150,000.00

To be adjusted annually in the amount of \$5,000.00.

- (c) Salary is not to exceed \$240,000.00 after annual adjustments regardless of years/terms of service.
- (d) This salary system is effective for any elected official in office on or after July 10, 2012.

Historical and Statutory Notes

Source:

Band Ordinance 27-18, § 4.

§ 4. Severance.

- (a) Former elected officials shall, for a period of six (6) months after vacating office, receive a monthly severance equal to eighty percent (80%) of the salary they received in their last month in elective office. If a former elected official dies prior to the end of the six (6) month period, the obligation to pay severance shall be payable to his/her designated beneficiary.
- (b) **Effect of recall, removal, or conviction.** An elected official who has been recalled or removed from elective office by official action for theft, robbery, burglary embezzlement, fraud, or other similar act against the Band or any Band entity, or has been determined by a court of competent jurisdiction to have committed another similar civil or criminal act against the Band or any Band entity while in elective office, may have their severance reduced, denied, or terminated by majority vote of the Joint Session. Such denial of severance is final and may not be appealed to the Court of Central Jurisdiction.

- (c) Severance pay may be garnished only through petitioning the Court of Central Jurisdiction and only for debts owed to the Mille Lacs Band of Ojibwe.
- (d) This section is effective for any elected official in office on or after July 10, 2012, with the exception of any restriction as noted in subsection (b) above.

Historical and Statutory Notes

Source:

Band Ordinance 27-18, § 5.

§ 5. Pension.

- (a) Former elected officials shall receive a monthly pension for a period equal to his or her total cumulative number of years in elective office in the amount prescribed in subsection (d) of this section beginning on the first day of the seventh (7th) month after vacating elective office. Each elected official qualified to receive a pension shall designate a beneficiary on the Beneficiary Designation Form and such form shall be kept in a confidential file in the office of the Commissioner of Finance.
- (b) Former elected officials shall qualify for a pension based on the total cumulative number of years served in any elective office according to the dollar amount shown in subsection (d) below.
- (c) **No pension while in elective office.** If an elected official who has been receiving or is scheduled to receive a pension returns to elective office, his/her pension shall be suspended until the elected official vacates elective office. This subsection is not intended to include those amounts that an elected official may access as per the Pension Loan guidelines in § 6 of this Title.
- (d) **Pension amount.** Former elected officials shall receive the following pensions:

Total cumulative years of service:	<u>1-2</u>	<u>over 2</u>
Monthly pension, plus interest:	\$1,500	\$2,500

- (e) **Contingent Option to Accelerate Certain Pension Payments.** Pensioners who have served as elected officials for a cumulative period in excess of five (5) years may accelerate the payment of any monthly payments then due to them which are payable on or after the sixty-first (61st) month after the commencement of their Pension pursuant to the terms of subsections (a) through (d) above (the “Acceleration Eligible Payments”) by written notice (the “Acceleration Notice”) to the Commissioner of Finance delivered during an Annual Payment Acceleration Election Period, as hereafter defined.

- (1) The Acceleration Notice shall specify the portion of the Acceleration Eligible Payments then due to such Pensioner that are to be accelerated and paid out currently up to, but no in excess of, the total Acceleration Eligible Payments.
 - (2) An Acceleration Notice will be accepted and honored by the Commissioner of Finance only if received by him or her from a Pensioner then receiving monthly Pension installments during the period commencing on July 1 and ending on July 31 of each year (the “Annual Payment Acceleration Election Period”).
 - (3) Any Acceleration Eligible Payment elected to be paid out currently in an Acceleration Notice shall be paid to the Pensioner not later than thirty days after the close of the Annual Payment Acceleration Election Period in which any Acceleration Notice is delivered.
 - (4) Any portion of the Pensioner’s Pension accelerated pursuant to this subsection shall reduce the electing Pensioner’s future entitlement to a Pension and number of monthly payments in inverse order in which otherwise due. The Commissioner of Finance shall notify the Pensioner of such reduction in future amount and number of installments of the Pension due as a result of the acceleration by written notice delivered with any accelerated payment.
- (f) **Effect of recall, removal, or conviction.** An elected official who has been recalled or removed from elective office by official action for theft, robbery, burglary, embezzlement, fraud, or other similar act against the Band or any Band entity, or has been determined by a court of competent jurisdiction to have committed another similar civil or criminal act against the Band or any Band entity while in elective office, may have their pension reduced, denied, or terminated by a majority vote of the Joint Session. Such denial of a pension is final and may not be appealed to the Court of Central Jurisdiction.
- (g) **Effect of death of former elected official.** If a former elected official dies prior to the end of his/her pension entitlement period, any remaining monthly payments shall be payable to his/her designated beneficiary as named on the Beneficiary Designation Form. In the case of an individual beneficiary, if the beneficiary dies prior to the end of the Band’s obligation to pay monthly pension payments to the beneficiary, the Band’s obligation shall end as of the beneficiary’s date of death and no further payments will be made. If two or more beneficiaries are designated, the surviving beneficiaries shall be paid the full, or equal to 100%, of the remaining monthly payments.
- (h) **Judicial and administrative garnishment.** Pension may be garnished only through petitioning the Court of Central Jurisdiction and only for debts owed to the Mille Lacs

Band of Ojibwe. Other than as provided in the prior sentence of this subsection, the interest of any Pensioner prior to payments of his or her pension of this section shall not be subject to the claims of any creditor, spouse, or others, and may not be voluntarily or involuntarily alienated, encumbered, anticipated, assigned, or pledged.

- (i) It is the intent of this section to have an effective date of July 9, 2002, the date that the pension plan for elected officials was initially approved. However, the effective date of the Beneficiary Designation Form shall be June 1, 2013, and the effective date of the elective option to accelerate payments pursuant to subsection (e) shall be July 1, 2018. **It is not intended that this Pension Plan be retroactive for any former elected official who was not in office on this Title's initial effective date of July 9, 2002.**

Historical and Statutory Notes

Source:

Band Ordinance 27-18, § 6.

§ 6. Pension Loan.

- (a) Former and current elected officials may apply in writing to the Commissioner of Finance for a loan up to an amount equaling 50% of his/her vested pension, but never more than \$20,000.00.
- (b) All Pension Loans must be paid back to the Pension fund over a period of the lesser of: (1) five (5) years; or (2) the former or current elected official's remaining severance or pension term as of the loan date. The Commissioner of Finance will accept such payments on behalf of the Band.
- (c) Any former or current elected official who requests a Pension Loan must sign a promissory note to the Band.
- (d) Interest on the Note will be charged according to the Wall Street Journal's U.S. Prime Rate in effect at the Note's inception.
- (e) Interest earned on the Note would be credited to the pension account.
- (f) There shall be only one Pension Loan in effect at any one time. Additional borrowings would require a consolidation of old and new amounts into a new Note with new terms according to this Title.
- (g) Monthly payments of principal and interest on the Note will be withheld against the former or current elected official's pension, severance, per capita, and/or payroll payments.

- (h) The Commissioner of Finance will be responsible for administering the granting of and collections on Pension Loans according to the terms of this Title.
- (i) The effective date of this section is May 22, 2012.

Historical and Statutory Notes

Source:

Band Ordinance 27-18, § 7.
Band Ordinance 66-21, § 1.

§ 7. Withholding Taxes.

The Commissioner of Finance shall withhold all taxes as required by applicable law.

Historical and Statutory Notes

Source:

Band Ordinance 27-18, § 8.

§ 8. Notice of Pension and/or Severance Amount, Timing of Benefit, Reduction, Denial or Termination.

- (a) **General notice of amount and timing of benefit.** The Commissioner of Finance shall notify a pensioner or former elected official, within sixty days after vacating elective office, of their eligibility for a pension and/or severance. The notice shall contain the amount of the pension and/or severance, timing of periodic payment, and other pertinent information.
- (b) **Notice for reduction, denial, or termination.** The Commissioner of Finance shall notify a pensioner or former elected official in writing in the event of any change in the amount or timing of their pension and/or severance, or if a pensioner or former elected official is to have a pension and/or severance denied or terminated. The notice shall contain the reasons for the change, denial, or termination.

Historical and Statutory Notes

Source:

Band Ordinance 27-18, § 9.

§ 9. Amendment.

In regard to compensation, the elected officials reserve the right to review and amend the compensation plan in even numbered years after July 10 of that year. Any amendments to the

severance or pension language may be made in any year. The pension plan is a fully funded plan and is intended to remain as such.

Historical and Statutory Notes

Source:

Band Ordinance 27-18, § 10.