

THE STATUTES

OF THE

NON-REMOVABLE MILLE LACS BAND OF CHIPPEWA INDIANS

OFFICAL SEAL OF THE BAND

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	1020-MLC-7	Amendment to 02-81
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01-82	1000-MLC-4	Nay-Ah-Shing Gaming Commission Act
02-82	1001-MLC-1 1002-MLC-2	Separation of Powers Act: Executive Branch Legislative Branch
03-82	1003-MLC-14	Appropriation for the Executive Branch of Tribal Government
04-82	1004-MLC-14	Supplemental Appropriation for the Executive Branch of Tribal Government
05-82	1005-MLC-14	Appropriation for the Executive Branch of Tribal Government
06-82	1006-MLC-14	Supplemental Appropriation for the Executive Branch of Tribal Government
01-83	1007-MLC-14	Appropriation for the Executive Branch of Tribal Government.
02-83	1008-MLC-1 1009-MLC-3	Administration, Education and Human Services Policy Boards. Judicial Policy board
03-83	1010-MLC-6	Public Works Commission Act
04-83	1011-MLC-5	Civil Rights Act
05-83	1012-MLC-10	Appropriation for the Human Service Administration for FY 83.
06-83	1013-MLC-11	Appropriation for the Self-Determination Administration for FY 83.



07-83	1014-MLC-12	Appropriation for the Corporate and Labor Administration for FY 83.
08-83	1015-MLC-13	Appropriation for the Education Administration for FY 83.
09-83	1016-MLC-10	Appropriation for the Human Service Administration account payabled for Fy 81.
10-83	1018-MLC-7	Amendment to Ordinance 02-81, Conservation Code, Wood Cutting
11-83	1022-MLC-10 1023-MLC-13	Amendment to Band Statute 1012-MLC-10 Amendment to Band Statute 1015-MLC-13
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17-83	1029-MLC-4	Amendment to Band Statute 1000-MLC-4
18-83	1030-MLC-7	Amendment to Band Statute 1017-MLC-7
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21-83	1033-MLC-1	Amendment to Band Statute 1028-MLC-1
22-83	1035-MLC-13	Appropriation for the Education Administration for FY 83.
23-83	1036-MLC-10	Appropriation for the Human Services Administration for FY 83.
24-83	1037-MLC-2	Geographical Jurisdiction for Services
25-83	1038-MLC-2 1039-MLC-1	Amendment to the Rules of Order of the Band Assembly Executive Privilege

26-83	1040-MLC-18	Consolidated Nay-Ah-Shing School Board
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18-84	1059-MLC-10	Appropriation for the Human Services Administration for FY 84.
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23-84	1064-MLC-20	Cultural Resources Protection Ordinance which shall regulate the Federation Fund Archives.
24-84	1065-MLC-14	Appropriation of funds from the Trust Fund Account.
25-84	1066-MLC-14	Appropriations for the General fund and Indirect Cost Accounts.
26-84	1067-MLC-11	Supplemental appropriation for the Self-Determination Administration for FY 84.
27-84	1068-MLC-21	Official Recognition upon Steven D. Tibbetts.
28-84	1069-MLC-22	Exclusion and Removal of Persons within the jurisdiction of the Mille Lacs Band of Chippewa Indians for just cause.
29-84	1070-MLC-10	Supplemental Appropriation for Human Services Administration for FY 84.
30-84	1071-MLC-14	Appropriation for the General Fund for tribal government.
31-84	1072-MLC-23	Regulations of the Cultural Resources of the Mille Lacs Band of Chippewa Indians
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33-84	1074-MLC-13	Appropriations for the Education Administration for fiscal year 1985.

34-84	1075-MLC-11	Appropriations for the Self-Determination Administration for Fiscal Year 1985.
35-84	1076-MLC-10	Appropriations for the Human Services Administration for Fiscal Year 1985.
36-84	1077-MLC-16	Establishment and operation of commercial enterprises of the Mille Lacs Band.
37-84	1077-MLC-14	Appropriations for governmental expenses of the Mille Lacs Band of Chippewa for FY 85
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39-84	1080-MLC-14	Supplemental Appropriations for the Trust Fund Account for FY 84.
01-85	1081-MLC-26	Minnesota Taxation Agreements
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07-85	1087-MLC-44	Real/Personal Property - General Provisions Band Land Consolidated Provisions Provisions for the Application of Common Law

08-85	1088-MLC-14	Appropriation for Clinic Trust Fund.
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CHAPTER 1

EXECUTIVE BRANCH

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Section 10.07: All meetings of the Human Services Policy Board shall be posted one day in advance and be open to the public.

Section 10.08: The Human Services Policy Board shall be authorized to prepare implementing rules and regulations for any human service subject matter Ordinance.

Section 10.09: Should there be any doubt as to the proper interpretation of any part of this law, the Commissioner of Human Services shall submit such question to the Commissioner of Judicial Affairs who shall give his written opinion thereon, and such opinion shall be binding until annulled or amended by law.

# Band Statute 1028-MLC-1

## Preamble

\* Section 11: Amendment to Section 3 - Executive Officers. The Executive Branch shall consist of the Chief Executive, Commissioner of Administration, Assistant Commissioner of Educational Affairs, Assistant Commissioner of Human Services, and the Assistant Commissioner of Administration. The Chief Executive shall be the popularly elected Tribal Chairman. The remaining Commissioner and Assistant Commissioners shall be appointments of the Chief Executive with confirmation by the Legislative branch of government. \* Amended in Section 20

Section 12: Amendment to Section 5 - Powers and Duties of the Chief Executive. The Chief Executive shall monitor the Administrative Policy Board, ensuring its lawful operation and be responsible for ensuring the lawful activities of all other policy boards. He shall appoint, subject to confirmation by the Legislative Branch of tribal government, individuals who shall serve as his Executive Officers. He may require the opinion in writing of any Commissioner upon any subject relating to his duties. He shall fill any vacancy that may occur within the Administrative Policy Board, subject to confirmation by the Legislative branch of tribal government. He shall have the power to hold Executive hearings, and be possessed of the powers of the Court of Central Jurisdiction to issue subpoenas and cause them to be served and enforced. He shall have power, by and with the advice and consent of the Band Assembly. He shall, from time to time, give to the Band Assembly information on the state of the Band, and recommend to their consideration such measures as he shall judge necessary and expedient. He may convene any Policy Board on important occasions. He shall take care for the faithful execution of all laws, judicial determinations, orders and resolutions. \*Amended in Section

\* Section 13: Amendment to Section 8.01. The Administrative Policy Board of the Executive branch of tribal government shall have the power to employ and contract with any individual in fulfilling the mandates of operating the day to day administrative form of government for the programmatic and corporate accounts. The Policy Board shall have the power to administer through lawful

activities the programmatic and corporate structure of the Band on a day to day basis. Said power shall include: {1}. preparation of proposals for authorized grants and contracts; {2}. regulation of the behavior of employees through authorized personnel policies; {3}. ensure the lawful activities of the programmatic and corporate structure; {4}. recommendation of resolutions for adoption by the Band Assembly, and; {5}. negotiation of all contracts and grants on behalf of the Band shall be assigned to the Administrative Policy Board subject to Band Assembly ratification process. \*Amended in Section 21

\* Section 13.01: Sub-section to Section 8.01. The Administrative Policy Board shall consist of four Executive Officers and be chaired by the Commissioner of Administration. Only persons with the title of Assistant Commissioner shall sit with the Commissioner of Administration to comprise this policy board. This policy board shall serve as the Cabinet of the Chief Executive and shall advise the Chief Executive on all matters. \*Amended in Section 22

\* Section 13.02: Sub-section to Section 8.01. A quorum of four {4} members shall be required for the transaction of governmental business. \*Amended in Section 23

Section 13.03: Sub-section to Section 8.01. The Executive Officers of the Administrative Policy Board shall serve as the official voice of the Chief Executive on all matters before the Band Assembly upon the request of the Speaker of the Assembly and appointment by the Chief Executive.

Section 13.031: Sub-section to Section 8.01. The Executive Officers shall prepare proposed legislation on behalf of the Chief Executive and lobby any legislator for sponsorship.

Section 13.04: Sub-section to Section 8.01. An Executive Officer shall present written and oral testimony to the public on all bills taken to public hearings by the Band Assembly.

\* Section 14: Amendment to Section 8.04. The Administrative Policy Board shall meet on a weekly basis with an agenda prepared in advance by the Commissioner of Administration. All proceedings of the Board shall be documented in writing and distributed to the Chief Executive and the Band Assembly not more than two {2} days following said meeting. Should the Chief Executive not receive and approve the minutes of the Administration Policy Board's weekly meeting, he shall inform the Secretary of Treasury who shall direct the Office of Management and Budget to withhold weekly compensation from said members of the Board. The Administrative Policy Board shall schedule one weekly meeting per month in District II and one weekly meeting per month in District III. Any remaining meetings may be held in District I. \* Amended in Section 32

Section 15: Amendment to Section 8.05. The Administrative Policy Board shall annually, at least sixty {60} days prior to the commencement of the Band's fiscal year, present to the Band Assembly all appropriation requests.

\* Section 16: Amendment to Section 8.06. The Administrative Policy Board shall vote by roll-call of the Commissioner of Administration and all other Assistant Commissioners on all matters before the Board. The Chief Executive shall have veto power over all acts and deeds of the Policy Board if he deems such acts as a violation of law or policy. \*Amended in Section 24

Band Statute 1001-MLC-1

Preamble

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 domestic and foreign relations do hereby establish the Executive branch of tribal government.

Section 1: Division of Powers. The powers of the day to day operation of tribal government shall be vested in the executive branch of government.

Section 2: Executive Power. The executive power and authority in and over the day to day operation of administrative government shall be vested in the tribal chairman, whose title shall be Chief Executive.

\* Section 3: Executive Officer. The executive branch shall consist of Chief Executive, Secretary of Treasury, Commissioner of Finance, Commissioner of Administration, Commissioner of Educational Affairs, Commissioner of Human Services and Commissioner of Judicial Affairs. The Chief Executive shall be the popularly elected tribal chairman and the Secretary of Treasury shall be the popularly elected tribal secretary-treasurer. The remaining commissioners shall be appointments of the Chief Executive with confirmation by the Legislative branch of government. \* Amended in Section 11.

Section 4: Terms of Office-Qualifications. The term of office and qualifications for Chief Executive and secretary of treasury shall coincide with Article IV Section III of the Revised Constitution and By Laws of the Minnesota Chippewa Tribe.

\* Section 5: Powers and duties of Chief Executive. The Chief Executive shall chair the administrative policy board, ensuring its lawful operation and be responsible for ensuring the lawful activities of all other policy boards. He shall appoint, subject to confirmation by the legislative branch of government, an individual who shall serve as his commissioner of administration. He may require the opinion in writing of any commissioner, or deputy secretary's upon any subject relating to his duties. He shall fill any vacancy that may occur within the administrative policy board, subject to confirmation by the legislative branch of government. He shall have the power to hold administrative hearings, and be possessed of the powers of courts of tribal law, to issue subpoenas and cause them to be served and enforced. He shall have power, by and with the advice and consent of the Band Assembly. He shall, from time to time, give to the Band Assembly information on the state of the Band, and recommend to their consideration such measures as he shall judge necessary and expedient. He may convene any policy board on important occasions. He shall take care for the faithful execution of all laws, judicial determinations, ordinances and resolutions. \* Amended in Section 12

Section 5.01: Additional Powers and duties of Chief Executive. The Chief Executive shall be the custodian of all band property. He shall prepare all proclamations and executive orders pursuant to his statutory authority. Such written statements shall be uniform format, shall be numbered consecutively

and shall have effective and expiration dates attached. He shall appoint and empower all administrative committees as he deems necessary. He shall exercise all related powers as granted by Article V Section I of the Revised Constitution and By Laws of the Minnesota Chippewa Tribe.

Section 6: Powers and duties of Secretary of Treasury. The Secretary of Treasury shall superintend and manage the fiscal concerns as required under Article V Section I of the Revised Constitution and By Laws of the Minnesota Chippewa Tribe. He shall execute in behalf of the band, assignments and satisfactions of judgements rendered in its favor. He shall receive and receipt for all monies paid into the band treasury and safely keep the same until lawfully disbursed by the band assembly's appropriation. He shall take care for the Office of Management and Budget. He shall appoint, subject to confirmation by the Band Assembly, a Commissioner of Finance who shall perform all administrative and legal duties of the Office of Management and Budget. He shall be responsible for the acts and deeds of the Commissioner. He shall have the powers of investigation of financial irregularity as well as the powers possessed by courts of tribal law to issue subpoenas and cause them to be served and enforced. He shall have the power to inspect produce and exhibit such books, accounts, documents and property under any lawful financial inquiry in all things that will aid him in the performance of his duties. He shall have power to levy-impound and attach any account of the band for just cause.

Section 6.01: Refusal to assist: Penalty. Every person who shall refuse or neglect to obey any lawful direction of the Secretary of Treasury, withhold any information, book, record, paper, computer disc or tape, or anything called for by him for the purpose of examination, willfully obstruct or mislead him in the execution of his duties; or swear falsely concerning any matter stated under oath, shall be found guilty of a felony, the minimum penalty whereof shall be prescribed by law.

\* Section 7: Powers and duties of Commissioners. Each commissioner shall chair a policy board upon their appointment by the Chief Executive and confirmation by the Band Assembly. Each commissioner shall take care for the government's business. Each commissioner shall take such measures as are necessary to prevent any impending action which threatens the well-being of programs, legal system, natural resource, businesses and/or band members. Each commissioner shall have the power to hold policy board subject-matter hearings and be possessed of the powers of courts of tribal law, to issue subpoenas and cause them to be served and enforced. Each commissioner with the advice and consent of the Chief Executive, shall have the power to recommend the reorganization of any departmental program{s} or business{es} as he may deem advisable in the interest of economy or efficiency. Each commissioner shall have the power to prescribe procedures for the development of policy in the area under his jurisdiction. \* Amended in Section 25

\* Section 7.01: Appointments to Policy Boards. Each commissioner shall nominate three individuals to their respective policy boards. The confirmation of these individuals will be delegated to the Administration Policy Board. \* Amended in Section 26

Section 7.02: Additional Powers. Each commissioner shall have subject matter authority to issue any Commissioner's Order necessary in the performance to their lawful duty. Said orders shall be approved as to form and

content by a member of the Judicial Policy Board. All said orders shall be numbered consecutively and have effective and termination dates.\* Amended in Section 27.

\* Amendment added: Section 28

\* Amendment added: Section 29

Band Statute 1008-MLC-1

#### Preamble

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 domestic governmental affairs, do hereby authorize the establishment of the Administration Policy Board, the Education Policy Board, and the Human Service Policy Board.

Section 8: Policy Board Power - Administration: The Administration Policy Board is hereby created and authorized to exercise the powers of the Executive Branch of Tribal Government as delegated by the Band Assembly of the Mille Lacs Band of Chippewa Indians. Any and all powers not delegated shall be retained by the Band Assembly.

\* Section 8.01: The Administration Policy Board of the Executive Branch of tribal government shall have the power to employ and contract with any individual in fulfilling the mandates of operating the day-to-day administrative form of government for the programmatic and corporate accounts. The policy board shall have the power to administer through lawful activities the programmatic and corporate structure of the Band on a day-to-day basis. Said power shall include: {1} preparation of proposals for authorized grants and contracts; {2} regulation of the behavior of employees through authorized personnel policies; {3} ensure the lawful activities of the programmatic and corporate structure; {4} recommendation of resolutions for adoption by the Band Assembly; {5} negotiation of all contracts and grants on behalf of the Band and; {6} establish salary levels and grant promotions to any employee of the programmatic or corporate structure of the Band based upon authorized personnel policies.  
\* Amended in Section 13 through 13.04.

Section 8.02: The Administration Policy Board shall ensure the due process rights of all employees and Band members during any proceeding which may result in a negative finding against an employee or Band member.

Section 8.03: The Administration Policy Board shall comply with all relative aspects of the Indian Preference Provisions of Federal law. This board shall present to the Band Assembly a detailed explanation of its reasons for non-compliance of this provision within three days of the employment of an effected individual.

\* Section 8.04: The Administration Policy Board shall meet on a weekly basis with an agenda prepared in advance by the Commissioner of Administration. All proceedings of the Board shall be documented in writing and distributed to the Band Assembly not more than two days following said meeting. \* Amended in Section 14.

\* Section 8.05: The Administration Policy Board shall annually, at least thirty days before the commencement of a new fiscal year, present to the Band Assembly a programmatic appropriations request. \* Amended in Section 15.

\* Section 8.06: The Administration Policy Board shall vote by roll-call of the Commissioner and Assistant Commissioner of Administration on all matters before the board. The Chief Executive shall vote only through veto on any formal action of the board which he dissents with on roll-call. \* Amended in Section 16.

Section 8.07: The Secretary of Treasury shall retain authority over the day-to-day operations of the Office of Management and Budget.

Section 8.09: The Chief Executive shall have removal authority of any member of the Administration Policy Board for cause, after notice and formal Band Assembly hearing. Any such removal decision shall not be appealed.

Section 8.10: All meetings of the Administration Policy Board shall be posted one day in advance and be open to the public. Executive sessions are authorized for discussion of confidential matters.

\* Section 8.11: Should there be any doubt as to the proper interpretation of any part of this law, the Chief Executive shall submit such question to the Commissioner of Judicial Affairs, who shall give his written opinion thereon and such opinion shall be binding until annulled or amended by law.

\* Amended in Section 17.

\* Section 9: Policy Board Power - Education: The Education Policy Board is hereby created and authorized to establish educational policy for the benefit of band members and non-band members under the jurisdiction of the Band. Any powers not expressly delegated shall be retained by the Band Assembly. Sections 9 thru 9.12 superceded by Statute 1040-MLC-18, Section 5.

Section 9.01: The Education Policy Board shall prepare a uniform system of records for the Band's school and require written reports from the Commissioner of Education, and any teacher on any educational subject of value to the Band.

Section 9.02: Authorized members of the Education Policy Board shall have visitation rights on any Band school and report their findings and recommendations to the Education Policy Board.

Section 9.03: The Education Policy Board shall have general supervision over all Band education-related facilities which shall include: 1} establishing curriculum; 2} approval of requests for scientific research; 3} establish minimum criteria for passage to succeeding grades and graduation; 4} authorize policies for appropriate student conduct and disciplinary procedures; 5} establish policy, rules, and regulations consistent with their statutory authority and; 6} license through certification any alternative schools which service Indian children within the jurisdiction of the Band.

Section 9.04: The Education Policy Board shall meet bi-weekly with an agenda prepared in advance by the Commissioner of Education. All proceedings shall be documented in writing and distributed to the Band Assembly not more than two days following said meeting.

Section 9.05: The Education Policy Board shall vote by roll-call with the Commissioner possessing one vote on all formal matters before the Board. The Chief Executive shall have veto authority over any action of the Education Policy Board.

Section 9.06: Any member of the Education Policy Board may be removed by the Commissioner of Education for cause, after notice and formal hearing of the Administration Policy Board. Any such removal decision shall not be appealed.

Section 9.07: All meetings of the Education Policy Board shall be posted one day in advance and be open to the public.

Section 9.08: The Education Policy Board shall have the power to recommend the employment of any individual to the Administration Policy Board.

Section 9.09: The Education Policy Board shall conduct bi-annual needs assessment into all areas of its jurisdiction and prepare a formal report of its findings to the Chief Executive of the Band.

Section 9.10: The Education Policy Board shall be authorized to prepare implementing rules and regulations for any education related subject matter ordinance.

Section 9.11: The Education Policy Board shall have the power to hold subject matter public hearings for just cause.

Section 9.12: Should there be any doubt as to the proper interpretation of any part of this law, the Commissioner of Education shall submit such question to the Commissioner of Judicial Affairs, who shall give his written opinion thereon and such opinion shall be binding until annulled or amended by law.

Section 10: Policy Board Power - Human Services: The Human Service Policy Board is hereby created and authorized to establish policies in the areas of: 1} medical and health related services; 2} social services; 3} nutritional services, and; 4} legal assistance services for the benefit of band members. Any powers not expressly granted shall be retained by the Band Assembly.

Section 10.01: The Human Services Policy Board shall conduct bi-annual needs assessment into all areas of its jurisdiction and prepare a formal report of its findings to the Chief Executive of the Band.

Section 10.02: Authorized members of the Human Services Policy Board shall have visitation rights on any subject matter grant or contract and report their findings and recommendations to the Human Services Policy Board.

Section 10.03: The Human Services Policy Board shall have the power to hold human service related public hearings for just cause.

Section 10.04: The Human Services Policy Board shall meet bi-weekly with an agenda prepared in advance by the Commissioner of Human Services. All proceedings shall be documented in writing and distributed to the Band Assembly not more than two days following said meeting.

Section 10.05: The Human Services Policy Board shall vote by roll-call with the Commissioner possessing one vote on all formal matters before the Board. The Chief Executive shall have veto authority over any action of the Human Services Policy Board.

Section 10.06: Any member of the Human Services Policy Board may be removed by the Commissioner of Human Services for just cause, after notice and formal hearing of the Administration Policy Board. Any such decision shall not be appealed.

Section 17: Amendment to Section 8.11. Should there be any doubt as to the proper interpretation of any part of this law, the Commissioner of Administration shall submit such question to the Solicitor General, who shall give his written opinion thereon and such opinion shall be binding until annulled by the Court of Central Jurisdiction or amended by law.

Section 18: Title Change for Chief Legal Officer. Henceforth, any reference to the title of Commissioner of Judicial Affairs or Chief Legal Officer in any statutes of the Band shall mean the Solicitor General for the Band.

Section 19: Elderly Advisory Council. The Chief Executive shall be empowered with the authority to create and authorize an Elderly Advisory Council for the purpose of offering advice to the three branches of the tribal government on any matter.

#### Band Statute 1032-MLC-1

##### Preamble

It is enacted by the Band Assembly for the Non-Removable Mille Lacs Band of Chippewa Indians in order to re-organize the Executive branch of tribal government and for other related purposes.

Section 20: Amendment to Section 11: Executive Officers. The Executive Branch shall consist of the Chief Executive, Commissioner of Administration, Commissioner of Educational Affairs, Commissioner of Human Services, Assistant Commissioner of Administration, Commissioner of Natural Resources, and Commissioner of Corporate Affairs. The Chief Executive shall be popularly elected Tribal Chairman. The remaining Commissioners and Assistant Commissioner shall be appointments of the Chief Executive with confirmation by the Legislative Branch of government.

Section 21: Amendment to Section 13. The Administration Policy Board of the Executive Branch of tribal government shall have the power to employ and contract with any individual in fulfilling the mandates of operating the day to day administrative form of government for the programmatic accounts. The Policy Board shall have the power to administer through lawful activities the programmatic structure of the Band on a day to day basis. Said power shall include: {1} preparation of proposals for authorized grants and contracts; {2} regulation of the behavior of employees through authorized personnel policies; {3} ensure the lawful activities of the programmatic structure; {4} recommendation of resolutions for adoption by the Band Assembly, and; {5} negotiation of all contracts and grants on the behalf of the Band shall be assigned to the Administration Policy Board subject to Band Assembly ratification process.

Section 22: Amendment to Section 13.01. The Administration Policy Board shall consist of five {5} Executive Officers and be chaired by the Commissioner of Administration. Only persons with the title of Commissioner or Assistant Commissioner shall sit with the Commissioner of Administration



to comprise this policy board. The Cabinet of the Chief Executive shall be comprised of the Commissioner of Administration, the Assistant Commissioner of Administration, the Commissioner of Human Services, the Commissioner of Educational Affairs, the Commissioner of Natural Resources, the Commissioner of Corporate Affairs. The Cabinet shall advise the Chief Executive on matters of domestic and foreign policy.

Section 23: Amendment to Section 13-02. A quorum of five {5} members shall be required for the transaction of governmental business.

Section 24: Amendment to Section 16. The Administration Policy Board shall vote by roll-call of the Commissioner of Administration and all other Commissioners on all matters before the Board. The Chief Executive shall have veto power over all acts and deeds of the Policy Board if he deems such acts as a violation of law.

Section 25: Amendment to Section 7: Power and Duties of Commissioners. Each commissioner shall chair a policy board upon their appointment by the Chief Executive and confirmation by the Band Assembly except the Commissioner of Corporate Affairs and the Commissioner of Natural Resources. Each commissioner shall take care for the government's business. Each commissioner shall take such measures as are necessary to prevent any impending action which threatens the well-being of programs, legal system, natural resource, business and/or band members. Each commissioner except the commissioner of Corporate Affairs shall have the power to hold policy board subject-matter hearings and be possessed of the powers of courts of tribal law, to issue subpoenas and cause them to be served and enforced. Each commissioner with the advice and consent of the Chief Executive, shall have the power to recommend the reorganization of any departmental program{s} or business{es} as he may deem advisable in the interest of economy or efficiency. Each commissioner shall have the power to prescribe procedures for the development of policy in the area under his jurisdiction.

Section 26: Amendment to Section 7-01. Each commissioner shall nominate three individuals to their respective policy boards. The confirmation of these individuals will be delegated to the Administration Policy Board. The Commissioner of Corporate Affairs and the Commissioner of Natural Resources shall not chair a respective policy board.

Section 27: Amendment to Section 7-02. Each commissioner shall have subject matter authority to issue any Commissioner's Order necessary in the performance to their lawful duty. Said orders shall be approved as to form and content by the Solicitor General. All said orders shall be numbered consecutively and have effective and termination dates.

Section 28: Addition of Section 7-03. The Commissioner of Corporate Affairs as well as all those with the title of Commissioner, shall have direct line authority to the Chief Executive. The Commissioner of Corporate Affairs shall have sole authority to administer, regulate and authorize all business enterprises under the jurisdiction of the Band. He shall have power to organize and reorganize all business related matters in the interest of increased economic development. He shall have power to negotiate contracts on behalf of the Band with ratification in the Band Assembly upon the recommendation of the Chief Executive. He shall have power to authorize the expenditures of corporate funds. He shall have power to effect inter-business fund transfer. He shall be responsible for the acts and deeds of each business

manager and for the lawful disbursement of funds. He shall issue a Commissioner's Order to implement all corporate decisions in the interest of the Band. He shall be responsible for the Corporate policy statement which outlines the goals and objectives of the corporate structure. He shall meet on a weekly basis with the Chief Executive and be a member of his Cabinet.

Section 29: Addition of Section 7.04. The Commissioner of Natural Resources shall have powers of regulation over all matters of land, air, water, environmental protections and anything and everything related to the conservation and protection of natural resources under the jurisdiction of the Mille Lacs Band of Chippewa Indians. He shall have power to open and close seasons for hunting, fishing, trapping, and the gathering of wild rice by the issuance of a Commissioner's Order, with the concurrence of the Spiritual Advisor in all matters related to his duties. He shall be responsible for the development of a natural resource management plan and certify to the feasibility of all economic development plans which involve the natural resources with the concurrence of the Spiritual Advisor. He shall have power to make any and all regulations for the taking, possession and transportation of wild animals, fish, bird or grain from trust territory under the jurisdiction of the Band. The Commissioner shall not possess authority over law enforcement officials under the jurisdiction of the Band. The Commissioner may do all things deemed by him as desirable in the preservation, protection and propagation in their natural state of all desirable species of wild animal, bird, or fish upon the concurrence of the Spiritual Advisor. The Commissioner shall have power 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. He shall have power to negotiate contract in the furtherance of natural resource development within the jurisdiction of the Band. He shall have authority to secure funds from the government of the United States or any private foundation for the purpose of fulfilling his legal mandate. He shall be a member of the Administration Policy Board.

Section 30: Executive Order 11 and 17. Upon enactment, Executive Orders 11 and 17 shall be automatically repealed.

Section 31: Spiritual Advisor. The Chief Executive shall nominate and the Band Assembly shall confirm an elderly band member to the position of Spiritual Advisor to the government. The Spiritual Advisor shall have access to all governmental business for the purpose of offering cultural and spiritual counsel to the government as a whole.

#### Band Statute 1033-MLC-1

#### Preamble

It is enacted by the Band Assembly for the Non-Removable Mille Lacs Band of Chippewa Indians in order to repeal provisions of the statute.

Section 32: Amendment to Section 14. The Administration Policy Board shall meet on a weekly basis with an agenda prepared in advance by the Commissioner of Administration. All proceedings of the Board shall be documented in writing and distributed to the Chief Executive and the Band Assembly not more than two {2} days following said meeting. The Administration Policy Board shall schedule one weekly meeting per month in District II and one weekly meeting per month in District III. Any remaining meetings may be held in District I.

Band Statute 1039-MLC-1

Preamble

It is enacted by the Band Assembly for the Non-Removable Mille Lacs Band of Chippewa Indians in order to provide Executive Privilege to the Chief Executive.

Section 33: Executive Privilege. The Chief Executive shall have privilege in matters before the Court of Central Jurisdiction which involve his official acts and deeds.

CHAPTER 2

LEGISLATIVE BRANCH

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## Band Statute 1002-MLC-2

### Preamble

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 domestic and foreign relations do hereby establish the Legislative branch of tribal government.

Section 1: Division of Powers. The Band Assembly shall be possessed of the sole authority to pass laws which regulate internal affairs of the Mille Lacs Band.

Section 1.01: No popularly elected district representative to the Band Assembly shall exercise any of the powers properly belonging to either of the other branches of government except in the instances expressly provided in other sections of this law.

Section 2: Legislative Power. The legislative power and authority of pass laws, authorize and appropriate all band revenue, confirm appointments of the executive branch, adopt resolutions, authorize contracts and agreements shall be vested in the Band Assembly.

Section 3: Band Assembly Members. The Band Assembly shall be comprised of the popularly elected district representatives from each district within the territorial jurisdiction of the reservation. Each member shall have one vote.

Section 4: Head of Band Assembly. The Band Assembly shall be lead by the popularly elected secretary-treasurer whose title shall be Speaker of the Assembly.

Section 5: Parliamentarian. The Band Assembly shall appoint an individual who shall act as parliamentarian of the assembly. He/she shall be independent of any supervisory authority and shall render decisions in an impartial manner which abide by Robert's Rules of Order. He/she may be removed from office by unanimous vote of the assembly in concurrence with the Speaker.

Section 6: Terms of Office-Qualifications. The term of office and qualifications for the band assembly shall coincide with Article IV Section III of the Revised Constitution and By-Laws of the Minnesota Chippewa Tribe.

Section 7: Powers and duties of the Speaker. The Speaker of the assembly shall be the leader of the legislative branch of government. He shall have the power to convene the assembly for just cause at any time. He shall ensure the prompt recording of the assembly's acts and deeds. He shall schedule all hearings of the assembly. He shall not be a voting member of the assembly. He shall be possessed of the powers of authorization for all subpoenas on behalf of the Band Assembly. He shall ensure the proper conduct of all individuals before the assembly.

Section 8: Rules of Government. The Band Assembly shall establish the rules of its proceedings, decide upon its adjournment, discipline its members through censure for disorderly conduct but not twice for the same offense.

Section 9: Compensation. The compensation for members of the Band Assembly shall be prescribed by band law. No increase in compensation shall take effect during the period for which the existing membership has been elected after July 1, 1984.

Section 10: Quorum. The Band Assembly shall be defined as three members which shall constitute a quorum to transact business.

\* Section 11: Roll Call Vote. In all votes of the Band Assembly, a roll call vote shall be utilized and their vote shall be entered for the record. Amended in Section 26.

\* Section 12: Passage of Laws. The Band Assembly shall conduct formal hearings on each bill in the appropriate districts' before said bill can be passed. Additionally, each bill must be posted in a conspicuous location for ten calendar days after said bill has been discussed at a public hearing. Amended in Section 27.

Section 12.01: A majority vote of the assembly shall be required for the passage of each bill.

Section 12.02: After the formal action of the band assembly, each bill shall be forwarded to the Chief Executive who shall have five calendar days to either sign the bill into law, veto the bill and return it to the assembly with a written veto message containing his objections to the bill or let it become law without his signature.

Section 12.03: Any bill which has been returned by the Chief Executive shall have a compromise hearing within five calendar days of the return. Failure of the assembly to act within the five calendar days shall halt further action on the bill for one hundred and eighty days. Should the assembly hold a compromise hearing within the allotted time, fifteen 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 one hundred and eighty days. Appropriation bills shall be precluded from the above time schedule.

Section 12.04: An appropriation bill which has been returned by the Chief Executive shall have a compromise hearing within three calendar days of the return. Negotiations shall commence on the fourth calendar day and shall continue until the issue is resolved. During this time the assembly is precluded from adjourning.

Section 12.05: A veto by the Chief Executive is a total veto of the entire bill. Sectional veto's shall be prohibited by band law.

Section 13: Code of Ethics. The Band Assembly shall establish by law a code of ethics for the executive, legislative, and judicial branches of government.

Section 14: Commissioner's Orders. The assembly shall have five calendar days to veto any Commissioner's Order. Upon said veto the Commissioner who issued the order shall appear before the assembly to justify and explain his/her reasons for issuing the order.

Section 15: Appropriation Bills. Should the assembly fail to pass an appropriation bill before the start of the band's fiscal year or should said type of bill be vetoed by the Chief Executive, all operations under said



jurisdiction shall cease as of midnight on the last day of the fiscal year, unless the assembly adopts a continuance resolution.

Section 16: Petitions-grievances of Band Members. The assembly shall pass no law which abridges the rights of band members to petition the assembly on matters of law.

Section 17: Executive Privilege. The Executive Branch of Government shall provide to the assembly any information, book, record, paper, computer disc or tape or anything called for by the assembly.

Section 18: Assembly Powers of Inquiry. The assembly shall have the power to hold hearings of inquiry on any issue upon which the rights and privileges of the assembly has been abridged. Said power shall include the power to issue subpoenas and cause them to be served and enforced and the power to impound anything which will aid the assembly in fulfilling its responsibility to band members.

Section 19: Multi-Topic Bills. The Band Assembly may pass any bill with many topics and said shall not be limited to uni-topic for one bill.

Section 20: Expulsion/Impeachment. The Band Assembly shall have powers of impeachment over popularly elected officials of the Government, as well as appointees of the Chief Executive as stated and defined in Article X of the Revised Constitution and By-Laws of the Minnesota Chippewa Tribe. On matters of impeachment the Speaker of the Assembly shall have one vote and the Chief Executive shall have one vote in the assembly. No popularly elected official shall vote on any impeachment vote on which they are the topic of the impeachment proceedings. A two-thirds majority vote is required for expulsion/impeachment.

Section 21: Election - Referendum - Initiative. The Band Assembly shall have power to call an election at any time; however, elections established under Article IV Section I of the Revised 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 Tribe or by the issuance of a Writ of Election by the Chief Executive of the Band.

Section 22: Band Civil Rights. The Band Assembly shall pass no law which violates the Revised Constitution and By-Laws of the Minnesota Chippewa Tribe.

#### Band Statute 1037-MLC-2

#### Preamble

It is enacted by the Band Assembly for the Mille Lacs Band of Chippewa Indians in order to establish service jurisdiction obligations of the tribal government for the Mille Lacs Band of Chippewa Indians.

Section 23: Geographical Jurisdiction for Services. Enrolled members of the Mille Lacs Band of Chippewa Indians who reside on trust and/or allotted lands under the jurisdiction of the Non-Removalbe Mille Lacs Band of Chippewa Indians or who reside within a thirty {30} mile radius of such trust and/or allotted lands shall be entitled to participate in the Cultural, Natural Resources, Economic, Social, Educational, Health, and General Welfare Resources of the tribal government as authorized by Article XIII of the Constitution of the Minnesota Chippewa Tribe.

Section 24: Designation of Band Districts. District I of the Mille Lacs Band of Chippewa Indians shall be known as Nay-Ah-Shing. All trust and/or allotted land within the aforementioned geographical radius with the exception of Chi mi ni sing {Isle} shall constitute the service jurisdiction of District I.

Section 24.01: District II of the Mille Lacs Band of Chippewa Indians shall be known as Ga me ta wa ga gi maq, {Sandy Lake} and be comprised of the following geographical locations: Mi ni si na kwang, {East Lake}, Chi mi ni sing, {Isle}. All trust and/or allotted land within the aforementioned geographical radius shall constitute the service jurisdiction of District II.

Section 24.02: District III of the Mille Lacs Band of Chippewa Indians shall be known as Ahshomoog, {Lake Lena} and be comprised of the following geographical locations: Ne shi gwa go gog, {Pine City}, A sin ni ga ning, {Sandstone}, and Ga shi gwa na bi go gog, {Hinckley}. All trust and/or allotted land within the aforementioned geographical radius shall constitute the service area of District III.

Section 25: Waiver for Special Dispensation. The Band Assembly upon petition of the Chief Executive may issue a Section 24 waiver for participation in resources offered by the Band for the benefit of any Band members or executive administration upon petition of just cause.

#### Band Statute 1038-MLC-2

##### Preamble

It is enacted by the Band Assembly for the Non-Removable Mille Lacs Band of Chippewa Indians in order to amend the rules of order of the Band Assembly.

Section 26: Amendment to Section 11: Roll-Call Vote. The Band Assembly shall vote by majority vote. In any event any Representative may request a roll-call vote on any issue.

Section 27: Amendment to Section 12: Passage of Laws. The Band Assembly shall conduct formal hearings on any bill that would alter the basic separation of powers form of governance as delineated in Chapter 1, 2, 3, and 5 of the Statutes. The Band Assembly shall have full authority to determine which bills will be held for formal hearings. Each Representative may hold formal public hearings within their District on any subject matter at their discretion. Additionally, each bill must be posted in a conspicuous location for ten calendar days after said bill has been introduced for public hearing.

Section 28: Legislative Privilege. Members of the Band Assembly shall have privilege in matters before the Court of Central Jurisdiction which involves their official public acts and deeds as members of this body.

C H A P T E R 3

JUDICIAL BRANCH

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\* Band Statute 1009-MLC-3  
superceded by Band Statute 1024-MLC-3

#### Preamble

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 domestic governmental affairs, do hereby authorize the establishment of the Judicial Policy Board

Section 1: Policy Board Power - Judicial. The Judicial Policy Board is hereby created and authorized to promote the general welfare and to preserve and maintain justice through administrative legal proceedings for all persons under the jurisdiction of the Mille Lacs Band.

Section 1.01: The Judicial Policy Board shall have the power to interpret any word, phrase, sentence, paragraph or section of the Personnel Policies. It shall issue a written interpretation on all requests which shall be binding on both parties.

Section 1.02: The Judicial Policy Board shall have the power to hold formal administrative hearings which shall be legal under Band law for the purposes of hearing appeals and/or grievances of administrative actions.

Section 1.03: The Judicial Policy Board shall have the power to issue to all policy boards, corporations, and individuals writs of error, certiorari, mandamus, prohibition, and quo warranto. It shall always be open for the issuance and return of writs and for a hearing and a determination of all matters involved. Any administrative law judge may order any writ to be issued and served.

Section 1.04: The Judicial Policy Board shall exercise no action which violates the Revised Constitution of the Minnesota Chippewa Tribe.

Section 1.05: The Chief Executive shall swear in the Commissioner of Judicial Affairs who shall in turn swear in all administrative law judges to the following oath of office:

"I \_\_\_\_\_ do hereby swear that I will support, honor, and respect the Constitution of the Minnesota Chippewa Tribe, the Constitution of the United States, and the laws of the Mille Lacs Band of Chippewa Indians, and I will protect the rights of band members and others under the jurisdiction of the Band and that I will faithfully and impartially discharge the judicial duties of the office of Administrative Law Judge or Commissioner of Judicial Affairs, to the best of my judgement and ability so help me Gi-chi-ma-ni-do."

Section 1.06: The Judicial Policy Board shall utilize the following rules for all administrative legal proceedings.

#### Section 1.061:

##### PHASE I --- Introductory Information

1. I now call to order this administrative legal proceedings for the purpose of holding a hearing in the matter of \_\_\_\_\_ plaintiff vs.

\_\_\_\_\_defendant. Have you been advised of your rights that you are entitled to representation?

2. Is the Plaintiff represented at this time?

Response

So entered for the record.

3. Is the defendant represented at this time?

Response

So entered for the record.

4. I want to remind all participants that order is expected at all times.

This hearing is now in session.

Will the Clerk please read the complaint for the record.

#### PHASE II --- Opening Remarks

5. Will the defendant's representative present his opening statement.

Opening Statement presented.

If there are no objections the statement shall be entered for the record.

6. Will the Plaintiff's representative present his opening statement.

Openings Statement presented.

If there are no objections the statement shall be entered for the record.

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If there are no objections, the statement shall be entered for the record.

Objection: On what grounds? Any rebuttal.

Objection: sustained or over-ruled.  
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#### PHASE III --- Testimony

7. Testimony by Defense:

A. Call witness

B. Witness shall be sworn in: I will not lie in what I am going to say.

Gah win ni day gi wa ni mo seen gay go i ki do yan.

C. Defense questioning

D. Plaintiff questioning

E. Are there any more witnesses for the defendant?

Do the defendant's rest their case?

8. Is the plaintiff's representative prepared to present his case?

A. Call witness

B. Witness shall be sworn in: I will not lie in what I am going to say.

Gah win ni day gi wa ni mo seen gay go i ki do yan.

C. Plaintiff questioning

D. Defense questioning

E. Are there any more witnesses for the plaintiff?

Do the plaintiff's rest their case?

9. Is the defendant's representative prepared to present rebutal testimony?

A. Call witness

B. Witness shall be sworn in: I will not lie in what I am going to say.

Gah win ni day gi wa ni mo seen gay go i ki do yan.

C. Defense questioning

D. Plaintiff questioning

F. Are there any more witnesses for the defendant?



## PHASE IV --- Closing Remarks

10. Will the plaintiff's representative present his closing summary remarks.  
Closing remarks presented.

11. Will the defendant's representative present his closing summary remarks.  
Closing remarks presented.

I will take this case under advisement and render a decision on \_\_\_\_\_  
\_\_\_\_\_ and \_\_\_\_\_  
date time

May I remind both parties to this hearing that their attendance is mandatory at the time the decision is announced.

Section 1.07: The official seal of the Band shall be affixed to all official documents of the Judicial Policy Board. Any document without the official Band seal shall have no weight of law.

Section 1.08: Each administrative law judge shall consider and weigh historical tribal legal opinions, current tribal practices, and precedents before rendering any official opinion.

Section 1.09: The Commissioner of Judicial Affairs shall serve as the solicitor for the Band but is prohibited from defending any administrative disciplinary action before the administrative law judge or the Judicial Policy Board.

Section 1.091: The Commissioner of Judicial Affairs is hereby authorized to interpret any part of this law. The Commissioner shall give his written opinion thereon and such opinion shall be binding until annulled or amended by law.

Section 1.10: Every person who shall refuse to obey any lawful direction of the Commissioner of Judicial Affairs or any Administrative Law Judge, withhold any information, willfully obstruct, be held in contempt, or mislead a legal proceeding, or swear falsely concerning any matter stated under oath, shall jeopardize the case of the side in which they are attempting to assist.

Section 1.11: The Judicial Policy board shall meet bi-weekly with an agenda prepared in advance by the Commissioner of Judicial Affairs. All proceedings shall be documented in writing and distributed to the Band Assembly not more than two days following said meeting.

Section 1.12: Any member of the Judicial Policy Board may be removed by the Commissioner of Judicial Affairs for cause, after notice and formal hearing of the Administrative Policy Board, any such removal decision shall not be appealed.

Section 1.13: All meetings of the Judicial Policy Board shall be posted one day in advance and be open to the public.

## Band Statute 1024-MLC-3

## Preamble

It is enacted by the Band Assembly for the Mille Lacs Band of Chippewa Indians, in order to exercise a more effective form of tribal government to accord equal rights, equal protection and equal opportunity do hereby establish the Judicial Branch of tribal government.

Section 2: Power of Judiciary. The judicial power of the Band shall be vested in the Court of Central Jurisdiction. The Court of Central Jurisdiction shall be a seven member court with one member to be Chief Justice. The Court of Central Jurisdiction shall be the appellate court for all judgments rendered by an individual justice. Individual justices shall have original jurisdiction on all matters upon assignment of cases by the Chief Justice. No individual justice shall sit as a member of any appellate court proceeding in which he had original jurisdiction.

Section 2.01: The Court of Central Jurisdiction is hereby created to accord equal rights, equal protection and equal opportunity and to provide a forum for the redress of grievances and due process of law for all persons under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians as provided by Article XIII of the Constitution of the Minnesota Chippewa Tribe dated March 3, 1964.

Section 3: Jurisdiction. The Court of Central Jurisdiction shall have jurisdiction over all civil and criminal matters as prescribed by band statute. Said jurisdiction shall encompass the civil and criminal affairs of enrolled members of the Mille Lacs Band of Chippewa Indians, enrolled members of the Minnesota Chippewa Tribe who reside within the territorial jurisdiction of the Mille Lacs Band of Chippewa Indians, Indians from other tribes who reside within the territorial jurisdiction of the Mille Lacs Band of Chippewa Indians, Indians from other federally recognized tribes who enter the territorial jurisdiction of the Mille Lacs Band of Chippewa Indians and those non-Indians who fall under the jurisdiction of the Mille Lacs Band of Chippewa Indians by virtue of residency, employment or violation of Mille Lacs Band statute{s} within the territorial jurisdiction of the Mille Lacs Band of Chippewa Indians.

Section 3.01: The Court of Central Jurisdiction shall have jurisdiction over all civil and criminal matters where all parties are Indians within the jurisdiction of the Court. The Court of Central Jurisdiction shall have civil and criminal jurisdiction over non-Indians in any particular case where they voluntarily submit themselves to the jurisdiction of the Court by instituting an action against an Indian, and filing a cash bond in the amount of the damages asked and signing a written waiver of right to litigate the matter of any Municipal-State Court.

Section 3.011: The Court of Central Jurisdiction has all inherent power of any Court including, but not limited to the power to make rules for the conduct of its business, the power to issue orders, decrees, subpoenas or writs necessary to implement its decisions, the power to punish for contempt, the power to administer oaths or affirmations, the power to issue separation agreements, the power to enforce its decisions by either a personal command to the party or parties, or by declaration that relief is granted, regardless of the nature of the matter before the Court.

Section 4: Court of Central Jurisdiction Members. The Court of Central Jurisdiction shall be comprised of one Chief Justice, three associate justices and three administrative law judges. All justices shall be popularly elected officials except as provided for in Section 4.01 - 4.04. Administrative law justices sitting at the time of enactment of this law shall serve until June 30, 1984.

Section 4.01: The Speaker of the Assembly shall select two individuals and the Chief Executive shall nominate one of the two to the Band Assembly for confirmation to the Office of Chief Justice of the Court of Central Jurisdiction. The Chief Justice shall serve until June 30, 1984. Henceforth, he shall be popularly elected to a four-year term in a Band-wide election commencing June, 1984.

Section 4.02: The District I Representative shall select two individuals and the Chief Executive shall nominate one of the two to the Band Assembly for confirmation to the Office of Associate Justice of the Court of Central Jurisdiction. The Associate Justice shall serve until June 30, 1984. In June, 1984, he shall be popularly elected to a two-year term in the District I-wide election. Henceforth, he shall be popularly elected to a four-year term in the District I-wide election commencing June, 1986.

Section 4.03: The District II Representative shall select two individuals and the Chief Executive shall nominate one of the two to the Band Assembly for confirmation to the Office of Associate Justice of the Court of Central Jurisdiction. The Associate Justice shall serve until June 30, 1984. Henceforth, he shall be popularly elected to a four-year term in a District II-wide election commencing June, 1984.

Section 4.04: The District III Representative shall select two individuals and the Chief Executive shall nominate one of the two to the Band Assembly for confirmation to the Office of Associate Justice of the Court of Central Jurisdiction. The Associate Justice shall serve until June 30, 1984. In June, 1984, he shall be popularly elected to a two-year term in the District III-wide election. Henceforth, he shall be popularly elected to a four-year term in the District III-wide election commencing June, 1986.

Section 4.05: In June, 1984, there will be an election for the Office of Administrative Law Justice. Two justices shall be elected to serve a four-year term and one justice shall be elected to serve a two-year term until June 30, 1986. Henceforth, the term of office for this justice shall be four years.

Section 5: Qualifications of Justices. Any justice of the Court of Central Jurisdiction shall be knowledgeable of unwritten cultural law, tribal historical law, the Constitution of the Minnesota Chippewa Tribe and the laws of the Mille Lacs Band of Chippewa Indians. Additionally, each justice must be an enrolled member of the Minnesota Chippewa Tribe, and shall have never been convicted of a felony in any court of competent jurisdiction. The Band Assembly shall certify the candidacy of any person running for this office.

Section 6: Vacancy of the Court. Any vacancy within the Court of Central Jurisdiction shall be filled as provided for in Article X of the Constitution of the Minnesota Chippewa Tribe.

Section 7: Removal and Discipline of Justices. Any justice of the Court of Central Jurisdiction may be removed from office for just cause of a violation of the Code of Ethics or under provisions of Article X of the Constitution of the Minnesota Chippewa Tribe.

Section 8: Conflict of Interest. No justice or officer of the Court of Central Jurisdiction shall be qualified to act as such in any case wherein he has any direct or indirect interest or wherein any relative once removed under cultural law by marriage is a party.

Section 9: Writs. The Court of Central Jurisdiction shall have the power to issue to policy boards, corporations, and individuals, writs of error, certiorari, mandamus, prohibition, quo warranto and ne exeat. It shall always be open for the issuance and return of writs and for a hearing and a determination of all matters involved. Any justice may order any writ to be issued and served.

Section 10: Constitution. The Court of Central Jurisdiction shall exercise no action which violates the Constitution of the Minnesota Chippewa Tribe, dated March 3, 1964.

Section 11: Oath of Office. The Chief Executive, before the Band Assembly, shall swear in the Chief Justice, Associate Justices, and Chief Legal Officer to the following oath of office:

"I, \_\_\_\_\_ do hereby swear that I will support, honor, and respect the Constitution of the Minnesota Chippewa Tribe, the Constitution of the United States of America, and the laws of the Mille Lacs Band of Chippewa Indians, and I will protect the rights of Band members and others under the jurisdiction of the Mille Lacs Band of Chippewa Indians and that I will faithfully and impartially discharge the judicial duties of the office to the best of my judgement and ability so help me Gi-chi-ma-ni-do."

Section 12: Official Seal. The official seal of the Mille Lacs Band of Chippewa Indians shall be affixed to all official documents of the Court of Central Jurisdiction. Any document of the Court of Central Jurisdiction without the official Mille Lacs Band of Chippewa Indians seal shall have no weight of law.

Section 12.01: The official seal of the Mille Lacs Band of Chippewa Indians shall be kept in a secure vault.

Section 13: Refusals. Every person who shall refuse to obey any lawful direction of the Court of Central Jurisdiction withhold any information, willfully obstruct, be held in contempt, or mislead a legal proceeding, or swear falsely concerning any matter stated under oath, shall jeopardize the case of the side in which they are attempting to assist and/or be liable for a contempt of court citation.

Section 14: Oaths of Witnesses. All witnesses before the Court of Central Jurisdiction shall be sworn in: Gah win ni da gi wa ni mo seen gay go i ki do yan.

Section 15: Opinion of the Court. Each justice shall consider and weigh unwritten cultural law, historical tribal legal opinions, current tribal practices, and precedents before rendering any official decision.

Section 16: Proceedings of the Court. Any justice shall be empowered to close to the public any judicial proceeding upon request of either party to the hearing, for reason of prejudice to either party or security in the courtroom.

Section 17: Mediation. The Chief Legal Officer shall attempt to mediate any dispute between parties before formal filing for court action can occur.

Section 18: Chief Legal Officer. The Chief Executive shall nominate and the Band Assembly shall confirm an individual who shall serve as Chief Legal Officer for the Mille Lacs Band of Chippewa Indians.

Section 18.01: The Chief Legal Officer shall be an appointment which occurs during election off-years. The term of office shall be four years.

Section 18.02: The Chief Legal Officer shall have responsibility to all branches of government for the Mille Lacs Band of Chippewa Indians.

Section 19: Duties of Chief Legal Officer. The Chief Legal Officer shall represent the interest of the Mille Lacs Band of Chippewa Indians in all legal proceedings.

Section 19.01: The Chief Legal Officer shall be responsible for the interpretation of all laws and policies on behalf of the Mille lacs Band of Chippewa Indians. Said interpretations of the Chief Legal Officer shall be binding until annulled by the Court of Central Jurisdiction or amended by the Band Assembly.

Section 20: Contracts of the Mille Lacs Band of Chippewa Indians. The Chief Legal Officer shall certify the binding status of all contracts on behalf of the Mille Lacs Band of Chippewa Indians, as well as all laws enacted by the Band Assembly for codification purposes.

Section 21: Jurisdiction of Administrative Law Justices. The Administrative Law Justices shall have original jurisdiction over all administrative matters in the Executive branch and independent structures of the Band government.

Section 22: Authority of Administrative Law Justices. The Administrative Law Justices shall have the power to hold formal administrative hearings which shall be for the purposes of hearing grievances, issuing judicial determinations of personnel policies, or appeals of administrative actions. Any decision of the Administrative Law Justice shall be binding unless overruled upon appeal by the Court of Central Jurisdiction.

Section 23: Original Jurisdiction Proceedings. All justices of the Court of Central Jurisdiction shall utilize the following rules for all original proceedings.

Section 23.01:

## PHASE I --- Introductory Information

1. I now call to order this legal proceeding for the purpose of holding a hearing in the matter of \_\_\_\_\_ plaintiff vs. \_\_\_\_\_ defendant. Has each side been advised of your right to representation?
2. Is the Plaintiff represented at this time?  
Response.  
So entered for the record.
3. Is the Defendant represented at this time?  
Response.  
So entered for the record.
4. I want to remind all participants that order is expected at all times.  
This hearing is now in session.  
Will the Clerk please read the complaint for record.

## PHASE II --- Opening Remarks

5. Will the defendant's representative present his opening statement.  
Opening statement presented.
6. Will the plaintiff's representative present his opening statement.  
Opening statement presented.

## PHASE III --- Testimony

7. Testimony by Defense
  - A. Call witness
  - B. Witness shall be sworn in: Gah win ni da gi wa ni mo seen gay go i ki do yan.
  - C. Defense questioning
  - D. Plaintiff questioning.
  - E. Defense rebuttal questioning
  - F. Are there any other witnesses for the defense. If yes, then Clerk calls the next witness. If no, defense representative should state their intention to reserve the right to call witnesses under Rule 9 below.
8. Testimony by Plaintiff
  - A. Call Witness
  - B. Witness shall be sworn in: Gah win ni da gi wa ni mo seen gay go i ki do yan.
  - C. Plaintiff questioning
  - D. Defense questioning
  - E. Plaintiff rebuttal questioning.
  - F. Are there any other witnesses for the plaintiff. If yes, then Clerk calls the next witness. If no, plaintiff representative must rest their case.

9. Rebutall Testimony by Defense

- A. Is the defendant's representative prepared to invoke reserved right under Rule 7 above. If no, than defendant's must rest their case. If yes, than Clerk will call next witness.
- B. Witness shall be sworn same as Rule 7B above or if previously sworn, witness shall be reminded they remain under oath.
- C. Defense rebuttal questioning.
- D. Plaintiff cross examination.
- E. Are there any other witnesses for the defense. If yes, then Clerk calls the next witness. If no, defense representative must rest their case.

PHASE IV --- Closing Remarks

- 10. Will the plaintiff's representative present his closing summary remarks. Closing remarks presented.
- 11. Will the defendant's representative present his closing summary remarks. Closing remarks presented.
- 12. Will both representatives shake hands in the spirit of cultural co-existence. Plaintiff and defendant representative shall turn to each other and say: "Sha-wan-ni-ma-ni-ja-ni-sh-in-abe."
- 13. I will take this case under advisement and render a decision on \_\_\_\_\_  
\_\_\_\_\_ date \_\_\_\_\_ and \_\_\_\_\_ time \_\_\_\_\_.
- 14. May I remind both parties for their representatives only in a administrative proceeding} to this hearing, that their attendance is mandatory at the time the decision is announced.
- 15. Court shall stand adjourned.

Section 24: Actions, Decision, Enforcement. The following actions, decisions, enforecment procedures shall be utilized for all cases before the Court of Central Jurisdiction.

Section 24.01: One form of complaint shall be used in all cases, regardless of the relief sought or relief or remedy granted.

Section 24.02: In enforcing its decisions, the Court may either command a party to perform that which the decision requires him to do or it may command an officer of the Court or a police officer to take such action as is necessary to enforce the decision. The method of enforcing the decision shall be at the option of the Court.

Section 24.03: An action is a proceeding in Court in which a party sues another party to enforce, determine or protect a right, or seeks compensation for or prevention of a wrong.

Section 24.04: Where the violation of a right gives rise to both a civil and a criminal prosecution, a separate action may be brought for either.

Section 25: Commencement of Actions. The following commencement of actions precedures shall be utilized for all cases before the Court of Central Jurisdiction.

Section 25.01: An action can only be commenced within the time stated in this Section unless a different time is specified by law. The time within which the action may be commenced starts at the time the act complained of was discovered, unless by law, otherwise provided.

Section 25.02: All civil actions shall be commenced within six {6} years from the time the cause of action occurred in the case of contracts and within three {3} years in the case of torts, unless a different time is prescribed by law. An action shall be deemed to have been commenced for the purposes of this Section when the defendant or defendants have been served with summons or when a written complaint has been filed. The statute of limitations does not run against a minor, incompetent, or person serving in the Armed Forces of the United States, nor does the period run as to persons absent from the jurisdiction for the purpose of avoiding process.

Section 25.03: A defense of the running of the statute of limitations can be waived by the party able to assert such a defense. Such a defense must be pleaded and proved to be effective.

Section 25.04: The person starting an action shall be known as the plaintiff. The person against whom the action is brought shall be known as defendant. In a situation where the person bringing or defending an action is a guardian ad litem, he shall also be known as the plaintiff or defendant as the case may be; but shall further be identified as guardian or guardian ad litem of the true party in the title of the action.

Section 26: Commencing Civil Actions. The following commencing civil actions procedures shall be utilized for all cases before the Court of Central Jurisdiction.

Section 26.01: A civil case is started by filing a written complaint or service of a summons on the defendant or defendants. Such summons must state where the complaint is, or is to be filed. Upon the demand of the defendant at the place named in the summons, the plaintiff shall file the complaint within twenty {20} days.

Section 26.02: The complaint shall be filed with a Clerk of Court, who shall mark thereon the date of the filing or the date of service of the summons. The action shall be deemed to have started as of the time the complaint is so filed and marked or at the time of service of the summons. The case shall be deemed pending until judgement or dismissal. The complaint shall be captioned, "In the Court of Central Jurisdiction." It shall state the name of the plaintiff and of the defendant and be further identified as a "complaint". If the defendant's true name be unknown, he may be designated by any name until his true name be ascertained, at which time the complaint shall be corrected accordingly. The complaint shall state clearly and briefly in plain language the grievance for which relief is sought and shall further state the relief sought. When the filing of the complaint is used to start the cause of action, it must be served with the summons.

Section 26.03: When by reason of incompetency or legal disability it is necessary to have a guardian to the action, it shall be the duty of the Court to appoint a suitable adult to act as guardian. Such person must give written consent to act as guardian and may, at the Court's discretion, be required to give suitable security.



Section 26.031: If no suitable person can be found to act as guardian, the Court may then appoint the Clerk or another Judge as Guardian, except where such persons are employed by the Bureau of Indian Affairs, but no security shall be required of such Clerk or Judge.

Section 26.032: When a guardian is necessary to the action it shall be the duty of the Court to appoint a guardian within a reasonable time after the filing of the complaint, but in no instance shall tribal commence without the appointment of a guardian.

Section 26.04: A summons is issued by the Clerk of Court to the defendant. The summons shall be dated as of the day of its issue, be signed by the party or his agent and the Clerk of Court, name the place where the complaint is filed, and be directed to a police officer or disinterested third party with a command that he serve it.

Section 26.041: The summons shall further state the name of the plaintiff and that of the defendant, if known. If the defendant's name is unknown, it must give a reasonable description of him. It shall state generally the nature of the plaintiff's claim against the defendant, with the amount claimed, if any. When the summons is issued after the complaint, it shall further state the date of appearance and that, in case of his failure to answer or appear as commanded, he will lose by default.

Section 26.05: A copy of the summons, together with a copy of the complaint as required under Section 26.02 may be served by certified mail, return receipt requested, or may be served personally upon an individual defendant. Service may be made by leaving a copy of the summons and complaint at the defendant's usual abode with a resident of the household above the age of fourteen {14} years, if the defendant cannot be conveniently found.

Section 26.051: If the defendant is a minor, service shall be made upon his guardian, if a guardian has been appointed. If no guardian has been appointed, then service may be made upon either the father or mother of such minor. If the minor be more than fourteen {14} years of age and neither the father, mother, nor guardian can be found, then service may be made upon such minor the same as in the case of adults.

Section 26.052: If the defendant be an unincorporated association, or corporation, service shall be made either by delivering a true copy of the summons and complaint to any officer or chief clerk thereof.

Section 26.053: In all cases, the defendant's signed acknowledgement of service on the summons or his voluntary appearance in Court is equivalent to service as herein before required.

Section 26.06: Any person is subject to the jurisdiction of the Court and doing any of the following acts; the transaction of any business of the Mille Lacs Band of Chippewa Indians, the commission of any act which results in accrual of a tort action with the jurisdiction of the Band, the ownership, use or possession of any property, or any interest therein, situated within the jurisdiction of the Mille Lacs Band of Chippewa Indians, contracting to insure any person, property, or risk located within the jurisdiction of the

Band at the time of contracting or, entering into a contract for services to be rendered or for materials to be furnished in the jurisdiction of the Mille Lacs Band of Chippewa Indians by such person.

Section 26.061: Shall be, in a civil action arising out of any of the above enumerated acts, subject to service of process outside the jurisdiction of the Mille Lacs Band of Chippewa Indians in the same manner provided for service within the jurisdiction of the Band with the same force and effect as though service had been made within the jurisdiction of the Band.

Section 26.07: The "return" of the summons is the police officer's or third party's signed statement on the summons that he served a true copy thereof by personal service as directed or that he was unable to serve it. The date of service, if any, and the date of return and method of service must be stated on the return by the officer or third party; and when returned, the summons shall be dated and filed with the complaint by the Clerk. Should the summons be served by certified mail, return receipt requested, the receipt shall constitute proof of service, and shall be filed with the complaint by the Clerk.

Section 27: Appearance, Defaults, Postponements. The following appearance, defaults, postponements procedures shall be utilized for all cases before the Court of Central Jurisdiction.

Section 27.01: A general appearance is the method of proceeding by which the defendant in an action submits himself to the jurisdiction of the court.

Section 27.02: A special appearance is the method of proceeding by which the defendant seeks to test the sufficiency of the service or the jurisdiction of the Court. Special appearance does not confer jurisdiction upon the Court except for the purpose of determining sufficiency of the service or jurisdiction, nor does it waive defects of service.

Section 27.03: An appearance, general or special, may be made in person or by an agent, and includes either the physical presence in Court of the defendant or his attorney of the filing of a written answer, motion or other pleading in response to the complaint.

Section 27.04: In all cases, if the defendant fails to appear at the time specified for appearance or at such time as the Court may have set for the argument of a motion, the plaintiff shall proceed and the Court may give such relief as the evidence warrants.

Section 27.041: The Court may, on such terms as are just and upon payment of the costs of the defendant, relieve a party from a decision by a default which was taken against him by his mistake, inadvertence, surprise or excusable neglect. The defendant's application for such relief must be made within thirty {30} days after the entry of the default decision and must be supported by an affidavit showing good cause therefor. If such default is vacated, a new date for trial must be set.

Section 27.042: At any time up until trial of the case, the trial may be postponed on the written application of either party, at the discretion of the Court. Such written application shall be made to the judge and shall be noted on the record by the Clerk or the Judge.

Section 27.043: If all parties agree, any case may be postponed indefinitely.

Section 28: Venue. All actions shall be brought within the jurisdiction where the act or omission complained of arose, or where the subject matter or any part thereof is located, or where the Indian defendant resides.

Section 29: Pleadings. The following pleadings procedures shall be utilized for all cases before the Court of Central Jurisdiction. A pleading is the way in which the parties alternately present their claims or contentions to the Court so as to point out or focus on the issue or point in dispute.

Section 29.01: A written complaint must be filed with the Clerk by the plaintiff or his legal officer. This complaint must set out in plain and direct language the facts on which the claim is based. The evidence at the trial must be confined to the allegations made in the complaint.

Section 29.02: In all actions in this Court, motions shall be allowed; but except as to motions made at the trial, all such motions shall be filed at least six {b} days before the date on which the trial is held.

Section 29.03: An answer is the defendant's written statement made in reply to the complaint and must be set out the defense intended to be made by the defendant as follows:

Section 29.031: If the defendant denies all the facts alleged by the plaintiff in the complaint, he shall so state. This is termed a general denial and permits the defendant to defend or counterclaim any and all allegations made in the complaint.

Section 29.032: If the defendant denies but a part of the allegations made in the complaint, he shall so state, specifying those allegations he denies. Upon trial, the defendant can contest only those allegations he specifically denies in his answer.

Section 29.033: If the defendant admits the truth of the allegations in the complaint but has a defense thereto, he shall set out his defense in his written answer; and a failure to so set out his defense in his defense prevents his raising such defense at the trial, unless, at the Court's discretion, the ends of justice require that he be permitted to raise the defense.

Section 29.04: A failure to deny is an admission of the truth of the allegations.

Section 29.05: The defendant's written answer shall state as a counterclaim any claim which, at the time of the answer, the defendant has against the opposing party, if it arises out of the same act or omission that is the basis of the opposing party's claim and does not require for its adjudication the presence of third parties over whom the Court cannot acquire jurisdiction. Failure to state a compulsory counterclaim in writing, shall bar a subsequent suit on such claim.

Section 29.051: The defendant's written answer may state as a counterclaim any claim against the opposing party not arising out of the same act or omission that is the basis of the opposing party's claim.

Section 29.06: Any pleading may be amended with the Court's permission at any time before the trial, or during the trial, or upon appeal for the purpose of supplying any omission or deficiencies in the claim when by such amendment substantial justice will be promoted.

Section 29.061: When the amendment is requested at or during the trial and the Court is satisfied that a postponement is necessary and just for the other party, a postponement may be granted.

Section 29.062: Such postponement, however, must not exceed seven (7) days, and the party seeking such postponement may, if justice so requires, be ordered to pay the additional costs.

Section 30: Subpoena and Discovery Procedure. The following subpoena and discovery procedures shall be utilized for all cases before the Court of Central Jurisdiction.

Section 30.01: The Court shall have the power to subpoena parties and witnesses for trial and discovery purposes.

Section 30.011: Upon motion of any party showing good causes, the Court shall have the power to subpoena the records of any other party which are not privileged.

Section 30.012: The Court shall have the power to order any party to permit any other party to inspect any real property in his possession that is material to the action.

Section 30.013: The subpoena or order shall state the name of the Court, the title of the action, and the name of the person to whom it is directed. The subpoena or order shall state the reason for which it was given and the date and time of the appearance or inspection. It shall state the name of the person or party for whom the testimony of the witness is required.

Section 30.02: The subpoena or order may be served by any officer or person qualified to make service of summons. The subpoena shall be served in the same manner as a summons is served. The subpoena must be served reasonably in advance of the date set for the appearance.

Section 30.03: Discovery may be had by the use of depositions and interrogatories.

Section 30.04: Depositions may be taken from any party or witness and may be oral or written.

Section 30.041: Oral depositions may be taken before any person qualified to take oaths in the jurisdiction in which the witness or party is located. Oral depositions must be recorded and signed by the witness or party. Notice must be given to all parties to the action at the time and place the deposition is to be taken so that such parties may cross-examine the deponent.

Section 30.042: A written deposition shall consist of written questions and answers. It shall be signed by the person giving the deposition in the presence of any person qualified to take oaths in the jurisdiction in which the witness or party is located. Such person shall attest to the deposition.

Section 30.043: Answers to deposition questions to which objections are made shall be deferred until the objection is ruled upon by the Court.

Section 30.05: Interrogatories may be served upon any party by any other party. The interrogatories shall be answered under oath. Answers to interrogatories to which objection is made shall be deferred until the objection is ruled upon by the Court.

Section 30.06: Depositions and interrogatories are admissible according to laws of evidence set out in this code.

Section 30.07: At any time after the civil action or proceeding is commenced, a party may serve upon any other party a written request for the admission by the latter of the genuineness of any relevant documents described in and exhibited with the request or of the truth of any relevant matter of fact set forth therein. Copies of the documents shall be delivered with the request. Each of the matters of which an admission is requested shall be deemed admitted unless within a period designated by the Court the party to whom the request is directed serves upon the party requesting the admission a sworn statement either denying specifically the matters of which an admission is requested or setting forth truthfully either admit or deny those matters. Any admission made by a party pursuant to such request is for the purpose of the pending action only and neither constitutes an admission by him for any other purpose nor may it be used against him in any other proceeding.

Section 30.08: If a party serves a sworn denial to a request for admission of fact or genuineness of documents and the requesting party thereafter proves fact or the genuineness of such document, the requesting party may apply to the court for an order requiring the denying party to pay the reasonable expenses incurred in making such proof, including reasonable agent's or legal officer's fees. The Court shall grant such order unless it finds that there were good reasons for the denial or that the admissions sought were of no substantial importance.

Section 31: Contempt of Court. A judge may punish as for contempt of persons guilty of the following acts:

Section 31.01: Disorderly, contemptuous, or insolent behavior towards the Judge holding court, tending to interrupt the due course of a trial or other judicial proceedings.

Section 31.02: A breach of the peace, boisterous conduct, or violent disturbance in the presence of the Judge, or in the immediate vicinity of the Court held by him, tending to interrupt the due course of a trial or other judicial proceedings.

Section 31.03: Disobedience or resistance to the carrying out of a lawful order or process made or issued by the Judge, withhold any information, willfully obstruct or mislead the Court or swear falsely concerning any matter under oath.

Section 31.04: Disobedience to a subpoena duly served, or refusing to be sworn or to answer as a witness.

Section 31.05: Rescuing or interfering with a person or property in the custody of a police officer acting under an order of the Court or process of the Court.

Section 31.06: Failure to appear for jury duty when properly notified.

Section 31.07: When a contempt is committed in the immediate view and presence of a judge, it may be punished summarily. The Judge must make an order reciting the facts as they occurred, and that the person proceeded against is guilty of contempt, and that he be punished as therein prescribed.

Section 31.08: When the contempt is not committed in the immediate view and presence of the Judge, a warrant of arrest may be issued by such Judge and the person so guilty may be arrested and brought before the Judge immediately. The Judge must give the arrested person an opportunity to make his defense or excuse. The Judge may then discharge him or convict him of the offense.

Section 31.09: A Judge may punish for contempt, by fine not to exceed one-hundred dollars {\$100.00} and jeopardize the case of the side in which they are attempting to assist as determined by the Court. The Judge must enter on his docket the conviction specifying the offense and judgment thereon.

Section 32: Dockets. The following dockets procedures shall be utilized for all cases before the Court of Central Jurisdiction.

Section 32.01: Every Judge or Clerk of Court must keep a book, denominated a docket, in which must be entered by him;

Section 32.02: The title of every action in which a summons and complaint are filed, or in which the parties voluntarily appear.

Section 32.03: The date of the complaint and summons and time and date of their service and return, and if an order to attach the property was made, such fact must be stated together with the affidavit upon which such order was made.

Section 32.04: Which of the parties appeared at the trial.

Section 32.05: Every continuance, stating on whose application, whether on motion or consent, and to what time.

Section 32.06: When trial by jury is required, it must be stated, and by whom made, the names of the jurors selected, and the time and date appointed for trial, and notation that cash or surety bond to cover the costs of the jury trial has been posted.

Section 32.07: The names of the jurors who appear and are sworn, and the names of all witnesses sworn and whose request.

Section 32.08: In the absence of a complete transcript of the trial or hearing, the exceptions to the ruling of the Judge, on questions raised by either party.

Section 32.09: The verdict of the jury and when received; and whether the jury disagrees and is discharged.

Section 32.10: The Judgement or decree of the Judge, specifying the items of costs included, and the time when rendered.

Section 32.11: A statement of any bond or money deposited with the Court and by whom.

Section 32.12: A record of when a transcript of the proceedings is filed with the Clerk of Court.

Section 32.13: If appeal is taken, the time of entering in to the appeal and by whom the appeal is taken.

Section 32.14: The undertaking for stay of completion of the judgement and the time for giving same.

Section 32.15: The satisfaction of the judgement and the time of satisfying the same.

Section 32.16: A Judge or the Clerk of Court shall keep an alphabetical cross-index file to his docket in which must be entered alphabetically the names of the parties to each judgement or decision, with reference to the page of entry. The name of the plaintiffs and the defendants must be entered in the alphabetical order of the first letter of the family name. He shall number the cases progressively upon his docket and shall correspondingly number the papers in each case; and he shall keep the entire papers in each action together, and in packages of a convenient size, and in the order in which the cases are numbered on his docket.

Section 32.17: It is the duty of every Judge, upon expiration of his term of office, to deposit with this successor his docket, as well as those of his predecessors, together with all files and papers, there to be kept as public records and property. If no successor is appointed he shall turn the records over to the Clerk of Court to be kept for the successor when he is appointed. A receipt shall be given by the Clerk receiving the docket and records.

Section 32.18: It shall be the responsibility of the Chief Judge of the Court of Central Jurisdiction to insure that accurate and legible dockets and other court records are maintained by the Clerk of Court. Failure to fulfill the responsibilities shall be grounds for removal of said Chief Judge and the Clerk of Court.

Section 33: Right to Appeal. Any party to a civil action or a defendant in a criminal action who is dissatisfied with any final judgement, writ of order of the Court shall have the right to appeal therefrom to the full Court of Central Jurisdiction

Section 33.01: Notice of appeal; Five days. Any party aggrieved by any final judgement or other final order of the Court shall within five {5} days after the date of such judgement or order rendered, file with the Clerk of Court a notice of appeal, along with a five dollare {5.00} fee. Such request shall set forth the reasons for the appeal, which may include but need not be limited to the following:

Section 33.011: Irregularity in the proceedings of the Court, jury, or adverse party, or any order of the Court, or abuse or discretion by which either party was prevented from having a fair trial.

Section 33.012: Misconduct of the jury, and whenever any one {1} or more of the jurors have been induced to assent to any general or special verdict or to a finding on any question submitted to them by the Court.

Section 33.013: Surprise which ordinary foresight could not have guarded against.

Section 33.014: Newly discovered evidence which could not, with reasonable care, have been discovered and produced at the trial.

Section 33.015: Excessive or inadequate damages appearing to have been given under the influence of passion or prejudice.

Section 33.016: Insufficiency of the evidence to justify the verdict or other decision or that which is against the law.

Section 33.017: Error of law occurring at the trial as in ruling on the admission of evidence or in charging the jury or judicial rulings founded in objections.

Section 33.018: Prejudice of the trial Judge.

Section 33.02: Within three {3} days after filing notice of appeal both parties to the case shall present written arguments regarding the appeal to the Chief Judge of the Court of Central Jurisdiction. The Chief Judge shall set the Appellate Hearing date no later than fifteen {15} consecutive days from the date the original judgement was entered. Both parties to the appeal shall be notified by registered mail shall not constitute grounds for postponements or dismissal of the appeal.

Section 33.03: All appeals taken before the Appeals Court shall be heard on the basis of the record of the proceedings had, except where the petitioner is unable to procure a transcript of the proceedings through no fault of his own.

Section 33.04: The full Court of Central Jurisdiction with full power and authority necessary to carry into effect and complete execution all of its judgements, decrees, and deliberations in the matters over which it has jurisdiction.

Section 33.05: The Court of Central Jurisdiction shall have the administrative supervision over all other Courts, Judges, Justices, Magistrates of such Courts under such rules, procedures, and regulations as it shall from time to time prescribe. The Court shall provide to the extent it deems necessary or desirable, rules and regulations for administrative supervision of all Courts, the assignment of Judges to temporary duty in any Court, transfer of any matter to any proper Court when the jurisdiction of any Court has been improvidently invoked, withdrawal of any case or other proceeding or case to another Judge, when such withdrawal or reassignment should be made in order to expedite and promote justice.



Section 33.06: The general term of the Court of Central Jurisdiction shall be held quarterly on the first {1st} Tuesday of February, June, September and November. Special terms may be held at such times and places as may be designated upon five {5} days notice prior thereto.

Section 33.07: The Court of Central Jurisdiction may make all rules of pleading, practice, and procedures which the Court may deem necessary for the administration of justice in the Courts of the Mille Lacs Band of Chippewa Indians and the method of talking, hearing and deciding appeals to the Court.

Section 33.08: The concurrence of a majority of the Judges of the Court of Central Jurisdiction is necessary to pronounce judgement. If a majority does not concur, the case must be reheard, but no more than one {1} rehearing shall be had. If after rehearing a majority of the Judges do not concur, the judgement is affirmed. The Chief Judge shall assign any other judge the task of preparing opinions of the full Court. All justices shall sign and be a party to the opinion of the Court. Minority opinions shall not be permitted as official parts of the Court record. No justice shall be permitted to disclose his opinion on any case during or after final determination to the public-at-large.

Section 33.09: The Court of Central Jurisdiction, in any case decided by it, shall give its decision in writing, which shall be filed with the Clerk of Court with the other papers in the case.

Section 33.10: Any Justice who discloses any information relative to any pending or past case to the public-at-large shall be liable for disciplinary action by a judicial hearing comprised of his/her associates. Conviction may result in disbarment from the Court of Central Jurisdiction.

Section 34: Legal Officer. Any Legal Officer shall be admitted to practice before the Court of Central Jurisdiction having met qualifications set by Band Statute. No person may practice as a Legal Officer before the Court of Central Jurisdiction unless admitted to practice and enrolled as a Legal Officer of the Court upon written application. Any attorney-at-law who is a member in good standing of the Bar of the State or Federal Court, shall be eligible for admission to practice before the Court. Any Indian within the jurisdiction of the Mille Lacs Band of Chippewa Indians shall be admitted to practice before the Court upon application accompanied by proof satisfactory to the court; that he is at least twenty-one {21} years of age, that he is a person of good moral character and integrity, that he has successfully completed at least two {2} years of high school work or its equivalent, that he has never been convicted of a felony for which he has not received a pardon or restoration of civil rights, and that he is not a member of the Band Assembly, an employee of the Band, or of the United States.

Section 34.02: A filing fee of twenty-five {25.00} dollars shall accompany each application for admission to the bar for Attorney-at-law and five {5.00} for individual Indians who are not attorney-at-law.

Section 34.03: As a condition to admission, each attorney shall take the following oath:

"I \_\_\_\_\_ do hereby swear that I will support, honor and respect the Constitution of the Minnesota Chippewa Tribe, the Constitution of the United States and the laws of the Mille Lacs Band of Chippewa Indians,

and I will protect the rights of Band members and others under the jurisdiction of the Band and that I will faithfully and impartially discharge the judicial duties of the Office to the best of my judgement and ability so help me Gi-Chi-Ma-Ni-Do."

Each Legal Officer, also, shall agree in writing, to represent indigent defendants in all cases upon assignment by the Court.

Section 34.04: A Roll of Legal Officers admitted to practice before the Court shall be maintained by the Clerk of Court.

Section 34.05: The Court of Central Jurisdiction may disbar a Legal Officer from practice before the Court, or impose suspension from practice for such time as the Court deems appropriate on any of the following grounds, false swearing, conviction of a felony, disbarment by a Federal or State Court, conduct unbecoming of an officer of the Court, failure to act as counsel for a defendant upon assignment by the Court.

Section 34.06: An indigent defendant who pleads "not guilty" to an offense, on combination of offenses, punishable by imprisonment for six {6} months or more and is unable to secure a Legal Officer for his defense, one {1} shall be appointed by the Court from the Roll. Where a defendant is represented by a Legal Officer, the Court, in its discretion, may appoint the Chief Legal Officer.

Section 34.07: No elected representative shall practice before the Court of Central Jurisdiction during his/her term of officer.

Section 35: Definitions. The following definitions shall be utilized for all cases before the Court of Central Jurisdiction.

Section 35.01: Statute of Limitations - A specified length of time after which no cause of action or right to sue exists. {e.g., if a lender of money fails to try to collect or fails to bring an action to collect before the statute of limitations period expires, he has lost his right to collect the debt.}

Section 35.02: Guardian Ad Litem - A guardian appointed by a Court to prosecute or defend for a minor or incompetent in any suit to which the minor or incompetent in any way may be a party.

Section 35.03: Minor - A person who is under the age of eighteen {18}.

Section 35.04: Incompetent - A person who is insane, an imbecile, or feeble-minded, or is not mentally able to manage his own affairs.

Section 35.05: Summons - A notice in writing to a defendant informing him that an action has been brought against him and judgement will be taken against him if he fails to answer the complaint within the prescribed time set forth therein.

Section 35.06: Pleadings - Written allegations of what is affirmed on one side or denied on the other, disclosing to the Court and the contending parties the real matter in dispute between the parties.

Section 35.07: Judgement - The official and final decision of a Court upon the respective rights and claims of the parties to an action or suit therein litigated and submitted to its determination. It shall mean the same as the Court's decree.

Section 35.08: Parties - The persons who take part in the performance of any act, or who are directly interested in any affair, contract, or conveyance, or who are actively concerned in the prosecution and defense of any legal proceeding.

Section 35.09: Person - Includes natural persons, partnerships, associations, and corporations.

Section 35.10: Police Officer - Shall include all Tribal Police, the Bureau of Indian Affairs Police, and duly appointed deputy policemen and the natural resource officers.

Section 35.11: Gender - Words used in the masculine gender include the feminine and neuter.

Section 35.12: Number - Words used in the singular number include the plural, and the plural the singular, except where a contrary intention plainly appears.

Section 35.13: Tense - Words used in the present tense include the future as well as the past.

Section 35.14: Records - Any designated documents, papers, books, accounts, letters, photographs, objects or tangible things which constitute, point to, or contain evidence on any matter involved in the action.

Section 36: Privileges. The following privilege procedures shall be utilized for all cases before the Court of Central Jurisdiction.

Section 36.01: Every natural person has a privilege, which he may claim, to refuse to disclose in an action or to a public official of this Tribe or any governmental agency or division thereof, any matter that will incriminate him. He cannot be compelled in a criminal action to be a witness against himself. Except, as a defendant in a criminal case who takes the stand to testify in his own behalf may be required to give testimony against himself. Such testimony shall be limited to the charge on trial.

Section 36.02: It shall be the duty of the Court, of its own motion and without waiting for objection, to advise a witness at the appropriate time of his rights to refuse to answer any questions requiring the disclosure of any privileged communication or requiring or tending to require the witness give testimony which might incriminate him.

Section 36.021: In all cases where it shall appear to the Court that any person who is not present nor represented at the hearing should be protected in his rights to have any privileged communication excluded, it shall be the duty of the Court to make such objections and orders for such purposes as to the Court may seem necessary.

Section 36.03: A matter will incriminate a person within the meaning of the Code if it constitutes, or forms an essential part of, or taken in connection with other matters already disclosed, is a basis for a reasonable

inference of, such a violation of the laws of any jurisdiction as to subject him to liability to punishment therefore. Statements may not be used to incriminate him if he has become for any reason permanently immune from punishment therefore.

Section 36.04: The objection that the communication is privileged must be made by or in behalf of the person making the communication.

Section 36.05: In the event that a person has a privilege to refuse to disclose a matter or to prevent another from disclosing a matter, the Judge may rule that the person has waived such privilege if he;

Section 36.051: Without coercion and with knowledge of his privilege, has disclosed any part of the matter to any person, or

Section 36.052: Consented to such disclosure of any part of the matter by anyone who has knowledge of such matter.

Section 36.06: A Legal Officer cannot, without the consent of his client to him, or his advise given thereon in the course of professional employment.

Section 36.07: Legal Officer means any person authorized, or reasonably believed by the client to be authorized to practice law before any Tribal, State or Federal Court.

Section 36.08: Communication between client and lawyer means information transmitted by a voluntary act of disclosure between a client and his Legal Officer in confidence and by a means which discloses the information to no third persons other than those reasonably necessary for the transmission of the information or the accomplishments of the purpose for which it was transmitted.

Section 36.09: No person has any privilege if the Judge finds that sufficient evidence, aside from the communication, has been introduced to warrant a finding that the legal service was sought or obtained in order to enable or aid the client to commit or plan to commit a crime or tort.

Section 36.10: A husband cannot be examined for or against his wife without her consent; nor a wife for or against her husband without his consent; nor can either, during the marriage or afterwards, be without the consent of the other examined as to any communication made by one to the other during the marriage. Neither spouse has a privilege in;

Section 36.101: A civil action or proceeding by one against the other, or any action by one of them for annulment of marriage, divorce, or separation from the other, or for damages for the alienation of the affections of the other, criminal conversation with the other or for any case involving abuse of their children.

Section 36.102: A criminal action in which one of them is charged with a crime committed by one against the other including cases of bigamy and adultery; and

Section 36.103: A criminal action in which the accused offers evidence of a communication between him and his spouse.

Section 36.11: Communication between spouses means information transmitted by a voluntary act of disclosure by one spouse to the other without the intention that it be disclosed to a third person and by a means which does not disclose it to a third person.

Section 36.12: Clergyman or priest cannot, without the consent of the person making the confession, be examined as to any confession made to him in his professional character in the course of discipline or practiced by the church to which he belongs.

Section 36.13: Communication between clergymen and penitent means a confession of culpable conduct made secretly and in confidence by a penitent to a priest in the course of the discipline or practice of the church or religious denomination of which the penitent is a member.

Section 36.14: A physician or surgeon, or other regular practitioner of the healing art, cannot, without the consent of his patient, be examined in a civil action as to any information acquired in attending the patient which was necessary to enable him to prescribe or act for the patient.

Section 36.15: No person has a privilege if the Judge finds that sufficient evidence, aside from the communication, has been introduced to warrant a finding that the services of the physician were sought or obtained to enable or aid anyone to commit or plan to commit a crime or a tort, or to escape detection or apprehension after the commission of a crime or tort.

Section 36.16: Communication between physician and patient means such information transmitted between physician and patient including information obtained by an examination of the patient, as is transmitted in confidence and by a means which discloses the information to no third person other than those reasonably necessary for the transmission of the information or the accomplishment of the purpose for which it is transmitted.

Section 36.17: A public officer cannot be examined as to official information communicated to him in an official confidence, when public interests would suffer by the disclosure.

Section 37: Qualifications, Examination, Credibility of Witness. The following qualifications, examination, credibility of witnesses shall be utilized for all cases before the Court of Central Jurisdiction.

Section 37.01: No person offered or called as a witness in any action or special proceeding authority to examine witnesses or hear witnesses or hear evidence shall be excluded or excused from testifying unless the Court or official receiving such testimony finds that:

The proposed witness has a right to refuse to disclose the information being inquired about because such information was confidentially made to the witness and is a privileged communication within the meaning of this Title; or,

The proposed witness is incapable of expressing himself concerning the matter so as to be understood by the Judge and jury or other official receiving such testimony either directly or through interpretation by one who can understand him; or,

The proposed witness is incapable of understanding the duty of a witness not to lie.

Section 37.02: When a witness does not understand and speak the English language or is otherwise incapable of expressing himself so as to be understood by the Judge and the jury or other official receiving the testimony, the Court shall procure and appoint a disinterested person who is capable of understanding and interpreting the language or expressions of the witness to act as an interpreter.

Section 37.03: Every witness before testifying shall be required to express his purpose to testify only to the truth, by oath or affirmation as follows:

"I will not lie in what I am going to say./Gah win ni da gi wa mo  
seen gay go i ki do yan."

Section 37.04: Any person called to be an interpreter for any witness shall be required to express his purpose and be administered the following oath:

"I will not lie in what I am going to say./Gah win ni da gi wa mo  
seen gay go i ki do yan."

Section 37.05: If the interpreter objects to taking this oath, he may affirm in form as hereinabove provided in case of witness.

Section 37.06: A witness may testify that he perceived any material matter unless the Judge finds that a jury could not reasonably believe that the witness perceived the matter.

Section 37.07: Except as otherwise provided in this Code, the Judge controls the conduct of the trial, and at his discretion determines, among other things:

In what order evidence shall be offered and witnesses shall be called and examined.

How many witnesses a party may reasonably call to testify to a material matter.

Whether to call witnesses on his own motion, and whether and to what extent to interrogate a witness by whomever called.

What reasonable restraints shall be imposed upon the examiner of a witness in order that the witness be not misled, intimidated, harassed or unduly disconcerted.

Whether or upon what condition as adverse party shall upon demand made at the trial submit for inspection to the demanding party a writing or object found by the Judge to be in the control of the adverse party and readily accessible and to constitute or contain evidence admissible against the adverse party.

Section 37.08: A party, or any person for whose immediate benefit the action or proceeding is prosecuted or defended may call an adverse party and interrogate him by leading questions and contradict and impeach him in all respects as if he had been called by an opposing party. Any other opposing party may contradict and impeach any such witness.

Section 37.09: A party may interrogate any unwilling or hostile witness by leading questions. When it appears by the attitude and demeanor of a witness either by facts or circumstances of his examination that he is not a willing witness, a party may use leading questions in his examination even though he has called such party as a witness.

Section 37.10: Any person who has been convicted of perjury or a subornation of perjury shall be excluded as a witness in any action, proceeding, or matter whatever upon his own behalf; in any action or proceeding between adverse parties against any person who shall object thereto.

Section 37.11: If the testimony of a person convicted of a perjury or subornation of perjury has been received without objection, the rights of the parties claiming under the proceeding shall not be affected, unless the party calling the witness knows of the prior conviction.

Section 37.12: The Judge himself or any other juror may be called as a witness by either party; but in such case, it is in the discretion of the Court of Judge to order the trial to be postponed and to take place before another Judge or jury.

Section 37.13: When a legal officer is a witness for his client upon any trial except as to merely formal matters such as the attestation or custody of an instrument or the like, he shall not further participate in such trials.

Section 37.14: Whenever, in a civil or criminal proceeding, issues arise upon which the Court deems expert evidence is desirable, the Court, on its own motion, or on the request of either the Tribe or the defendant in a criminal proceeding, or of any party in a civil proceeding, may appoint one or more experts to testify at the trial.

Section 37.15: Before appointing expert witnesses, the Court may seek to bring the parties to an agreement as to the experts desired, and if the parties agree, the experts so selected shall be appointed.

Section 37.16: The provisions of this rule shall not preclude either party to either a criminal or a civil proceeding from calling an expert witness.

Section 37.17: Expert witnesses appointed by the Court shall, at the requests of the Court or of any party, make such inspection and examination of the person or subject matter committed to them as they deem necessary for the full understanding thereof and such further reasonable inspection and examination as any party may request. Reasonable notice shall be given and each party shall be permitted to be represented at such inspection and examination. Expert witnesses shall be subject to cross-examination by any party on his qualifications and the subject of his testimony.

Section 37.18: The Judge may in his discretion exclude evidence if he finds that its probative value is outweighed by the risk that its admission will:

Necessitate undue consumption of time,

Create substantial danger of undue prejudice or of confusing the issue or of misleading the jury,

Unfairly surprise a party who has not had reasonable ground to anticipate that such evidence would be offered.

Section 37.19: The Judge shall take judicial notice of the common law, statutes of every State, constitutional guarantees, duly enacted statutes, and governmental regulations of the Mille Lacs Band and other jurisdiction of the United States of America. The Judge may take judicial notice of:

Specific facts which are so certain as not to be the subject of reasonable dispute,

Specific facts and propositions which are common everyday knowledge in the particular jurisdiction, which everyone of average intelligence and knowledge of things about him can be presumed to know.

Section 37.20: Facts entitled to judicial notice need not be pleaded or proven or proved and the Judge will direct the jury to find such fact.

Section 37.21: The person requesting judicial notice must:

Furnish the Judge with sufficient information to enable him to properly comply with their request,

Give each adverse party notice sufficient to enable the adverse party to prepare to meet the request.

Section 37.22: Evidence obtained under any condition or circumstances which would violate any laws of the Band shall be inadmissible in any Court as proof of any fact.

Section 37.23: Non-expert opinions are admissible when words will not adequately describe the subject matter in issue so the trier of the facts can form an adequate judgement thereon.

Section 37.24: Where the facts observed can be exactly and fully reproduced by the witness so that the jury can equally well draw an inference from them, the witness' opinion shall be excluded.

Section 37.25: A writing, offered in evidence as authentic, is admissible, if sufficient evidence has been introduced to sustain a finding of its authenticity or the Judge finds that the writing:

Is at least thirty {30} years old at the time it is so offered,

Is in such condition as to create no suspicion concerning its authenticity,

At the time of its discovery was in a place in which such a document, if authentic, would likely be found.



Section 37.26: In order to prove the terms or contents of a writing or document, the writing or document itself must be produced or its unavailability shown before any other evidence will be received to prove the terms or contents of such writing or document.

Section 37.27: Hearsay evidence is an assertion made orally or in writing or by conduct by one out of court, which assertion is offered in court to prove the truth of the fact asserted.

Section 37.28: Hearsay evidence is inadmissible except as stated in Section 37.29 through Section 37.39.

Section 37.29: At the trial or upon the hearing of a motion or an interlocutory proceeding, any part or all of a transcript or deposition from a prior proceeding may be used against any party who was present or represented at the taking of such prior testimony, or who had due notice thereof, in accordance with any of the following provisions:

Section 37.291: The party, against whom the reported testimony is presently offered, was a party to the former proceeding and was afforded an opportunity to cross-examine the witness in that proceeding, and the issue upon which the reported testimony is presently offered is related to the same subject matter as that in the prior case.

Section 37.292: Any transcript or deposition may be used by any party for the purpose of contradicting or impeaching the testimony of the declarant as a witness.

Section 37.293: The transcript or deposition of a party or of anyone who at the time of taking such testimony was an officer, director, managing agent, or partner of a public or private corporation, partnership or association which is a party, may be used by any adverse party for any purpose.

The transcript or deposition of a witness, whether or not a party, may be used by any party for any purpose if the Court finds:

That the witness is dead.

That the witness is not on the Reservation, unless it appears that the absence of the witness was procured by the party offering the evidence.

That the witness is unable to attend or testify because of age, sickness, infirmity, or imprisonment.

That the party offering the evidence has been unable to procure the attendance of the witness by subpoena, or

Upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court, to allow the deposition to be used.

Section 37.294: Any party to the action or proceeding may introduce any part of any transcript or deposition or file therein, at any time, if such part is competent, relevant, and material.

Section 37.295: Substitution of parties does not affect the right to use depositions previously taken.

Section 37.296: When an action has been dismissed and another action involving the same subject matter is afterward brought between the same parties or their representatives or successors in interest, all depositions lawfully taken and duly filed in the former action may be used in the latter as if originally taken therefor.

Section 37.30: Evidence of a hearsay statement by an accused that he has done or omitted something, the doing or omission of which constitutes a crime or an essential part of a crime, is admissible against him in a criminal action, but only if the Judge finds that:

Section 37.301: The accused was not induced to make the statement by:

Infliction of physical suffering upon him or threats thereof, or

Threats or promises, likely to cause him to make such a statement falsely, which concerned action to be taken by a public official whom the accused reasonably believed to have the power or authority to secure the execution of the threats or promises; and

Section 37.302: The accused, when making the statement, was conscious and was capable of understanding what he said and did.

Section 37.31: Evidence of a hearsay statement is admissible against the declarant if the Judge finds that the declarant:

Is a party to the action in his individual capacity, or

Is a party to the action in a representative capacity and was acting in that capacity in making the statement.

Section 37.32: Evidence of hearsay statement is admissible against a party to the action if the Judge finds that declarant was authorized by the party to make a statement or statements for him concerning the subject matter of the statement, or the party, with knowledge of the content of the statement by words or other conduct, manifested his adoption or approval of the statement or his belief in the truth, or the declaration concerned a matter within the scope of an agency or employment of the declarant for the party and was made before the termination of the agency or employment, or the party and the declarant were participants in a plan to commit a crime or civil wrong, and the declaration was relevant to the plan or its subject matter and was made while the plan was in existence and before its execution was complete.

Section 37.33: Statements of admissions appearing on pleading filed in either a previous case or filed in a present case are admissible as admissions against the declaring party.

Section 37.331: A declaration is against the interest of a declarant if the Judge finds that the fact asserted in the declaration was at the time

of the declaration so far contrary to the declarant's pecuniary or propriety interest, or so far subjected him to civil or criminal liability, or created such a risk or making him an object of hatred, ridicule, or social disapproval in the community that a reasonable man in his position would not have made the declaration unless he believed it to be true.

Section 37.332: A declaration against interest is not admissible unless the declarant is not available as a witness.

Section 37.34: Evidence of a hearsay statement is admissible if the Judge finds that the hearsay statement was made, while the declarant was viewing the event or conditions which the statement narrates or describes or explains, or immediately thereafter, while the declarant was under the stress of a nervous excitement caused by his perception of the event or conditions which the statement narrates or describes or explains.

Section 37.35: Evidence of a hearsay declaration of a declarant's state of mind, emotion or physical sensation, tending to prove the fact remembered or believed is admissible unless the Judge finds that the declarant made the declaration in bad faith.

Section 37.351: The term "business" shall include every kind of business, profession, occupation, calling, or operation of institutions whether carried on for profit or not.

Section 37.352: A record of an act, condition, or event, shall insofar as relevant, be competent evidence if the custodian or other qualified witness, who has personal knowledge of such an act, event, or condition, testifies to its identity and the mode of its preparation, and if it was made in the regular course of business, at or near the time of the act, condition, or event, or within a reasonable time thereafter and if, in the opinion of the Court, the source of information, method, and time of preparation were such as to justify its admission.

Section 37.353: Evidence of the absence of a memorandum or record of an asserted act, event, or condition from the memorandum of a business is admissible as tending to prove the non-occurrence of the act or event or the non-existence of the condition in that business, if the Court finds that it was the regular course of that business to make such memoranda of all such acts, events, or conditions at the time thereof or within a reasonable time thereafter, and to preserve them.

Section 37.36: Entries in public or other official books or records, made in the course of official duty, by or under the direction of a public officer or board, or by another person in the performance of a duty established by law, are prima facie evidence of the facts stated therein.

Section 37.361: Certified copies of such entries shall be admissible in evidence. Whenever a copy of any such entry is certified for the purpose of evidence, the certificate must state in substance that the copy is a correct copy of the original or a specified part thereof. The certification shall be made by the official who was responsible for the copy of the entry, record or document, or by his superior who has knowledge that it is a true copy.

Section 37.362: Every instrument in writing which is acknowledged or witnessed and duly recorded or duly filed and such record or a certified

copy of such record, or a certified copy of such filed instrument duly certified by the proper custodian of the record or instrument, is admissible in evidence without further proof of its authentication.

Section 37.363: A written certificate, signed by an officer having the custody of an official record or by his deputy, that after diligent search no record or entry of a specified matter is found to exist in the records of his office, is admissible as evidence that the record of his office contain no such record or entry.

Section 37.37: If any business institution, member of a profession or calling, or any department or agency of the Tribe or United States government, in the regular course of business or activity has kept or recorded any memorandum, writing, entry, print, representation or combination thereof, or any act, transaction, occurrence, or event; and in the regular course of business has caused any or all of the same to be recorded, copied or reproduced by any photograph, photostat microfilm, or by any method for reproducing the original, the original may be destroyed in the regular course of business unless its preservation is required by law. Such reproduction when satisfactorily identified is as admissible in evidence as the original itself in any judicial or administrative proceeding whether the original is in existence or not. The introduction of a reproduced record, enlargement or facsimile, does not preclude admission of the original.

Section 37.38: The Court, at its discretion may exclude evidence admissible under Section 37.36 and 37.37 if it is found that the party against whom it is offered has not been furnished a copy of the writing or of its material portions a reasonable time before the evidence is offered.

Section 37.39: Evidence of a hearsay statement of a matter concerning a declarant's own birth, marriage, divorce, legitimacy, relationship by blood or marriage, race-ancestry or other similar fact of his family history, even though the witness had no means of acquiring personal knowledge of the matter declared.

Section 37.391: Is admissible if the Court finds that the declarant is unavailable; and

Section 37.392: May be admitted by the Court in the exercise of its discretion even if the declarant is available.

Section 37.40: Evidence of hearsay statement of a matter concerning the birth, marriage, divorce, death, legitimacy, race, ancestry, relationship by blood or marriage or other similar fact of the family history of a person other than the declarant is admissible if the Court finds: that the declarant was related to the other by blood or marriage or finds that the declarant was otherwise so intimately associated with the other's family as to be likely to have accurate information concerning the matter declared, and made the statement as upon information received from the other or from a person related by blood or marriage to the other, or as upon repute in the other's family, and that the declarant is unavailable as a witness. Evidence of the hearsay may be admitted by the Court in the exercise of its discretion if it found that the facts specified in clause 1 of this paragraph exists, even if all declarants are available.

Section 38: Judgment and Execution. The following judgment and execution procedures shall be utilized for all cases before the Court of Central Jurisdiction.

Section 38.01: In all cases, judgement shall consist of an order of the Court and notice of entry of judgement. Notice shall be given to the defendant on the day prescribed by the Court or within five {5} days of entry of judgement.

Section 38.02: The Judge of the Court of Central Jurisdiction shall grant a stay of execution of any final judgement, order, or writ of the Court pending an appeal, provided the appellant posts a bond with the Clerk of Court and a cash fee to cover costs and disbursements. The amount of the bond shall be set by the Judge of the Court of Central Jurisdiction, but in no case shall it exceed: in a civil case the equivalent of the amount of the judgement, including costs, or the value of the property, including costs, if the judgement is for the return of the property.

Section 38.03: The Clerk of Court must notify within five {5} days of the posting of the bond, the other party by registered letter of the stay of execution pending appeal. If a request for an appeal is not filed with the Clerk of Court within five {5} days of the date of judgement so prescribed in Section 32.01 the bond and fees shall be forfeited and sentence executed according to the judgement. The Clerk of Court shall enter the fact on the docket and notify the Judge of the Court of the default.

Section 38.04: Full faith and credit will be given to public acts, records, and judicial proceedings of all other Reservations and all Federal and State jurisdictions that have enacted a full faith and credit provision in their constitution or statutes.

Section 38.05: A judgement shall be considered a lawful debt in all proceedings held by the United States Department of the Interior or by the Court of Central Jurisdiction of the Mille Lacs Band of Chippewa Indians to distribute decedents estates.

Section 38.06: Whenever the Court of Central Jurisdiction, by writ of execution, shall have ordered payment of money damages to an injured party and the judgement debtor refuses to make such payment within the time set for payment within the time set for payment by the Court, and when the judgement debtor has funds to his credit, in excess of those specified in Section 38.18, at the Minnesota Agency to pay all or part of such judgement, the Agency Superintendent, upon receipt of the writ of execution shall certify to the Secretary of the Interior the record of the case and amount of the available funds. If the Secretary shall so direct, the disbursing agent shall pay over to the injured party the amount of the judgement, or such lesser amount as may be specified by the Secretary, from the account of the judgement debtor.

Section 38.07: The party in whose favor a money judgement is given by the Court of Central Jurisdiction may at any time within six {6} years entry thereof a writ of execution issued for its enforcement. Prior to the expiration of the six {6} years period, the judgement creditor, upon application may renew the judgement for an additional period of six {6} years. No execution however, shall issue after the death of the judgement debtor. The judgement creditor may have as many writs of execution as are necessary to effect collection of the entire amount of the judgement.

Section 38.08: A writ of execution shall be issued by the Clerk of Court and addressed to the Tribal or Bureau policemen and shall direct him to seize and deliver to the Clerk of Court sufficient unrestricted and nonexempt personal property of the debtor to pay the judgement and costs of sale. The writ of execution shall specify the particular property to be seized and the time and place of docketing.

Section 38.09: Within thirty {30} days of his receipt of the writ of execution, the policeman shall return it to the Clerk of Court with the property he has seized, or with a written explanation of why he cannot deliver such property.

Section 38.10: Immediately upon receipt of the property seized under a writ of execution, the Clerk of Court shall cause it to be appraised item by three {3} disinterested parties, one to be selected by the plaintiff, one by the defendant, and one by the Clerk of Court and all to be placed under oath by the Clerk to make a just and true appraisal. If either plaintiff or defendant, or both, fail to select an appraiser, the Clerk shall make the selection. If a majority of the appraiser cannot agree on an appraisal of any item or seized property within forty-eight {48} hours of their appointment, the Clerk may appoint new appraisers.

Section 38.11: Within seven {7} days after appraisal of property seized under a writ of execution, the Clerk of Court shall post at the place designated for the posting of legal notices and at least three {3} public places within the Band's jurisdiction notices of sale containing a full description of the property to be sold, together with the appraised value of each item and the time and place of sale.

Section 38.12: The sale shall be held not less than ten {10} nor more than twenty {20} days after the posting of notice in above paragraph. The sale shall be conducted between the hours of 9:00 a.m. and 4:00 p.m. at a convenient location.

Section 38.13: The Clerk of Court shall sell the property publicly to the highest bidder for cash, but not for less than the appraised price. He may sell it by item or in bulk, in his discretion.

Section 38.14: The Clerk shall pay into the court the expenses of sale and any unpaid court costs of either party from the proceeds of sale, and shall pay the balance up to the full amount of the judgement less unpaid court cost to the plaintiff. Any excess shall be paid to the judgement of the debtor.

Section 38.15: The Clerk shall deliver a bill of sale to buyer upon receipt.

Section 38.16: If the Clerk is unable to sell the property seized under a writ of execution for at least its appraised value, he may hold it for fourteen {14} days after the date of the attempted sale, during which time he shall sell it to the first person offering him appraised value in cash.

Section 38.17: The Clerk, at any time within the fourteen {14} days period following an unsuccessful sale upon request of the plaintiff and payment of all costs, may deliver the property to him and credit the appraised value thereof against the judgement debt. The judgement creditor shall have a judgement against the judgement debtor for costs as they are allowed under Section 39.02.

If the appraised value is greater than the debt, he shall not deliver the property to the plaintiff until the plaintiff pays the judgement debtor in cash for such value.

Section 38.18: At the end of fourteen {14} days if the property remains unsold and unclaimed by the plaintiff the Clerk shall return it to the judgement debtor.

Section 38.19: Except as provided in Section 38.20, the following property shall be subject to execution, any personal property, legal title to which is in the plaintiff, or upon which plaintiff holds a lawful lien, provided the writ of execution specified the personal property with the exception of any material, supplies or food and clothing items related to the personal exercise of guaranteed treaty shall not be attached.

Section 38.20: The property declared exempt by Section 38.02 is not exempt from execution or sale in an action brought or judgement recovered for the purchase price of the property so long as ownership of the property remains in the possession of the original purchaser, unless transfer of ownership is made for the purpose of defrauding the judgement creditor with the knowledge of the transferee of such purpose.

Section 39: Costs, fees, fines. The following costs, fees, and fines procedures shall be utilized for all cases before the Court of Central Jurisdiction.

Section 39.01: In all civil suits the complainant at the Court's discretion may be required to deposit with the Clerk of the Tribal Court a cash fee of surety bond in a reasonable amount to cover costs and other disbursements in the case.

Section 39.02: The Court may assess the accruing costs of the case against the party or parties against whom the judgement is given. Such costs shall consist of the expenses of voluntary witnesses for which either party may be responsible and the fees of jurors in those cases where a jury trial is held. The Court may direct payment of incidental expenses to include attorney's or agent fees unless specifically provided for elsewhere in this Code.

Section 39.03: The following fee schedules shall be utilized for services rendered by the Court of Central Jurisdiction.

Section 39.031: Docketing each case - one dollar {\$1.00}.

Section 39.032: Taking affidavit - twenty-five cents {\$ .25}.

Section 39.033: Filing complaint, bill of particulars, or other paper necessary in a cause - ten cents {\$ .10}.

Section 39.034: Issuing summons, order of arrest, or venire for jury - seventy-five cents {\$ .75}.

Section 39.035: Issuing subpoena - fifty cents {\$ .50}.

Section 39.036: Issuing execution, order of sale, writ of attachment, and entering thereof - one dollar {\$1.00}.

Section 39.037: Issuing writ of restitution and entering return thereof - one dollar {\$1.00}.

Section 39.038: Administering oath or affirmation to witness - twenty cents {\$ .20}.

Section 39.039: Entering judgement in any cause - one dollar {\$1.00}.

Section 39.040: Taking acknowledgement of deed or other instrument - twenty-five cents {\$ .25}.

Section 39.041: Copy of appeal, certiorari, or copy of pleadings, or other papers for any purpose, for each page - ten cents {\$ .10}.

Section 39.042: Certificate - twenty-five cents {\$ .25}.

Section 39.043: Issuing warrent or mittimus - seventy-five cents {\$ .75}.

Section 39.044: Issuing attachment - fifty cents {\$ .50}.

Section 39.045: commission on money collected on judgement without execution - one percent {1%} on the amount.

Section 39.05: Fines shall be paid in cash, or in property of the required value as may be directed by the Court. Upon request of the convicted person, the duly authorized Federal officer shall pay the fine out of funds of the convicted person on deposit at the Agency, or, if the judgement so requires, shall approve a transfer of property to the Band in payment of the fine. All fines or costs collected shall be collected according to the Bureau of Indian Affairs regulation and deposited to the Court fund of the Band. The disbursing agent shall withdraw such funds, in accordance with existing regulations upon the order of the Clerk of Court signed by a Justice of the Court of Central Jurisdiction.

Section 40: Replevin. The following replevin procedures shall be utilized for all cases before the Court of Central Jurisdiction.

Section 40.01: The plaintiff, in an action to recover the possession of personal property, at the time of issuing the summons or at any time before answer, may claim the immediate delivery of such property as provided in the Section.

Section 40.02: When an immediate delivery is claimed, an affadavit must be made by the plaintiff or by someone in his behalf stating that the plaintiff is the owner of the property claimed, is lawfully entitled to the possession of it, or that he had a lawful lien against such property, payment of which is in default. The facts of such ownership or right to possession must be set forth along with a detailed description of the property. Said affadavit must state that the property is wrongfully detained by the defendant and that the alleged cause of the detention of the property, according to his best knowledge, information, and belief that the property has not been taken for a tax, assessment against the property of the plaintiff; or, if so seized, that it is by law exempt from such seizure. Said affadavit must also state the actual value of the property.



Section 40.03: The plaintiff, after completing and endorsing such affidavit may require any branch or commission or Bureau police officer to take the property from the defendant and deliver it to the plaintiff.

Section 40.04: Before possession of any property may be taken by the plaintiff, he must furnish to the Court sufficient security in the form of cash or sureties. The surety shall be at least double in amount the value of the property as stated in the affidavit. If the defendant shall be later adjudged the rightful owner of the property or shall be entitled to possession of the property, the security provided by the plaintiff shall be used in any recovery by the defendant against the plaintiff.

Section 40.05: Upon receipt of the affidavit, endorsement, and security by the police officer, the officer shall take the property described in the affidavit, if it be in the possession of the defendant or his agent, and retain it in his custody. He shall keep it in a safe place and deliver it to the party entitled thereto upon receiving his lawful fees and necessary expenses for keeping the property. If the property or any part thereof be concealed in a building or enclosure, the officer shall publicly demand its deliver. If it is not delivered, then the police officer must obtain a search warrant from the Court of Central Jurisdiction.

Section 40.06: The police officer, at the time of taking any property, shall serve on the defendant a copy of the affidavit, endorsement, and proof of security or cash bond and notice of levy showing the property taken by delivering the same to the defendant personally, if he can be conveniently found, or to this agent from whose possession the property is taken; or if neither can be found, by leaving the papers at the usual place of abode of either, with some person of suitable age and discretion.

Section 40.07: If the property taken be claimed by any other person than the defendant or his agent, and such person shall make an affidavit of his title thereto and right to possession thereto, stating such right and title, and serve the same upon the police officer, the officer shall not be bound to keep the property or deliver it to the plaintiff unless the plaintiff shall indemnify the officer against such claim by deposit with the Clerk of Court of security in amount and sufficiency as required in the original affidavit for the delivery. No claim to such property by any other person than the defendant or his agent shall be valid against the officer, unless made as provided; and notwithstanding such claim when so made, he may retain the property a reasonable time to demand such indemnity.

Section 40.08: The defendant may retain or require the return of the property by giving the Clerk of Court within three {3} days after the taking, sufficient security or cash deposit of an amount not less than was required by the plaintiff for the delivery.

Section 40.09: If the defendant or a third party does not require a return of the property within three {3} days after the taking and service of papers on the defendant, the property shall be delivered to the plaintiff.

Section 40.10: Sureties may be provided by any person or company allowed by the Court. Security may be given in the form of a cash deposit. A receipt shall be given by the Clerk of Court and the desposit shall remain in the custody of the Court until the Court shall make an order disposing of it.

Section 40.11: The defendant or plaintiff may require the surety of the other to prove the validity of their sureties. The plaintiff and defendant shall be given seven {7} days from date of service of a copy of the affidavit to question the validity of the surety. If it is not questioned within seven {7} days, it shall be deemed waived and cannot later be questioned by either party.

Section 40.12: Within twenty {20} days after taking the property, the police officer shall be notified by the Clerk of Court in writing to make a verified report of his proceedings in taking and disposing of the property, and file the same together with the original affidavit, endorsement, or security and a notice of his copy of levy, with the Clerk of Court.

Section 40.13: The failure or neglect of the police officer to make such verified report of his proceedings shall not, however, void his proceedings under the affidavit and endorsement but shall render him liable for contempt of court.

CHAPTER 4

GAMING COMMISSION

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Preamble

It is enacted by the Band Assembly of the Mille Lacs Band of Chippewa Indians, in order to regulate and control the conduct of gaming, do hereby establish and authorize gaming in three forms: bingo, raffles and paper slot machine tickets within the statutory boundaries of the band.

Section 1: Powers and duties of Nay-Ah-Shing Gaming Commission. The officially recognized agent of the band with responsibility for implementing this ordinance shall be the Nay-Ah-Shing Gaming Commission.

Section 1.01: The Nay Ah Shing Gaming Commission shall be a voting three member board nominated and confirmed for a one year term by the Tribal Council. It shall promulgate all rules and regulations for the lawful conduct of gaming within the statutory boundaries of the band.

Section 1.02: Any collection of band members may organize for the purpose of conducting gaming activities if it first has an official license issued by the Nay Ah Shing Gaming Commission.

Section 1.03: The Nay Ah Shing Gaming Commission shall have the power to issue licenses to all organizations who desire to conduct bingo, raffles and paper slot machine tickets for the purpose of lawful non-profit fund raising. It shall have the power to monitor the expenditure of all profits gained to ensure lawful disbursements. It shall have the power to revoke any license for violation of this law or any rules and regulations after a due process hearing has been held and all voting members of the commission so concurs. It shall deny any license application by any organization for unsatisfactory performance of authorized past gaming activities. It shall have the power to sponsor any lawful game. It shall issue no license until a fee has been received by the band treasury. It shall issue and be issued a license valid for one year. It shall act on any license application within thirty days. It shall keep a recording of all meetings and be responsible for gross receipts and profits from conducting any lawful gaming activities. It may require any game manager to give a fidelity bond in the sum of five thousand in favor of the tribal government conditioned on the faithful performance of his duties.

Section 1.04: The Nay Ah Shing Gaming Commission and all other band members who organize for the purpose of conducting bingo shall apply for a license. The Gaming Commission shall apply for a license to the Reservation Band Council. Other organizations shall apply to the Gaming Commission for raffles and paper slot machine tickets {except bingo}.

Section 1.05: No person under the chronological age of sixteen shall be permitted to pay or win any legal bingo game. Age not limited for raffle or paper slot machine tickets or pull tabs.

Section 2: Conduct of Bingo. The game of bingo shall be operated under the rules and regulations promulgated by the Gaming Commission. This game shall not be played more than twice per week by any lawful organization. A Bingo game shall not exceed five hours in duration on each occasion.

\* Amended in Section 11

\* Section 2.01: Prizes for a Special bingo game shall not exceed five hundred dollars for the standard type of commonly known bingo games. Merchandize prizes in the form of consumable food shall not be allowed as compensation for any bingo game. Non-consumable merchandize prizes shall be valued at their fair market retail value. The prize awarded for any game of bingo occasion shall not exceed one thousand dollars. \* Amended in Section 10.

Section 2.02: Each bingo winner shall be determined and the prize awarded before the commencement of another game.

Section 2.03: All bingo occasions shall be under the supervision of a bingo boss designated by the Gaming Commission.

Section 2.04: Compensation for any person in connection with a bingo occasion shall be designated by the Gaming Commission.

Section 3: Conduct of Raffles. All band members who organize for the purpose of soliciting chance contributions shall be licensed by the Gaming Commission after said commission approves the license application and the organization has paid a twenty-five dollar fee to the band treasury. The cost of said fee may be deducted off the gross receipts of the raffle.

Section 3.01: No raffle shall exist beyond a time set forth by the Gaming Commission.

Section 3.02: Prizes awarded to winners shall be set forth by the Gaming Commission.

Section 4: Paper Slot Machine Tickets. All band members who organize for the purpose of soliciting chance contributions shall be licensed by the Gaming Commission after said Commission approves the license application and the organization has paid a fifty dollar fee to the band treasury. The cost of said fee may be deducted off the gross receipts of the first order.

Section 4.01: Each prize winner shall be determined within the calendar day of the ticket sale and the prize awarded immediately upon presentation of tickets.

Section 5: Gross Receipts and Profits, Records. All licensed organization shall keep records of its gross receipts and profits for each bingo occasion. Gross receipts shall be compared to the checker's records for the bingo occasion by a person who did not sell cards for the bingo occasion. All deductions from gross receipts from a bingo occasion shall be documented with receipts or other records. The distribution of profit shall be itemized as to payer, amount and date of payment.

Section 5.01: Gross receipts shall be segregated from other revenues of the organization and placed in a separate account. Each organization shall maintain separate records of its bingo operation. The person who accounts for gross receipts and profits shall not be the same person who accounts for other revenues of the organization. Records shall be preserved for three years. Organization shall make available their bingo records for investigation upon proper notice.

Section 5.02: The Gaming Commission shall designate individuals who will count the profits at the end of each game and their count should be consistent and recorded.

Section 6: Reports. All organizations shall file a quarterly report of financial condition of the sales of the purpose of license to the Gaming Commission.

Section 7: Use of Profits. Profits from any lawful gaming activity shall be expended for lawful activities adopted under the rules and regulations promulgated by the Gaming Commission. All lawful expenditures shall be authorized by the organization at its regular meeting before said expenditures occur.

Section 8: Violations. Any band member or organization who willfully violates any provision of this ordinance shall be found guilty of a misdemeanor and shall be prohibited from applying for a license for a period of two years from the date of judgment.

Section 9: Definition of terms. As used in sections one through seven inclusive, the following terms have the meanings given them.

Section 9.01: 'Bingo' means a game where each player has a paper for which a consideration has been paid which has five horizontal rows of spaces, with each row except the central one containing five figures. The center row has four figures with the word 'free' marked in the center space. A player wins a game of bingo by completing any pre announced combination of spaces or, in the absence of a preannounced combination of spaces, any combination of five spaces in a row or corners or vertical, horizontal or diagonal or commonly known variation of the game.

Section 9.02: 'Bingo Occasion' means a single session which a series of successive bingo games is played.

Section 9.03: 'Organization' means the Mille Lacs Reservation Band Council.

Section 9.04: 'Raffle' means a game in which a person buys a ticket for a chance at a prize with the winner determined by a random drawing.

Section 9.05: 'Paper Slot Machine Ticket' means a game in which a person buys a ticket for a chance to win money. Commonly referred to as Cherry Bingo.

Section 9.06: 'Profit' means the gross receipts from the operation of gaming devices, the conduct of raffles or paper slot machine tickets, less reasonable sums expended for license fees, prizes and maintenance of the basic operation of the game.

Section 9.07: 'Lawful purpose' means one or more of the following:  
a) benefitting children under the age of sixteen and elderly members of the band by enhancing their opportunity for cultural advancement by relieving or protecting them from disease, suffering or distress, by contributing to their physical and cultural well-being; b) lessening the burdens borne by the tribal government, increasing or supplementing services which the government desires to provide for the benefit of band members and; c) the improving, expanding, maintaining or repairing real property under trust status.

Band Statute 1029-MLC-4

Preamble

It is enacted by the Band Assembly for the Non-removable Mille Lacs Band of Chippewa Indians for the purpose of removing the amounts for prizes legally authorized under Band Statute for any game of a bingo occasion.

Section 10: Amendment to Section 2.01. Prizes for a Special bingo game shall be determined at the discretion of the Nay-Ah-Shing Gaming Commission for the standard type of commonly known bingo games. Merchandize prizes in the form of consumable food shall not be allowed as compensation for any bingo game. Non-consumable merchandize prizes shall be valued at their fair market retail value. The prize awarded for any game of bingo occasion shall be determined in advance at the discretion of the Nay-Ah-Shing Gaming Commission.

Band Statute 1052-MLC-4

Preamble

It is enacted by the Band Assembly for the Mille Lacs Band of Chippewa Indians:

Section 11: Amendment to Section 2. Conduct of Bingo. The game of bingo shall be operated under the rules and regulations promulgated by the Gaming Commission. This game may be played more than twice per week by any lawful organization.



CHAPTER 5

CIVIL RIGHTS ACT

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Band Statute 1011-MLC-5

Preamble

It is enacted by the Band Assembly of the Mille Lacs Band of Chippewa Indians for the purpose of establishing basic human rights under law for all individuals under the jurisdiction of the Mille Lacs Band of Chippewa Indians.

Section 1: Individual Freedoms under Band Law. The Band Assembly for the Mille Lacs Band of Chippewa Indians in exercising the powers of self-government is now and hereafter prohibited from enacting any Ordinance which prohibits the free exercise of religion or abridging the freedom of speech or of the press or the rights of the people to peaceably assemble and to petition for a grievance.

Section 2: Individual Protections under Band Law. The Band Assembly for the Mille Lacs Band of Chippewa Indians, in exercising the powers of self-government is now and hereafter prohibited from adopting any Ordinance which violates the rights of the people to be secure in their persons, houses, papers and effects against the unreasonable search and seizures. Any warrant shall be founded upon probable cause supported by oath or affirmation.

Section 2.01: No judicial officer, but upon probable cause, oath, or affirmation shall issue any warrant. Said warrant shall describe the place to be searched and the person or thing to be seized.

Section 3: Prohibition against Double Jeopardy. The Band Assembly for the Mille Lacs Band of Chippewa Indians, in exercising the powers of self-government is now and hereafter prohibited from adopting any Ordinance subjecting any person for the same offense to be twice put in jeopardy.

Section 4: Self-Incrimination in Criminal Proceeding. The Band Assembly for the Mille Lacs Band of Chippewa Indians, in exercising the powers of self-government is now and hereafter prohibited from adopting any Ordinance which compels any person in any criminal case to be a witness against himself.

Section 5: Expropriation of Private Property. The Band Assembly for the Mille Lacs Band of Chippewa Indians, in exercising the powers of self-government is now and hereafter prohibited from adopting any Ordinance which confiscates any private property for public use without just compensation.

Section 6: Individual Rights during Judicial Proceedings. The Band Assembly for the Mille Lacs Band of Chippewa Indians, in exercising the powers of self-government is now and hereafter prohibited from adopting any Ordinance which denies to any person in a criminal and civil proceeding to the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process of obtaining witnesses in his or her favor, and at his or her own expense, to have the assistance of counsel for his or her defense.

Section 7: Bails, Fines and Penalties. The Band Assembly for the Mille Lacs Band of Chippewa Indians, in exercising the powers of self-government is now and hereafter prohibited from adopting any Ordinance which requires excessive bail, imposes excessive fines, inflicts cruel and unusual punishments and in no event imposes for conviction of any one offense any penalty or punishment greater than imprisonment for a term of six months or a fine of \$500.00 or both.

Section 8: Due Process of Band Law. The Band Assembly for the Mille Lacs Band of Chippewa Indians, in exercising the powers of self-government is now and hereafter prohibited from adopting any Ordinance which denies to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law.

Section 9: Bills of Attainder. The Band Assembly of the Mille Lacs Band of Chippewa Indians, in exercising the powers of self-government is now and hereafter prohibited from adopting any Ordinance of attainder or ex-pose facto law.

Section 10: Rights to Trial by Jury. The Band Assembly of the Mille Lacs Band of Chippewa Indians, in exercising the powers of self-government is now and hereafter prohibited from adopting any Ordinance which denies to any person accused of an offense punishable by imprisonment, the right upon request to a trial by jury of not less than six persons.

Section 10.01: The Band Assembly of the Mille Lacs Band of Chippewa Indians, in exercising the powers of self-government is now and hereafter prohibited from adopting any Ordinance which denies the privilege of the writ of habeas corpus from any United States Federal District or Appeals Court.

Section 11: Assumption of Guilt. In any criminal, civil or administrative legal proceeding each accused person shall be guilty until proven innocent.

Section 12: Protections for Cultural Values. The Band Assembly for the Mille Lacs Band of Chippewa Indians, in exercising the powers of self-government is now and hereafter mandated to initiate any legislative action which preserves and maintains the official language of the Band as Chippewa and the official religion of the Band as Me-de-win.

Band Statute 1063-MLC-5

#### Preamble

It is enacted by the Band Assembly of the Mille Lacs Band of Chippewa Indians in order to reserve any and/or all lands which were in ownership for the Mille Lacs Band, Sandy Lake Band, Rice Lake Band, Snake River Band, and Knife River Band.

Section 13: Definition. Land means any or all lands which were in ownership and/or reserved for the Mille Lacs Band, Sandy Lake Band, Rice Lake Band, Snake River Band and the Knife River Band.

Section 14: Compensation. The Band Assembly hereby approves that the only means of compensation for lands shall be land and furthermore this land shall be equal in all nature to those lands that compensation is needed.

C H A P T E R 6

PUBLIC WORKS COMMISSION ACT

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Band Statute 1010-MLC-6

Preamble

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 control and manage a band operated water-works system do hereby charter the Mille Lacs Band of Chippewa Indians - Public Works Commission.

\* Section 1: Public Works Commission. A commission to be known as the Mille Lacs Band of Chippewa Indians - Public Works Commission is hereby chartered as an authorized independent tribal government sub-division with these powers expressly delegated by the Band Assembly. Amendment to Section 11.

\* Section 1.01: The Mille Lacs Band of Chippewa Indians Public Works Commission shall be a three member commission; with each member having the title of Supervisor and one vote at formal regular and special meetings. Amendment to Section 11.01.

\* Section 1.02: Each Supervisor shall be elected, one from each district, for a term of office not to exceed four years commencing July 1, 1984. Amendment to Section 11.02

\* Section 1.03: Any Supervisor elected by the residents of a district must be an enrolled member of the Mille Lacs Band of Chippewa Indians. Amendment to Section 11.03

\* Section 1.04: Any Supervisor may be removed from office for just cause as determined by Ordinance 02-82, Section 13. Amendment to Section 11.04.

Section 2: Supervisor's Power. The Mille Lacs Band of Chippewa Indians Public Works Commission shall have the power to regulate and maintain the band-owned and operated water plant. The Commission shall have jurisdiction over any and all matters pertaining to water and sanitation facilities within the territorial jurisdiction of the Mille Lacs Band. The Commission shall be a political body which is a corporation of the Mille Lacs Band of Chippewa Indians with the right to initiate and defend the Commission in any legal action before the tribal court system. In exercising any powers granted, each supervisor shall not be immune from any responsibility which results from the willfull, knowledgeable and unacceptable performance of their duties.

\* Section 2.01: Additional Powers of Commission. The Commission shall have the power to recommend to the Band Assembly prior to approving the construction of any water or sanitation facility and this authority includes the approval of any and all subject matter related contracts and/or agreements. Amendment to Section 12.

Section 2.02: The Commission shall have the power to issue licenses and/or permits, establish fees for said licenses or permits for assisting in the operation and maintenance of said facilities.

Section 2.03: The Commission shall adopt a set of By-Laws which shall be ratified by the Band Assembly before December 31, 1984. Said By-Laws shall be distributed to the membership of the Commission.

Section 2.04: The Commission shall have the power to establish membership in the Mille Lacs Band of Chippewa Indians - Public Works Association.



Section 2.041: Each person who resides on trust, allotted or private property within the jurisdiction of the Band shall enroll in the Association. Those persons enrolled as of June 30, 1984 in said Association shall not be required to re-enroll.

Section 2.05: The Commission shall have the power to establish fees for membership and to collect said fees in the manner prescribed by its by-laws.

Section 2.06: The Commission shall have the power to withhold service from any person who fails to submit payment for any fee legally established.

Section 2.07: The Commission shall have the power to employ qualified individuals who shall be employees of the Band.

Section 2.08: The Commission shall have the power to contract in writing with individuals for service to any water or sanitation facility provided sufficient funds exist for payment.

Section 3: Uniform System of Records and Accounting. The Public Works Commission shall prescribe to the financial record system established by the Secretary of the Treasury for the Mille Lacs Band of Chippewa Indians.

Section 4: Administrative Regulations. The Public Works 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.

Section 5: Governance to June 30, 1984. The Chief Executive shall appoint, subject to confirmation by the Band Assembly, three individuals who shall serve as the Public Works Supervisors pro-temp. with all duties and privileges authorized under this law.

\* Section 6: Meetings. The Public Works Commission shall meet monthly with an agenda prepared in advance by the District I Supervisor. All proceedings of the Commission shall be open to the public except when executive session is authorized by unanimous vote of the Commission. All proceedings shall be documented in writing and distributed to the Band Assembly not more than two days following said meeting. Amendment to Section 13.

Band Statute 1051-MLC-6

Preamble

It is enacted by the Band Assembly of the Mille Lacs Band of Chippewa Indians, to establish the By-Laws and Plan of Operation for the Public Works Commission.

Section 7: By-Laws. The Band Assembly hereby establishes the By-Laws for the Public Works Commission.

Section 7.01: The name shall be the Mille Lacs Band of Chippewa Indians - Public Works Commission.

Section 7.011: The Principal office shall be on the Mille Lacs Reservation at Vineland, Minnesota, Mille Lacs County.

Section 7.012: The Commission may also have an office at such other place or places as the Public Works Commission may direct or as the operation of the Commission shall require.

Section 7.02: 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.

Section 7.03: Voting Membership: All adult members of the Mille Lacs Band who are enrolled on the Minnesota Agency census roll of the Bureau of Indian Affairs shall be considered a voting member of this Association. Each member shall be entitled to one vote on all matters requiring the expression of preference by the Commission membership. Voting by proxy will not be permitted. The rights, privileges and obligations of all members of this Commission shall be equal. For the purposes of this section an adult shall be a member who is eighteen {18} years of age and over.

Section 7.04: Annual Meeting: The annual meeting of this Commission shall be held at the Community Center, Star Route, Vineland, Minnesota, County of Mille Lacs on the second Thursday of October of each year. The meeting will be called for the purpose of receiving annual reports of Officers and the transactions of other business. This By-Law shall be sufficient notice of the annual meeting.

Section 7.041: Special Meeting: Special meetings of the Commission may be called at any time by the President or upon written petition to the President of the Board signed by 20% of the members. The purpose of every special meeting shall be stated in the notice thereof, and no business shall be transacted except such as is specified in the notice. A written notice of such special meeting shall be posted in public places at least ten {10} days prior to the meeting, such notice shall state the nature, time, place and purpose of the meeting.

Section 7.042: Membership quorum: 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 will be mailed to the membership.

Section 7.043: Procedures: Robert's Rule of Order shall be followed 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. The public may be excluded in a meeting in matters relating to personnel, or matters adjudicatory in nature or matters concerning purchases that can be made only from one source.

Section 7.05: Board of Commissioners functions: The business and affairs of this Commission shall be managed by a board of three {3} Supervisors. The powers of the Supervisors is prescribed by law in Band Statute 1010-MLC-6.

Section 7.051: Election and Term of Supervisors: The Board of Supervisors shall be elected as prescribed in Band Statute 1010-MLC-6, Section 1.02.

Section 7.052: The Board of Supervisors shall meet as soon as possible after the establishment of the Commission and in any event within ten {10} days of that time and shall elect by ballot a President, Vice-President and Secretary from among themselves, each of whom shall hold office until the end of the current fiscal year and until election and qualifications of his successor, unless sooner removed by resignation or for cause.

Section 7.053: Compensation of Officers: The members of the Commission shall receive no compensation for their services as Supervisors.

Section 7.054: Meeting of the Board of Supervisors: 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 there at.

Section 7.055: Powers of the Board: The Board of Supervisors shall have the general power to act for the Commission in any manner not prohibited by these by-laws or Band Statute. If the Commission shall, at any time, receive by way of grant, any property of any Federal, State, Tribal or private agencies the Board of Supervisors shall use the Uniform System of Records and Accounting as prescribed in Band Statute 1010-MLC-6, Section 3.

Section 7.056: Removal of Supervisor: The Board of Supervisors may be removed from office as prescribed in Band Statute 1010-MLC-6, Section 1.04.

Section 7.06: Duties of President: The President shall preside over all meetings of the Commission, shall call special meetings of the Board of Supervisors. He shall have powers to perform such other duties as may be required of him by the Board of Supervisors.

Section 7.061: Duties of the Vice-President: The Vice-President, in the absence or disability of the President, shall perform the duties of the President. However, in case of resignation or permanent disability of the President the Board of Supervisors may declare the office vacant and elect his successor to fill the unexpired portion of the President's term, as prescribed by Band Statute.

Section 7.062: Duties of the Secretary: The Secretary shall keep a record of the proceedings of all meetings of the Board of Supervisors. He shall serve or caused to serve by law or bylaws of the Commission and shall make a full report of all matters and business pertaining to his office at the annual meeting, or such other time or times as the Board of Supervisors may require. At the annual meeting he shall submit for the information of the Mille Lacs Band a complete statement of the account for the past year and shall discharge such other duties pertaining to the Commission.

Section 7.07: An accounting system shall be established as prescribed by Band Statute 1010-MLC-6, Section 3, and including the implementation of Attachment P Circular A102 single audit of grants and contracts.

Section 7.08: Utility Rates and Charges: All rates and charges for utility services shall be established by the Board of Supervisors. The Board of Supervisors may negotiate with large users of a particular utility service for special rates and charges however, that such negotiated rates shall be demonstrated to be fair and equitable to all other customers or users of Commission services. Annually the Public Works Commission shall review the established rate schedule of charges to ensure that sufficient income will be generated for the coming year to cover anticipated expenses. This determination shall be based on the previous year's action expenses and the estimated budget for the coming year.

Section 7.09: Amendments: These by-laws may be altered, amended or repealed. New By-laws may be adopted by a majority vote of the Board of Supervisors present at any regular meeting, or at any special meeting of the Board of Supervisors called for that purpose. Any by-laws that are altered amended or repealed must be presented to the Band Assembly for ratification.

Section 7.10: Nothing in these by-laws shall be construed as a waiver of sovereign immunity of the Mille Lacs Band of Chippewa Indians in any State or Federal Court of competent jurisdiction.

Section 8: Rules and Regulations. These rules and regulations are issued in compliance with the By-laws of the Commission, and are designed to govern the supplying and taking of service 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 By-laws, the By-laws will prevail.

Application for service shall be made as provided by the Commissioner's By-laws. Upon review and approval of the application by the Board of Commissioners, a consumer certificate shall be issued and service provided.

The Board of Commissioners may enter into special service contracts in cases where the applicant has unusual service requirements.

Section 8.01: Water Service: 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 consumer's use, regardless of whether or not the consumer made use of it, and charges shall be made for service as of this date.

One consumer may have more than one water service, as provided in the Commission's By-Laws. Water Service is for the sole use of the consumer, his agent{s} or tenant{s} at the location requested, and does not permit the transfer of water by any means to another dwelling or place of business. With the exception of emergency conditions, the sharing or reselling of water is grounds for disconnection of Water Service by the Board of Commissioners.

Section 8.011: Connection to Private System: There shall be no physical connection between any private water system and the Commission shall have the right, at all reasonable hours, to enter upon member's premises for the purpose of inspection and enforcement of the provision. Violation of this provision is cause for disconnection of a consumer's Water Service by the Board of Commissioners.

Section 8.012: Bills for Water Service are due and payable at the location indicated on the bill, and becomes delinquent twenty {20} days thereafter. Failure to pay for Water Service within the time provided above shall be grounds for a penalty and disconnection of service as defined below.

Section 8.0121: Disconnection of Water Service: Five {5} days prior to the billing date, all delinquent members will be notified by certified mail and in person, that their Water Service will be disconnected if their account is not paid current.

Section 8.0122: Reconnection of Water Service: Any Water Service which has been disconnected, due to a delinquent account or for other reasons, shall be reconnected only until the account has been paid current and reconnection fees paid.

Section 8.0123: Extension of Water Mains: Mains and Service lines laid beyond the consumers existing water system will be installed to the Commission's specifications and paid for by the individual applying for the service.

Section 8.02: Sewer Service - Continuity of Service: The Commission shall maintain the collection system and treatment facilities in repair and in operating order at all times, if possible. The Commission will not be responsible for damage to members property due to damage or malfunction of the facilities due to cause beyond its control.

Section 8.021: Billing and Payment for Sewer Services: All Commission Consumers are subject to a sewer service charge as soon as sewer service is available, as defined in "Sewer Service". The Commission secretary shall bill the consumers monthly for Sewer Service based on the approved sewage rate schedule. Billing for Sewer Service shall be done jointly with the Water Service billing, and rules governing delinquent Water Service accounts, disconnect and reconnect shall apply. In the causes where members may be using Sewer Services only, the Commission secretary shall bill the member monthly for Sewer Services on the approved rate schedule.

Section 8.0211: Bills for Sewer Service are due and payable at the location indicated on the bill, and becomes delinquent twenty {20} days thereafter. Failure to pay for Sewer Service within the time provided above shall be grounds for the Commission to impose a penalty of twenty-five dollars {25.00} upon the consumer. Delinquencies beyond what the Board of Commissioners would consider a reasonable time, after the review of the circumstances, will be grounds for disconnection of Sewer Service and, therefore, cancellation of service.

Section 8.03: Other: It is the responsibility of the Commission to maintain the water lines up to the curb stop or five feet from the dwelling. The house is the home owners responsibility, except homes that are being rented from the Mille Lacs Band.

Section 9: Plan of Operation. The Plan of Operation and any amendments thereto shall serve as the operating guidelines for the Public Works Commission. Below the General Policies of the Plan of Operation are established.

Section 9.01: Purpose. The purpose of the Public Works Commission will be to manage, operate and maintain utility systems of the Mille Lacs Band of Chippewa Indians.

Section 9.02: Place of Business. The Public Works Commission will maintain an office in Vineland Minnesota. It's address will be: Public Works Commission, Mille Lacs Band of Chippewa Indians, Star Route Box 194, Onamia, Minnesota 56359.

Section 9.03: Services Offered: Water Services: The Public Works Commission is responsible to provide safe, adequate water for a fee to those houses connected to the mainlines of community water system. Responsibility for maintenance will include water sources, storage tanks, controls, mainlines, valves and hydrants, and service lines to the curb stops only. The service lines from the curb stop to the house and interior house plumbing are the responsibility of the customer, except for homes rented from the band, which are the responsibility of the Housing Authority.

Section 9.031: Sewerage Services: The Public Works Commission is responsible to provide sanitary disposal of domestic waste for a fee to those houses connected to the mainlines of community sewerage systems. Responsibility for maintenance will include treatment facilities, pumping stations, mainlines and manholes, and service lines to the property lines only. The service line from the property line to the house and interior house plumbing are the responsibility of the customer, except for homes rented from the band, which are the responsibility of the Housing Authority.

Section 9.032: To ensure the provisions of adequate water and sewerage service to its customers, the Public Works Commission will retain qualified personnel on duty or on call at all times. The Public Works Commission will respond quickly to breakdowns and other emergencies.

Section 9.033: Septic Tanks Services: The Public Works Commission may elect to provide for pumping of individual septic tanks for a fee. Responsibility of the Public Works Commission will cover only such elective plumbing. The Commission cannot guarantee the operation of improperly designed or constructed septic tank systems.

Section 9.034: Plumbing. The Public Works Commission may elect, as resources permit, to perform certain plumbing repairs or new installations for a fee in those houses served by one of the Commission's systems.

Section 9.035: Other Services: The Public Works Commission may agree to perform under contract with governmental, tribal, or private bodies construction or operation and maintenance services.

Section 9.036: Future Services: At some future date, the Public Works Commission may assume responsibility to provide solid waste, electrical, gas, telephone, or other utility services. None of these services will be available through the Public Works Commission at present.

Section 9.04: Systems Covered - Water {Community Systems}: Vineland, Vineland North, East Lake, Lake Lena, Sandy Lake, Isle, and Hinckley.

Section 9.041: Sewerage {Community Systems}: Vineland, Vineland North, East Lake, Lake Lena, Sandy Lake, Isle, and Hinckley.

Section 9.042: Services for individual septic tank systems will be available at the Public Works Commission's discretion in communities served by a water system belonging to the Commission.

Section 9.05: Maintenance Schedule. The Public Works Commission will develop and follow a regular schedule of maintenance services for each water and sewage system. These services will include, but not be limited to the following:

Section 9.051: Water Systems. 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.

Section 9.052: Sewerage Systems. Flush sewer mains, remove debris from manholes, control weeds and erosion at lagoons, inspect and service lift station and mechanical aerators, and inspect individual septic tanks.

Section 10: Billing and Payment Policy. Your bill is based upon your usage of water under an applicable rate tariff. The tariff, regardless of usage, provides for a minimum service charge per month and a charge for water and sewer services rendered.

Section 10.01: Bills will be sent to the users by the fifth of each month for services rendered the previous month, and are delinquent if not paid in full by the due date, the 20th of each month.

Section 10.02: Bills not paid by the due date shall be subject to a ten percent {10%} late charge on the unpaid balance.

Section 10.03: Failure to pay a bill in full on the first day of the month following the month in which it was due will result in a disconnection of service. A re-connection fee of twenty-five dollars {25.00} will be charged.

Section 10.04: Partial payments will be accepted, but this does not relieve the user of the responsibility of paying the amount due by the due date, nor does it extend the due date or the disconnect date.

Section 10.05: Advance payments will be accepted and credited to the account monthly until exhausted.

Section 10.06: All returned checks will result in a delinquent account, if the check is not redeemed by the due date. Returned checks not redeemed by the first of the month following the month in which the bill was due will be subject to a disconnect.

Section 10.07: All customers with returned checks will be charged a fee of seven {~~\$7.00~~} dollars. This cost will cover the extra time and effort it takes to recover these items.

\* Section 10.08: As specified in the By-laws of the Commission, the monthly minimum service charge has increased to \$18.00 from \$6.00 for water and sewer services. Amendment to Section 14.

Section 10.09: Billing and Collection Policies are specified below:

Section 10.091: The Utility Authority will maintain a complete and up-to-date record of all customers served by those systems operated by the Authority. Additions and deletions will be made as soon as the Authority learns of changes.

Section 10.092: The Utility Authority will type and mail to each customer his bill for services on the 1st day of the month. Payment will be due on the 10th day of the month. Non-payment by the 20th day of the month will be cause for the Utility Authority to shut off the customer's water service.

Section 10.093: Customers may make payments by cash, check or money order to the Authority at its office at Mille Lacs Government Center, the customers will receive a signed receipt for payment.

Section 10.094: Customers who live in houses managed by the Housing Authority, or other Tribal enterprises will continue to make water and sewer payments along with their rent or house payment. The agency collecting the payments then will pay the Utility Authority for all of its housing occupants. The agency will receive a receipt for this payment.

Section 10.095: Customers requesting a new service, reconnection, plumbing repairs, or pumping of septic tank shall make arrangements with the Supervisor of Operations for payment prior to receiving the services. Normally all charges will be due on the next month's bill.

Section 10.096: If a customer's water service is discontinued he must pay all of his delinquent charges plus the reconnection fee before the Authority will restore his water service.

Section 10.10: Enforcement policies are specified below:

Section 10.101: The Utility Authority is hereby authorized by the Band Assembly to collect fees for services and to shut off services for non-payment.

Section 10.102: The Utility Authority shall enforce its regulations and fee collections by shutting off water service of any and all violators and delinquent bill-payers. The Utility Authority shall not seek to attach customer's property, nor seek to have fines assessed by Tribal Court, except in limited cases of blatant or continued abuses or destruction of property.



Section 10.11: Bookkeeping and Handling of fund policies are specified below:

Section 10.111: The Utility Commission will follow normal tribal procedures for bookkeeping and banking. This will allow convenient handling of funds through the same bank account of the tribe, while also providing a separate accounting of Utility Authority's funds. The Supervisor of Operations will make available to the Board of Directors monthly an accounting of the Authority's funds.

Section 10.112: Actual handling of the Utility Authority's funds will be performed by the Tribal Treasurer.

Section 10.113: All accounts and ledgers of the Utility Authority shall be available for audit at any time by the Tribal Auditor.

Section 10.12: Management policies are specified below:

Section 10.121: The Board of Directors will establish policy for execution by the Supervisor of Operations as described in the By-laws and Management contract.

Section 10.122: The Supervisor of Operations will manage the daily operations of the Utility Authority. The Supervisor will have responsibility to direct the work of all employees of the Utility Authority. He shall establish a direct chain of command for orderly functioning of the office and operation and maintenance of the utility systems.

Section 10.123: Job descriptions for all employees will be developed and followed.

Section 10.124: Employees of the Utility Authority will receive wages and benefits comparable to employees of the Tribe. Employees will retain their right of final appeal to the Tribal Court should any dispute with the Supervisor of Operations or the Board of Directors not be resolved.

Section 10.13: Customer Complaints and Problems. The Utility Authority should serve the people of the Mille Lacs Band. Yearly meetings of the Board of Directors shall be open to the public. Customers with particular problems or complaints should request inclusion on the agenda of the next Board Meeting.

Section 10.14: Amendments or Revisions. The Plan of Operation may be amended by a simple majority of Directors in attendance at a meeting called for the purpose and thereafter approved by the Band Assembly as provided by law.

## BAND STATUTE 1063-MLC-06

## Preamble

It is enacted by the Band Assembly of the Millie Lacs Band of Chippewa Indians for the purpose of amendment to the statutes.

Section 11. Amendment to Section 1: Public Works Commission. A commission to be known as the Millie Lacs Band of Chippewa Indians-Public Works Commission is hereby chartered under the Executive Branch of Tribal Government with these powers expressly delegated by the Band Assembly.

Section 11.01. The Assistant Commissioner of Administration shall chair the Public Works Commission ensuring the lawful activity of the Commission. The Commission shall ensure accurate record keeping of all meetings and all transcripts thereof. Such records shall be Prima Facie evidence of the facts therein stated.

Section 11.02. Amendment to Section 1.02. The Chief Executive shall nominate two individuals from the membership and shall be confirmed by the Band Assembly. The terms of office shall be perpetual.

Section 11.03. Amendment to Section 1.03. This section as amended as of the effective date of this statute is repealed.

Section 11.04. Amendment to Section 1.04. Any Supervisor may be removed from office for just cause as determined by Band Statute 1002-MLC-2, Section 20.

Section 12. Amendment to Section 2.01: Additional Powers of the Commission. The Commission shall have the power to approve the construction of any water or sanitation facility and this authority includes the approval of any and all subject matter related contracts and/or agreements.

Section 13. Amendments to Section 6. Meetings: The Public Works Commission shall meet monthly with an agenda prepared in advance by the Assistant Commissioner of Administration. All proceedings of the Commission shall be open to the public except when executive session is authorized by unanimous vote of the Commission. All proceedings shall be documented in writing and distributed to the Band Assembly not more than two days following said meeting.

Section 14. Amendment to Section 10.08. As specified in the By-Laws of the Commission, the monthly minimum charge has increased to \$8.00 from \$6.00 for water and sewer services.

Section 15. Addition to Section 10.081. Notwithstanding the provisions of this law to the contrary, the Band Assembly hereby determines that Band members and others under the jurisdiction of the Public Works Commission who have attained the chronological age of fifty-five or those who qualify for services of the Elderly Nutrition Program irrespective to chronological age shall be exempt from any increase to minimum monthly service fees established by Public Works Commission. Any and all fees in effect on January 1, 1985, shall apply to persons eligible for this exemption.

Section 16. Addition to Section 10.082. Notwithstanding the provision of this law to the contrary, the Public Works Commission shall declare absolute exemption from all service fees to those Band members and others under the jurisdiction of the Public Works Commission who have attained the chronological age of fifty-five or those who qualify for services of the Elderly Nutrition Program provided said persons have a gross monthly income of less than three hundred dollars; verification of income shall be certified by the Contracting Officer of the Food Commodity Program.

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Band Statute 1017-MLC-7

Preamble

It is enacted by the Mille Lacs Reservation Business Committee of the Mille Lacs Band of Chippewa Indians, in order to exercise a more effective form of tribal government to regulate and enforce all hunting, trapping, fishing and the gathering of wild rice within territories governed by the Mille Lacs Reservation Business Committee.

Section 1: Implementing Regulations. As used in this ordinance, the following terms shall have the meanings given to them in this section:

Section 1.01: "Conservation Committee" shall mean an eight {8} member committee constituted as set forth in Section 2 which shall have authority and responsibility for regulation of all matters within the area governed by the Mille Lacs Reservation Business Committee pertaining to hunting, trapping, fishing and the gathering of wild rice, and for enforcement of such regulations as are herein included or as may be promulgated by the Committee.

Section 1.02: "Mille Lacs Reservation" shall mean all lands within the exterior boundary lines described in the Treaty of 1855, to wit: "The following fractional townships, viz: forty-two north, of range twenty-five west; forty-two north, of range twenty-six west; and forty-two and forty-three north, of range twenty-seven west; and, also, the three islands in the southern part of Mille Lac;" all contiguous waters, and all other trust properties of the Mille Lacs Band, its enrolled members, and of the Minnesota Chippewa Tribe and delegated to the Reservation Business Committee.

Section 1.03: "Reservation Business Committee" shall be the duly constituted Reservation Business Committee of the Mille Lacs Band of Chippewa Indians.

Section 1.04: "Special Permit" shall mean a permit issued by the Conservation Committee, or its delegates, exempting the recipient from one or more of the regulations contained herein, upon a finding by the Committee that granting of the exemption will not endanger the resource.

Section 2: Conservation Committee. The Conservation Committee shall consist of eight {8} persons. The five members of the Mille Lacs Reservation Business Committee shall be the only voting members of the Committee. One person shall be appointed to the Conservation Committee by the Minnesota Agency Superintendent, Bureau of Indian Affairs; one person shall be appointed by the Regional Director, Region 3, Bureau of Sport Fisheries and Wildlife; and one person shall be appointed by the Commissioner of the Minnesota Department of Natural Resources; provided that these three persons shall serve the Conservation Committee in an advisory capacity; shall serve indefinite terms and may not vote.

Section 2.01: The Mille Lacs Reservation Business Committee may establish an advisory committee to assist the Conservation Committee. If such a committee is appointed, it shall serve in an advisory capacity only; shall serve at the leisure of the Mille Lacs Reservation Business Committee; shall have no official duties or powers under this Code except as delegated by the Conservation Committee; and shall be entirely comprised of Mille Lacs Reservation enrollees.

Section 2.02: The Conservation Committee shall perform all duties and responsibilities and shall exercise all authority delegated to it by the Reservation Business Committee by this ordinance, including, but not limited to:

Section 2.021: Issuance of Band Fishing Licenses, Non-Band Fishing Licenses, Commercial Fishing Permits, Band Hunting Licenses, Non-Band Hunting Licenses, Band Ricing Licenses, Non-Band Ricing Licenses, Special Permits, or any other type of permit authorized by these regulations.

Section 2.022: Amendment of these regulations and adoption of additional regulations as found necessary.

Section 2.023: Setting of seasons where none are specifically provided, closing or shortening existing seasons when necessary for the preservation of the resource, or extending or opening seasons when it is determined that it will not harm the resource.

Section 2.024: Setting limits on the manner or amount of taking of fish, game, or wild rice, when necessary for the conservation of the resource, or altering limits specifically provided by these regulations.

Amendment added: Section 23

Section 2.025: Reviewing on an annual basis or more frequently the numbers of each type of permit or license outstanding, with particular emphasis on any commercial permits or special permits which may be outstanding, to determine whether or not it is in the best interest of conservation to continue such licenses.

Section 2.026: Revoking of permits and licenses under the provisions of Section 2.03.

Section 2.027: Keeping and maintaining an up-to-date and accurate list of all persons to whom each type of permit and license has been issued.

Amendment added: Section 21

Section 2.03: Any permit or license authorized by these regulations may be revoked by the Conservation Committee or the Reservation Court upon conviction of any violation of the Conservation Code of this or any other Minnesota Chippewa Tribe Reservation.

Section 2.04: Any person who is aware of or witnesses a violation of any of these regulations, or of any rule established by the Conservation Committee regarding season limit, bag limit or restriction on method or manner of taking game, fish or wild rice, may report such infraction to the Conservation Committee, the Natural Resource Officer or the Court of Central Jurisdiction as established in Section 21.



Section 3: General Definitions. The following definition of terms shall be utilized when interpreting this statute.

Section 3.01: "Firearm" shall mean any gun from which shot or projectile is discharged by means of an explosive, gas or compressed air.

Section 3.02: "Taking - Hunting" shall include pursuing, shooting, killing, capturing, trapping, snaring and netting wild animals and all lesser acts such as intentionally disturbing, harrying, worrying or placing, setting drawing, using any net, trap or other device to take wild animals, and includes every attempt to take, every act of assistance to any other person in taking or attempting to take wild animals.

Section 3.03: "Possession" shall mean both actual and constructive possession and any control of the things referred to.

Section 3.04: "Transport - Transportation" shall mean carrying or moving by any instrumentality, attempting to do so, or accepting or receiving wild animals for transportation or shipment.

Section 3.05: "Wild Animals" shall mean all living creatures, not human, wild by nature, endowed with sensation and power of voluntary motion, and includes quadrupeds, mammals, birds, fish, amphibious reptiles, crustaceans and mullusks.

Section 3.06: "Closed Season" shall mean the period during which protected wild animals may not be taken.

Section 3.07: "Open Season" shall mean the period during which wild animals may be taken.

Section 3.08: "Protected Wild Animals" Shall include all wild animals which are accorded some measure of protection in the time or manner of taking.

Amendment added: Section 22

Section 4: Fishing Regulations - Definitions. The following definition of terms shall be utilized when interpreting this statute.

Section 4.01: "Band Fishing License" Shall mean a license issued by the Conservation Committee to a member of the Mille Lacs Band of Chippewa, which license authorizes him to fish in accordance with the provisions of this statute.

Section 4.02: "Commercial Fishing Permit" shall mean a permit issued by the Conservation Committee to a Mille Lacs Reservation enrollee under the provisions of Section 5 of these regulations.

Section 4.03: "Commercial Purposes" shall mean the taking of fish for barter or sale.

Section 4.04: "Personal Use" shall mean the taking of fish for any purpose other than commercial purposes.

Section 4.05: "Game Fish" shall include brook trout, brown trout, crappie, grayling, lake trout, large mouth bass, muskellunge, northern pike, rainbow trout, rock bass, sauger, small mouth bass, sturgeon, sunfish and walleye.

Section 4.06: "Non-Game Fish" shall include buffalo fish, burbot, bullheads, carp, catfish, coho, dogfish, gar, quillback, perch, sheephead, suckers, tulibee and whitefish.

Section 4.07: "Non-Band Fishing License" shall mean a license issued by the Conservation Committee to any member of a federally recognized Tribe who is not enrolled in the Mille Lacs Band of Chippewa Indians, which license authorizes him to fish in accordance with the provisions of this statute.

Section 4.08: Every enrollee of the Mille Lacs Reservation who takes fish within the Mille Lacs Reservation shall have in his or her possession a proper Band fishing license. This license must be in his or her possession whenever taking, possessing or transporting fish within the Reservation and whenever possessing or transporting fish anywhere within the United States, which fish were lawfully taken within the Reservation.

Section 4.09: If the Conservation Committee determines that it is in the best interests of the Mille Lacs Reservation, it may issue a non-Band fishing license to any enrolled member of a federally recognized Indian tribe who is not enrolled with the Band. Such a permit must be in the possession of any such person who takes fish within the Mille Lacs Reservation or who transports or possesses fish lawfully taken on the Reservation any place within the United States.

Section 4.10: Fees may be charged by the Conservation Committee for issuance of the permits and licenses required by this statute. The Committee may in its discretion charge a greater fee for a non-Band fishing license than for a Band fishing license.

Section 4.11: No Indian shall be required to purchase or possess a Minnesota fishing license when fishing within the Mille Lacs Reservation or when possessing or transporting fish, lawfully taken within the Reservation, anywhere within the United States.

Section 4.12: All rules and regulations relating to the taking, possession or transportation of fish shall be as adopted in this statute subject to amendment on an annual basis by the Conservation Committee and all persons accepting Band or non-Band licenses shall be deemed to know of any such modifications, whether or not the licensee has actual knowledge.

Section 4.13: The following regulations are hereby imposed on the taking for personal use of game and non-game fish:

Section 4.131: No fish may be taken by means of explosives, drugs, poisons, lime, medicated bait or other deleterious substances.

Section 4.132: There shall be no taking of game fish for any purpose by use of gill nets except where such taking is for personal use.

Section 4.133: Game fish season shall be closed between March 31 and the closest Saturday to May 15. No gill nets shall be used during this period for the taking of any fish.

Section 4.134: There shall be no netting in rivers or streams or within 500 feet of the mouth of rivers and streams between March 31 and June 15 of each year. There shall also be no netting in areas duly closed by the Conservation Committee.

\* Section 4.135: Nets for personal use shall be limited to 600 feet in length per license. \*Amended in Section 28.

Section 4.136: Muskellunge shall not be taken with a spear.

Section 4.137: Fish houses must be conspicuously marked with the licensee's name and license number.

Section 4.14: Seasons for the taking of the various game species of fish may be shortened by the Conservation Committee.

Section 4.15: The Conservation Committee may in its discretion close specified lakes or spawning areas to all fishing if it determines that further fishing in such lake or spawning areas will harm the resource, or may close such lakes or spawning areas to fishing for specified species of fish when it determines that such species will be endangered by further taking.

Section 4.16: There shall be no taking of any species of fish determined by the Committee to be rare or endangered.

Addition of Section 4.17 - 4.20 in Section 24 - 27.01

Section 5: Commercial Fishing. Fish may not be taken for commercial purposes within the Reservation; provided, that upon proper application the Conservation Committee may in its discretion issue a commercial fishing permit for non-game fish species to Band members upon determination that a limited amount of commercial fishing will not harm the resource. The Conservation Committee shall strictly regulate the manner of fishing, the type of fish taken and the amount of the take under such a license. A person operating under such a license shall have in his possession at all times both the commercial fishing permit and his Band fishing license. All nets used for taking fish must be identified as Indian nets. Each licensee may use no more than 600 feet of net for commercial purposes. Any person holding a personal netting license in addition to a commercial permit shall be limited to using a total of 600 feet of net for all purposes.

Section 5.01: All persons operating under a commercial fishing permit as provided by Section 5 of these regulations shall be subject to the following regulations regarding transportation of fish:

Section 5.011: All non-game fish taken under a valid commercial fishing permit may be possessed in quantities prescribed in such license and bought, sold or transported during any season designated by the Conservation Committee. Such fish may be frozen or cured during open season, and when so cured or frozen may be transported, bought or sold at any time.

Section 5.012: All live game fish taken incidentally in a commercial fishing operation shall be released immediately to the waters from which taken. All dead or injured game fish may be retained for personal use.

Section 5.013: When shipping non-game fish taken under a Band fishing license and commercial fishing permit, the parcel must be plainly marked on the outside stating the name address and license numbers of the shipper and the kind and number of such fish contained in the package. The waybill or receipt issued by any common carrier to a shipper shall specify the pounds and species of such fish so shipped.

Section 6: Hunting and Trapping Regulations. The following definition of terms shall be utilized when interpreting this statute.

Section 6.01: "Band Hunting License" shall mean a license issued by the Conservation Committee to an enrollee of the Mille Lacs Reservation, which license authorizes him to hunt and trap in accordance with the provisions of this statute.

Section 6.02: "Big Game" shall mean deer, bear, elk and moose.

Section 6.03: "Commercial Taking" shall mean the taking of big game, small game or fur bearing animals for the purpose of barter or sale of furs, pelts, hides or the flesh of such animals.

Section 6.04: "Fur Bearing Animals" shall mean beaver, mink, marten, raccoon, fisher, fox, wolf, muskrat and otter.

Section 6.05: "Migratory Birds" shall have the meaning set forth in the regulations promulgated pursuant to the Migratory Bird Treaty Act at C.F.R., Part 10.

Section 6.06: "Motor Vehicles" shall mean self-propelled motor driven vehicles.

Section 6.07: "Small Game" shall mean all wild animals and birds not defined as big game or fur bearing animals or game or non-game fish.

Section 6.08: "Non-Band Hunting License" shall mean a license issued by the Conservation Committee to any member of a federally recognized Tribe who is not enrolled in the Mille Lacs Band of Chippewa Indians, which license authorizes him to fish in accordance with the provisions of this statute.

Section 6.09: Every enrollee of the Mille Lacs Reservation who hunts or traps within the Mille Lacs Reservation must have in his or her possession a proper Band hunting license. This license must be in his or her possession at all times when carrying firearms within the Reservation, shooting, trapping or taking within the Reservation any small game, big game or fur bearing animals, or when possessing or transporting any place in the United States any small game, big game or fur bearing animal lawfully taken within the Reservation.

Section 6.10: If the Conservation Committee determines that it is in the best interests of the Mille Lacs Reservation, it may issue a non-Band hunting license to any Indian enrolled in a federally recognized Tribe who is not enrolled with the Mille Lacs Band. Such license must be in the possession of any such person who carries firearms on the Reservation or who shoots, traps or takes within the Reservation any small game, big game or fur bearing animal or who possesses or transports any place in the United States any small game, big game or fur bearing animal lawfully taken within the Reservation.

Section 6.11: Fees may be charged in the discretion of the Conservation Committee for the issuance of licenses required under Sections 6.09 and 6.10. The Conservation Committee may charge a higher fee for the issuance of a non-Band hunting license than for a Band hunting license.

Section 6.12: No Indian shall be required to purchase or possess a Minnesota big game, small game or trapping license when engaged in hunting or trapping of game within the Mille Lacs Reservation or when possessing or transporting game, lawfully taken, anywhere within the United States.

Section 6.13: All regulations regarding the taking, possessing or transportation of small game, big game and fur bearing animals adopted in this statute are subject to amendment on an annual basis by the Conservation Committee and all persons accepting Band or non-Band licenses shall be deemed to know of any such modifications, whether or not the licensee has actual knowledge.

Section 6.131: Possession of a valid Band hunting license or non-Band hunting license shall be required for the taking, possession or transportation of all big game, small game and fur bearing animals.

Section 6.132: There shall be no taking, possession or transportation whatsoever of bald eagle, elk, golden eagle, timber wolf or any species determined by the Committee to be rare or endangered.

Section 6.14: The small game season shall be September 1 to and including March 1. There shall be no limitation as to the season, number or manner of taking of rabbit or squirrel.

Section 6.141: The taking of migratory birds shall be subject to the provisions of the Migratory Bird Treaty Act, 16 U.S.C. 703-711, and regulations promulgated pursuant thereto set forth at 50 C.F.R., Part 10.

Section 6.142: The taking of ruffed grouse, sharp-tailed grouse and spruce hen shall be limited to six {6} per day per person, and the possession and transportation of these types of small game shall be limited to twelve {12} at any given time.

Section 7: Big Game Rules and Regulations. The taking of deer and bear shall be limited to one {1} each per season, provided that a special license may be issued permitting the taking of one {1} additional deer upon a showing that a greater need for sustenance exists. The season for does shall be within the period of September 1 to January 31, inclusive. The season for bucks shall be July 1 to January 31, inclusive. Each licensee will be furnished with a locking seal which shall be affixed to the deer between the tendon and bone and around the bone of the leg so that such seal cannot be removed without breaking the lock.

Section 7.01: The taking of elk and moose shall not be permitted; however, the Conservation Committee may authorize a moose or elk season.

Section 7.02: The season for the trapping and taking of fur bearing animals shall be October 1 to and including April 30, except the taking of fox, wolves, marten and fisher, which seasons shall be determined annually by the Conservation Committee.

Section 7.03: All fur bearing animals taken pursuant to these regulations and all traps used pursuant to these regulations shall bear the number of the licensee's Band or non-Band hunting license.

Section 7.04: When shipping furs taken under a Band or non-Band hunting license, the parcel must be plainly marked on the outside stating the name,

address and license number of the shipper and kind and number of skins contained in the package. The waybill or receipt issued by any common carrier to a shipper shall specify the number and species of furs so shipped.

Section 7.05: Hides or pelts adapted to personal use need not carry the license number of the taker once the adaption is completed.

Section 8: Commercial Hunting and Trapping. There shall be no commercial taking of big game, small game or fur bearing animals with the following exceptions, for which no special commercial license is needed other than the Band or non-Band hunting license:

Section 8.01: The skins of all fur bearing animals may be taken commercially according to the regulations of Sections 7.02 through 7.05.

Section 8.02: The hides of deer may be possessed and transported for commercial purposes and when transported or shipped the taker must comply with the regulations set forth in Section 7.04 above if otherwise lawfully taken.

Section 8.03: Beaver, muskrat, rabbit and raccoon may be taken for commercial purposes, and when the flesh of these animals is transported or shipped, the taker must comply with the regulations set forth in Section 7.04 above.

Section 9: Hunting Area Restrictions. There shall be no taking of any animal from moving motor vehicles, including snowmobiles. There shall be no taking of big game or small game, except raccoon, with the use of artificial lights. There shall be no hunting within 500 feet of any public campground during the season within which it is open for public use, or within 500 feet of any occupied dwelling. There shall be no firing down or across any public road.

Additional sections added; Sections 29 through 29.03

Section 10: Hunting and Trapping Seasons. The Conservation Committee may shorten or lengthen the seasons provided by these regulations, may impose restrictions where none are set forth, or may close and prohibit trapping or hunting of specified species of small game, big game, or fur bearing animals, when it determines that such acts are in the best interest of the resource. The Conservation Committee may also impose such other restrictions on manner of taking and bag limits as it deems necessary for preservation of the resource.

Section 11: Ricing Regulations - Definitions. The following definition of terms shall be utilized when interpreting this statute.

Section 11.01: "Band Ricing License" shall mean a license issued by the Conservation Committee to an enrollee of the Mille Lacs Reservation, which license authorizes him to gather wild rice in accordance with the provisions of this statute. .

Section 11.02: "Paddy Rice" shall mean that wild rice crop grown in artificially constructed paddies.

Section 11.03: "Non-Band Ricing License" shall mean a license issued by the Conservation Committee to a member of a federally recognized Tribe who is not enrolled in the Mille Lacs Band of Chippewa Indians which license

authorizes him to gather wild rice in accordance with the provisions of this statute.

Section 11.04: "Wild Rice" shall mean that rice crop which grows naturally or as a result of reseeding in the natural lakes and waters, including lakes resulting from flood control structures, of the Mille Lacs Reservation.

Section 11.05: If the Conservation Committee determines that it is in the best interest of the Mille Lacs Reservation, it may issue a non-Band ricing license to any enrolled member of a federally recognized Tribe who is not enrolled with the Mille Lacs Reservation.

Section 11.06: Every Indian who gathers wild rice within the Mille Lacs Reservation must have in his possession a proper ricing license.

Section 11.07: Fees may be charged in the discretion of the Conservation Committee for the issuance of ricing licenses. The Committee may in its discretion charge a greater fee for a non-Band ricing license than for a Band ricing license.

Section 11.08: All regulations regarding the gathering of wild rice shall be adopted in this statute, subject to amendment on an annual basis by the Conservation Committee, and subject to the power of the Conservation Committee, or its agents, to regulate opening and closing of particular beds.

Section 11.09: The Conservation Committee shall determine each year, and shall post notices announcing, the season for the harvest of wild rice that year and the length of time per day during which wild rice may be harvested.

Section 11.10: No watercraft may be used for the harvest of wild rice other than a boat, skiff or canoe propelled by hand, which boat, skiff or canoe may have a top width of not more than 36 inches and a length of not more than 18 feet, nor may any machine or device be used for the harvest of wild rice other than a flail not more than 30 inches in length, nor more than one {1} pound in weight, which flail must be held and operated by hand.

Section 11.101: No pole may be used for propelling any watercraft utilized for the gathering of wild rice unless such pole is forked at the end, with each branch less than 12 inches in length.

Section 11.11: None of the provisions of these regulations shall apply to the gathering of paddy rice.

Band Statute 1018-MLC-7

#### Preamble

Be it enacted by the Band Assembly of the Mille Lacs Band of Chippewa Indians for the purpose of amending Statute 1017-MLC-7.

Section 12: Fire-wood Harvest. Any enrolled member of the Minnesota Chippewa Tribe may harvest any species of tree provided he has a valid wood-cutting permit in his possession which designates the type of wood product to be cut and the legal cord amount authorized.

Section 12.01: No enrolled member of the Minnesota Chippewa Tribe shall cut any unmarked species of wood product for fire-wood, leave any stump that exceeds twelve inches in height from ground-base to top level of stump, unless provided for by permit, leave tops which lie greater than four feet from the ground, cut any species of wood for fire-wood purposes that is outside of the exterior boundaries of the permit's applicability, leave any marked tree uncut and unfelled completely to the ground or be wasteful of or misuse any species of wood or stumpage.

Section 12.02: No enrolled member of the Minnesota Chippewa Tribe shall cut, maim or do anything which hinders the normal natural development of any species of wood while engaged in fire-wood harvest activity on tribal or band trust property.

Section 13: Duties of Indian Affairs. It shall be the jurisdiction of the Natural Resources Section of the Minnesota Agency in consultation with the Band to designate any trust properties as eligible for harvestation. The Minnesota Agency shall be additionally responsible for identifying all species of trees for harvestation.

Section 13.01: The Minnesota Agency of the Bureau of Indian Affairs shall recommend to the Band, the amount of fees which may be charged by the Band, for each cord of wood depending upon the species which is to be harvested.

Section 14: Duties of Tribal Members. Each member of the Minnesota Chippewa Tribe who is issued a permit to harvest fire-wood shall not harvest or deface any unmarked or unidentified tree less he be liable for payment of three times the value of each tree harvested or defaced.

Section 14.01: Each member of the Minnesota Chippewa Tribe who is issued a permit to harvest fire-wood shall be responsible for keeping all roads to the harvest site open and maintained in good condition.

Section 14.02: Each member of the Minnesota Chippewa Tribe who is issued a permit to harvest fire-wood shall be responsible for providing his own labor, equipment {suitable cutting tools include chainsaws, axes, and other hand tools}, supplies, transportation, supervision and incidentals necessary to perform the work.

Section 14.03: Each member of the Minnesota Chippewa Tribe who is issued a permit to harvest fire-wood shall agree to indemnify and save and hold the Band harmless from any and all claims or causes of action relating to personal injury, death or damage to property arising from performance of the terms of the permit.

Section 14.04: Each member of the Minnesota Chippewa Tribe who is issued a permit to harvest fire-wood shall possess salvage rights during the term of his permit on those lots he is permitted to harvest. All salvage felled trees shall be removed before each permit expires.



Section 15: Permits for Fire-wood Harvest. Any Natural Resource Officer or the Clerk of Court shall be authorized to issue to any enrolled member of the Minnesota Chippewa Tribe a permit to harvest fire-wood in accordance with the provisions of Band law.

Section 15.01: Each permit issued shall expire thirty days from the date of issuance. Each tribal member shall be eligible to renew an expired permit for an additional fifteen days provided weather conditions hampered his attempts to harvest fire-wood.

Section 15.02: All permits shall expire on the required delivery date stated upon any contractual agreement between the Band and the Bureau of Indian Affairs.

Section 15.03: Each wood cutting permit issued to a member of the Minnesota Chippewa Tribe shall state what species of tree is authorized for cutting, whether live and/or dead trees are authorized for cutting, and the area of land where cutting shall be authorized.

Section 16: Enforcement Provisions. The Natural Resource Officer of the Band shall be authorized to monitor for compliance, all provisions of this law. He shall be empowered to issue citations for violations of law and confiscate property of any enrolled member for failure to comply with any legal desist order of the Natural Resource Officer for violations of law. Any confiscated property shall be held by the Band until the Court of Central Jurisdiction has issued a legal decision on the matter.

Section 16.01: Any enrolled member who is issued a permit to harvest fire-wood who fails to comply with a legal directive of the Natural Resource Officer shall after legal hearing before the Court of Central Jurisdiction have his permit revoked and/or be levied a fine not to exceed five hundred dollars and/or be bannished from harvesting fire-wood for a period not to exceed two normal harvesting seasons.

Section 17: Jurisdiction. The Court of Central Jurisdiction shall have jurisdiction over all legal matters involved with this Band Statute.

Section 17.01: The Court of Central Jurisdiction shall be authorized to issue any or all of the following punitive measures for violation(s) of provisions of this statute: probation, revocation of permit, fines - not to exceed five hundred dollars, bannishment from harvestation with any eligible trust property and confiscation of wood-cutting equipment to include chainsaws, axes and other hand tools and cutting supplies.

Section 18: Definitions. The Band Assembly hereby defines the following terms as related to this statute:

**Fire-wood Harvest Permit:** Shall mean a license issued by the Natural Resource Officer or Clerk of Court which authorizes an enrolled member to cut trees and stumps in accordance with provisions of this statute.

**Live - trees:** Shall mean trees that are standing, bearing fruit or blossoms, or green leaves; whatever the tree species may be.

**Identified or Marked Trees:** Shall mean any and all trees marked for cutting with yellow paint.

Salvage trees/Dead or down wood: Shall mean any and all trees that are damaged or blown down.

Slash/Tops: Shall mean the branch extensions from a tree.

Section 19: Fees: The Band Assembly hereby establishes the personal use fee for a fire-wood harvest permit as five dollars. A vendor permit fee of twenty-five dollars shall be charged for fire-wood harvest. Additionally, a fee of five dollars is hereby established for each cord of wood harvested under a vendor's permit.

Section 20: Unauthorized Removal of Wood. Any person who removes any species of wood without a valid permit shall be liable for a fine of three times the value of the wood; said wood is hereby established as eighty dollars per cord.

#### Band Statute 1020-MLC-7

Section 21: Amendment Added to Section 2.02. Cause to issue conservation licenses {hunting, fishing, ricing, trapping and netting} to elderly band members as well as elderly non-band members who are enrolled in federally recognized tribes at no cost to their person.

Section 22: Amendment Added to Section 3. An elderly band member or non-band member who is enrolled in a federally recognized tribe, shall be defined as one who has attained the chronological age of fifty-five {55}.

#### Band Statute 1030-MLC-7

#### Preamble

It is enacted by the Band Assembly for the Non-Removable Mille Lacs Band of Chippewa Indians for the purpose of adding amendments to Band Statutes 1017-MLC-7 and other matters.

Section 23: Addition to Section 2.04. Any said person under the jurisdiction of the Band who reports a violation of this statute may do so anonymously. Any said person who reports a violation in person shall not be compelled to appear in the Court of Central Jurisdiction as a witness. Any justice of the Court of Central Jurisdiction shall not compel any officer of the Band to reveal the name of said person as a matter of court record.

Section 24: Addition of Section 4.17. It shall be illegal for any person under the jurisdiction of the band to participate in fishing, spearing or netting activities at any time without a valid Band permit. It shall be a civil offense for any person, of any age, to participate in any fishing, spearing, or netting activities without a valid Band permit.

Section 25: Addition of Section 4.18. It shall be illegal for any adult under the jurisdiction of the band over the chronological age of eighteen {18} to engage any person of a lesser chronological age in any fishing, netting, or spearing activity when said minor does not personally possess a valid permit.

Section 26: Addition of Section 4.19. Any officially recognized and sworn Natural Resource Officer of the Mille Lacs Band of Chippewa Indians shall issue a citation to each and every individual person, regardless of chronological age who is observed in activities which are in civil violation or suspected civil violation of any section of this statute.

Section 27: Addition of Section 4.20. It shall be illegal for any person under the jurisdiction of the Mille Lacs Band of Chippewa Indians to transport without just cause, by any means, any game fish taken, by any means for the purpose of personal financial gain. This shall be proven by application of the just cause provisions of law.

Section 27.01: Just cause shall mean a cause outside legal or cultural cause which must be based on reasonable grounds, and these must be a fair and honest cause or reason, regulated by good faith.

Section 28: Amendment to Section 4.135. Nets for personal use shall be limited to 100 feet in length for one net length size per license.

Section 29: Addition to Section 9. It shall be illegal for any person under the jurisdiction of the band to participate in any hunting activity on trust property under the jurisdiction of the Band without a valid hunting permit. It shall be a civil offense for any person, of any age, to participate in any hunting activity without a valid permit.

Section 29.01: Sub-section of Section 9. It shall be illegal for any adult under the jurisdiction of the band, over the chronological age of eighteen {18} to engage any person of a lesser chronological age in any hunting activity when said minor does not personally possess a valid hunting permit.

Section 29.02: Sub-section of Section 9. It shall be illegal for any person under the jurisdiction of the band to hunt, possess or transport any big or small game, with the exception of racoon, that is taken at night and with or without the aide of artificial light for the purpose of hunting without just cause. Artificial light shall mean all types of light which is not generated by nature. The hunting technicque commonly known as poaching with an artificial light shall be illegal for purposes of this section.

Section 29.03: Sub-section of Section 9. It shall be illegal for any person to possess any big game which is not tagged with the official hunting tag of the Band, any other federally recognized Band or Tribe on any trust property under the jurisdiction of the Band.

Section 30: Police Powers. Any duly sworn Natural Resource Officer of the Non-Removable Mille Lacs Band of Chippewa Indians is hereby authorized and empowered to execute and serve all warrants and processes issued by any justice of the Court of Central Jurisdiction under any law of the Mille Lacs Band of Chippewa Indians. Any Natural Resource Officer may arrest without a warrant any person under the jurisdiction of the Band detected in the actual violation of any provisions of Band law, and to take such person before the Court of Central Jurisdiction and make a proper complaint.

Section 30.01: When a person is arrested for any violation of law which is punishable as a civil misdemeanor and is not taken into custody and immediately taken before the Court, the arresting officer shall prepare,

in quadruplicate, written notice to appear before the Court. This notice has the effect of, and serves as, a summons and complaint. Said notice shall conform with applicable provisions of the United States Government, United States Department of Interior, Title 25-Indians. In order to secure release, without being taken into custody and immediately taken before the Court, the arrested person must give his written promise so to appear before the Court by signing, in quadruplicate, a written notice prepared by the arresting officer. The officer shall retain the original of the notice and deliver the copy thereof marked "summons" to the person arrested. Thereupon the officer shall release the person from custody. If the person so summoned fails to appear on the return day, the Court shall issue a warrant for his arrest, and upon his arrest proceedings shall be had as in any other case.

Section 30.02: Any duly sworn Natural Resource Officer is hereby authorized and empowered to enter upon any trust land within the jurisdiction of the Band for the purpose of carrying out the duties and functions of his office, or to make investigations of any violation of the Band's game and fish laws, and in aid thereof to take affidavits upon oath administered by him, and to cause proceedings to be instituted if proofs at hand warrant it.

Section 30.03: Any sworn Natural Resource Officer of the Non-Removable Mille lacs Band of Chippewa Indians is hereby authorized and empowered to enter and inspect any commercial building located on trust property of the Band for the purpose of determining whether wild animals are kept or stored therein in violation of the Band's conservation code. He shall have power to inspect and examine the books and records of all persons, or businesses, or corporations which he has reason to believe has violated the laws relating to game or fish. He shall have power to enter and examine all camps, vessels, boats, wagons, automobiles, airplanes, or other vehicles, cars, stages, tents, suitcases, valises, packages, crates, boxes, and other receptacles and places where he has reason to believe wild animals unlawfully taken or possessed are to be found.

Section 30.04: Any duly sworn Natural Resource Officer of the Non-Removable Mille Lacs Band of Chippewa Indians is hereby authorized and empowered to enter and inspect at all reasonable times the premises where on is being conducted any business or activity requiring a license under provisions of this conservation code.

Section 30.05: Any duly sworn Natural Resource Officer of the Non-Removable Mille Lacs Band of Chippewa Indians is hereby authorized and empowered to seize and confiscate in the name of the Band, any wild animals or wild rice taken, bought, sold, transported, or possessed in violation of this conservation code and to seize and confiscate in the name of the Band any and all equipment used by any person in the unlawful taking or transporting of said wild animals or wild rice. Anything seized or confiscated shall be held by the Band until proper determination of the case by the Court of Central Jurisdiction is finalized.

Section 31: Enforcements. It shall be illegal for any person under the jurisdiction of the Band to willfully hinder, resist, or obstruct a duly sworn Natural Resource Officer in the performance of his official duty, or refuse to submit anything called for by him for his inspection.

C H A P T E R   B

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## Band Statute 1019-MLC-8

### Preamble

It is enacted by the Mille Lacs Reservation Business Committee, of the Mille Lacs Band of Chippewa Indians, in order to exercise a more effective form of tribal government to regulate the operation of Child Care Centers.

Section 1: Definitions. The Mille Lacs Reservation Business Committee hereby establishes that the following definition of terms be utilized when interpreting this statute.

Section 1.01: "R.B.C." The Reservation Business Committee {R.B.C.} is the duly elected and federally recognized governing body of the Mille Lacs Reservation. The R.B.C. is composed of five members: a Chairman, a Secretary/Treasurer, and three District Representatives.

Section 1.02: "Delegated Staff Division" Referring to the interoffice delegation of duties and responsibilities by Mille Lacs Reservation Business Committee.

Section 1.03: "Federal Requirements" Those portions of the standards binding upon the agency but not upon the provider, are so marked. Failure of the agency to meet one or more federal requirements is not a defense for the providers failure to meet provider requirements.

Section 1.04: "Applicant" Individual{s} who have submitted a signed and dated application form to the agency.

Section 1.05: "Child" Any person who is under the age of ten. Age groupings are:

- Infant - Birth through 15 months
- Toddler - 16 months through 36 months
- Pre-School - 37 months through 5 years
- School-Age - 6 years through 10 years

Section 1.06: "Day Care" The care of children outside of their home for part of a 24 hour day by persons unrelated to them by blood or marriage.

Section 1.07: "Facility" Physical environment in which group-day-care takes place.

Section 1.08: "License" The document issued by the R.B.C. authorizing the applicant to provide child care.

Section 1.09: "Licensed Capacity" Maximum number of children who can be in attendance at a center at a given time depending upon adult to child ratio's as set forth in these standards.

Section 1.10: "Program" A combination of activities that, taken together, constitute the non-physical environment of a center, are part of the program.

Section 1.11: "Coordinator" Person responsible for all aspects of the operation of the group-day-care center, {e.g.} administrative duties, staff supervision and training, record keeping, program planning, budgeting, and liaison with local agencies.

Section 1.12: "Family Day-Care-Home" {Private home licensed for child care}. Serve only as many children as it can integrate into its own physical setting and pattern of living. A family day-care-home may serve no more than 6 children {3-14 years} in total {no more than 5 when the age range is infancy through 6}, including the family-day-care mother's own children. {Federal requirement}.

Section 1.13: "Mille Lacs Reservation Child Care Licensing Committee" A selected group of individuals, with advisory powers only, appointed by the R.B.C. to advise on the implementation on the issuance and enforcement of the Mille Lacs R.B.C. Child Care Ordinance and Child Care Standards.

Section 1.14: "Waiver" upon the simple majority vote of the Reservation Business Committee, any word, sentence, paragraph or section of these standards may be waived for up to twelve months provided there is no loss to the quality of the program offered to its participants. All requests must be initiated in writing to the Mille Lacs Reservation Child Care Licensing Committee by the Program Coordinator. Upon receipt, a public hearing must be held no later than five {5} days hence. The committee will deliberate and finalize a recommendation on said request to be forwarded to the Secretary-Treasurer of the R.B.C. The R.B.C. shall hear the recommendation and supporting documentation at its next regular scheduled meeting and deliberate on a final determination. The decision of the R.B.C. shall be final.

Section 2: Licensing Standards and Procedures. The Mille Lacs Reservation Business Committee hereby establishes that the following Child Care licensing standards and procedures be utilized.

Section 2.01: Application for license shall be made on the Application Form Issued by the R.B.C. This form shall be obtained from the designated staff division of the Mille Lacs Reservation.

Section 2.02: The signed and completed application form, including all supporting documentation, shall be evaluated within 30 days based upon these established standards by the Mille Lacs Reservation Child Care Licensing Committee. Based upon the recommendation of this committee. The R.B.C. will determine if a child care license will be issued. No child care license may be issued for more than one year. {Federal requirement}. The license shall state the dates of validity, the maximum number of children to be present in the specific program areas, as well as the total program at any one time, the ages, and the hours of operation. The hours must be posted in a conspicuous place on the premises.

Section 2.03: Any changes in the terms of the license based on a recommendation of this committee, must receive prior approval from the Child Care Licensing Committee and formal approval from the Mille Lacs R.B.C.



Section 2.04: Every Applicant shall be furnished with a copy of these rules and standards.

Section 2.05: The Mille Lacs Reservation Child Care Licensing Committee, The Commissioner of Administration, and any applicable area administrator{s}, may have access to the child care facility for evaluation at any time during normal working hours and at other times by mutual agreement. For the purpose of investigating any written complaints concerning the health and safety of the children, the above group and/or individual{s} as well as the Mille Lacs R.B.C. shall have access to the child care facility at any time during a twenty-four hour day. Any complaint concerning a Child Care Facility shall be investigated immediately. {Federal Requirement}.

Section 2.06: All written complaints shall be addressed to the Program Coordinator. If no satisfaction is found, the complainant may appeal to the Area Administrator. If no satisfaction is found, the complainant may appeal to the Executive Director. If no satisfaction is found, the complainant may appeal to the R.B.C. through the Mille Lacs Reservation Child Care Licensing Committee. The decision of the R.B.C. shall be final.

Section 2.07: All applicants for a child care license will be reviewed and evaluated by the Mille Lacs Reservation Child Care Licensing Committee. This committee will review and evaluate the applicants and make a determination in the form of a recommendation to either issue an Unconditional license, or issue a Provisional license, or deny the issuance of a license. The recommendation shall be forwarded to the Secretary/Treasurer of the Mille Lacs R.B.C. in writing, signed by the Child Care Chairperson. The R.B.C. shall act on said recommendation at no later than its next regular scheduled meeting. Each applicant will be notified within five days in writing by Certified Mail, by the Secretary/Treasurer of the Mille Lacs R.B.C., of their final decision.

Section 2.08: Every license shall specify the kind of license and the maximum number of children per section to be provided care at any one time.

Section 2.09: Provisional License - A provisional license may be issued to all new group child care centers for a designated period. A provisional license may be granted for up to one year to a new group child care center that meets necessary health, safety, and insurance requirements but does not meet all requirements for licensure.

Section 2.10: Notice of the closure of a Group Child Care Center must be sent to the R.B.C. and license must be returned.

Section 2.11: Specific regulations may be waived with the advanced written approval of the R.B.C. according to the procedure established for such waiver, provided that the health and safety of the children is assured. The granting of a waiver shall not constitute a precedent for any other child care center. No waiver shall be valid for more than one year.

Section 2.12: Failure, or refusal to comply with any aspect of the Mille Lacs Reservation Business Committee Child Care Ordinance shall be cause for denial, non-renewal, or revocation of license. Under non-compliance, items the R.B.C. will notify all funding agencies, state agencies, and local communities stating the cause for denial.

Section 3: Facility. The Mille Lacs Reservation Business Committee hereby establishes that the following child care facilities be provided.

Section 3.01: The facility and grounds used by the children must meet the guidelines established by Indian Health Service. {I.H.S.} Any and all such standards set by the I.H.S., shall be designed to protect the requirements of the appropriate safety and sanitation authorities to include the health and safety of all persons who occupy the building.

Section 3.02: Prior to construction or renovation of a proposed child care facility the architectural plans must be approved in writing by a designated I.H.S. facility inspector.

Section 3.03: There shall be a minimum of 35 square feet of usable floor space {primary space} per child in attendance, exclusive of hallways, bathrooms, lockers, kitchens, and floor space occupied by stationary equipment; but including equipment and furnishings regularly used by children. {Program flexibility and child movement needs require that adequate space be available}.

Section 3.04: All stairways and corridors leading to exits shall be kept clear and free from obstruction at all times.

Section 3.05: Adequate toilet and one washbowl provided in a well ventilated place.

Section 3.051: There must be at least one toilet and one washbowl provided for each 15 children and one additional toilet and washbowl for each additional child or fraction thereof.

Section 3.052: Toilets and washbowls must be adequate, conveniently installed and accessible; properly designated and installed for the appropriate age group.

Section 3.053: Training chairs, instead of the required number of toilets must be provided for toddlers.

Section 3.06: A first-aid kit and flashlight shall be available in every day care center for emergency use.

Section 3.07: The heating system shall be of a size and capacity to maintain a minimum temperature of 68 degrees or a maximum of 72 degrees in all rooms.

Section 3.08: All medications for the children in the Child Care Center shall be kept under lock at all times, those medications which require refrigeration shall be kept in a cooling unit which is secure. All household cleaning supplies and other poisonous items shall be kept in a safe and secure place.

Section 3.09: Child Care Centers must provide care for a child who becomes ill. Supervision must be provided until the child is picked up by the authorized person{s}.

Section 3.10: Space designated for use by an ill child need not be permanently arranged but shall be:

Section 3.101: Used only for other compatible purposes; {e.g.} private office, library, staff's room or,

Section 3.102: Effectively protected from the main activity area and the kitchen by screening, and,

Section 3.103: Equipped with a child's cot, and,

Section 3.104: At no time shall an ill child be left without supervision.

Section 3.11: Floors must be kept clean at all times. Must not have splinters, cracks, or broken linoleum, and must not be hazardous. Concrete floors shall be tiled, carpeted, or cushioned.

Section 3.12: Premises shall be kept clean and sanitary. The facility and equipment must also be kept in good repair, with no peeling paint, and free from all debris and litter.

Section 3.13: A cot or crib must be provided for each child taking a nap in a program that includes rest. Adequate space and accessibility of exit must be maintained. Infants must be provided with cribs or padded playpens, regardless of type or duration of program. An Indian swing is permissible under these standards.

Section 3.14: All equipment and furniture must be designed for the age group and be substantial, easy to clean, and free from sharp points or corners, splinters, or paint that contains lead.

Section 4: Program. The Mille Lacs Reservation Business Committee hereby establishes that the following program guidelines be followed for Child Care Centers.

Section 4.01: The program provides experience in harmony with the life style and cultural background of the children. The cultural diversity of the children is reflected the programs through incorporation of their languages, food celebrations, life styles and child-rearing practices.

Section 4.02: The program daily schedule shall include the following guidelines and instructions.

Section 4.021: Each caregiver in charge of a group of children must follow written schedules of daily activities which includes time for meals, snacks, sleep, toileting, and indoor/outdoor play, where applicable.

Section 4.022: Each facility includes a designated area which a child can sit quietly or lie down to rest. A nap period is provided for children who need it and for children unable to sleep, time and space for rest and quiet play are available.

Section 4.03: Caregivers do not use spanking or other forms of corporal punishment or any other technique which is humiliating, shaming, frightening, or otherwise damaging to the children. Punishment is not associated with food, rest, toilet training or isolation for illness. All facilities should utilize the concept of positive reinforcement.

Section 4.04: The following guides for equipment and materials should be followed in a Child Care Center.

Section 4.041: The quantity of materials and equipment is sufficient to avoid excessive competition and long waits.

Section 4.042: Materials and equipment are of sufficient quantity to provide for a variety of experiences and appeal to the individuals interest of the children in care.

Section 4.043: Protected areas are provided, free from traffic by children and audits, where equipment and materials can be used with minimal interference.

Section 4.044: Materials are stored in an orderly way, are attractive and accessible to children, and are arranged so that children may select, remove, and replace them either independently or with assistance.

Section 4.045: Furniture is durable and safe, and is child-size or approximately adapted for children's ages.

Section 4.046: Non-durable consumable equipment such as books, games, or materials and other easily breakable or lost education or recreation equipment must be replaced as needed through the program's operation year.

Section 5: Health. The Mille Lacs Reservation Business Committee hereby establishes the following health guidelines be followed for Child Care Centers.

Section 5.01: The director, or designated personnel, of each program shall be responsible for observation of health and development of children, handling illness at the center, accident prevention and emergency procedures, and keeping health records complete.

Section 5.02: Written evidence will be obtained from each parent of the following information:

Section 5.021: Emergency contact information on each child, including written permission for each child to receive emergency treatment.

Section 5.022: Proof of immunizations appropriate for the child's age.

Section 5.023: Any prescriptions or medications which the child is currently taking.

Section 5.024: Tuberculosis testing results which have been completed within six {6} months.

Section 5.03: All staff personnel are required to possess or participate in no less than ten {10} hours of first-aid training conducted by a certified individual.

Section 5.04: Children with communicable diseases are to be kept at home. Such children must have written permission from their doctor to return to the program.

Section 5.05: When a child is to be given oral or surface medication, written instructions by a physician or dentist must be provided and written authorization to administer medication must be given by parent. Medication must be labeled, stored under lock and/or out of reach of children.

Section 5.06: A ten-unit first-aid kit and directions for its use must be available.

Section 6: Nutrition. The Mille Lacs Reservation Business Committee hereby establishes that the following nutrition guidelines be followed for Child Care Centers.

Section 6.01: All group Child Care Center must provide or ensure the availability of adequate and nutritious meals and snacks appropriate for the ages and needs of the children served. Each regular meal and two snacks or two meals and one snack shall be provided daily for each child in care five through eight hours.

Section 6.02: All Group Child Care Center personnel shall understand sanitation and methods of handling, preparing, and serving food in a safe and sanitary manner.

Section 6.03: The diet of an infant shall be determined by the child's parents, along with written diet instructions.

Section 6.031: Each infants feeding schedule shall be available to all staff.

Section 6.04: Drinking water shall be freely available to all children regardless of age. Each child shall be provided with an individual drinking container.

Section 6.05: All meals and snacks shall be served family style. Staff personnel are therefore required to eat with the children.

Section 6.06: All meals and snacks shall be critiqued and approved by a licensed nutritionist and posted in a conspicuous place for potential information.

Section 7: Safety. Center shall establish procedures to be followed in case of emergencies for accidents.

Section 7.01: Center must be equipped with the number of fire extinguishers determined by the designated Reservation Business Committee facility inspector. Extinguishers must be in working order and checked annually.

Section 7.02: All electrical outlets must be covered or protected when not in use.

Section 7.03: Every facility must have a phone that is readily accessible.

Section 7.04: A list of emergency numbers shall be prominently posted by the telephone: police, fire, doctor, ambulance, and hospital.

Section 7.05: Radiators, fireplaces, hot pipes, steam radiators, and other hot surfaces shall be protected by guards.

Section 7.06: Sharp scissors, knives, matches, and other potential hazards to children shall be stored out of their reach. The use of potentially hazardous materials and tools by children shall be supervised.

Section 7.07: Exterior space are fenced or have natural barriers to restrict children from unsafe areas.

Section 7.08: Furniture, equipment, and toys are appropriate to the ages and developmental needs of the children, are sturdily constructed without sharp edges, and present minimal hazards to children.

Section 7.09: All painted surfaces accessible to children are free of toxic materials.

Section 8: Admissions. The Mille Lacs Reservation Business Committee hereby establishes the following admissions guidelines and policies for Child Care.

Section 8.01: Each Group Child Care Program shall have an admission policy that specifies the age ranges of children being served.

Section 8.02: Admission procedures developed must provide the care-giver with sufficient information and instruction from the parent to enable the care-giver to make decisions or act in behalf of the child's welfare in the absence of the parent.

Section 8.03: Prior to admission of the child, the care-giver shall obtain written information from person or persons legally responsible for the child covering the following items:

Section 8.031: The child's full name, birth date, and current address.

Section 8.032: the name and address of the parent or parents, or the person{s} legally responsible for the child. Telephone number of instructions as to how the parent{s} responsible for the child may be reached when child is in the day care program.

Section 8.033: Names of persons authorized to take the child from the day care facility and their address, and persons not so authorized.

Section 8.034: Name, address, and telephone numbers of the health source to be called in case of emergency. Health statement and immunization data as specified in the Health Section.

Section 8.035: Names, Addresses, and telephone numbers of parent{s} who can assume responsibility for the child if the parent cannot be reached in an emergency.

Section 8.036: Signed authorization to the effect that the parent gives permission to the center to act in an emergency situation when the parent cannot be reached or is delayed in arriving. {In Loco Parentis}.

Section 8.037: Written permission for participation in specific research, experimentation or publicity activities.

Section 8.038: All children must have the expressed written permission from their parent or guardian to participate in activities away from the physical facility of the Child Care Center. Sponsorship of the activity shall not be considered a reason to waive this requirement. All written permission{s} shall be activity specific and must include the type of activity, location, date and time of departure and anticipated arrival. Blanket permission shall not be allowed.

Section 8.039: Special diet needs shall be followed as stated in the following sections.

Section 8.0391: Written statement of income provided by parents, {Federal Requirement } Reason: Any child care center receiving Federal Funds must abide by income guidelines for families to be eligible for services.

Section 8.0392: Admission policies and procedures must ensure initial and continuing communication between the family and the facility to ensure compatibility in their mutual responsibility for the child's welfare.

Section 8.0393: All information received during admission eligibility process is and must remain confidential.

Section 9: Administration & Management. The Mille Lacs Reservation Business Committee hereby establishes the Administration and Management for Child Care Centers.

Section 9.01: Every child program shall submit administrative and management information to the licensing committee. Along with the application for licensure, the information must include:

Section 9.011: Admission procedures and requirements.

Section 9.012: Required information to be kept in each child's confidential record.

Section 9.013: Individualized Educational Program Plan.

Section 9.014: Description of provisions for emergency medical and/or dental care.

Section 9.015: Written documentation on insurance coverage in an amount sufficient to protect the interest of the children and staff.

Section 9.02: Program Coordinator: Every child care center shall have a Program Coordinator who shall be responsible and accountable for meeting the requirements of this statute.

Section 9.03: Hiring Policies: Personnel policies of Mille Lacs Reservation Business Committee.

Section 9.031: All child care centers licensed by the Mille Lacs Reservation Business Committee:

Section 9.0311: Will not discriminate because of political or religious opinions or affiliations, or because of race, national origin or other non-merit factors except for Indian preference or as required by specific program guidelines. Discrimination on the basis of age, sex or physical disability will be prohibited except where specific age, or physical requirements constitute a bonifide occupational qualification necessary to proper and efficient administration;

Section 9.0312: Will take affirmative action to insure that these provisions are carried out.

Section 10: Staff Requirements. The Mille Lacs Reservation Business Committee hereby establishes the following staff requirement for child care centers.

Section 10.01: Staff development training for all regular administrative, teaching and support services staff members, including volunteers, must be a part of every center's educational program.

Section 10.02: The program shall maintain up-to-date job descriptions for all staff which include mandatory staff training participation as an aspect of career development.

Section 10.03: Volunteers for all age grouping: to be counted in the staff-to-child ratio, volunteers must be at least 18 years of age and participate in an orientation to the program.

Section 10.04: At least one person on the staff must be knowledgeable of the following fields and capable of training adult staff: Early childhood education, growth, development and practices; and first-aid and home nursing.

Section 10.05: The adult-child ratio must be maintained throughout the day. This ratio is based solely on the number of teacher aides in the classroom compared to the total number of children. Children shall not be left unattended for any reason.

Section 10.06: The following staffing ratios shall apply with these specific age groups:

Children of age:	6 wks - 3 years	1 adult to 3 children
	3 - 5 years	1 adult to 5 children
	5 - 10 years	1 adult to 7 children

Section 10.07: All personnel in regular contact with children, including volunteers and drivers, shall be physically, mentally, and emotionally competent to care for children and free from serious communicable disease and tuberculosis testing results which have been completed within the last six (6) months. Such testing shall occur once every calendar year.

Section 10.08: It is the policy of the Mille Lacs Reservation Business Committee to require all personnel of any child care center under its jurisdiction to report any suspected physical and/or sexual abuse of children or physical/psychological neglect of children. Said written report shall be prepared by the program coordinator addressed to the Health/Welfare Area Administrator. Said administrator shall immediately forward this letter to the Executive Director who shall in turn inform the Reservation Business Committee. The Reservation Business Committee shall, at a closed special meeting, cause to happen any appropriate action it deems necessary to resolve a complaint of this kind.

Section 10.09: Employees of any child care center licensed by the Mille Lacs Reservation Business Committee are prohibited from abusing and/or neglecting, of any type or kind, and to any degree which could tenably be construed as such by an impartial observer, any child placed under their direct/indirect supervision at a Child Care Center. Any employee suspected of such actions shall be immediately suspended from further duty upon the program coordinator's receipt of a written statement of complaint which alleges the occurrence of such actions. Such written statements must include:



a) Name of employee allegedly committing said infraction; b) Time and location of observed infraction; c) Exact eye-witness description of what actually occurred: must be factual information - hearsay information is not allowable and; d) Name, date and signature of person filing the report. Upon receipt of said written complaint, the program coordinator shall forward said statement, unduplicated, to the Health/Welfare Area Administrator who shall in turn forward the statement to the Executive Director. The Executive Director shall notify the Reservation Business Committee of said complaint at a special closed meeting. The Reservation Business Committee shall establish a three (3) member investigative hearing panel chaired by the Executive Director whose purpose shall be to only gather the facts about the alleged incident and submit a written report to the Secretary - Treasurer of the R.B.C. within five (5) days after their establishment. At a special closed Reservation Business Committee meeting, the R.B.C. shall hear all the evidence regarding the incident and render a decision in writing regarding said incident. The decision of the R.B.C. shall be final.

Section 10.091: The prevailing rule of law regarding such allegations shall be that an employee is innocent until proven guilty based upon a collection of facts or a substantial amount of circumstantial evidence.

Section 10.092: An accused employee shall have the right to present evidence on his/her behalf to the Investigative Panel. He/She shall also have the right to appoint another person to represent his/her interests at said hearing. He/She shall have the right to cross examine any witness who testifies at said hearing. These rights shall consist of an employee's Rights to Due Process.

Section 11: Program Operation. The Mille Lacs Reservation Business Committee hereby establishes the Child Care Center programs be operated as follows.

Section 11.01: The center shall maintain the following types of records: daily attendance records of children, employment of staff and their evaluations, health records of children and staff, financial records, insurance, and vehicle registration and proof of maintenance.

Section 11.011: Also records of permission from parents for children for: emergency treatment, field trips, special medications, arrangements for picking up children from the center other than parents, approval of architectural plans or renovation plans from a health agency in the community, records of volunteers time and health status, and an annual inventory of all equipment be maintained.

Section 11.02: The program coordinator shall assure the following written documents: a clear definition of the type of service being offered to the children and their parents, hours of operation, written admissions and enrollment procedures, a clearly outlined list of fees and a plan for payment which is given to an interested inquirer on request, regulations covering the belongings of children, transportation arrangements.

Section 12: Insurance. The Program Coordinator shall assure the following types of insurance: the center facility, and any vehicle owned or operated by the center or its staff, shall have full comprehensive insurance coverage.

Section 13: Financial Records. The Mille Lacs Reservation Business Committee hereby establishes that the following financial records be maintained.

Section 13.01: The center shall maintain a record of all income regardless of its derivation and record all expenditures.

Section 13.02: Records shall be kept of all fees obtained from parents, and of their disbursement.

Section 13.03: The Program Coordinator shall have written policies covering the purchases of the organization and the maintenance of an inventory of the center's equipment.

Section 13.04: The Program Coordinator shall maintain an annual budget which shall provide information on the following areas of itemization: staff salaries and fringe benefits, equipment purchase or rental, insurance costs, office or space costs, consumable supplies, communications, other direct costs, travel for staff, consultants, training, and food costs.

Section 14: Day Care Learning Centers Serving the Special Needs Children: Day care learning centers are encouraged to integrate handicapped children into the group of normal children whenever feasible for the center and for the child. The special needs of the child must be met.

Section 14.01: The Day Care Learning Center shall obtain the assistance of a Qualified Consultant prior to the enrollment of any Special Needs Child.

Section 14.011: The center shall have written program modifications based on the determination of the qualified consultant and the needs of the individual special needs child. These program modifications shall be understood by the program staff.

Section 14.012: Additional staff as recommended by the consultant shall be available.

Section 14.013: Modified equipment and supplies as recommended by the consultant shall be available.

Section 14.014: Training of all staff as recommended by the consultant shall be arranged.

Section 14.015: Modification of the physical facilities shall be made as recommended by the consultant and approved by the R.B.C. facility inspector.

Section 14.02: Prior to the admission of any Special Needs Child, the Day Care Center shall obtain information from the parents, the Physician and the State or Local Education Agency about any Special Problems or Needs that may affect the Child's use of the program. Where indicated, a Psychological Evaluation may be made if necessary, and must be made available to the Center.

Section 14.03: The progress of the Special Needs Child shall be evaluated no less than annually by a Qualified Consultant.

C H A P T E R 9

BURIAL & BURIAL GROUNDS

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Band Statute 1021-MLC-9

Preamble

It is enacted by the Reservation Business Committee of the Mille Lacs Band of Chippewa Indians, in order to exercise a more effective form of tribal government maintain, preserve and protect Indian cemeteries, burial grounds, historic and prehistoric artifacts, monuments and ruins from damage, removal or loss from within the boundaries of the Mille Lacs Indian Reservation.

Section 1: Definitions. The Mille Lacs Reservation Business Committee hereby establishes that the following definition of terms be utilized when interpreting this statute.

Section 1.01: A cemetery is defined as "burial place; a burial ground".

Section 1.02: A burial ground is defined as "the site or location whereupon there has been performed the act or process of burying".

Section 1.03: An artifact is defined as "{a} a usually simple object {as a tool or ornament} showing human workmanship or modification; {b} a product of civilization; {c} a product of artistic endeavor".

Section 1.04: A monument is defined as "a burial vault; a memorial stone or a building erected in remembrance of a person or event".

Section 1.05: A ruin is defined as "the remains of something destroyed".

Section 1.06: Historic is defined as "of or relating to times or events of written history".

Section 1.07: Pre-historic is defined as "of or relating to times or events of written history".

Section 1.08: Indian is defined as "{American Indian} a member of any of the aboriginal peoples of the western hemisphere".

Section 2: Permits. Permits for the examination of ruins, burial grounds, cemeteries, the excavation of archaeological sites and the gathering of objects of antiquity upon the lands under the jurisdiction of the Mille Lacs Band of Chippewas may be granted by the Mille Lacs Reservation Business Committee to institutions or persons which they may deem properly qualified to conduct such examinations, excavation or gathering, subject to such rules and regulations as they may prescribe.

Section 3: Violation Penalties. Any person who shall appropriate, excavate, injure or destroy any Indian cemetery, Indian burial mound or burial ground, historic or prehistoric ruin or monument, or any object of antiquity situate on lands owned or controlled by the Mille Lacs Band of Chippewa Indians or under their jurisdiction without the written permission of the Mille Lacs Reservation Business Committee having jurisdiction over said lands within the boundaries of the Mille Lacs Indian Reservation, Minnesota, shall upon

conviction be fined in the sum of not more than five hundred dollars { \$500.00 } or imprisoned for a period not to exceed six { 6 } months or shall suffer both fine and imprisonment, in the discretion of the Court.

Section 3.01: In addition to the above penalty, whosoever shall violate this Statute may be subject to civil suit for both actual damages plus punitive damages in the amount of five hundred dollars { \$500.00 } by any aggrieved party. The Mille Lacs Reservation Business Committee shall be considered an aggrieved party and may sue any violator in the name of the Mille Lacs Band of Chippewa Indians.

Section 4: Force and Effect of Statute. Pursuant to the provisions of P.L. 280, 28 U.S.C. 1360, this Statute shall be given full force and effect in the determination of any civil cause of action brought in the Courts of the State of Minnesota.

CHAPTER 16

CORPORATE CHARTER

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Band Statute 1077-MLC-16

Preamble

It is enacted by the Band Assembly of the Mille Lacs Band of Chippewa Indians, in order to exercise a more effective form of commerce, to control and manage the economic affairs of the Band and to establish and operate such commercial enterprises as it may deem to be for the benefit of the Mille Lacs Band of Chippewa Indians.

Section 1: Corporate Commission. The constituent Bands of the Non-Removable Mille Lacs Band of Chippewa Indians have the inherent sovereign power to regulate those who transact business for the purpose of conducting commerce under regulations promulgated herein on territories under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians. It is hereby declared by the Band Assembly that the conduct of commerce on said territories is vital to the economic security, political integrity and general health and welfare of the constituent Bands. Therefore, to protect these interests of Band security a commission to be known as the Mille Lacs Band of Chippewa Indians - Corporate Commission is hereby chartered as an authorized independent commission without those powers expressly delegated by the Band Assembly.

Section 1.01: The Mille Lacs Band of Chippewa Indians Corporate Commission shall be a five member commission; with each member having the title of Supervisor and one vote at formal regular and special meetings. The Commissioner of Corporate Affairs shall chair the Corporate Commission ensuring the lawful activity of the Commission. The Commission shall ensure accurate record keeping of all meetings and all transcripts thereof. Such records shall be prima facie evidence of the facts therein stated.

Section 1.02: The Corporate Commission shall vote by roll call with the Commissioner possessing one vote in case of a tie on all formal matters before the Board.

Section 1.03: Any supervisor may be removed from office for just cause pursuant to Band Statute 1002-MLC-2, Section 20.

\* Section 1.04: The Chief Executive shall nominate three individuals for a four year term and two individuals for a two year term and the Band Assembly shall confirm the nominations. \*Amended in Section 34

Section 2: Commission Power. The Mille Lacs Band of Chippewa Indians Corporate Commission shall have the power to regulate domestic and foreign businesses. The commission shall have jurisdiction over any and all matters pertaining to commercial enterprises within the territorial jurisdiction of the Mille Lacs Band. The Commission shall be a political body which is a corporation of the Mille Lacs Band of Chippewa Indians with the right to defend the Commission in any legal action before the Court of Central Jurisdiction. In exercising any power granted, each supervisor shall not be immune from any liability which results from the willful, knowledgeable and unexceptionable performance of their duties.

Section 2.01: Additional Powers of Commission: The Commission shall have the power to approve the construction of any business facility and this authority includes the approval of any and all subject matter related contracts and/or agreements.

Section 2.02: The Commission shall have the power to issue license and/or permits, establish fee for said license or permits for the operation of business entities in territories under the jurisdiction of the Band.

Section 2.03: The Commission shall adopt articles of incorporation which shall be ratified by the Band Assembly before December 31, 1984.

Section 2.04: The Commission shall have the power to employ qualified individuals who shall be employees of the Commission.

\*\* Addition of Section in Section 30

Section 3: Uniform System of Records and Accounting. The Corporate Commission shall prescribe to the financial record system established by the Secretary of Treasury for the Mille Lacs Band of Chippewa Indians.

Section 4: Administrative Regulations. The Corporate 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.

Section 5: Meetings. The Corporate Commission shall meet monthly with an agenda prepared in advance by the Commissioner of Corporate Affairs. All proceedings of the Commission shall be open to the public except when executive session is authorized by unanimous vote of the Commission. All proceedings shall be tape recorded and transcribed and distributed to the Band Assembly not more than five days following said meeting. The Commissioner shall be responsible for compliance.

Section 6: Foreign/Domestic Corporations must have Certificate of Authority. No foreign or domestic corporation shall transact business in territories under the jurisdiction of the Band unless it holds a certificate of authority and no foreign company or corporation may purchase land in the territory under the jurisdiction of the Mille Lacs Band of Chippewa Indians.

Section 6.01: Application for Certificate of Authority. In order to procure a certificate of authority to transact business, a foreign corporation shall make application to the Corporate Commission, which application shall set forth:

Section 6.011: The name of the Corporation and the Indian Tribe, State or Country under the laws of which it is organized;

Section 6.012: The date of its incorporation and the period of its duration;

Section 6.013: The address of its principal office.

Section 6.014: That it irrevocably consents to the service of process upon it as set forth in Section 8 or any amendment thereto;

Section 6.015: The name and respective addresses of its directors and officers;

Section 6.016: A statement of the aggregate number of shares having par value and shares without par value which it shall have authority to issue, itemized by classes and series;

Section 6.017: A statement of the aggregate number of its issued or allotted shares having par value and of shares without par value, itemized by classes and series.

Section 6.018: A statement that the officers executing the application have been only authorized by the Board of Directors of the Corporation.

Section 6.02: Such application shall be made on forms prescribed and furnished by the Corporate Commission and shall be executed, acknowledged and verified by its president or vice-president and by its secretary and delivered to the Corporate Commission with authenticated copies of its articles of incorporation.

Section 7: License Fees. At the time of making application for a certificate of authority the foreign or domestic corporation making such application shall pay the Secretary of Treasury of the Mille Lacs Band of Chippewa Indians the sum of \$125.00 as an initial license fee. Prior to the issuance of a certificate of authority each foreign or domestic corporation shall pay to the Secretary of Treasury the sum of \$375.00 as a license fee. Each certificate of authority shall be valid for one year from the date of issuance. An instrument extending or renewing corporate existence shall pay to the Secretary of Treasury the sum of \$100.00. All fees shall be non-refundable.

Section 7.01: If the application be according to law, the Secretary of Treasury, when all fees and charges have been paid as required by law, shall file in his office the application and a copy of the articles of incorporation and shall issue and record a certificate of authority to transact business on land under the jurisdiction of the Mille Lacs Band of Chippewa Indians upon the affirmative action of the Corporate Commission.

Section 7.02: The certificate of authority shall contain the name of the Corporation, the Indian Tribe, State or County of organization, the period of duration of its corporate existence, the address of its registered office and a statement that it is authorized to transact business on land under the jurisdiction of the Mille Lacs Band of Chippewa Indians. No corporation shall transact business within territories under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians unless it holds a certificate of authority after December 31, 1984.

Section 7.03: After issuance of certificate of authority and until cancellation or revocation thereof or issuance of a certificate of withdrawal, the corporation shall possess within said territories the same rights and privileges that any corporation would possess if organized for the purpose set forth in the articles of incorporation of such corporation pursuant to which its certificate of authority is issued, and shall be subject to the laws of the Band.

Section 7.04: Each foreign corporation authorized to transact business on said territories shall have and continuously maintain a registered office on trust land within the territories under the jurisdiction of the Mille Lacs Band of Chippewa Indians.

Section 8: Service of Process. When any foreign/domestic corporation authorized to transact business in said territories fails to appoint or maintain a registered agent upon whom service of process may be had, or whenever any registered agent cannot be found at its registered office, as shown by the return of the officer of the Band in which the registered office is situated or whenever any corporation withdraws from said territories or whenever the certificate of authority of any foreign/domestic corporation is revoked or cancelled, service may be made by delivering to and leaving with the Commissioner of Corporate Affairs or with any deputy of the corporation department of his office, three copies thereof and a fee of \$10.00; provided that after a foreign/domestic corporation withdraws from said territories, pursuant to Section 10, service upon the corporation may be pursuant to the provision of this section only when based upon the liability or obligation of the corporation incurred within said territories or arising out of any business done on said territories by the corporation prior to the issuance of a certificate of withdrawal.

Section 8.01: If a foreign/domestic corporation makes a contract with a residence of the Band to be performed in whole or in part by either party on said territories or if a foreign/domestic corporation commits a tort in whole or in part in said territories against a resident of the Band, such acts shall be deemed to be doing business on territories under the jurisdiction of the Band, by the foreign/domestic corporation and shall be deemed equivalent to the appointment by the foreign or domestic corporation of the Commissioner of Corporate Affairs and the foreign or domestic corporation of the Commissioner of Corporate Affairs and his successors to be its true and lawful attorney upon whom it may be served all lawful process in any action or proceedings against the foreign or domestic corporation arising from or growing out of contract or tort. Process shall be served in duplicate upon the Commissioner of Corporate Affairs together with a fee of \$10.00 and the Commissioner of Corporate Affairs shall mail one copy thereof to the corporation at its last known address and the corporation shall have ten {10} days within which to answer from the date of the mailing, notwithstanding any other provision of the law. The making of the contract in the committing of the tort shall be deemed to be the agreement of the foreign or domestic corporation that any process against it which is so served upon the Commissioner of Corporate Affairs of the Band shall be of the same legal force and effect as if served personally on it within territories under the jurisdiction of the Band.

Section 8.02: In case of service of process upon the Commissioner of Corporate Affairs, he shall immediately cause one copy of such process to be forwarded by certified mail addressed to the corporation so served, at its principal office under the laws of which it is organized, and one copy thereof to the agent of such corporation, at its registered office in territories under the jurisdiction of the Band, as such addresses appear in the

records of the Secretary of Treasury, provided that, if the corporation shall have withdrawn from said territories in the manner provided by this chapter, one copy shall be sent to the address designated for such purposes in the application for withdrawal, instead of the registered office on territories under the jurisdiction of the Band.

Section 8.03: If any summons is so served upon the Commissioner of Corporate Affairs the corporation so served shall have thirty {30} days in which to answer the complaint.

Section 8.04: Nothing herein contained shall limit or affect the right to serve any process upon a foreign corporation in any other manner now or hereafter permitted by law.

Section 8.05: The Commissioner of Corporate Affairs shall keep a record of all processes served upon him under this section and shall record therein the time of such service and his action with reference thereto.

Section 9: Annual Report. Between January first and April first, in each year, every foreign and domestic corporation which holds a certificate of authority shall make and file with the Commissioner of Corporate Affairs a report for the next preceeding year, setting forth {1} the name of the corporation and the State or Country under the laws of which it is organized, {2} if the name does not end with the word corporation, incorporate or the abbreviation "Inc" or does not contain the word "company" or the abbreviation "Co." not immediately proceeded by the word "and" or the character and then the name of the corporation with the word or abbreviation which it has agreed to add thereto for use in said territories, {3} the date of its incorporation and the period of its duration, {4} the address of its principal office in the State or Country under the laws of which it is organized, {5} the address of its registered office in territories under the jurisdiction of the Band and the name of its registered agent at such address, {6} the names and respective addresses of its directors and officers, {7} a statement of the aggregate number of shares having par value and of shares without par value which it has authority to issue itemized by classes and series, {8} a statement of the aggregate number of its issued or allotted shares having par value and of shares without par value, itemized by classes and series, {9} a statement expressing in dollars the value of all property located within said territories under the jurisdiction of the Band, {10} a statement expressing in dollars the gross receipts of the corporation in such calendar year derived from its business operations where ever transacted, and the gross receipts of the corporation in such calendar year derived from its business operation transacted in whole or in part, within territories under the jurisdiction of the Band and, {11} such additional information as may be necessary or appropriate to enable the Commissioner of Corporate Affairs to determine the additional license fee, if any payable by such corporation.

Section 10: Application for Withdrawing, Filing. If a foreign or domestic corporation holding a certificate of authority desires to withdraw, it shall file with the Commissioner of Corporate Affairs an application for withdrawal.

Section 10.01: The application for withdrawal shall set forth: {1} the name of the corporation and the State and Country under the laws of which it is organized, {2} that it has no property located on territories under the jurisdiction of the Band and has ceased to transact business therein, {3} that its board of directors has duly determined to surrender its authority to transact business on said territories, {4} that it revokes the authority of its registered agent in the Band to accept service of process, {5} the address to which the Commissioner of Corporate Affairs shall mail copy of any process against the corporation that may be served upon him, {6} that it will pay to the Secretary of Treasury the amount of any additional license fee properly found by the Commissioner of Corporate Affairs to be then due from such corporation, and {7} such additional information as may be required or demanded by the Commissioner of Corporate Affairs to enable him to determine the additional fee, if any, payable by such corporation.

Section 10.02: Execution of Application. The application for withdrawal shall be executed, acknowledged and verified on behalf of the corporation by its president or vice-president, and by its secretary or, if the corporation is in the hands of a receiver or trustee, by such receiver or trustee.

Section 10.03: Such application for withdrawal shall be delivered to the Commissioner of Corporate Affairs upon receipt thereof he shall examine the same, and if he finds that it conforms to the provisions of the Chapter, he shall, when all license fees, filing fees and other charges have been paid as required by law, file the same in the office and shall issue and record a certificate of withdrawal, and shall thereupon transmit such certificate, together with a fee of \$1.00 to the county recorder of the county in which the registered office of the corporation in any State is situated, and the county recorder shall record such certificate for such fee. Upon issuance of such certificate, the authority of the corporation to transact business on lands under the jurisdiction of the Band shall cease.

Section 11: License Revocation. The certificate of authority of a foreign or domestic corporation to transact business on said territories under the jurisdiction of the Band shall be revoked by the Commissioner of Corporate Affairs if it fails {1} to pay any fee due under the provisions of this chapter, {2} to designate a registered agent when a vacancy occurs in that office, or when the appointed registered agent becomes disqualified or incapacitated, {3} to file amendment to its articles of merger or consolidation, and {4} to file an annual report.

Section 11.01: When the Commissioner of Corporate Affairs shall find that any such default has occurred, he shall give notice by certified mail to such corporation, at its registered office, that such default exists and that its certificate of authority will be revoked unless such default shall be cured within 30 days after the mailing of such notice.

Section 11.02: The Commissioner of Corporate Affairs shall revoke the certificate of authority of such corporation to do business on territories under the jurisdiction of the Band, if such default shall not be cured within such period of 30 days; provided that for good cause shown the Commissioner of Corporate Affairs may enlarge the period from time to time, but the aggregate of such enlargement shall not exceed three months.

Section 11.03: Upon reoviking such certificate of authority, the Commissioner of Corporate Affairs shall {1} issue a certificate of revocation, in duplicate, {2} transmit one of such certificates to the County Recorder of the county in which the registered office of the corporation in any state is situated, and the County Recorder shall record the same without any fee thereof and {3} mail to such corporation at its principal office in the State or Country under the laws of which it is organized, a notice of such revocation, accompanied by one such certificate, and mail to such corporation, at its registered office in this state, a notice of such revocation.

Section 11.04: Upon the issuance of such certificate of revocation the authority of the corporation to transact business on territories under the jurisdiction of the Band shall cease.

Section 12: Cancellation of Certificate of Authority. When the public interest may require, the Solicitor General of the Mille Lacs Band shall bring an action against a foreign corporation to cancel its certificate of authority to transact business on territories under the jurisdiction of the Band upon the grounds that {1} the certificate of authority was procured through fraud practiced upon said territories, {2} the certificate of authority should not have been issued to the corporation under this chapter, {3} the certificate of authority was procured without a substantial compliance with the conditions prescribed by this chapter or precedent or essential to its issuance, {4} the corporation has offended against any provisions of the statutes regulating corporations, or has abused or usurped corporation privileges or power, {5} the corporation is knowingly and persistently violating any provisions of Band law, or {6} the corporation has done or omitted any action which amounts to a surrender of its certificate of authority.

Section 12.01: If the ground for the action is an act which the corporation has done or omitted to do, and it appears probable that correction can be made, then such action shall not be instituted unless the Solicitor General shall give notice to such corporation by certified mail at its registered office on territories under the jurisdiction of the Band that such default or violation exists, and that an action to cancel its certificate of authority will be begun unless such default shall be cured or such violation discontinued within 30 days; provided that for good cause shown the Solicitor General may enlarge this period from time to time, but the aggregate of such enlargement shall not exceed three {3} months.

Section 12.02: The Solicitor General shall cause two certified copies of the judgement canceling a certificate of authority to be delivered to the Commissioner fo Corporate Affairs. The Commissioner of Corporate Affairs shall file one copy in his office and shall transmit the other copy to the county recorder of the county in which the registered office of the corporation is located. The county recorder shall record the same without any fee.

Section 12.03: Any foreign corporation whose certificate of authority to do business on said territories shall have been revoked or cancelled may file with the Commissioner of Corporate Affairs an application for reinstatement. Such application shall be on forms prescribed by the Commissioner of Corporate Affairs, shall contain all the matters required to be set forth in an original application for a certificate of authority and such other pertinent information as may be required by the Commissioner of Corporate Affairs.



Section 12.04: If the certificate of authority was revoked by the Corporate Commission pursuant to Section 11, the Corporation shall pay to the Secretary of Treasury of the Band \$200.00 before it may be reinstated. If the certificate of authority was cancelled by a judgement pursuant to Section 12 the Corporation shall pay the Secretary of Treasury of the Band \$500.00 before it may be reinstated.

Section 12.05: Upon the filing of such application and upon payment of all penalties, fees and charges required by law not including, however, an initial license fee or additional license fees to the extent that the same have theretofore have been paid by such corporation, the Secretary of Treasury shall issue and record a certificate of reinstatement and shall transmit such certificate together with a fee of \$1.00 to the county recorder of the county in which the registered office of the corporation in this state. The county recorder shall record such certificate for such fee.

Section 13: Certificate Issued by the Secretary of Treasury. Any certificate issued by the Secretary of Treasury pursuant to the provisions of this Chapter, and copies of such certificate by him shall be prima facie evidence of the matter stated therein and, except certificate issued pursuant to Section 13.01 may be recorded in the office of the Clerk of Court.

Sectoin 13.01: A certificate of the Secretary of Treasury to the effect that a foreign corporation is not authorized to transact business in territories under the jurisdiction of the Band shall be prima facie evidence of the facts therein stated.

Section 14: Foreign and Domestic Businesses: Corporate Powers. Every corporation shall have power: {1} to continue as a corporation for the time limited in its articles of incorporation, or if no such time limit is specified, then perpetually, {2} to sue and be sued, {3} to adopt, use and at will alter a corporate seal, but failure to affix the corporate seal shall affect the validity of any instrument, failure to affix the corporate seal shall render the commission liable for damage, {4} to conduct business on lands under the jurisdiction of the Band, {5} to enter into obligation or contracts and to do any actions incidental to the transaction of its business or expedient for the attainment of the purposes stated in its articles, {6} to indemnify persons against certain expenses and liabilities and to participate with others in any corporation, partnership, joint venture or other association so long as such does not involve the natural resources of the Band, {7} to conduct all or part of its business under one or more assumed names.

Section 14.01: All businesses presently in effect at the time of enactment of this statute, shall organize as domesitc businesses or corporations as provided by this chapter.

Section 15: Right of Adjudication. The Band Assembly hereby gives its consent to permit the corporation to sue and be sued in its corporation name and to waive any immunity from suit in the Court of Central Jurisdiction or United States District Court, which it might otherwise have, except in those cases where the cause of action arises from the performance of a governmental

fuction or where the judgement would expand itself on tribal property. The Band shall not be liable for the debts or obligations of the corporation except insofar as expressly authorized by this Chapter.

Section 16: Indemnification of Officers, Directors, Employees and Agents. A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, wherever brought, whether civil, criminal, administrative or investigative, other than an action by or in the right of the corporation by reason of the fact that he is or was a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprises, against expenses including attorney's fees, judgements, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the corporation, and with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgement, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act on good faith and in a manner which he reasonably believed to be in or not opposed to the best interest of the corporation, and with respect to any criminal action or proceeding had reasonable cause to believe that his conduct was unlawful.

Section 16.01: A corporation shall have the power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit, wherever brought by or in the right of the corporation to process a judgement in its favor by reason of the fact that he is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture trust or other enterprise against expenses, including attorney fees, actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the corporation unless and only to the extent that the court in which such action or suit was brought shall determine upon application that despite the adjudication or liability but in view of all circumstances of the case, such person is fairly and and reasonably entitled to indemnity for such expenses which such court shall deem proper.

Section 16.02: To the extent that a director, officer, employee or agent of a corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 16 and 16.01 or in defense of any claim, issue or matter therein, he shall be indemnified against expenses including attorney fees actually and reasonably incurred by him in connection there with.

Section 16.03: Any indemnification under Section 16 and 16.01 unless ordered by a court shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in Section 16 and 16.01. The determination shall be made: {1} by the Corporate Commission by a majority vote of a quorum consisting of Supervisors who were not parties to the action, suit or proceeding or {2} if such a quorum is not obtainable, or even in obtainable a quorum of disinterested Supervisors so directs by independent legal counsel in a written opinion or {3} by the stock holders; or {4} in the case of domestic corporations, the Chief Executive upon ratification of the Board Assembly.

Section 16.04: Expenses including attorney's fees incurred in defending a civil or criminal action suit or proceeding may be paid by the corporation in advance of the final desposition of the action, suit or proceeding as authorized in the manner provided in Section 16.03 upon receipt of an undertaking by or in behalf of the director, officer, employee or agent to repay the amount unless it shall ultimately be determined that he is entitled to be indemnified by the corporation as authorized in this section.

Section 16.05: The indmenification provided by this section shall continue as a person who has ceased to be a director, officer, employee or agent and shall insure to the benefit of the heirs, executors and administrators of such person. No provision made to indemnify director or officer for the defense of any civil or criminal action or proceeding whether continued in the article of incorporation, the by-laws, a resolution of shareholders or directors, an agreement or otherwise, nor any award of indemnification by a court, shall be valid unless consistent with this section.

section 16.06: A corporation shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity provided, that no indemnification shall be made under any policy of insurance for any act which could not be indemnified by the corporation under this section.

Section 16.07: Where court approval is required by this section, application may be made in the civil action or proceeding in which the expenses were incurred or other amounts were paid. The application shall set forth the disposition of any previous application made to any court for the same or similar relief and also reasonable cause for the failure to make application for such relief in the action or proceeding in which the expenses were incurred or other amounts paid. The application shall be made in such manner and form as may be required by the applicable rules of court or, in the absence thereof, by direction of a court which it is made. Such application shall be upon notice to the corporation. The court may also direct that notice be given at the expense of the corporation to the shareholders and such other persons as the court may designate in such manner as it may require.

Section 16.08: No indemnification, advancement or allowance shall be made under this section in any circumstances where it appears {1} that the indemnification would be inconsistent with the law of this jurisdiction of corporation of a foreign corporation which prohibits or otherwise limits

such indemnification; {2} that the indemnification would be inconsistent with a provision of the article of corporation, a bylaw, a resolution of the board of directors or of the shareholders, an agreement or other proper corporate action, in effect at the time of accrual of the alleged cause of action asserted in the threatened or pending action or proceeding in which the expense were incurred or other amounts paid, which prohibits or otherwise limits indemnification or; {3} if there has been a settlement approved by the court, that the indemnification would be inconsistent with any conditions with respect to indemnification expressly imposed by the court in approving the settlement.

Section 17: Reservation of Right of Amendment. The Band Assembly hereby fully reserves the right to alter, amend, or repeal the several provisions of this chapter, and all rights and privileges granted or extended hereunder shall be subject to such reserved right.

Section 18: Forfeitures. A corporation or business shall forfeit to the Band \$50.00 for each day it neglects to keep any or all of the books or records as required by the Secretary of Treasury of the Mille Lacs Band of Chippewa Indians.

Section 19: Maintenance of Records. Every corporation shall keep at its registered office original or copies of: {1} records of all proceedings, {2} its bylaws and all amendments, {3} names and addresses of its principal officers and {4} articles of incorporation.

Section 20: Severability. If any provision of this chapter or the application thereof to any person, business, corporation or circumstances is held invalid, the invalidity shall not affect other provisions or application of the chapter which can be given effect without the invalid provision or application and to this end of the provisions of this chapter are declared severable.

Section 21: Court of Central Jurisdiction. The Court of Central Jurisdiction is hereby granted subject-matter jurisdiction for any cause of action which arises from this chapter. Nothing in this chapter shall be construed as a waiver of sovereign immunity of the Non-Removable Mille Lacs Band of Chippewa Indians in any State of Federal court of competent jurisdiction.

Section 22: Solicitor General Obligations. The Solicitor General shall not represent the interest of the Corporate Commission in any matter before the Court of Central Jurisdiction with the exception that he shall represent the commission in any case where the cause of action arises from the performance of a governmental function or where the judgement would expend itself on the property of the Non-Removable Mille Lacs Band of Chippewa Indians.

Section 23: Corporate Advisors to Commission. The Band Assembly hereby authorizes the Chief Executive to nominate three Corporate Advisors to the Corporate Commission. These advisors shall be individuals who are knowledgeable in the area of management, marketing, finance, sales, investment and the overall development and operation of domestic enterprises of the Band. Each advisor shall be a non-voting member of the Corporate Commission whose term of office shall be perpetual unless removed by the Chief Executive for cause.

Section 24: Corporate Budget. The Band Assembly shall retain appropriation authority over all domestic business enterprises. No later than August 1 of each fiscal year, each business shall forward to the Corporate Commission who shall approve and transmit to the Band Assembly the corporate expenditures as projected by the succeeding fiscal year.

Section 25: Office of Management and Budget. The Office of Management and Budget shall not retain fiscal responsibility for the general books of account for all domestic business funds.

Section 26: Definitions. Corporation - means an Indian public or private corporation.

Section 26.01: Private Corporation - includes every company, association, body of function, except as are formed solely for public and governmental purposes, which shall be deemed an Indian public corporation.

Section 26.02: Domestic Corporation - means every Indian corporation organized under the laws of the band.

Section 26.03: Foreign Corporation - means any corporation organized under another law of a state of the United States of another Country and also organized or licensed under the laws of the Band.

Section 26.04: Process - means any statutory notice or demand required or permitted to be served on a natural person or a corporation and includes a summons in a civil action and any process which may be issued in any action or proceeding in ay court.

Section 26.05: Court - means the Court of Central Jurisdiction or any United State District Court.

Section 27: Nay-Ah-Shing Gaming Commission Powers Transferred. The Corporate Commission shall be the regulatory agency to promulgate rules and regulations for conduct of gaming on territories governed by the Mille Lacs Band of Chippewa Indians. All powers, duties and responsibilities conferred in Band Statute 1000-MLC-4, upon the Nay-Ah-Shing Gaming Commission are hereby transferred to the Corporate Commission.

Section 28: Government Lien on Net Profits. The Band Assembly hereby assesses a seventy percent lien upon the individual business for all domestic businesses net profits of the Corporate Commission on an annual basis. Said lien shall be payable on a quarterly basis commencing the quarter ending December 31, 1984.

Section 29: Domestic Fund Transfers. The Corporate Commission shall not authorize any domestic business fund transfers.

Section 30: Addition of Section 2.05: The Commission shall have the power to change the name of any domestic business and to authorize any business to apply to any external jurisdiction for the provision of services of any type, including workmen's compensation and unemployment compensation provided that said business does not operate under the name Mille Lacs, Mille Lacs Reservation or association to any other name likely to associate the business with any constituent Band of the Non-Removable Mille Lacs Band of Chippewa Indians.

Section 31: Revocation of Existing Charters. Any domestic business in existence on the day of enactment of this Statute which holds a business charter issued by the State of Minnesota shall within fifteen days of enactment of this Statute file all necessary documents to withdraw said charter with the appropriate officer of the State of Minnesota. Henceforth, no domestic business shall have authority to organize itself under the laws of the State of Minnesota. The Band Assembly hereby declares all existing charters to be null and void on the day of enactment of this Statute.

Section 32: Applicability of Band Transaction Codes. Each domestic and foreign business or corporation conducting business under the laws of the Mille Lacs Band of Chippewa Indians shall be subject to all applicable taxation now in force and effect or hereafter in force and effect.

Section 33: Anti-Trust Provision. All provisions of the United States Code relating to anti-trust violations which may arise during the conduct of business of any domestic or foreign business or corporation licensed by the Mille Lacs Band of Chippewa Indians shall be a violation of the criminal laws of the constituent Bands of the Non-Removable Mille Lacs Band of Chippewa Indians. The Band Assembly hereby adopts the United States Anti-Trust Code as a criminal law of the Band.

Section 33.01: No business or corporation doing business on territories under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians shall offer or receive any kick-back or bribe or attempt to influence or deceive any decision political or otherwise, of the Corporate Commission or Band Assembly or other officer or appointee of the Band government shall be found guilty of violating the criminal law of the Band.

Section 34: Amendment to Section 1.04. The five Supervisors shall serve until April 30, 1985. Prior to this date, five nominees will be submitted for ratification by the Band Assembly. Three Supervisors will receive a four year term to expire April 30, 1989 and the remaining two Supervisors to serve until April 30, 1987, thereafter to serve a four year term.

CHAPTER 17

HOUSING AUTHORITY

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Band Statute 1034-MLC-17

Preamble

Be it enacted pursuant to the authority vested in the Minnesota Chippewa Tribe by its Constitution, and particularly by Article VI, Section 1 {d} thereof, and its authority to provide for the health, safety, morals and welfare of the Tribe, the Mille Lacs Reservation Business Committee of the Mille Lacs Band of Chippewa Indians hereby establishes a public body known as the Mille Lacs Reservation Housing Authority {hereinafter referred to as the Authority}, and enacts this Ordinance which shall establish the purposes, powers and duties of the Authority.

In any suit, action or proceeding involving the validity or enforcement of or relating to any of its contracts, the Authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers upon proof of the adoption of this Ordinance. A copy of the Ordinance duly certified by the Secretary of the Mille Lacs Reservation Business Committee of the Mille Lacs Band of Chippewa Indians shall be admissible in evidence in any suit, action or proceeding.

Section 1: Declaration of Need. It is hereby declared that there exists on the Mille Lacs Reservation insanitary, unsafe and overcrowded dwelling accommodations; that there is a shortage of decent, safe and sanitary dwelling accommodations available at rents or prices which persons of low income can afford; and that such shortage forces such persons to occupy insanitary, unsafe and overcrowded dwelling accommodations.

Section 1.01: It is hereby declared that these conditions cause an increase in and spread of disease and crime and constitute a menace to health, safety, morals and welfare; and that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety protection, fire and accident prevention and other public services and facilities.

Section 1.02: It is hereby declared that the shortage of decent, safe and sanitary dwellings for persons of low income cannot be relieved through the operation of private enterprise.

Section 1.03: It is hereby declared that the providing of decent, safe and sanitary dwelling accommodations for persons of low income are public uses and purposes for which money may be spent and private property acquired and are governmental functions of Tribal concern.

Section 1.04: It is hereby declared that residential construction activity and a supply of acceptable housing are important factors to general economic activity, and that the undertakings authorized by this Ordinance to aid the production of better housing and more desirable neighborhood and community development at lower costs will make possible a more stable and larger volume of residential construction and housing supply which will assist materially in achieving full employment.

Section 1.05: It is hereby declared that the necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

Section 2: Purposes. The Authority shall be organized and operated for the purposes of: remedying unsafe and insanitary housing conditions that are injurious to the public health, safety and morals; alleviating the acute shortage of decent, safe and sanitary dwellings for persons of low income; and providing employment opportunities through the construction, reconstruction, improvement, extension, alteration or repair and operation of low income dwellings.

Section 3: Definitions. The following terms, wherever used or referred to in this statute, shall have the following respective meanings, unless a different meaning clearly appears from the context:

Section 3.01: "Board" means the Board of Commissioners of the Authority.

Section 3.02: "Area of Operation" means all areas within the jurisdiction of the Tribe.

Section 3.03: "Federal Government" includes the United States of America, the Department of Housing and Urban Development or any other agency or instrumentality, corporate or otherwise, of the United States of America.

Section 3.04: "Council" means the Mille Lacs Reservation Business Committee.

Section 3.05: "Homebuyer" means a person[s] who has executed a lease-purchase agreement with the Authority, and who has not yet achieved homeownership.

Section 3.06: "Housing project" or "project" means any work or undertaking to provide or assist in providing {by any suitable method, including but not limited to: rental; sale of individual units in single or multi-family structures under conventional condominium or cooperative sales contracts or lease-purchase agreements; loans; or subsidizing of rentals or charges} decent, safe and sanitary dwellings, apartments or other living accommodations for persons of low income. Such work or undertaking may include buildings, land, leaseholds, equipment, facilities and other real or personal property for necessary, convenient or desirable appurtenances, for streets, sewers, water service, utilities, parks, site preparation or landscaping and for administrative, community, health, recreational, welfare or other purposes. The term "housing project" or "project" also may be applied to the planning of the buildings and improvements, the acquisition of property or any interest therein, the demolition of existing structures, the construction, reconstruction, rehabilitation, alteration or repair of the improvements or other property and all other work in connection therewith, and the term shall include all other real and personal property and all tangible or intangible assets held or used in connection with the housing project.

Section 3.07: "Obligations" means any notes, bonds, interim certificates, debentures or other forms of obligations issued by the Authority pursuant to this Statute.

Section 3.08: "Obligee" includes any holder of an obligation, agent or trustee for any holder of an obligation, or lessor demising to the Authority property used in connection with a project, or any assignee or assignees

of such lessor's interest or any part thereof, and the Federal Government when it is a party to any contract with the Authority in respect to a housing project.

Section 3.09: "Persons of low income" means persons or families who cannot afford to pay enough to cause private enterprise in their locality to build an adequate supply of decent, safe and sanitary dwellings for their use.

Section 4: Board of Commissioners. This section establishes the rules and management of the Board of Commissioners as follows:

Section 4.01: The Authority is hereby organized and constituted as a subdivision of the Housing Division of the Mille Lacs Reservation Business Committee.

Section 4.011: The affairs of the Authority shall be managed by a Board of Commissioners composed of seven persons. The Board members shall be appointed, and may be reappointed, by the Mille Lacs Reservation Business Committee. A certificate of the Secretary of the Mille Lacs Reservation Business Committee to the appointment or reappointment of any commissioner shall be conclusive evidence of the due and proper appointment of the commissioner.

Section 4.012: A commissioner may be a member or non-member of the Tribe, and may be a member or non-member of the Mille Lacs Reservation Business Committee.

Section 4.013: No person shall be barred from serving on the Board because he is a tenant or homebuyer in a housing project of the Authority; and such commissioner shall be entitled to fully participate in all meetings concerning matters that affect all of the tenants or homebuyers, even though such matters affect him as well. However, no such commissioner shall be entitled or permitted to participate in or be present at any meeting {except in his capacity as a tenant or homebuyer}, or to be counted or treated as a member of the Board, concerning any matter involving his individual rights, obligations or status as a tenant or homebuyer.

\* Section 4.02: The term of the office shall be set by resolution of the Mille Lacs Reservation Business Committee. Each member of the Board shall hold office until his successor has been appointed and has qualified. Amended in Section 12.

Section 4.03: The Council shall name one of the Commissioners as Chairman of the Board and the Council shall also select from amongst the Commissioners a Vice-Chairman, a Secretary and a Treasurer; and any member may hold two of these positions. In the absence of the Chairman, the Vice-Chairman shall preside; and in the absence of both the Chairman and the Vice-Chairman, the Secretary shall preside. The Council shall set the terms of office for the above officers by resolution of the Council.

Section 4.04: A member of the Board may be removed by the appointing power for serious inefficiency or neglect of duty or for misconduct in office, but only after a hearing before the appointing power and only after the member has been given a written notice of the specific charges against him at least ten days prior to the hearing. At any such hearing, the member shall have the opportunity to be heard in person or by counsel and to present witnesses in his behalf. In the event of removal of any Board member, a record of the proceedings together with the charges and findings thereon,

shall be filed with the appointing power and a copy thereof, sent to the appropriate office of the Department of Housing and Urban Development.

Section 4.05: The Commissioner shall not receive compensation for the services but shall be entitled to compensation for expenses, including travel expenses, incurred in the discharge of their duties.

Section 4.06: A majority of the full Board (i.e., notwithstanding the existence of any vacancies) 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 such full Board.

Section 4.07: The Secretary shall keep complete and accurate records of all meetings and actions taken by the Board.

Section 4.08: 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 Council as required by Section 7 of this Statute.

Section 4.08: Meetings of the Board shall be held at regular intervals as provided in the by-laws. Emergency meetings may be held upon 24 hours actual notice and business transacted, provided that not less than a majority of the full Board concurs in the proposed action.

Section 5: Powers The Authority shall have perpetual succession in its corporate name.

Section 5.01: The council hereby gives its irrevocable consent to allowing the Authority to sue in its corporate name, upon any contract, claim or obligation arising out of its activities under this Statute and hereby authorizes the Authority to agree by contract to waive any immunity from suit which it might otherwise have; but the Minnesota Chippewa Tribe or the Mille Lacs Band of Chippewa Indians shall not be liable for the debts or obligations of the Authority.

Section 5.02 The Authority shall have the following powers which it may exercise consistent with the purpose for which it is established.

Section 5.021: To adopt and use a corporate seal

Section 5.022: To enter into agreements, contracts and understandings with any governmental agency, Federal, State or local, (including the Council) or with any person, partnership, corporation or Indian tribe; and to agree to any conditions attached to Federal financial assistance.

Section 5.023: To agree, notwithstanding anything to the contrary contained in this Statute or any other provision of law, to any conditions attached to Federal financial assistance relating to the determination of prevailing salaries or wages or payment of not less than prevailing salaries or wages or compliance with labor standards, in the development or operation of projects; and the Authority may include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractor comply with requirements as to minimum salaries or wages and maximum hours of labor and comply with any conditions which the Federal government may have attached to its financial aid to the project.

Section 5.024: To obligate itself, in any contract with the Federal government, for annual contributions to the Authority to convey to the Federal government possession of or title to the project to which such contract relates, upon the occurrence of a substantial default (as defined in such contract) with respect to the covenants or conditions to which the Authority is subject; and such contract may further provide that in case of such conveyance, the Federal government may complete, operate, manage, lease, convey or otherwise deal with the project and funds in accordance with the terms of such contract; provided, that the contract requires that, as soon as practicable after the Federal government is satisfied that all defaults with respect to the project have been cured and that the project will thereafter be operated in accordance with the terms of the contract, the Federal government shall reconvey to the Authority the project as then constituted.

Section 5.025: To lease property from the Tribe and others for such periods as are authorized by law, and to hold and manage or to sublease the same.

Section 5.026: To borrow or lend money, to issue temporary or long-term evidence of indebtedness, and to repay the same. Obligations shall be issued and repaid in accordance with the provisions of Section 6 of this Statute.

Section 5.027: To pledge the assets and receipts of the Authority as security for debts; and to acquire, sell, lease, exchange, transfer or assign personal property or interests therein.

Section 5.028: To purchase land or interests in land or take the same by gift; to lease land or interests in land to the extent provided by law.

Section 5.029: To undertake and carry out studies and analysis of housing needs, to prepare housing plans, to execute the same, to operate projects and to provide for the construction, reconstruction, improvement, extension, alteration or repair of any project or any part thereof.

Section 5.0210: With respect to any dwellings, accommodations, lands, buildings or facilities embraced with any project (including individual cooperative or condominium units); to lease or rent, sell, enter into lease-purchase agreements or leases with option to purchase; to establish and revise rents or required monthly payments; to make rules and regulations concerning the selection of tenants or homebuyers, including the establishment of priorities, and concerning the occupancy, rental, care and management of housing units; and to make such further rules and regulations as the Board may deem necessary and desirable to effectuate the powers granted by this Statute.

Section 5.0211: To finance purchase of a home by an eligible homebuyer in accordance with regulations and requirements of the Department of Housing and Urban Development.

Section 5.0212: To terminate any lease or rental agreement or lease-purchase agreement when the tenant or homebuyer has violated the terms of such agreement, or failed to meet any of its obligations thereunder, or when such termination is otherwise authorized under the provisions of such agreement, and to bring action for eviction against such tenant or homebuyer.

Section 5.0213: To establish income limits for admission that insure that dwelling accommodations in a housing project shall be made available only to persons of low income.

Section 5.0214: To purchase insurance from any stock or mutual company for any property or against any risk or hazards.

Section 5.0215: To invest such funds as are not required for immediate disbursement.

Section 5.0216: To establish and maintain such bank accounts as may be necessary or convenient.

Section 5.0217: To employ a housing manager, technical and maintenance personnel and such other officers and employees, permanent or temporary, as the Authority may require; and to delegate to such officers and employees such powers or duties as the Board shall deem proper.

Section 5.0218: To take such further actions as are commonly engaged in by public bodies of this character as the Board may deem necessary and desirable to effectuate the purposes of the Authority.

Section 5.0219: To join or cooperate with any other public housing agency or agencies operating under the laws or ordinances of a State or another tribe in the exercise, either jointly or otherwise, of any or all of the powers of the Authority and such other public housing agency or agencies for the purpose of financing (including but not limited to the issuance of notes or other obligations and giving security therefor), planning, undertaking, owning, constructing, operating or contracting with respect to a housing project or projects of the Authority or such other public housing agency or agencies. For such purpose, the Authority may by resolution, prescribe and authorize any other public housing agency or agencies, so joining or cooperating with the Authority, to act on the Authority's behalf with respect to any or all powers, as the Authority's agent or otherwise, in the name of the Authority or in the name of such agency or agencies.

Section 5.0220: To adopt such By-Laws as the Board deems necessary and appropriate.

Section 5.03: It is the purpose and intent of this Statute to authorize the Authority to do any and all things necessary or desirable to secure the financial aid or cooperation of the Federal Government in the undertaking, construction, maintenance or operation of any project by the Authority.

Section 5.04: No ordinance or other enactment of the Council or Tribe with respect to the acquisition, operation or disposition of Council or Tribe shall be applicable to the Authority in its operations pursuant to this Statute.

Section 6: Obligations. The Authority may issue obligations from time to time in its discretion for any of its purposes and may also issue refunding obligations for the purpose of paying or retiring obligations previously issued by it. The Authority may issue such types of obligations as it may determine, including obligations on which the principal and interest are payable {1} exclusively from the income and revenues of the project financed with the proceeds of such obligations, or with such income and revenues together with a grant from the Federal Government in aid of such project; {b} exclusively from the income and revenues of certain designated projects whether or not they were financed in whole or in part with the proceeds of such obligations; or {c} from its revenues generally. Any of such obligations may be additionally secured by a pledge of any revenues of any project or other property of the Authority.

Section 6.01: Neither the commissioners of the Authority nor any person executing the obligations shall be liable personally on the obligations by reason of issuance thereof.

Section 6.02: The notes and other obligations of the Authority shall not be a debt of the Tribe and the obligations shall so state on their face.

Section 6.03: Obligations of the Authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from taxes imposed by the Council or Tribe. The tax exemption provisions of this Statute shall be considered part of the security for the repayment of obligations and shall constitute, by virtue of this Statute and without necessity of being restated in the obligations, a contract between {a} the Authority and the Council or Tribe, and {b} the holders of obligations and each of them, including all transferees of the obligations from time to time.

Section 6.04: Obligations shall be issued and sold in the following manner:

Section 6.041: Obligations of the Authority shall be authorized by a resolution adopted by the vote of a majority of the full Board and may be issued in one or more series.

Section 6.042: The obligations shall bear such dates, mature at such times, bear interest at such rates, be in such denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment and at such places, and be subject to such terms of redemption, with or without premium, as such resolution may provide.

Section 6.043: The obligations may be sold at public or private sale at not less than par.

Section 6.044: In case any of the commissioners of the Authority whose signatures appear on any obligations cease to be commissioners before the delivery of such obligations, the signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if the commissioners had remained in office until delivery.

Section 6.05: Obligations of the Authority shall be fully negotiable. In any suit, action or proceeding involving the validity or enforceability of any obligation of the Authority or the security therefor, any such obligation reciting in substance that it has been issued by the Authority to aid in financing a project pursuant to this Statute shall be conclusively deemed to have been issued for such purpose, and the project for which such obligation was issued shall be conclusively deemed to have been planned, located and carried out in accordance with the purposes and provisions of this Statute.

Section 6.06: In connection with the issuance of obligations or incurring of obligations under leases and to secure the payment of such obligations, the Authority, subject to the limitations of this Statute.

Section 6.061: Pledge all or any part of its gross or net rents, fees or revenues to which its right then exists or may thereafter come into existence.

Section 6.062: Provide for the powers and duties of obligees and limit their liabilities; and provide the terms and conditions on which such obligees may enforce and covenant or rights securing or relating to the obligations.

Section 6.063: Covenant against pledging all or any part of its rents, fees and revenues or against mortgaging any or all of its real or personal property to which its title or right then exists or may thereafter come into existence or permitting or suffering any lien on such revenues or property.

Section 6.064: Covenant with respect to limitations on its right to sell, lease or otherwise dispose of any project or any part thereof.

Section 6.065: Covenant as to what other or additional debts or obligations may be incurred by it.

Section 6.066: Covenant as to the obligations to be issued and as to the issuance of such obligations in escrow or otherwise, and as to the use and disposition of the proceeds thereof.

Section 6.067: Provide for the replacement of lost, destroyed or mutilated obligations.

Section 6.068: Covenant against extending the time for the payment of its obligations or interest thereon.

Section 6.069: Redeem the obligations and covenant for their redemption and provide the terms and conditions thereof.

Section 6.0610: covenant concerning the rents and fees to be charged in the operation of a project or projects, the amount to be raised each year or other period of time by rents, fees and other revenues, and as to the use and disposition to be made thereof.

Section 6.0611: Create or authorize the creation of special funds for monies held for construction or operating costs, debt service, reserves or other purposes, and covenant as to the use and disposition of the monies held in such funds.



Section 6.0612: Prescribe the procedure, if any, by which the terms of any contract with holders of obligations may be amended or abrogated, the proportion of outstanding obligations the holders of which must consent thereto, and the manner in which such consent may be given.

Section 6.0613: Covenant as to the use, maintenance and replacement of its real or personal property, the insurance to be carried thereon and the use and disposition of insurance monies.

Section 6.0614: Covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant condition or obligation.

Section 6.0615: Covenant and prescribe as to events of default and terms and conditions upon which any or all of its obligations become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.

Section 6.0616: Vest in any obligees or any proportion of them the right to enforce the payment of the obligations or any covenants securing or relating to the obligations.

Section 6.0617: Exercise all or any part or combination of the powers granted in this section.

Section 6.0618: Make covenants other than and in addition to the covenants expressly authorized in this section, of like or different character.

Section 6.0619: Make any covenants and do any acts and things necessary or convenient or desirable in order to secure its obligations, or, in the absolute discretion of the authority, tending to make the obligations more marketable although the covenants, acts or things are not enumerated in this section.

Section 7: Miscellaneous The Authority shall submit an annual report, signed by the Chairman of the Board, to the Council showing {a} a summary of the year's activities, {b} the financial condition of the Authority, {c} the condition of the properties, {d} the number of units and vacancies, {e} any significant problems and accomplishments, {f} plans for the future, and {g} such other information as the Authority or the Council shall deem pertinent.

Section 7.01: During his tenure and for one year thereafter, no commissioner, officer or employee of the Authority, or any member of any governing body of the Tribe, or any other public official who exercises any responsibilities or functions with regard to the project, shall voluntarily acquire any interest, direct, or indirect, in any project or in any property included or planned to be included in any project, or in any contract or proposed contract relating to any project, unless prior to such acquisition he discloses his interest in writing to the Authority and such disclosure is entered upon the minutes of the Authority, and the commissioner, officer or employee shall not participate in any action by the Authority relating to the property or contract in which he has any such interest. If any commissioner, officer or employee of the Authority involuntarily acquires any such interest, or voluntarily or involuntarily acquire any such interest prior to appointment or employment as a commissioner, officer or employee, the commissioner, officer or employee, in any such event, shall immediately disclose his interest in writing to the Authority, and such disclosure shall be entered upon the minutes of the Authority, and the commissioner, officer or employee shall not participate in any action by the Authority relating to the

property or contract in which he has any such interest. Any violation of the foregoing provisions of this section shall constitute misconduct in office. This section shall not be applicable to the acquisition of any interest in obligations of the Authority issued in connection with any project, or to the execution of agreements by banking institutions for the deposit or handling of funds in connection with a project or to act as trustee under any trust indenture, or to utility services the rates for which are fixed or controlled by a governmental agency, or to membership on the Board as provided in Section 4.013.

Section 7.02: Each project developed or operated under a contract providing for Federal financial assistance shall be developed and operated in compliance with all requirements of such contract and applicable Federal legislation, and with all regulations and requirements prescribed from time to time by the Federal government in connection with such assistance.

Section 7.03: The Authority shall obtain or provide for the obtaining of adequate fidelity bond coverage of its officers, agents or employees handling cash or authorized to sign checks or certify vouchers.

Section 7.04: The Authority shall not construct or operate any project for profit.

Section 7.05: 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 Council or Tribe.

Section 7.06: All property including funds acquired or held by the Authority pursuant to this Statute shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall any judgement against the Authority be a charge or lien upon such property. However, the provisions of this section shall not apply to or limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by the Authority on its rents, fees or revenues or the right of the Federal Government to pursue any remedies conferred upon it pursuant to the provisions of this Statute or the right of the Authority to bring eviction actions in accordance with Section 5.021.

Section 8: Cooperation in Connection with Projects. For the purpose of aiding and cooperation in the planning, undertaking, construction or operation of projects, the Council hereby agrees that:

Section 8.01: It will not levy or impose any real or personal property taxes or special assessments upon the Authority or any project of the Authority.

Section 8.02: It will furnish or cause to be furnished to the Authority and the occupants of projects all services and facilities of the same character and to the same extent as the Council or Tribe furnishes from time to time without cost or charge to other dwellings and inhabitants.

Section 8.03: Insofar as it may lawfully do so, it will grant such deviators from any present or future building or housing codes of the Council or Tribe as are reasonable and necessary to promote economy and efficiency in the development and operation of any project, and at the same time safeguard development and operation of any project, and at the same time safeguard health and safety, and make such changes in any zoning of the site and surrounding territory of any project as are reasonable and necessary for the development and protection of such project, and the surrounding territory.

Section 8.04: It will do any and all things, within its lawful power, necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of projects.

Section 8.05: The Council hereby declares that the powers of the Council shall be vigorously utilized to enforce eviction of a tenant or homebuyer for nonpayment or other contract violations including action through the appropriate courts.

Section 8.06: The Tribal Courts shall have jurisdiction to hear and determine an action for eviction of a tenant or homebuyer or any other actions or suits relating to contracts or other claims arising out of this Statute or the activities of the Mille Lacs Reservation Housing Authority. The Council hereby declares that the powers of the Tribal Courts shall be vigorously utilized to enforce eviction of a tenant or homebuyer for nonpayment or other contract violations.

Section 8.07: The provisions of this Section shall remain in effect with respect to any project, and said provisions shall not be abrogated, changed or modified without the consent of the Department of Housing and Urban Development, so long as {a} the project is owned by a public body or governmental agency and is used for low income housing purposes, {b} any contract between the Authority and the Department of Housing and Urban Development for loans or annual contributions, or both, in connection with such project, remains in force and effect, or {c} any obligations issued in connection with such project or monies due to the Department of Housing and Urban Development in connection with such project remain unpaid, which ever period ends the latest. If at any time title to, or possession of, any project is held by any public body or governmental agency authorized by law to engage in the development or operation of low income housing, including the Federal Government, the provisions of this section shall insure to the benefit of and be enforced by such public body or governmental agency.

Section 9: Approval by Secretary of the Interior. With respect to any financial assistance contract between the Authority and the Federal Government, the Authority shall obtain the approval of the Secretary of the Interior or his designee.

Section 10: Rescinding of Previous Statutes. By adoption of this Statute, all prior statutes of the Mille Lacs Reservation Business Committee relating to the Mille Lacs Reservation Housing Authority are hereby repealed as of the date of the enactment of this Statute. The appointment of all commissioners under any prior statute is hereby revoked and rescinded and new commissioners shall be appointed pursuant to the provisions of this Statute. The new commissioners shall recommend to the Council a housing manager and such other employees as are required for the Housing Authority and as provided for in this Statute.

**Section 11: Submission of Reports.** The Authority shall submit to the Council an annual administrative budget, an annual operating budget, and an annual operating plan. The Authority shall also submit to the Council any proposals prior to their submission to the Federal Government. The Authority shall also submit to the Council copies of minutes of meetings, paid bills, contracts and notices and information received from the Federal Government.

## BAND STATUTE 1089-MLC-17

## Preamble

It is enacted by the Band Assembly of the Mille Lacs Band of Chippewa Indians for the purpose of amendment.

Section 12. Amendment to Section 4.02. The Chief Executive shall select two individuals and the Band Assembly shall confirm one of the two to the Housing Authority. The Commissioner shall serve until June 30th, 1988. Henceforth, he may be appointed to a four year term commencing June 30th, 1988.

Section 12.01. The Speaker of the Assembly shall select two individuals and the Chief Executive shall nominate one of the two to the Band Assembly for confirmation to the Housing Authority. The Commissioner shall serve until June 30th, 1986. Henceforth, he may be appointed to a four year term commencing on June 30th, 1986.

Section 12.011. The District I Representative shall select two individuals and the Chief Executive shall nominate one of the two to the Band Assembly for confirmation to the Housing Authority. The Commissioner shall serve until June 30th, 1988. Henceforth, he may be appointed to a four year term commencing on June 30th, 1988.

Section 12.012. The District II Representative shall select two individuals and the Chief Executive shall nominate one of the two to the Band Assembly for confirmation to the Housing Authority. The Commissioner shall serve until June 30th, 1988. Henceforth, he may be appointed to a four year term commencing on June 30th, 1986.

Section 12.013. The District III Representative shall select two individuals and the Chief Executive shall nominate one of the two to the Band Assembly for confirmation to the Housing Authority. The Commissioner shall serve until June 30th, 1986. Henceforth, he may be appointed to a four year term commencing June 30th, 1986.

Section 12.014. The remaining two Commissioners shall serve their term which expires June 30th, 1987. Henceforth, they may be appointed to a four year term commencing June 30th, 1987. Each member of the Board shall hold office until his successor has been and has qualified.

Section 12.015. The nomination process established in Sections 12, 12.01, 12.011, 12.012, 12.013 and 12.014 shall continue until future amendments are made.

Section 13. Amendment to Section 4.03. The Housing Authority shall name one of the Commissioners as Chairman of the Board and the Housing Authority shall select amongst the Commissioners a Vice-Chairman, Secretary and Treasurer; and any member may hold two of these positions. In absence of the Chairman, the Vice-Chairman shall preside and in absence of the Chairman and Vice-Chairman, the Secretary shall preside.

Section 14. Reservation Right of Amendment. The Band Assembly hereby fully reserves the right to alter, amend or repeal the several provisions of this Chapter, and all rights and privileges granted or extended hereunder shall be subject to such right.

Section 15. All terms of office for the Commissioners shall commence on April 22, 1985.

C H A P T E R 1 8

CONSOLIDATED NAY-AH-SHING SCHOOL BOARD

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Band Statute 1040-MLC-18

Preamble

It is enacted by the Band Assembly for the purpose of creating by Charter the Consolidated Nay-Ah-Shing School Board as a separate and independent Commission under the jurisdiction of the Mille Lacs Band of Chippewa Indians.

Section 1: Consolidated Nay-Ah-Shing School Board. A Commission to be known as the Nay-Ah-Shing School Board is hereby chartered and authorized as an independent sub-division of the Executive Branch of tribal government with those powers as delegated by the Band Assembly.

Section 1.01: The Consolidated Nay-Ah-Shing School Board shall be a five member board; with each member having the title of Board Member, with the exception of the leader whose title shall be Chairperson. Each Board Member shall have one vote at regular and special meeting with the exception of the Chairperson who shall vote only in the case of tie vote.

Section 1.02: Each Board Member shall be elected, two from District I, one from District II and one from District III. The Chairperson shall be elected from an at large voting position.

Section 1.021: The term of office for each Board Member shall be two years commencing July 1, 1984. The term of office for Chairperson shall be the same as the Board Members.

Section 1.03: Any Board Member elected by the residents of a district or the Chairperson shall be an enrolled member of the Mille Lacs Band of Chippewa Indians. However, any parent or grandparent of school-aged youth enrolled in Nay-Ah-Shing School shall be eligible to be a candidate for office provided said youth remains enrolled during the term of their office.

Section 1.031: Within forty-eight hours after disenrollment of a youth whose parent or grandparent is a Board Member but not a Band Member, said Board Member shall resign his position on the School Board.

Section 1.04: Any Board Member may be removed from office for just cause as determined by Band Statute 1002-MLC-2, Section 20.

Section 2: Powers and Duties of the Nay-Ah-Shing School Board. The Consolidated Nay-Ah-Shing School Board shall have power to establish educational policy for the benefit of band members and non-band members under the jurisdiction of the Band. They shall prepare a uniform system of records for the Band's school and require written reports from the Commissioner of Education on any educational subject of value to the Band. They shall have general supervision over all Band education-related facilities and shall promulgate policy for: 1) the establishment of curriculum; 2) approval of requests for any educational, scientific research; 3) the establishment of minimum criteria for passage to succeeding grades and graduation; 4) the establishment of policy governing appropriate student conduct and disciplinary procedures; 5) the establishment of policy to license through

certification any and all teachers and any alternative schools which service Indian children within the jurisdiction of the Band; 5} the preparation and authorization of educational grants and contracts; 7} the employment and termination of employees or the regulation of the behavior of said employees through authorized personnel policies; 8} the implementation of rules and regulations for any education related subject-matter statute, and; 9} promulgation of any policy, rule or regulations consistent with their statutory authority.

Section 2.01: The Consolidated Nay-Ah-Shing School Board shall annually prepare an educational state of the Band report to the Chief Executive no later than August 1 of each year and bi-annually conduct a needs assessment into all areas of its jurisdiction.

Section 2.02: The Consolidated Nay-Ah-Shing School Board shall establish the rules of its proceedings and discipline its members through censure for disorderly conduct but not twice for the same offense.

Section 2.03: The Consolidated Nay-Ah-Shing School Board shall have power to hold subject matter public hearings for just cause.

Section 2.04: The Consolidated Nay-Ah-Shing School Board shall adopt a set of By-Laws before September 30, 1983. Said By-Laws shall be ratified by the Band Assembly.

Section 2.05: In exercising any powers granted, each Board Member shall not be immune from any responsibility which results from will-full, knowledgeable and unacceptable performance of their duties.

Section 2.06: The Consolidated Nay-Ah-Shing School Board shall meet the first Thursday of each month with an agenda prepared in advance by the Commissioner of Education. Special meetings shall be held upon at least twenty-four hours notice by the Commissioner of Education or Chairperson.

Section 2.07: Any and all powers not specifically listed are reserved to the Band Assembly.

Section 3: Governance to June 30, 1984. The Chief Executive shall appoint, subject to confirmation by the Band Assembly one Chairperson and four Board Members, as specified in Section 1.02, who shall act as and comprise the Consolidated Nay-Ah-Shing School Board with all powers and duties as authorized under this Statute.

Section 4: Powers and Duties of Commissioner of Education. The Commissioner of Education shall have power to negotiate contracts with individuals and funding agencies of the United State or any private foundations for any education related matter. He shall be responsible for the day-to-day administration of all education activities including supervisory authority over any and all employees. He shall have authority to authorize the expenditure of all education funds under his jurisdiction and be accountable for their lawful disbursement. he shall recommend the employment, discipline or termination of any education employee for just cause. He shall have authority to open or close school sessions for just cause. The Commissioner may do all things deemed by him as desirable in the preservation or protection of education facilities or educational matters through the issuance of Commissioners Orders.

Section 5: Local Indian Education Committees. All Local Indian Education Committee's shall be disbanded with powers transferred to the Nay-Ah-Shing school board upon the date of enactment of this statute. Authorities granted by the Mille Lacs Reservation Business Committee to said Committees are hereby revoked and rescinded. Section 9, in total, of Band Statute 1001-MLC-1 is hereby superceded by this statute.

Section 6: Admission to Nay-Ah-Shing School. All schools under the jurisdiction of the Band which are supported by band revenue or any funds of the United States shall admit any enrolled member of the Band who is of school age. School age shall mean any person under the jurisdiction of the Band as defined in Band Statute 1024-MLC-3 who is between the chronological age of three and twenty-five. Notwithstanding the provisions of any law to the contrary, the conduct of all pupils attending a Band sanctioned school shall be governed by a single set of reasonable rules and regulations promulgated by the School Board. The School Board shall promulgate a single set of reasonable admission standards which shall contain uniform minimum school age entrance requirements.

Section 7: Compulsory Attendance of School Age Pupils. Every Child between the chronological age of six and sixteen years of age shall attend a Band School or Public School of the State of Minnesota, during the entire time that the school is in session during the school year. School session shall be in session no more than one hundred and ninety days {190}.

Section 7.01: It shall be the duty of the Commissioner of Education or his designee of Nay-Ah-Shing School to determine the legitimacy of all absences from school for any pupil. Excuses for absence shall be determined from uniform standards promulgated by the School Board. Unexcused absences shall be reported monthly to the School Board.

Section 7.02: The Commissioner of Education shall by registered mail notify the parents or guardians of any pupil who is unexcusedly absent from school. A copy of this letter shall be forwarded to the Solicitor General of the Band. On the second unexcused absence from school the School Board shall by registered mail order the parents or guardians to appear before the School Board for a formal hearing into the matter. Upon the continuation of unexcused absences, the Commissioner of Education shall file a formal civil complaint with the Court of Central Jurisdiction against any person neglecting or refusing to comply with the provisions of law relating to school attendance. Upon filing of the complaint, a warrant shall be issued and legal proceedings of trial shall commence.

Section 7.03: Any person who is found guilty of civil violations of this section shall be liable for a fine of up to one hundred dollars. Continued civil violation shall subject the person to contempt of court and a fine of up to one hundred dollars per day for each day of civil violation.

Section 7.04: For purposes of this section, parents or legal guardians shall be deemed liable for the acts of minors under their direct supervision in the Court of Central Jurisdiction.

Section 8: Obligations of the Nay-Ah-Shing School Board. The Nay-Ah-Shing School Board shall promulgate rules relating to qualifications of essential personnel, course of study or training, methods of instruction and training, size of classrooms, equipment, supervision of pupils, parent consultation and any other rules or standards it deems necessary. The School Board shall be obliged to provide a free education to all children under the jurisdiction of the Band. No child shall be denied the right to free education on any grounds. The School Board shall furnish free textbooks to all pupils. The School Board shall do whatever is necessary to present all pupils with a cultural education. The School Board shall ensure each graduate can converse in the native language of Ojibway after August 30, 1985.

Section 8.01: The School Board may receive, for the benefit of Indian children under the jurisdiction of the Band, bequests, donations or gifts for any proper purpose and apply the same to the purpose designated. The School Board may act as trustee of any trust created for the benefit of Indian children.

Section 8.02: The School Board shall keep records of all meetings and all transcripts thereof. Such records shall be prima facie evidence of the facts therein stated. They shall also keep records of student achievement, attendance and all things related to this. All such records shall be private and confidential and shall not be disclosed to any person not effected by the record but the individual involved.

Section 8.03: The School Board shall mandate physical examination at the commencement of the school year for all pupils enrolled at Nay-Ah-Shing School. It shall establish and conduct an annual screening program. Employees of the School Board shall show freedom from tuberculosis in accordance with rules promulgated by a Coordinator of Health Services. The Coordinator of Health Services shall be the Nurse Practitioner/Community Health Nurse at Ne-ia-shing Clinic. The Coordinator shall be responsible for the development of all health related rules, regulations and policies for the School Board. The School Board shall adopt any such rule, regulation or policy recommended by the Coordinator unless they find compelling just cause to reject such.

Section 8.04: The School Board shall ensure that sectarian materials of any type are not provided to pupils which promote beliefs inconsistent with the cultural laws and traditions of the Band. They shall ensure that employees or volunteers of Nay-Ah-Shing School do not teach or reference any thing to related to sectarian beliefs of their own personal religion.

Section 9: In Local Parentis. The School Board shall not assume parental rights for any child while such child is in attendance at Nay-Ah-Shing School. Corporal punishment shall not be practiced as one form of discipline in any policy adopted by the School Board.

Section 10: Office of Management and Budget. The Office of Management and Budget shall retain financial responsibility for the general books of account for all education related funds of the Band.

Section 10.01: The Band Assembly shall retain appropriation authority over all education related funds. No later than August 1 of each fiscal year the School Board shall forward to the Chief Executive who shall forward to the Band Assembly all appropriation requests for the succeeding fiscal year.

Section 11: Veto Authority for Chief Executive. The Chief Executive of the Band may veto any action of the School Board within five calendar days of adoption of any such policy, rule or regulation with concurrent ratification of such veto by the Band Assembly within ten calendar days. In the event of the Band Assembly's refusal to ratify, any such veto, said action of the School Board shall be implemented. Upon any such Executive veto, the Chairperson of the School Board shall appear before the Band Assembly to justify the action of the position of the Chief Executive to the Band Assembly. Such justification shall be presented in writing at least one day before formal oral hearing of the Band Assembly.

Section 12: Court of Central Jurisdiction. The Court of Central Jurisdiction is hereby granted education subject-matter jurisdiction. Nothing in this statute shall be construed as a waiver of sovereign immunity of the Mille Lacs Band of Chippewa Indians in any State or Federal Court of competent jurisdiction.

Section 13: Solicitor General Obligations. The Solicitor General shall represent the interest of the School Board in all matters before the Court of Central Jurisdiction with the exception of those issues in which the interests of the Band over ride the interest of the School Board.

Section 13.01: Should there be any doubt as to the proper interpretation of any part of this law, the Commissioner of Education shall submit such question to the Solicitor General, who should give his written opinion there on and such opinion shall be binding until annulled by the Court of Central Jurisdiction or amended by law.

C H A P T E R 19

EXECUTIVE AUTHORIZATIONS

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Band Statute 1056-MLC-19

Preamble

It is enacted by the Band Assembly of the Mille Lacs Band of Chippewa Indians for the purpose of exercising usufructuary rights of Band members in the territory ceded in 1837.

Section 1: Policy. The Band Assembly hereby declares that the Mille Lacs Band of Chippewa Indians has upheld all provisions of the Treaty of 1837 {7 Stat. 536}. Due to the active infringement of its usufructuary rights by the Government of the State of Minnesota, members of the Mille Lacs Band of Chippewa Indians have not enjoyed the protections guaranteed in Article V of the Treaty of 1837. Therefore, it shall be the policy of the Mille Lacs Band of Chippewa Indians to aggressively assert all rights, privileges and responsibilities contained in all provisions of said Treaty without infringement by any other government.

Section 1.01: The Band Assembly hereby declares that in all matters before the Court of Central Jurisdiction, all treaties to which the Mille Lacs Band is a party shall have a status equal to the supreme law of all land under the jurisdiction of the Band.

Section 1.02: The Band Assembly hereby declares that the United States of America is possessed of a legal and moral obligation to guarantee usufructuary rights of members of the Mille Lacs Band of Chippewa Indians by virtue of Congress' ratification of the Treaty of 1837.

Section 1.03: The Band Assembly hereby declares that members of the Mille Lacs Band of Chippewa Indians are culturally heavily dependant on hunting, fishing, and the gathering of wildrice as vital to the continuance of a cultural existence in the ceded territory.

Section 1.04: The Band Assembly hereby declares that it is the policy of the Mille Lacs Band of Chippewa Indians that the exercise of this treaty right shall be in accordance with culturally established principles of conservation.

Section 2: Authorization. The Band Assembly hereby directs and empowers the Chief Executive, the Commissioner of Natural Resources, and the Solicitor General to initiate lawful activities which will secure the active involvement of the United States of America in securing usufructuary rights of Band members in the area beginning at the junction of the Crow Wing and Mississippi Rivers, between twenty and thirty miles above where the Mississippi is crossed by the forty-sixth parallel of north latitude, and running thence to the north point of Lake St. Croix, one of the sources of the St. Croix River; thence to and along the dividing ridge between the waters of Lake Superior and those of Mississippi, to the sources of the Ocha-sua-sepe a tributary of the Chippewa river; thence to a point on the Chippewa river, twenty miles below the outlet of Lake De Flambeau; thence to the junction of the Wisconsin and Pelican rivers; thence on an east course twenty-five miles; thence southerly, on a course parallel with that of the Wisconsin river, to the line dividing the territories of the Chippewas and Monomnies; thence to the Plover portage; thence along the southern boundary of the Chippewa country, to the commencement of the boundary line dividing it from that of the Sioux, half a days



march below the falls on the Chippewa river; thence with said boundary line to the mouth of Wah-tap river, at its junction with the Mississippi; and thence up the Mississippi to the place of beginning.

Section 3: Appropriations. There is authorized for appropriation to the Chief Executive the amount of one thousand dollars to be available for travel to Washington, D.C. to fulfill the purposes of this statute.

Section 4: Recognition of the United States. Usufructuary rights guaranteed by Article V of the Treaty of 1837 have been recognized by the United States Court of Appeals for the Seventh Circuit in the matter of Lac Courte Oreilles Band of Chippewa Indians v. Lester P. Voigt. The Solicitor General for the United States of America has further taken the position before the Supreme Court of the United States that this case was correctly decided. The Supreme Court denied Certiorari.

Section 5: Report to Band Assembly. No later than one hundred and twenty days from the date of enactment of this statute, the Chief Executive or his designee shall inform the Band Assembly of the decision of the United States of America in this matter. Given the blatant pattern of civil rights violations by the State of Minnesota against all members of the Mille Lacs Band and their refusal to negotiate said usufructuary rights, immediate attention by appropriate officials of the United States of America is mandatory.

Section 6: Exterior Legal Counsel. The Band Attorneys are hereby authorized and directed to assist the Solicitor General of the Mille Lacs Band of Chippewa Indians in the legal implementation of this statute.

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CULTURAL RESOURCES - ARCHIVES

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## Band Statute 1064-MLC-20

### Preamble

Section 1: Statute of Purpose. The Federation Fund Archives, FFA, has been established for the purpose of preserving and making available for research materials which help to document the founding, development, organization, management and achievements of the Federation Fund. The collections also contain information on the Chippewa of the Mississippi (both before and after the formation of the FFA in 1855), and general information on Indian History and the history of Chippewa of the Mississippi. The records reflect the FFA dealings with government agencies, private foundations, the business community, fraternal and labor organizations, individual donors and members, and, most importantly, treaties with the United State Government.

Section 2: The Archival Program. The Archivist shall collect, arrange, and describe the archival records of the FFA. They shall make available to qualified researchers all open archival record series.

Section 2.01: The Archivist shall protect the integrity of the records in their custody. They shall guard them against defacement, alteration, or theft; they shall protect them against physical damage by excessive exposure to light, dampness, and dryness; and he shall ensure that their evidentiary value is not impaired in the normal course of rehabilitation, arrangement, and use.

Section 3: Transfer of Records. On behalf of the FFA the Archivist is authorized to receive all the non-current records of the organization.

Section 3.01: Any record-creating division, department, or campaign area of the FFA is directed to release to the Archives for preservation and administration such records legally in its custody that no longer are needed for the transaction of the current business of the office, whenever the Archivist is well and able to receive and take possession of them.

Section 3.02: The records of any division, department, or campaign area shall, prior to or upon the termination of the existence and functions of that office, be transferred to the custody of the Archives unless otherwise directed by the Archivist.

Section 3.03: Since all records created by an employee in the performance of his or her duties legally are the property of the FFA, upon termination of employment all individuals shall transfer to the Archives those records no longer needed for the current operations to their respective offices. In no case shall anyone remove such records from FFA Headquarters or the area offices, or destroy same without the prior permission of the Archivist.

Section 3.04: The Archivist shall have the right of reasonable access to and examination of all current FFA records.

Section 4: Records Management. The Archivist, together with the Executive Director, Assistant Executive Director, Secretary of the Corporate, and the several division and department heads, shall develop guidelines and procedures for the management of the current records of both FFA Headquarters and the area offices. They shall determine retention and disposal schedules for all types of records, and see to it that such schedules are observed by all divisions, department, and campaign areas.

Section 5: Access to Records. The FFA Archives conforms to the "Standards for Access to Research Materials in Archival and Manuscript Repositories," as approved by the Council on the Society of American Archivists in December 1973.

Section 5.01: It is the policy of the FFA that all record series contained in its Archives be opened to qualified researchers ten years after the creation of the record, except for certain record series which are closed for either shorter or longer periods of time. A complete list of open and closed record series may be obtained from the FFA Archivist.

CHAPTER 21

OFFICIAL RECOGNITIONS

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Band Statute 1068-MLC-21

Preamble

It is enacted by the Band Assembly of the Non-Removable Mille Lacs Band of Chippewa Indians for the purpose of conferring official recognition upon Steven D. Tibbetts.

Section 1: Findings. The Band Assembly hereby declares that Steven D. Tibbetts from Ga-sa-ga-sh-gwa-chi-me-ga-g has made a significant contribution toward advancing the self-determination efforts of the Non-Removable Mille Lacs Band of Chippewa Indians.

Section 1.01: That Steven D. Tibbetts while serving in a position of responsibility for the United States of America supported and enhanced the principle that resources and obligations of tribal self-government need to be nurtured and encouraged between the a-nish-a-na-beg and their elected leadership and that this relationship is critical in the goal of a tribal government, of the people, for the people and by the people.

Section 1.02: That Steven D. Tibbetts, while serving in a position of responsibility for the United States of America demonstrated great courage and integrity by expressing and performing his official responsibility in a manner which honors the commitment of the United States to uphold its treaty obligations which are the supreme law of the United States of America.

Section 1.03: That Steven D. Tibbetts, while serving in a position of responsibility for the United States of America, sought to boldly implement the Indian policy of President Ronald Reagan by initiating actions which removed obstacles in self-government and by creating a more favorable environment for the conduct of diplomatic relations between the government of the Non-Removable Band of Chippewa Indians and the government of the United States of America.

Section 1.04: That Steven D. Tibbetts, while serving in a position of responsibility for the United States of America, was confronted with adversity and in the face of many obstacles admirably performed his lawful duty in the interests of enhanced government to government relations.

Section 1.05: That Steven D. Tibbetts, is one who has demonstrated his commitment to the people of the constituent Bands of the Non-Removable Mille Lacs Band of Chippewa Indians and is therefore deserving of official recognition by and through an official act of the Band Assembly.

Section 2: Recognition. To all who shall see these presents, Greetings: The Band Assembly for the Non-Removable Mille Lacs Band of Chippewa Indians hereby certifies that Steven D. Tibbetts of Ga-sa-ga-sh-gwa-chi-me-ga-g has executed and fulfilled the duties of the office of Acting Superintendent of the Minnesota Agency of the Bureau of Indian Affairs of the United States Department of Interior during the period of June 26, 1983 through March 24, 1984, in a fair, impartial, honorable and profoundly respectful manner.



Section 2.01: The Band Assembly hereby authorizes and empowers the Chief Executive to initiate action which confers official honorary membership upon Steven D. Tibbetts in the Non-Removable Mille Lacs Band of Chippewa Indians, with Steven D. Tibbetts to have and to hold said membership, with all rights, privileges, responsibilities and emoluments to the same of right appertaining during his natural life-time.

Section 3: Notification to the United States of America. That the Chief Executive is hereby authorized and directed to transmit an official copy of this statute to the Secretary of Interior of the United States of America for the purpose of inserting this statute into the official records of the Bureau of Indian Affairs.

C H A P T E R    2 2

CIVIL - EXCLUSION & REMOVAL

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Band Statute 1069-MLC-22

Preamble

It is enacted by the Band Assembly of the Mille Lacs Band of Chippewa Indians for the purpose of exclusion and removal of persons within the jurisdiction of the Band for just cause.

Section 1: Findings and Determinations. That under federal law and Article 6, Section 1 {c}, of the Constitution of the Minnesota Chippewa Tribe, and as an incident of its inherent sovereign powers, the Non-Removable Mille Lacs Band of Chippewa Indians has the authority to exclude certain person from territories under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians and to determine the conditions upon which such persons may be present within said lands.

Section 1.01: That in order to protect and promote the health; safety; morals and general welfare of the Band, its members and other residents of lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians, it is necessary to provide a means to exclude or remove such persons from said lands in the event that they violate Band law or do other acts harmful to the Band, its members or other residents of territories under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians.

Section 2: Persons Subject to Exclusion and Removal. All persons, except those authorized by federal law to be present on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians, are subject to exclusion or removal from all or any portion of said lands as provided herein.

Section 3: Grounds for Exclusion and Removal. Persons subject to exclusion and removal may be excluded or removed from said lands for commission of one or more of the following acts within said lands:

Section 3.01: An act that is a crime, as defined by federal or Band law, or any act which, if committed by a member of the Band, would be a crime under Band law.

Section 3.02: Any act causing physical loss or damage of any nature to the property of the Band or Tribe, enrolled member of the Band, or other residents of land under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians.

Section 3.03: Obstructing the performance of governmental functions by any elected official, officer, agent or employee of the Band through the use or threat of force or violence; bribery, deception or other unlawful means.

Section 3.04: Resisting arrest by a law enforcement officer through the use of threat of force or violence, bribery, deception or other unlawful means.

Section 3.05: Rendering criminal assistance by doing any one of the following acts for the purpose of hindering the apprehension, prosecution, conviction or punishment of a person known to have committed a crime, to be sought by law enforcement officers for the commission of a crime, or to have escaped from a detention facility, {i} harboring or concealing such person, {ii} providing to such person a weapon, money, transportation, disguise or other means of avoiding discovery or apprehension, {iii} concealing, altering or destroying any physical evidence that might aid in the discovery or apprehension of such person, {iv} warning such person of impending discovery or apprehension, except where such warning is given in an attempt to persuade the person to comply with the law, or {v} obstructing by force, threat, bribery or deception any person from performing an act that might aid in the discovery, apprehension, prosecution or conviction of such person.

Section 3.06: Threatening to enter lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians to cause disturbances or riots or to conduct any other activity prohibited by law.

Section 3.07: Mining, cutting timber or vegetation or other use, abuse or damage to property of the Band or Tribe without authorization from the Band, Tribe or Secretary.

Section 3.08: Prospecting without authority from the Band or the Secretary.

Section 3.09: Exploring or excavating items, sites or locations of historic, religious or scientific significance without the lawful authority or permission of the Band or in violation of Band or federal law.

Section 3.10: Committing frauds, confidence games or usury against any enrolled member of the Band or any other resident of lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians.

Section 3.11: Inducing any enrolled member of the Band or any other resident of said lands to enter into a grossly unfavorable contract of any nature.

Section 3.12: Defrauding any enrolled member of the Band or any other resident of said land of just compensation for his labor or service of any nature.

Section 3.13: Unauthorized taking of any property from lands under the jurisdiction of Non-Removable Mille Lacs Band of Chippewa Indians.

Section 3.14: Entering land under the jurisdiction of any constituent Band of the Non-Removable Mille Lacs Band of Chippewa Indians for the purpose of evicting of a Band member or the removal of any real or personal property of a Band member without his/her written consent.

Section 4: Compliant for Exclusion. Any member, officer, agent or employee of the Band may make a complaint for exclusion. Forms of complaint will be kept by the Clerk of Court and other officials that may be designated

by him. A complaint for exclusion shall be valid only if it bears the signature of the complaining witness and is witnessed by a Judge of the Court, the Clerk of Court, or a law enforcement officer. After the complaint has been duly signed and witnessed, it shall be delivered to the District Court.

Section 5: Notice of Exclusion. Upon receipt of a valid complaint for exclusion, the District Court shall cause notice to be served personally or, if personal service is not reasonably possible, by registered mail, upon the person proposed for exclusion. The notice shall state the reason for the proposed exclusion and shall state a time and place at which the person may appear before the District Court to show cause why he should not be excluded from said land. The hearing shall be held not less than three days after the time of service or mailing.

Section 6: Exclusion Hearing. After notice to the person proposed for exclusion, the District Court shall hold a hearing to determine whether the person shall be excluded from lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians. The person shall be given an opportunity to present evidence and argument at the hearing and cross-examine opposing witnesses, and may be represented by counsel at his own expense. The District Court may, in its discretion, grant a continuance of the hearing on request by the person proposed for exclusion or upon its own motion.

Section 7: Exclusion Orders. After the hearing, or at the time set for the hearing if the person proposed for exclusion does not appear, the District Court may order him excluded from all or any portion of said lands, or may permit him to remain upon said lands on such conditions as the District Court sees fit to impose. Notice of the order shall be served in the manner set forth in Section 5, above. Conditions that the District Court may impose in an order of exclusion may include, but shall not be limited to; the payment of money or performance of labor by the person to be excluded as restitution for damage caused by the person, and the payment of a civil penalty. A conditional civil penalty included in an order of exclusion shall be in the nature of a civil forfeiture and not a criminal fine and shall be for the purpose of recovering in part the costs of enforcement of this statute. An order of exclusion shall remain in force until revoked by the District Court unless the order specifically provides otherwise.

Section 8: Enforcement Proceedings. If any person ordered excluded from said lands by the District Court does not promptly comply with the order of exclusion, the District Court shall order his removal from said land at the non-member's expense, or the prevention of his entry into lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians, and may refer the matter to the United States Attorney for prosecution under any applicable federal statute.

Section 9: Emergency Writ. If, upon receipt of a valid Complaint for exclusion, the District Court finds that the presence of the person proposed for exclusion on said lands presents an immediate danger to the life, health, morals or property of the Band, its members or other residents of said land, and further finds that delay would result in irreparable injury, the District Court may issue an Emergency Writ of Exclusion without

providing prior notice as required by Section 5, above, or holding a hearing as required by Section 6, above. The District Court shall cause the Writ to be served upon the person in the most expedition manner practical under the circumstances. An Emergency Writ of Exclusion may, in addition to ordering the exclusion of a person, direct any law enforcement officer to remove the person from land under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians. In the event that removal is ordered, the law enforcement officer executing the Writ shall use only so much force as is necessary to effect the removal, and shall serve a copy of the Writ upon the person at the time of removal or as soon thereafter as possible. An Emergency Writ of Exclusion shall remain in force until removed by the District Court unless the Writ specifically provides otherwise.

Section 10: Authorized Entry for Exclusion Hearing. An Emergency Writ of exclusion shall contain notice to the person excluded of the time at which he may enter said land in the company of a law enforcement officer for the purpose of attending an exclusion hearing before the District Court. The person must be accompanied by a law enforcement officer at all times during his presence on said land unless the Writ specifically provides otherwise. In all other respects, the provisions of Section 6, 7 and 8, above, shall be applicable to a person excluded from land under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians under an Emergency Writ of Exclusion.

Section 11: Review of Orders of Exclusion and Removal. The Appellate Court shall have exclusive jurisdiction to hear appeals from orders of exclusion. No appeal may be taken from an exclusion order if the person excluded failed without good cause to appear at the exclusion hearing. An excluded person may enter said lands in the company of a law enforcement officer for the purpose of presenting argument to the Appellate Court. The person must be accompanied by a law enforcement officer at all times during his presence on said lands unless the order of exclusion specifically provides otherwise.

Section 12: Stays. The Appellate Court may stay an order of exclusion; upon such conditions of security as it deems just, only if: {a} all prior hearing remedies have been exhausted, and {b} no substantial interest of the Band, its members, or other residents of said land will be adversely affected thereby. All order of exclusion shall remain in full force and effect pending appeal unless stayed as provided herein.

Section 13: Definitions. The following terms shall have the following meanings when used in this Chapter:

Section 13.01: "Appellate Court" means the Appellate Division of the Court of Central Jurisdiction of the Band.

Section 13.02: "Band" means any constituent Band of the Non-Removable Mille Lacs Band of Chippewa Indians, a federally recognized Indian Tribe.

Section 13.03: "Court" means the Court of Central Jurisdiction for each constituent Band of the Non-Removable Mille Lacs Band of Chippewa Indians.

Section 13.04: "Constituent Bands" means the Non-Removable Sandy Lake Band of Chippewa Indians, the Snake River Band of Chippewa Indians, the Rice Lake Band of Chippewa Indians, the Lake Lena {Knife River} Band of Chippewa Indians, and the Non-Removable Mille Lacs Band of Chippewa Indians.

Section 13.05: "District Court" means the District Division of the Court of Central Jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians.

Section 13.06: "Law Enforcement Officer" means an officer of the Band authorized to enforce the laws of the Band.

Section 13.07: "Secretary" means the United States Secretary of the Interior.

Section 13.08: "Weapon" means an instrument of offensive or defensive combat, or anything used, or designed to be used, in destroying, defeating or injuring a person.



C H A P T E R   2 3

BAND HISTORICAL PRESERVATION ACT

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Band Statute 1072-MLC-23

Preamble

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 cultural resources of the Mille Lacs Band of Chippewa Indians.

Section 1: Title. This statute shall be known as the Mille Lacs Band of Chippewa Indians Cultural Resources Protection Statute.

Section 2: Legislative Findings - Federal Laws - Preemption. Under the federal Archaeological Resources Protection Act of 1979, 16 U.S.C. 470ccc{c}, federal officials must notify the Mille Lacs Band of Chippewa Indians whenever a permit application is being considered which might adversely affect any religious or cultural off-reservation site.

Section 2.01: Under the federal Archaeological Resources Protection Act, 16 U.S.C. 470ccc{g} {2}, no federal permit for excavation or removal of any archaeological resource located within the jurisdiction of the Mille Lacs Band of Chippewa Indians can be issued without the consent of the Band.

Section 2.02: There can be no exchange or disposition of archaeological resources from the Mille Lacs Band of Chippewa Indians without the consent of the Band pursuant to the federal Archaeological Resources Protection Act, 16 U.S.C. 470 dd.

Section 2.03: The National Historic Preservation Act, 16 U.S.C. § 470 et seq., declares a national policy to work in partnership with Indian tribal governments to protect cultural resources and provides a mechanism by which tribal governments may carry out the provisions of that Act 16 U.S.C. § 470-1, 470 a{c}.

Section 2.04: The Band Assembly finds that an orderly procedure must be established for considering the acting upon such notifications, requests, and review functions.

Section 2.05: The National Historic Preservation Act does not confer upon state governments the power to nominate sites within Indian reservations to the National Register.

Section 2.06: The Band Assembly finds that the power to make such nominations to the National Register must be exercised by the Mille Lacs Band of Chippewa Indians and that an effective procedure must be established to carry out this activity.

Section 2.07: The Band Assembly hereby declares its intent to preempt the field of nomination to the National Register of archaeological and historical sites located with the Mille Lacs Band of Chippewa Indians.

Section 3: Definitions. As used in this statute, the following words and phrases shall each have the designated meaning, unless a different meaning is expressly provided for, or from the context a different meaning is clearly indicated.

Section 3.01: "Board" means the Federation Cultural Resources Board.

Section 3.02: "Department" means the Federation of Archaeological and Historical Programs.

Section 3.03: "Archaeological Resources" means any remains of past human life or activities which are of archaeological or historic interest. Such material remains shall include, but not be limited to: pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, pit houses, rock paintings, rock carvings, intaglios, talus slide depressions, cairns, graves, human skeletal remains, or any portion or piece of any of the foregoing items. The material or remains may also include non-fossilized or fossilized paleontological specimens, or any portion or piece thereof, whether or not found in an archaeological context. No item shall be treated as an archaeological or historic resource unless such an item is at least fifty years of age.

Section 3.04: "Effect" means any condition of the undertaking that causes or may cause any change, beneficial or adverse, in the quality of the historical, architectural, archaeological, or cultural characteristics that qualify the property to meet the criteria of the Band's Register or the National Register. An effect occurs when an undertaking changes the integrity of location, design, setting, materials, workmanship, feeling or association of the property that contributes to its significance in accordance with the Band's Register or the National Register criteria. An effect may be direct or indirect. Direct effects are caused by the undertaking and occur at the same time and place. Indirect effects include those caused by the undertaking that are later in time or farther removed in distance, but are foreseeable. Such effects may include changes in the pattern of land use, population, density or growth rate that may effect any properties of historical, architectural, archaeological, or cultural significance.

Section 3.05: "Historic property" means any prehistoric or historic district, site, building, structure or object significant in tribal history, architecture, archaeology, culture or religion. The term includes all artifacts, records, remains and reburial sites designated by the Federation Cultural Board.

Section 3.06: "Band's Register or Historic and Archaeological Properties" means the tribal register of districts, sites, buildings, structures and objects significant in tribal history, architecture, archaeology or culture, as determined by the Board and maintained by the Department.

Section 3.07: "National Register" means the National Register of Historic places.

Section 3.08: "Undertaking" means any governmental, governmentally assisted or licensed action, activity or program or the approval, sanction, assistance, or support of any non-governmental action, activity or program. Undertakings include new and continuing projects and program activities that are {1} directly undertaken by government agencies; {2} supported in whole or in part through governmental contracts, grants, subsidies, loans, loan guarantees or other forms of direct or indirect funding assistance; {3} carried out pursuant to a governmental lease, permit, license, certificate, approval or other form of entitlement or permission; or, {4} proposed by a Federal, State or other governmental agency for legislative authorization or appropri-

tion. Site-specific undertakings effect areas and properties that are capable of being identified at the time of approval by the governmental agency. Non-site-specific undertakings have effects that can be anticipated on Band's Register or National Register and eligible properties but cannot be identified in terms of specific geographical areas or properties at the time of approval. Non-site-specific undertakings include Federal or State approval of Federal or State plans pursuant to legislation, development of comprehensive or area wide plans, agency recommendations for legislation and the establishment or modification or regulations and planning guidelines.

Section 3.10: "ARPA" means the Archaeological Resources Protection Act of 1979, 16 U.S.C. § 470 aa et seq.

Section 3.11: "NHPA" means the National Historic Preservation Act of 1966, 16 U.S.C. § 470 et seq.

Section 4: Establishment of the Federation Cultural Resources Board - Membership. The Board shall be composed of the Director of the Cultural Department - the Chairperson of the Elderly Advisory Board, the Commissioner of Natural Resources Department, a Band Archaeologist, and Band staff attorney designated by the Chief Executive.

Section 4.01: Officers - The Board shall elect from among its members a Chairperson, a Vice-Chairperson and a Secretary. In the absence of the Chairman the Vice Chairperson shall preside, and in the absence of both the Chairperson and the Vice Chairperson, the Secretary shall preside.

Section 4.02: Quorum - Four members of the Board shall constitute a quorum. The Chairman will vote only in the event of a tie.

Section 4.03: Meetings - Meetings of the Board shall be held at quarterly intervals. Emergency meetings may be held upon twelve hours actual notice, and business may be transacted, provided that not less than a majority of the full Board concurs in the proposed action.

Section 4.04: Principal Office - The principal office of the Board shall be the Mille Lacs Government Center.

Section 4.05: Oath of Office - Each member of the Board shall take the following oath before beginning his duties:

"I promise to faithfully execute all provisions of the Federation Cultural Resources Protection Ordinance and any regulations promulgated in furtherance thereof, and to be bound by the Mille Lacs Statutes, the jurisdiction of the Court of Central Jurisdiction and the Mille Lacs Band and to otherwise faithfully perform my duties as outlined by the law."

Section 5: Powers and Duties of the Board. Undertakings Off-Reservation - The Board is empowered to participate in the review of permitting process where a federal or state officer has or should notify the Band pursuant to ARPA, 16 U.S.C. § 470cc{c}, the NHPA, or the American Indian Religious Freedom Act, 42 U.S.C. § 1996, that an undertaking is proposed or an application is being considered for a permit which might adversely affect any off-reservation archaeological resource or historic property.

Section 5.01: Undertakings On-Reservation - The Board is authorized and directed to review any proposed undertaking that might adversely affect any on-reservation archaeological resource or historic property included on or eligible for inclusion on the Band's Register or the National Register. The Board is also empowered to consider requests for consent to on-reservation excavation or removal of archaeological resources as an initial application or as referred by officials acting pursuant to ARPA, 16 U.S.C. § 470cc {g}{2}, the NHPA, or the American Indian Religious Freedom Act.

Section 5.02: Disposition of Archaeological Resources - The Board is empowered to consider requests for exchanges or dispositions of archaeological resources, see 16 U.S.C. § 470dd, and to determine what conditions, if any, should be attached if consent is given.

Section 5.03: Governmental Rulemaking - As directed by the Chief Executive, the Board is empowered to initiate, comment and participate in federal, state or other governmental rulemaking process concerning matters pertaining to its expertise. See 16 U.S.C. § 470d, 470ii.

Section 5.04: Annual Reports - The Board shall prepare a comprehensive annual report for submission to the Chief Executive, which shall report on the activities carried out under the provisions of this state, and shall make such recommendations as the Board deems appropriate as to changes or improvements needed in the provisions of this statute. Such report shall include a summary of actions undertaken by the Board in reviewing proposed undertakings, applications for excavation or removal permits, and nominations for the Band's Register and the National Register.

Section 5.05: Records - The Board shall maintain records of its proceedings. All proceedings shall be documented in writing and distributed to the Band Assembly not more than five days following said meeting.

Section 5.06: Cooperation with Agencies and Organizations - The Board is authorized and directed to consult and cooperate, to the extent feasible, with other Tribal and non-Tribal government departments and agencies, and with private organizations involved in historic and archaeological protection activities, including the National Trust for Historic Preservation, the Inter-National Center for the study of Preservation and Restoration of Cultural Property, museums and organizations of professionals. Cooperation activities shall include providing assistance to other agencies and organizations, and coordinating the planning and conduct of historic preservation programs.

Section 5.07: Comprehensive Plan - The Board is authorized and directed to review the comprehensive Reservation-wide archaeological and historic preservation plan prepared by the Department. The Board is further authorized to approve the plan and submit it to the Chief Executive or to direct the Department to change the plan until it met with its approval.

Section 5.08: Band's Register - The Board is authorized and directed to review nominations of properities to the Band's Register submitted by the Department, and to approve those that qualify as significant in tribal history, architecture, archaeology, culture, or religious sites.

Section 5.09: National Register - The Board is authorized and directed to review forms or reports proposing to nominate properties to the National Register, assure adequate public participation in the nomination process, and to recommend to the Chief Executive those properties it deems appropriate for nomination for listing on the National Register.

Section 5.10: Education - The Board is authorized to develop and operate a program of information and education, for tribal members and/or the general public, concerning cultural resources and protection of properties listed on the Band's Register.

Section 6: Powers and Duties of the Department. The Federation Cultural Department shall have the following duties and powers, which shall be in addition to such powers and duties provided by prior Statutes of the Mille Lacs Band of Chippewa as are not inconsistent with this Statute.

Section 6.01: Nominations to the Band's Register - The department is directed to nominate to the Board all sites, buildings, districts and objects within the reservation that appear to qualify for listing on the Band's Register. The Department shall, in order to compile the information needed to make the nominations:

Section 6.011: Conduct a comprehensive survey of all historic properties on the reservation pursuant to Section 13 of this Statute.

Section 6.012: Compile an inventory that includes basic information about the location and history of each property.

Section 6.013: Evaluate each property surveyed with regard to its historic, architectural, archaeological, anthropological, religious and cultural significance.

Section 6.014: Based on the evaluation described in Section 6.013, place each surveyed property into one of four categories of significance.

Section 6.02: Nominations to National Register - The Department shall prepare nomination forms for those properties that appear to be eligible for placement on the National Register, and present them to the Board.

Section 6.03: Assistance to the Board - The Department shall assist and consult with the Administrative Policy Board and the Board on issues relating to the conservation of historic and archaeological resources and on other matters within the scope of their duties.

Section 6.04: Records, Salvage - The Department shall initiate measures to ensure, at a minimum, that where a property listed on the Band's Register is to be substantially altered or affected, timely steps be taken to make or have made records, including measured drawings, photographs and maps of the property, and that a copy of such records then be deposited in the tribal archives for future use and reference. The Department shall use its best efforts to assure adequate surveying testing, to salvage, analysis and duration of artifacts, where such is feasible.

Section 6.05: Tribally-Owned Properties - The Department shall initiate measures and procedures to provide for the maintenance, preservation, rehabilitation or restoration, of tribally-owned and registered sites at professional standards prescribed by the Director of the Department.

Section 6.06: Transfer of Property on the Band's Register - The Department shall cooperate with purchasers and transferees of any property listed on the Band's Register in the development of viable plans to use such property in a manner compatible with preservation objectives and which does not result in a unreasonable economic burden in the public interest.

Section 6.07: Promote Preservation Efforts - The Department is authorized to take the following actions for the purpose of promoting historic preservation efforts:

Section 6.071: Develop and make available to Band agencies information concerning professional methods and techniques for identifying, preserving, stabilizing, improving, restoring and maintaining, archaeological and historic properties.

Section 6.072: Advise Band agencies in the evaluation, identification, preservation, stabilization, improvement, restoration and maintenance of historic and archaeological properties.

Section 6.073: Encourage in cooperation with the Board, public interest and participation in archaeological and historic preservation.

Section 6.074: Conduct studies in such areas as the adequacy of federal, state and band laws pertaining to archaeological and historic preservation activities.

Section 6.075: Encourage training and education in the field of archaeological and historic preservation.

Section 6.08: Annual Report - The Department shall submit annually a comprehensive report of its activities and the results of its studies to the Chief Executive and the Board, and from time to time submit such additional and special reports as the department deems advisable. These reports may propose such legislative enactments and other actions as, in the judgement of the Department, are necessary and appropriate to carry out its recommendations.

Section 7: Damaging or Adverse Effects: Prohibited Acts. No person shall excavate, remove, damage or otherwise alter, deface or adversely affect any archaeological resource or historic property unless such activity is pursuant to a permit duly issued under this statute.

Section 7.01: No person shall sell, purchase, exchange, transfer, transport, receive, possess or offer to sell, purchase or exchange any archaeological resource or historic property if such resource is excavated or removed from Reservation lands in violation of the prohibition contained in Section 7 above.



Section 8: Permits, Applications, Contents. An application for a permit to excavate, remove, alter, damage, or otherwise adversely affect archaeological resources or historic properties from Reservation land shall include information concerning the time, scope, location and specific purpose of the proposed work, together with such other information as the Board deems necessary. Each application must be accompanied by a definite outline of the proposed work, indicating the name of the individuals or group making the request, the date proposed for beginning the work, the length of time proposed to be devoted to it and the person who will have immediate charge of the work. The application must also contain an exact statement of the character of the work, whether examination, excavation or gathering, the museum in which the collections made under the permit are to be permanently preserved, and, where such museum is off-reservation, the length of time proposed by the application before such collections are to be returned to the reservation. The application must be accompanied by a sketch plan and a legal description of the particular site or area to be affected, so definite that it can be located on a map with accuracy. Each application shall be signed by the applicant and verified on oath or affirmation, and shall contain the promise of the applicant to abide and be bound by all of the provisions of this statute and by all other Band laws.

Section 8.01: Application: Where Filed - Each applicant for a permit must be filed with the Board and the director of the Cultural Department.

Section 8.02: Criteria - A permit may be issued pursuant to an application submitted in strict accordance with Section 8 and 8.01 above, if the Board determines that:

Section 8.021: The applicant has demonstrated its qualifications to carry out the proposed activity by submitting to the Board references and a resume showing prior successful experience in archaeological field work, site surveying, excavation techniques and reporting;

Section 8.022: Adequate mitigation efforts are guaranteed that will avoid any adverse effect on properties included on or eligible for inclusion on the Band's Register or the National Register, or that acceptance of an adverse effect on such properties is clearly in the Bands best interest;

Section 8.023: The archaeological resources or historic properities which are excavated or removed will remain the property of the Band; and,

Section 8.024: The activity pursuant to such permit is not inconsistent with any management plan applicable to the lands concerned.

Section 8.03: Board Action - The Board shall allow the department a reasonable opportunity to comment on each application for a permit. The board shall make its decision to issue or deny a permit within six months after the date the application was filed; provided, however, that the Board may make an unlimited number of three months' exentsions of such review period upon providing the applicant with a written explanation of the factors requiring such an extension. Applicants shall be notified of Board action by certified mail.

Section 8.04: Permit: Terms and Conditions - Any permit may contain such terms and conditions that the Board deems necessary to carry out the purposes of this statute. Each permit shall identify the individual who shall

be responsible for carrying out the terms and conditions of the permit and for otherwise complying with this statute and other laws applicable to the permitted activity. The permit may contain provisions requiring restoration of the site of its former condition. Every permit shall be issued in the name of the applicant therefore, and no permit shall be transferable; nor shall the holder of any permit allow any other person to use the permit. The Board may require that a bond be posted as a prerequisite to issuance of a permit.

Section 8.05: Duration of a Permit - Each permit shall be effective for three years from the date of its issuance or for such shorter period as may be specified therein. The terms of each permit may be extended on order of the Board for proper cause upon finding that the work has been diligently prosecuted under the permit. Failure to begin work under a permit within six weeks after it is granted, or failure to diligently prosecute such work after it has begun, shall make the permit void without any order or proceeding by the Board.

Section 8.06: Interim permits - Persons who received approval from the Board to excavate or adversely affect any archaeological resource or historic property prior to the date of enactment of this statute may receive an interim permit to continue work during the period that their application for a permit is pending before the Board, under the following procedure:

Section 8.061: Within thirty days after the date of enactment of this statute, such person shall file with the Board a declaration, stating the time approval was received, the location of the property, the purpose of the work, and the work done. The declaration shall be accompanied by an application for a permit.

Section 8.062: Upon filing of the declaration and the application, the Board shall issue an interim permit. The Department shall determine whether the alleged authority to affect the property was validly obtained, the Board shall revoke the interim permit.

Section 8.063: Such interim permit shall be in effect until the Board approves or denies the application for the permit.

Section 9: Duties of Permittees. During the course of the undertaking, each permittee shall report monthly and quarterly to the Board. Monthly reports shall contain a brief summary statement of the work performed during the month, and quarterly reports shall contain a catalog of collections and photographs made during the quarter. Each permittee shall cooperate fully with any and all inspections conducted by the Department or the Board. No part of any collection shall leave the reservation unless the express written consent of the Board has been given in the form of a Temporary Removal License. Such license shall at all times accompany the artifacts while off the reservation.

Section 10: Suspension and Revocation of Permits. Grounds - Any permit issued under this statute may be suspended or revoked by the Board in accordance with the procedures set forth below, upon determination that the permittee has violated any provision of the permit, this statute, or other applicable law; that relevant circumstances have changed since the granting of the permit so that the application would no longer meet the criteria of Section 8.02 above; that material misrepresentations were contained in the application; or that the permit was improvidently granted.

Section 10.01: Hearing - Upon written notice specifying the alleged grounds for revocation for suspension, filed with the Board by the Chairperson or the Director of the Department, the Board shall schedule a hearing to determine the matter, which hearing shall not be less than five days nor more than thirty days after the service of such notice upon the permittee. The permittee shall be entitled to an opportunity to appear at such hearing and controvert the allegations in support of revocation or suspension.

Section 10.02: Emergency Suspensions Stop Work Orders - Upon finding that a delay in suspending or revoking a permit for the period required by a hearing would be contrary to the Band's interest in preserving archaeological or historic properties, the Board may issue a written stop work order, directing the permittee immediately to cease and desist all excavation, removal or other activity pursuant to the permit. It shall be unlawful for any person to disobey a stop work order. In all cases where a stop work order has been issued, the Board shall immediately schedule a hearing to determine the matter, which hearing shall not be less than two days nor more than ten days after the date of the stop work order, unless continued by the Board upon motion of the permittee.

Section 11: Bands Register of Archaeological and Historic Properties.  
Nomination and acceptance - There is hereby established a Bands Register of Cultural Properties, which shall be a register of prehistoric or historic districts, sites, buildings, structures and objects significant in tribal history, architecture, archaeology, culture or religion. Nominations to the Bands Register may be made by any person. Acceptance or rejection of any nomination shall be made by the Board.

Section 11.01: Band Undertakings Upon Listed Property - Whenever the Mille Lacs Band has direct or indirect jurisdiction over a proposed Band or Band assisted undertaking, or has authority to license or permit any undertaking, the Board shall, prior to the approval of the expenditure of any Band funds on the undertaking or prior to the issuance of any license or permit, as the case may be, take into account the effect of the undertaking on any district, site, building, structure or object that is included or eligible for inclusion in the Bands Register. The Board and the Director shall be afforded a reasonable opportunity to comment with regard to such undertaking.

Section 12: National Register. Nomination of Reservation Properties - Nomination of any district, site, building, structure, or object located within the reservation for inclusion in the National Register shall be made by the Band Assembly.

Section 12.01: Band Undertakings Upon Properties Listed in National Register - Whenever the Chief Executive has direct or indirect jurisdiction over a proposed Band or Band assisted undertaking or has authority to license any undertaking, the Board shall, prior to the approval of the expenditure of any Band funds on the undertaking or prior to the issuance of any license or permit, as the case may be, take into account the affect of the undertaking on any district, site, building, structure or object within the Reservation that is included in or eligible for inclusion in the National Register. The Board and the Director shall be afforded a reasonable opportunity to comment with regard to such undertaking.

Section 13: Survey and Comprehensive Plan. Comprehensive Survey - A comprehensive Reservation-wide survey of archaeological and historical properties shall be conducted by the Director of the Department and submitted to the Board. The long-range objective of the comprehensive survey shall be the identification, protection and preservation of all archaeological resources, districts, sites, buildings, structures and objects within the Reservation that are potentially significant to tribal history, architecture, archaeology, culture or religion. The survey shall be conducted in as timely a manner as possible and shall encompass all historic properties and archaeological resources, regardless of title, boundaries of ownership. Survey data shall be maintained by the Department in an accessible location and shall be kept up to date so that information is readily available to Band planners during the decision making process. The survey data need not be published but shall be physically organized and indexed in a manner to provide for easy access. Availability of survey data to the general public may be limited if, in the opinion of the Department, such availability might result in damage to archaeological resources or historic properties. An end result of the overall survey process is nomination of property significant to Band history, architecture, archaeology, culture or religion to the Bands Register or the National Register.

Section 13.01: Comprehensive Plan - A comprehensive Reservation-wide archaeological and historic preservation plan shall be prepared by the Department and submitted to the Board. The plan shall consist of a report or series of reports on the Reservation archaeological and historic preservation program. These reports shall describe, analyze and make future projections about the program. The archaeological and historic preservation plan shall include an explanation of the philosophy or rationale behind the program components, a report on the current status of each component, an evaluation of the effect of each component, and a projection of future plans.

Section 14: Nondisclosure. Information concerning the nature and location of any archaeological resource or historic property may not be made available to any person unless the Director determines that such disclosure would further the purposes of the statute and would not create an undue risk of harm to such resources or the site at which such resources are located. The Department and the Board are authorized to withhold from disclosure information relating to the location of sites or objects listed on the Bands Register or the National Register upon a determination that the disclosure of specific information would create a risk of destruction or harm to such sites or objects.

Section 15: Enforcement. Offense - It shall be unlawful and prohibited for any person to do any act the performing of which is prohibited under this statute or to fail to do any act the performance of which is required under this statute.

Section 15.01: Criminal - The procedures established for criminal offenses under the Mille Lacs Statutes shall be utilized for violations of this statute committed by persons subject to tribal criminal jurisdiction. In the event that the defendant pleads guilty or is found guilty of committing an offense, the Court may impose all or any of the following penalties: 1} a fine of not less than \$ 10.00 or more than \$ 500.00; 2} a jail term of not less than one day nor more than six months; 3} forfeiture of any articles seized by reason of illegal activities prohibited by this statute, under the procedures established in Statute 1017-MLC-7, 1018-MLC-7 and 1020-MLC-7.

Section 15.02: Civil - The Mille Lacs Band may bring an action for a civil penalty against any person who is alleged to have engaged in an activity which is violative of this statute, including any person who is not subject to Band criminal jurisdiction. The Band also may bring an action for forfeiture of any articles possessed in violation of this statute. Such civil penalty and forfeiture actions shall be brought under the procedures established in the Civil Law Statutes. Any person violating the provisions of this statute shall be subject to exclusion from the Reservation under Statute 1069-MLC-22. Such relief as may be fashioned by the Court shall be intended to be remedial in nature and not punitive and should compensate the Band for the damage done to the archaeological or historic resources of the Reservation and its archaeological and historic resources. Such relief shall also be intended to coerce the individuals into obeying this Statute and regulations promulgated hereto and not to punish such individuals for violation of this Statute and such regulations. Search, seizure and forfeiture of articles possessed in violation of this Statute shall be pursuant to Statute 1011-MLC-5. The Court may also order the forfeiture of any bond, the revocation of any permits, the return of any property which has been removed from the Reservation or the restoration of any archaeological resources or historic property to its former or customary condition. In assessing civil penalties, the court may consider as factors the archaeological or commercial value of the resources involved, or the cost of restoration and repair of the resource and the archaeological or historic site involved.

Section 16: Regulation by Board. For the purpose of carrying into effect the provisions of this statute or of supplying any deficiency therein, the Board may make such regulations not inconsistent with the spirit and intent of this Statute as are deemed necessary or advisable. All such regulations shall have the same force and effect as if incorporated in this Statute.

Section 17: Review By. The Director, the Solicitor General, or any applicant or permittee aggrieved by any decision of the Board may petition the Court of Central Jurisdiction for a hearing to review such decision. A written notice of appeal must be filed with the Clerk of Court within twenty days of such adverse decision; provided, however, that such limitation period shall not apply to ban the petition of the Solicitor General or the Director of the Department where such would be contrary to the Band interest in preservation of archaeological resources or historic properties.

Section 18: Cultural Items Presently Used. in relationship to the protection of conservation of Historical or Archaeological resources, there is no authority granted by this Statute that would allow the Band or the Department to take, regulate or preserve any item of traditional Ojibway religion or cultural that is presently being used or has been used by members of the Mille Lacs Band of Chippewa Indians without the written approval of the owner, keeper or the appropriate religious leaders which are concerned with the said article.

Section 19: Severability. If any provision of this Statute or its application to any person or circumstance is held to be invalid, the remainder of this Statute or the application of the provision to other persons or circumstances shall not be affected.

## CHAPTER 24

### ENVIRONMENTAL PROTECTION

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## BAND STATUTE 1091-MLC-24

### Preamble

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.

### CHAPTER 24

Section 1. Title. This Ordinance shall be known as the Mille Lacs Band of Chippewa Indians Natural Resources Protection Ordinance.

Section 1.01. 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 Ordinance 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 objectives 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 wild life resources. These and all other interaction of resources will be considered when planning and management activities are engaged.

Section 2. Definition. "Band" means the Mille Lacs Band of Chippewa Indians and the constituent Bands of the Non-Removable Mille Lacs Band of Chippewa Indians.



Section 2.02. "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.

Section 2.03. "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 sub-division, or public or private corporation or other entity.

Section 2.04. "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.

Section 2.05. "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.

Section 2.06. "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.

Section 2.07. "Road" means any roadway, whether paved, graveled or otherwise surfaced, which is maintained for public use of four-wheeled vehicles.

Section 2.08. "Lake" means any body 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.

Section 2.09. "Pond" means any body 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.

Section 2.10. "Marsh, Wetland" means any body or accumulation of water whether natural or artificial, whether or not seasonal, where a majority area of the surface water contains emergent vegetation.

Section 2.11. "Open Water" means a water surface absent of emergent vegetation.

Section 2.12. "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.

Section 2.13. "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.

Section 2.14. "Point Source" means any discernable, 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.

Section 2.15. "Non-Point Source" means man-made or man-induced pollution from any and all sources not included in the point source definition.

Section 3. Jurisdiction. The jurisdiction of the Mille Lacs Band of Chippewa Indians under this Ordinance shall extend to:

Section 3.01. 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.

Section 3.02. All dependent Mille Lacs Band of Chippewa Communities within the state of Minnesota.

Section 3.03. 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.

Section 3.04. Jurisdiction shall extend over all persons or corporations whether Indian or non-Indian.

Section 4. Enforcement. This Ordinance 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.

Section 5. Violations and Penalties. Any violation of this Ordinance shall be considered a civil offense subject to the following penalties.

Section 5.01. 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.

Section 5.02. Pay any actual damages for injury to property, life or resources of any person, corporation, or public body or governmental agency.

Section 5.03. Pay as punitive damages a penalty of up to five hundred dollars per day for each day of continuing violation.

Section 5.04. All violations of this Ordinance 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.

Section 6. 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 Ordinance. 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 Ordinance 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.

Section 6.01. 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 Ordinance.

Section 6.02. 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.

Section 7. Permits. 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 shall be obtained from the Public Works Commissioner on the reservation where said activity will occur. Fees for said permits shall be the sum specified by the Band Ordinance and so stated on the appropriate application form.

Section 7.01. Construction of septic systems and drainfields, and any other type of individual or multi-family sewage disposal system, whether the construction is for a new system or for the up-grading of an old system.

Section 7.02. Municipal, community, and village sewage treatment plant, and any other sewage disposal system.

Section 8. Permits. 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.

Section 8.01. 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.

Section 8.02. Any and all insecticide, herbicide, fungicide, algicide, and any other pesticide use, no matter the application procedure, with the exception for household use of pesticides for public health measures.

Section 8.03. Any and all industrial and commercial point source discharges into the Mille Lacs Band of Chippewa Indians waters.

Section 8.04. Any and all commercial and private non-point source discharges into the Mille Lacs Band of Chippewa Indians waters.

Section 8.05. Any and all commercial and private air emissions relating to the production of goods, products or materials.

Section 8.06. 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.

Section 8.07. Any and all developments and improvements of parks, landings, beaches, harbors and canals and other related facilities, whether public or private.

Section 9. 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.

Section 10. Format for the Environmental Impact Statement. The components of all Environmental Impact Statements shall be as follows: (1) environmental impacts, both beneficial and degrading, (2) social impacts, both beneficial and degrading, and (3) economic impacts, both beneficial and degrading.

Section 11. Variances. Any and all requests for a variance from the provisions of the Ordinance shall be present 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.

Section 12. 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.

Section 13. Water - Definitions. All standards will be interpreted to mean a maximum allowable limit unless otherwise stated.

Section 13.01. "Ambient" means that concentration which exists without point source pollution as established by MLBC Research Lab.

Section 13.02. "LC<sub>50</sub>" 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.

Section 13.03. "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 their offspring.

Section 14. Water - Standards.

<u>Constituent</u>	<u>Concentration or Limits</u>
Alkalinity	20 mg/l or more as CaCO <sub>3</sub> for fresh water aquatic life except where natural concentration are less
Ammonia	.02 mg/l as (un-ionized ammonia) for fresh water aquatic life

<u>Constituent</u>	<u>Concentration or Limits</u>
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 Aquatic Life Soft Water Hard Water 0.4 ug/l 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 LC50 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 LC50 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 LC50 for fresh water aquatic life
Nitrate, Nitrite	10 mg/l nitrate nitrogen for domestic water supply, not to exceed ambient $\text{NO}_2 - \text{NO}_3$ for all water systems, as established by MLBC Research Lab
Oil & Grease	Domestic water supplies virtually free from oil and grease .01 X 96 hour LC50 for fresh water aquatic life

<u>Constituent</u>	<u>Concentration or Limits</u>
Dissolved Solids & Salinity	250 mg/l for chlorides and sulfates in domestic water supply Natural Salinity %                      % Variation Permitted 0 to 3.5                                      1 3.5 to 13.5                                  2 13.5 to 35                                   4
Settleable & Suspended Solids & 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 <sub>2</sub> S for fresh water aquatic life
Sulfate	Not to exceed ambient SO <sub>4</sub> for all waters, as established by MLBC Research Lab
Temperature	No thermal pollution shall be discharged into any waters on the reservations
Dissolve O <sub>2</sub>	5.0 mg/l minimum for fresh water aquatic life
Pesticides	No measureable 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 LC50 for fresh water aquatic life
Silver	50 ug/l for domestic water supply .01 X 96 hour LC50 for fresh water aquatic life
Zinc	5 mb/l for domestic water supply .01 X 96 hour LC50 for fresh water aquatic life
Water quality	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 these Mille Lacs Band of Chippewa Indians Natural Resources Protection Laws for the provision of adequate water quantities for the preservation and protection of natural resources.
Litter	No littering, refuse or garbage disposal will be permitted in any waters of the Mille Lacs Band of Chippewa Indians



Section 15. 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.

Section 16. Air - Definitions. "BACT, best available control technology" means that method of limiting emissions to the minimum amount possible.

Section 17. Air - Standards. These standards will be those as set forth by 42 USC Section 7474 and the Clean Air Act.

Section 18. 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. In addition, alternatives to chemical usage upon the soils shall be considered the policy of the Mille Lacs Band of Chippewa Indians.

Section 19. 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.

Section 20. Soils - Standards. Natural erosion rectification measures, such as seeding, planting or otherwise establishing vegetative cover, will be utilized by the landowner.

Section 20.01. 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.

Section 20.02. 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.

Section 21. Subsurface Resources. Groundwater - refer to Section 2 and subsections. 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.

Section 22. 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 superceding 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.

Section 23. Forestry - Standards. No clearcutting of timber will be permitted within a 100 foot border of any lake, pond or river.

Section 23.01. No clearcutting of timber will be permitted within 100 feet of any road.

Section 23.02. Permits for logging will include stipulations for the re-seeding of logged area and logging equipment trails.

Section 23.03. Users of insecticides, herbicides, or any other chemical or pesticides for forestry management activities will be required to obtain a permit.

Section 24. State Civil Jurisdiction. Any person by a violation of this Ordinance may bring a civil cause of action in the appropriate state court seeking damages pursuant to the provisions of Title 28, United States Code, Section 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 no 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.*

Added Aug. 15, 1953, C. 505 § 4, 67 Stat. 589, and amended Aug. 24, 1954, c. 910, § 2, 68 Stat. 795; Aug. 8, 1958, P.L. 85-615, § 2, 74 Stat. 545.

## CHAPTER 25

### FISH & WILDLIFE COMPACT

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## BAND STATUTE 1092-MLC-25

### Preamble

It is enacted, an Indian Fish and Wildlife Compact with Keweenaw Bay Band of Chippewa Indians, Red Cliff Band of Chippewa Indians, Bad River Band of Chippewa Indians, Mole Lake Band of Chippewa Indians, Lac Courte Oreilles Band of Chippewa Indians, Grand Portage Band of Chippewa Indians, Fond du Lac Band of Chippewa Indians, St. Croix Band of Chippewa Indians, Bay Mills Band of Chippewa Indians, Lac du Flambeau Band of Chippewa Indians for the exercise of usufructuary right in the Wisconsin territory of the Treaty of 1837.

### Chapter 25

Section 1: Findings and Determinations: The Band Assembly hereby finds and determines that usufructuary rights exists in all territories encompassed by the Treaties of July 29, 1837, 7 Stat. 536, and October 4, 1842, 7 Stat. 842 as construed by the Seventh Circuit Court of Appeals in Lac Court Oreilles Band vs. Voigt, 700 F.2d 341, cert. denied \_\_\_\_\_ v.s. \_\_\_\_\_ (1983).

Section 1.01: The Band Assembly finds and determines that the sovereignty and jurisdiction of each Band who was signatory to the aforementioned treaties shall extend to all places interior and exterior to their boundaries thereof as defined in federal law. Notwithstanding any provisions of any law of the Mille Lacs Band to the contrary, the Mille Lacs Band shall now and hereafter retain and exercise civil and criminal jurisdiction over enrolled members of the Mille Lacs Band of Chippewa Indians who exercise usufructuary rights in the territory ceded in the aforementioned treaties.

Section 1.02: The Band Assembly hereby finds and determines that just cause exists for the Non-Removable Mille Lacs Band of Chippewa Indians to be a party to a Commission known as the Great Lakes Indian Fish and Wildlife Commission.

Section 1.03: The Band Assembly finds and determines that a Compact is required, pursuant to the laws of the Non-Removable Mille Lacs Band of Chippewa Indians. Said Compact to be known as the Great Lakes Indian Fish and Wildlife Compact.

Section 1.04: The Band Assembly finds and determines that a Constitution proposed by the constituent Bands of the Great Lakes Indian Fish and Wildlife Commission is incompatible with the laws of the Non-Removable Mille Lacs Band of Chippewa Indians, however we find and determine that in the best interests of unity and conservation of the natural resources, an agreement is necessary and prudent.

Section 1.05: The Band Assembly hereby finds and determines that any other party to this Commission shall exercise whatever statutory authority deemed necessary to be party to said Commission.

Section 1.06: Therefore, the Band Assembly hereby finds and determines that the document entitled, "Constitution of the Great Lakes Indian Fish and Wildlife Commission" is hereby ratified and approved subject to condition entered in the foregoing 'Compact'. Anything in the contents of the 'Constitution', which is inconsistent with any provision of the 'Compact' both ratified herein, it shall be the 'Compact' that controls on behalf of the Non-Removable Mille Lacs Band of Chippewa Indians.

Section 2: Constitution of the Great Lakes Indian Fish and Wildlife Commission.

Entered into by and between the following Bands of Chippewa Indians:

- a. Keweenaw Bay
- b. Bay Mills
- c. Mole Lake
- d. Bad River
- e. Red Cliff
- f. Fond du Lac
- g. Grand Portage
- h. Lac Courte Oreilles
- i. St. Croix
- j. Lac du Flambeau
- k. Non-Removable Mille Lacs Band

## Section 2.1:

PREAMBLE

WE, THE INDIAN TRIBES OF THE GREAT LAKES INDIAN FISH AND WILDLIFE COMMISSION RECOGNIZE THAT OUR FISH, WILDLIFE AND OTHER RENEWABLE RESOURCES ARE IMPORTANT NATURAL RESOURCES AND OF VITAL CONCERN TO THE INDIAN TRIBES OF THE GREAT LAKES REGION AND THAT THE CONSERVATION OF THIS RESOURCE IS DEPENDENT UPON EFFECTIVE AND PROGRESSIVE MANAGEMENT. AND IT IS FURTHER RECOGNIZED THAT THE TRIBES HAVE REGULATORY AUTHORITY AND A RESULTANT DUTY TO PROTECT THE RESOURCE THAT IS OF GREAT IMPORTANCE TO US. WE FURTHER BELIEVE THAT BY UNITY OF ACTION WE CAN BEST ACCOMPLISH THESE THINGS, NOT ONLY FOR THE BENEFIT OF OUR PEOPLE BUT FOR ALL THE PEOPLE OF THE GREAT LAKES.

ARTICLE I NAME

The name of this organization shall be the GREAT LAKES INDIAN FISH AND WILDLIFE COMMISSION.

ARTICLE II PURPOSE

- A. The GREAT LAKES INDIAN FISH AND WILDLIFE COMMISSION was begun in recognition of the traditional pursuits of the Native American people and the deep abiding respect for the circle of life in which our fellow creatures have played an essential life-giving role. As governments who have inherited the responsibilities for protection of our fish, wildlife, and plants we are burdened with the inability to effectively carry-out our tasks as protectors and managers. This is especially true now that the state and federal courts have recognized our traditional claims. We have never intended to abandon our responsibilities.
- B. The purpose of this organization are exclusively charitable and educational and shall be:
1. To provide an organization to facilitate and coordinate inter-tribal communications in the Great Lakes concerning matters pertaining to the exercise of usufructuary rights including fish and wildlife management, treaty rights issues, court cases related to fish and wildlife, tribal and/or inter-tribal regulations.
  2. To assist tribal governments in the protection, preservation, conservation and prudent use and management of tribal fish, wildlife, and plant resources in the Great Lakes area.
  3. To direct the administration of federal programs, funds and efforts in order to aid and assist the federally recognized members of this organization.

4. To educate Indian and non-Indian professionals involved in fish and wildlife management and others in the general public similarly dedicated to the protection, preservation, enhancement and prudent use of fish, wildlife and other resources.
5. To provide administrative support for and provide expertise and advice to tribal governments in the Great Lakes relating to the protection, preservation, enhancement and prudent use and management of fish, wildlife and other resources in the Great Lakes.
6. To improve the general welfare of Indian people in the Great Lakes through educational, charitable, and fish and wildlife related activities.
7. To carry out the purposes as herein set forth in any state, territory, district, possession, dependency, or other political subdivision of the United States of America or in any foreign country at any other location in the world to the extent that such purposes are not forbidden by the laws of such state, territory, district, possession, dependency, or political subdivision of the United States of America, or of such foreign country, or of such other political entity as may be applicable; provided, however, that such purposes shall be accomplished and exercised only if they may be accomplished and exercised under and in accordance with, Section 501 (c) (3) of the Internal Revenue Code of 1954 and any amendments thereto.

### ARTICLE III MEMBERS

Section 1. Membership shall be open to an Indian tribe in the Great Lakes region who:

- a. Is recognized as a tribe by federal treaty, statute, agreement or regulation; and who;
- b. Is organized and operating under a constitution and by-laws; and who;
- d. Ratifies this constitution and by-laws of appropriate tribal resolution.

### ARTICLE IV GOVERNING BODY

Section 1. The governing body shall be the Commission. The Commission shall consist of the tribal Chairpersons from each member tribe.

Section 2. Two committees of the Commission are hereby established. Great Lakes Indian Fisheries Commission and Voigt Fish and Wildlife Committee, each of which shall be governed by a charter ratified by the constituent tribes of each committee.

- a. Upon selection the tribe shall notify the Commission of their duly authorized representative by letter.

Section 3. The Commission members shall report in writing to their respective governing body on the business transacted, including recommendations for final approval relating to any contract or agreement to be entered on behalf of member tribes, by the Commission.

Section 4. A special meeting of the Commission can be called by the Chairman at the request of any Commission member.



ARTICLE V OFFICERS

Section 1. The officers of the Commission shall be the Chairman, Vice-Chairman and Secretary, and shall be elected by the members of the Commission.

Section 2. The term of office of each officer shall be for one (1) year and shall commence with the regular meeting, except the first elected officers shall serve until the first regular election.

ARTICLE VI VACANCIES AND REMOVAL OF OFFICERS

Section 1. If a Commission officer shall die, resign, permanently leave the state or tribe which she/he represents, the Commission shall declare the position vacant and shall select a replacement for the balance of the unexpired term.

ARTICLE VII DUTIES OF OFFICERS

Section 1. The Chairman shall preside over all meetings of the Commission and shall perform all duties of a Chairman and exercise any authority delegated to him by the Commission and shall have all authority to sign all documents for the Commission. She/he shall vote in all matters for his respective tribe.

Section 2. The Vice-Chairman shall assist the Chairman when called upon to do so in the absence of the Chairman, she/he shall preside. While presiding, she/he shall have all the rights, privileges, and duties as well as the responsibilities of the Chairman.

Section 3. The Secretary shall work with administrative staff to ensure that official minutes of all meetings are kept and that meeting notices are mailed in a timely manner.

Section 4. The Executive Administrator shall be appointed by the Commission.

ARTICLE VIII MEETINGS

Section 1.     a. The conduct and procedure of the meetings may be further defined by the appropriate resolution of the Commission.

              b. A quorum shall consist of a majority of the Commission membership.

## ARTICLE IX POWERS OF THE COMMISSION

Section 1. The Commission shall have the following powers:

- a. To formulate and adopt a budget for Commission activities.
- b. To coordinate committee budgets and the work of the committees.
- c. To administer the provision of technical services to the committees and the member tribes.
- d. Request technical advice and/or assistance from any source whatever for the purpose of assisting tribal fish and wildlife programs and to consult with any and all individuals, organizations, institutions, and government (tribal, local, state, federal, and international) on matters pertaining to fish and wildlife.
- e. To render any assistance within the authority of the Commission to any tribe requesting such assistance.
- f. As a non-profit organization to accept funds from state, federal, private foundations or other sources for operations.
- g. To provide public information.

Section 2. Any and all rights vested in members tribes shall not be abridged by this Constitution.

Section 3. The Commission shall interpret any and all ambiguous words and phrases found within this Constitution.

## ARTICLE X POWERS OF THE COMMITTEES

Section 1. Each constituent committee shall have the following powers:

- a. To formulate and adopt a budget to carry out its activities and to secure funding therefore.
- b. To formulate a broad natural resource management program for those matters of concern to the committee.
- c. To carry out any other powers provided in Charter.

Section 2. Any and all rights vested in members tribes shall not be abridged by this Charter.

## ARTICLE XI AMENDMENTS

This Constitution may be amended by unanimous vote of the member tribes upon at least 15 days notice prior to such meeting to consider such proposed amendment submitted to member tribes.

Section 3. A Compact for the Non-Removable Mille Lacs Band of Chippewa Indians. Entered into by and between the Non-Removable Mille Lacs Band of Chippewa Indians for the purpose of declaring the conditions under which the Band enters into the Great Lakes Indian Fish and Wildlife Commission. The Band Assembly hereby determines that any Band party to the provision of the 'Constitution' found in Section 2 above, shall in their own right, enter into the Great Lakes Indian Fish and Wildlife Commission upon terms designated in Section 2, Article III, Sub-section of this Statute.

THE NON-REMOVABLE MILLE LACS BAND OF CHIPPEWA INDIANS HEREBY SOLEMNLY AGREES TO:

GREAT LAKES INDIAN FISH AND WILDLIFE COMPACT

GREAT LAKES INDIAN FISH AND WILDLIFE COMPACT is hereby ratified, enacted into law, and by this Band as party thereto with any other Band which, pursuant to Article II of said Compact, that desires to legally join therein substantially as follows:

ARTICLE I

The purpose of this Compact are, through means of joint or cooperative action:

1. To promote the orderly, integrated, and comprehensive development, use, and conservation of Indian resources within the Treaty Cession of 1837/42 (hereinafter called Treaty Cession).
2. To plan for the welfare and development of the Indian resources of the Treaty Cession on a whole as well as for those portions of the Treaty which may have problems of special concerns.
3. To make it possible for Reservations within the Treaty and their members to derive the maximum benefit from the utilization of these resources.
4. To establish and maintain an intergovernmental agency to the end that the purposes of this Compact may be accomplished more effectively.

ARTICLE II

This Compact shall enter into force and become effective and binding when it has been enacted by any Reservation by such action as their laws and the laws of their government may prescribe for adherence thereto.

## ARTICLE III

The Great Lakes Indian Fish and Wildlife Commission created by Article IV of this Compact shall exercise its power and perform its functions in respect to the Treaty Cession Area for which is the purposes of this Compact. The authorization of two committees of the Commission are hereby established, Great Lakes Indian Fisheries Commission and Voigt Inter-Tribal Task Force each of which shall be governed by a charter ratified by the respective laws of the Band Governments.

## ARTICLE IV

- A. There is hereby created an agency of the party Bands to be known as the Great Lakes Indian Fish and Wildlife Commission. In that name the Commission may sue and be sued. In any of the party's Court of Competent Jurisdiction, the individual party's governing body may at its discretion notify the Band Court no later than 72 hours after any case has been filed of its decision to accept or reject any decision filed by the Court. However, the Great Lakes Indian Fish and Wildlife Commission must put forth a proper defense in any case to which it is a defendant. Actions by non-Indian parties of this Compact shall only be filed in a competent court of one of the parties of this Compact. Transaction involving federal funds shall conform to the laws of any Band Government within whose territory funds are being expended. The Commission may pursuant to by-laws provided for the execution and acknowledgement of all instruments in its behalf.
- B. The Commission shall be composed of one member from each Band Government as designated or appointed in accordance with the law of the Band Government which they represent and serve and subject to removal in accordance with such law.
- C. Each band delegate shall be entitled one vote in the Commission. The presence of commissioners from a majority of the party Bands shall constitute a quorum for the transaction of business at any meeting of the Commission. Actions of the Commission shall be by a majority of the votes cast except that any recommendations made pursuant to Article VI of this Compact shall require an affirmative vote of not less than a majority of the votes cast from each of a majority of the Bands present and voting.
- D. The commissioners of any two or more party Bands may meet separately to consider problems of particular interest to their Band but no action taken at any such meeting shall be deemed an action of the Commission unless and until the Commission shall specifically approve the same.
- E. In the absence of any commissioner, a representative casting said vote shall have a written proxy in proper form as may be required by the Commission.

- F. The Commission shall elect annually from among its members a chairman, vice-chairman and secretary-treasurer. The executive director shall serve at the pleasure of the Commission and at such compensation and under such terms and conditions as may be fixed by it. The executive director shall be custodian of the records of the Commission with authority to affix the Commission's official seal and attest to and certify such records or copies thereof.
- G. The executive director, subject to the approval of the Commission in such cases as its by-laws may provide, shall appoint and remove or discharge such personnel as may be necessary for the performance of the Commission's functions. Subject to the aforesaid approval, the executive director may fix their compensation, define their duties, and require bond of such of them as the Commission may designate.
- H. The executive director, on behalf of, as trustee for, and with the approval of the Commission, may borrow, accept, or contract from the services of personnel from any government or any subdivision or agency thereof, from any intergovernmental agency, or from any institution, person, firm or corporation; and may accept from any of the commissioners purposes and functions under this Compact any and all donations, gifts, and grants of money, equipment, supplies, materials and services from any state or government or any subdivision or agency thereof or intergovernmental agency or from any institution, person, firm or corporation and may receive and utilize the same.
- I. The Commission may establish and maintain one or more offices for the transacting of its business and for such purposes the executive director, on behalf, of as trustee for, and with the approval of the Commission, may acquire, hold and dispose of real and personal property necessary to the performance of its functions.
- J. The Commission may adopt, amend and rescind by-laws, rules, and regulations for the conduct of its business.
- K. The Commission and its executive director shall make available to the party Bands any information within its possession and shall always provide free access to its records by duly authorized representatives of such party Band.
- L. The Commission shall keep a written record of its meetings and proceedings and shall annually make a report thereof to be submitted to the duly designated official of each party Band.
- M. The Commission may issue any reports as it may deem desirable.

## ARTICLE V

- A. The Commission shall submit to the executive head or designated officer of each party Band a budget of its estimated expenditures for such period as may be required by the laws of the Band for presentation to the Government thereof.
- B. Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party Bands. Detailed Commission budgets shall be recommended by a majority of the votes cast, and the costs shall be allocated equitably among the party states in accordance with their respective interests. Majority is defined as 3/4 of all partys.
- C. The Commission shall not pledge the credit of any party Band. The Commission may meet any of its obligations in whole or in part with funds available to it under Article IV (H) of this Compact, provided that the Commission takes specific action setting aside such funds prior to the incurring of any obligations to be met in whole or in part in this manner. Except where the Commission makes use of funds available to it under Article IV (H) hereof, the Commission shall not incur any obligations prior to the allotment of funds by the party states adequate to meet the same.
- D. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under the by-laws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified public accountant and the report of the audit shall be included in and become part of the annual report of the Commission.
- E. The account of the Commission shall be open at any reasonable time for inspection by such agency, representative or representatives of the party Band as may be duly constituted for that purpose and others who may be authorized by the Commission.

## ARTICLE VI

The Commission shall have power to:

- A. Collect, correlate, interpret, and report on data relating to the Indian resources and the use thereof in the Treaty Cession or any portion thereof.

- B. Recommend methods for the orderly, efficient, and balanced development, use and conservation of the Indian resources of the Treaty Cession or any portion thereof to the party Band and to any other governments or agencies having interest in or jurisdiction over the Treaty Cession or any portion thereof.
- C. Consider means of improving and maintaining the fisheries and wildlife of the Treaty Cession or any portion thereof.
- D. Recommend policies relating to Indian resources including the institution and alteration of flood plain and other zoning laws, ordinances and regulations.
- E. Recommend uniform or other laws, ordinances, or regulations relating to the development, use and conservation of the Treaty Cession resources to the party Band or any of them and to other governments, political subdivision, agencies or intergovernmental bodies having interests in or jurisdiction sufficient to affect conditions in the Treaty Cession or any portion thereof.
- F. Consider and recommend amendments or agreement supplementary to this Compact to the party Bands or any of them, and assist in the formulation and drafting of such amendments or supplementary agreements.
- G. Prepare and publish reports, bulletins and publications appropriate to this work and fix reasonable sale prices thereof.
- H. With respect to the Indian resources of the Treaty Cession or any portion thereof, recommend agreements between the governments of the United States and Canada.
- I. Cooperate with the governments of the United States and of Canada, the party Band and any public or private agencies or bodies having interests in or jurisdiction sufficient to affect the Treaty Cession or any portion thereof.
- J. Make any recommendation and do all things necessary and proper to carry out the powers conferred upon the Commission by this Compact, provided that no action of the Commission shall have the force of law in, or be binding upon any party Band.

## ARTICLE VII

Each party Band agrees to consider the action the Commission recommends in respect to:

- A. To provide an organization to facilitate and coordinate inter-tribal communication in the Great Lakes concerning matters pertaining to the exercise of usufructuary right including fish and wildlife management, treaty rights issues, court cases related to fish and wildlife, tribal and/or inter-tribal regulations.
- B. Measures for combating pollution.
- C. To assist tribal governments in the protection, preservation, conservation and prudent use and management of tribal fish, wildlife and plant resources in the Great Lakes area.
- D. Propose wildlife improvement.
- E. Uniformity or effective coordinating action in fishing laws and regulations and cooperative action to eradicate destructive and parasitical forces endangering the fisheries, wildlife and other Indian resources.
- F. To direct the administration of federal programs, funds, and efforts in order to aid and assist the federally recognized members of this organization.
- G. To educate Indian and non-Indian professionals involved in fish and wildlife management and others in the general public similarly dedicated to the protection, preservation, enhancement and prudent use of fish, wildlife and other resources.
- H. To provide administrative support for and provide expertise and advice to tribal governments in the Great Lakes relating to the protection, preservation, enhancement and prudent use and management of fish, wildlife and other resources in the Great Lakes.

## ARTICLE VIII

This Compact shall continue in force and remain binding upon each party Band until renounced by act of the Government of such Band, in such form and manner as it may choose and as may be valid and effective to repeal a statute of said Band, provided that such renunciation shall not become effective until six months after notice of such action shall have been officially communicated in writing to the executive head of the other party Bands.



## ARTICLE IX

It is intended that the provisions of this Compact shall be reasonably and liberally construed to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any party Band or of the United States, or the applicability thereof to any Band, agency, person or circumstance is held invalid, the constitutionality of the remainder of this Compact and the applicability thereof to any Band, agency, person or circumstance shall not be affected hereby, provided further that if this Compact shall be held contrary to the Constitution of the United States, or any party Band, the Compact shall remain in full force and effect as to the remaining Bands and in full force and effect as to the Band affected as to all severable matters.

Section 4. Voigt and Inter-Tribal Task Force CharterCHARTERYOIGT INTER-TRIBAL TASK FORCE COMMITTEE  
GREAT LAKES INDIAN FISH AND WILDLIFE COMMISSION

## ARTICLE I - NAME

The name of this committee shall be the Voigt Inter-Tribal Task Force Committee.

## ARTICLE II - PURPOSE

The purposes of this committee shall be to:

1. Develop the capabilities of its members tribes to regulate their use of natural resources.
2. Develop biological expertise in inland fish, wildlife, and plant species, communities, and ecosystems.
3. Develop resource management plans.
4. Assist tribes to develop resource regulations suitable for tribal adoption and adequate to protect the environment.
5. Develop law enforcement capabilities adequate to insure compliance with resource regulations.
6. Assist tribes in the development of judicial systems adequate to adjudicate cases arising under tribal resource regulations.

7. Assist tribes or Bands to secure through negotiations, litigation, arbitration, or any other lawful and appropriate means, the full exercise of the usufructuary rights reserved in the Treaties of 1837 and 1842.
8. Develop the capability to recognize, analyze and recommend action on actual and potential environmental degradation which may impair the opportunity to engage in usufructuary activities within the territories ceded by the Treaties of 1837 and 1842.
9. Educate tribal membership, tribal leadership, and the general public in issues and events related to the other purposes stated herein.

### ARTICLE III - MEMBERSHIP

Section 1. Membership. Membership in this committee is open to any federally recognized Chippewa Tribe or Band which:

- (a) Is a member of the Great Lakes Indian Fish and Wildlife Commission; and
- (b) Is a signatory or successor thereto to either the 1837 or 1842 Treaties and
- (c) Has a reservation within the territories ceded by the 1837 and 1842 Treaties; and
- (d) Has by resolution adopted this Charter.

### ARTICLE IV - TRANSACTING BUSINESS

Section 1. Representatives. Each member tribe may appoint one representative to the committee and one alternate. Each tribe may select its representative and alternate by whatever means and for whatever term deemed appropriate by the tribe.

Section 2. Meetings. The committee shall hold an annual meeting in October of each year. The committee shall also hold meetings as needed, which may be called by the chairman, or in the absence of the chairman, the vice chairman, or in any event by any three member tribes or the executive administrator of the Commission. Meetings may be conducted by conference call.

Section 3. Action. All action must be authorized by motion and approval by a majority of those tribes in attendance.

Section 4. Voting. On all matters upon which a vote shall be taken each member tribe shall have one vote.

Section 5. Quorum. A majority of the member tribes shall constitute a quorum.

## ARTICLE V - OFFICERS

Section 1. Officers. The officers of the committee shall be the chairman and vice-chairman, and shall be elected by the members of the committee at the annual meeting.

Section 2. Terms. The term of office for each officer shall be one year except that the officers first elected under this Charter shall serve until the 1985 annual meeting.

Section 3. Vacancies. In the event a committee officer is for any reason unable or unwilling to complete his or her term the committee shall, on at least 30 days notice to its members, hold a special election for the purpose of replacing the officer.

## ARTICLE VI - DUTIES OF OFFICERS

Section 1. Chairman. The chairman shall preside over all meetings of the committee, shall perform all duties of a chairman, shall exercise any authority delegated by the committee, and shall have authority to sign all documents for the committee. The chairman shall work with the administrative staff to insure that official minutes of all meetings are kept and that meeting notices are mailed in a timely manner. The chairman shall be allowed to vote.

Section 2. Vice-chairman. The vice-chairman shall assist the chairman when called upon to do so and in the absence of the chairman shall preside. While presiding, the vice-chairman shall have all the rights, privileges, duties, and responsibilities of the chairman.

Section 3. Further Duties. The duties of the officers may be defined further by motion of the committee.

## ARTICLE VII - POWERS

The committee shall have the following powers:

- (1) To undertake any programs consistent with the purposes as defined in Article II.
- (2) To formulate and adopt a budget to carry out its activities, and to secure funding through the Commission therefor, and to approve modifications and amendments to the budget as may from time to time be required.
- (3) To formulate and adopt policies for the provision of technical, enforcement, and judicial services to the committee and its member tribes, to be implemented by the Commission staff.
- (4) To establish subcommittees to pursue such objectives as the committee shall direct.

## ARTICLE IX - AMENDMENTS

This Charter may be amended by affirmative vote of at least two-thirds of the member tribes upon furnishing to all member tribes of the Commission a copy of the proposed amendment at least 60 days in advance of the vote on such amendment.

Section 5. Ratification. The Commissioner of Natural Resources is authorized and directed to witness the ratification of the Compact by the Non-Removable Mille Lacs Band of Chippewa Indians by executing the final draft thereof in his own name as Commissioner for and on behalf of the Non-Removable Mille Lacs Band of Chippewa Indians and affixing the Seal of the Non-Removable Mille Lacs Band of Chippewa Indians.

Section 6. Court of Central Jurisdiction. The Court of Central Jurisdiction is hereby granted subject matter jurisdiction for any cause of action which arises from implementation of this Chapter. Nothing in this Chapter shall be construed as a waiver of sovereign immunity of the Non-Removable Mille Lacs Band of Chippewa Indians in any state or federal court of competent jurisdiction.

Section 7. Construction and Severability. This Compact shall be liberally construed so as to effectuate the purposes thereof by the Court of Central Jurisdiction. The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the laws of any party Band or the application thereof to any agency, person or circumstance is held invalid by the Court of Central Jurisdiction, the validity of the remainder of this Compact and the applicability thereof to any agency, person, or circumstance shall not be affected thereby. If this Compact - Constitution or any part thereof shall be held contrary to the laws of any party Band, this Compact - Constitution may remain in full force and effect as to the remaining party Bands and as to the Mille Lacs Band so affected, in full force and effect as to all severable matters.

Section 8. Withdrawal. The Non-Removable Mille Lacs Band of Chippewa Indians in acceding to this Compact - Constitution reserves the right at any time to withdraw from said Compact - Constitution, but such withdrawal shall be based upon a law properly enacted pursuant to Band Statute 1002-MLC-2, Section 12.

Section 9. Enabling Legislation. This Compact shall become effective and operative immediately after passage the Constitution of the Great Lakes Indian Fish and Wildlife Commission by any five party Bands incorporating the provisions of said Constitution into the laws of such Bands.

Section 10. Obligations of the United States of America. Nothing herein or the application thereof shall be construed by any government, agency, person or circumstance as a waiver by the Non-Removable Mille Lacs Band of Chippewa Indians of the solemn, special trust obligation of the United States of America, as legal trustee for the land, air, water and general natural resource and environmental right, privileges and interests of the Band.

Section 11. Cooperation of Band Officers. All administrations and entities of the Non-Removable Mille Lacs Band of Chippewa Indians shall cooperate with the Commission and the Task Force in the execution of their functions and shall assist the Commission and the Task Force in carrying out the duties imposed upon it.

Section 12. Reservation of Right of Amendment. The Band Assembly hereby fully reserves the right to alter, amend or repeal the several provisions of this chapter, and all rights and privileges granted or extended hereunder shall be subject to such reserve right.

Section 13. Commissioner of Natural Resources. In pursuance of Article \_\_\_\_ of the Compact and Article \_\_\_\_ of the Charter, the Commissioner of Natural Resources shall be the duly authorized representative of the Band at meetings called by the chairman of the Commission and the Task Force at a designated location and shall exercise all voting rights conferred by the Compact and Charter as provided.

Section 13.01. The Commissioner of Natural Resources shall have the power to issue Commissioner's Orders for the purpose of promulgating all rules and regulations for the exercise of usufructuary rights by Band members in all the territory ceded by the Treaty of 1837 regardless of state boundaries and borders.

Section 13.02. Any Band member who shall willfully violates any provision of any Executive Order, Secretarial Order, or Commissioner's Order shall be found guilty of a civil misdemeanor and may be sentenced to imprisonment for not more than 180 days and/or to a fine of not more than five hundred dollars (\$500.00) and/or revocation and suspension of all usufructuary rights under Band law for a period up to five years.

Section 13.03. All provisions of the Natural Resources Code - Chapter 7 of the Non-Removable Mille Lacs Band of Chippewa Indians shall apply to the exercise of usufructuary rights by Band members in all the territory ceded by the Treaty of 1837.

Section 14. Obligations of the Solicitor General. Should there be any doubt as to the proper interpretation of any part of this Chapter, the Chief Executive, Speaker of the Assembly or the Commissioner of Natural Resources shall submit such question to the Solicitor General, who shall give his written opinion thereon and such opinion shall be binding until annulled by the full Court of Central Jurisdiction or amended by law.

Section 14.01. The Solicitor General, consistent with the statutory authority conferred by law shall represent the interests of the Non-Removable Mille Lacs Band of Chippewa Indians in all matters, related to enforcement of Band law be they prosecutorial or otherwise in the Court of Central Jurisdiction.

Section 15. Conflicitory Laws. The provisions of this Chapter shall control and be supreme in the event it shall be employed notwithstanding any statutory provision to the contrary or in conflict herewith and the justices of the Court of Central Jurisdiction shall be bound thereby.

Section 16. Unwritten Cultural Law. The Court of Central Jurisdiction shall have subject matter jurisdiction over any cause of action that may arise from unwritten cultural law or a violation thereof. The Court of Central Jurisdiction however, in the exercise of their authority to enforce all provisions of unwritten cultural law and upon the authority it possess as to accord equal justice shall give full force and effect to Band Statute 1011-MLC-5, if the provisions of said statute are not inconsistent with any custom or cultural law heretofore or hereafter in place in the determination of cultural causes of action arising pursuant to any statute of the Non-Removable Mille Lacs Band of Chippewa Indians.

Section 17. Rights of Band Members. Every enrolled member of a constituent Band of the Non-Removable Mille Lacs Band of Chippewa Indians shall have usufructuary rights provided that in the exercise of said rights, no Band member shall violate the terms and conditions established to exercise said rights.

CHAPTER 26

MINNESOTA SALES & USE TAX AGREEMENT

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## BAND STATUTE 1081-MLC-26

### PREAMBLE

It is enacted by the Band Assembly of the Mille Lacs Band of Chippewa Indians for the purpose of dispute resolution with the Minnesota Department of Revenue.

### Chapter 26

Section 1. Finding and Statement of Purpose. On April 14, 1978, the Mille Lacs Band and the Minnesota Department of Revenue ("Department") entered into an agreement entitled "Agreement Relating to the Refundment of Sales and Use Taxes and Motor Vehicle Excise Taxes" ("Agreement").

Section 1.01. The Agreement purports to authorize the Department to collect sales, use and motor vehicle excise taxes from Band members, and obligates the Department to make refund payments to the Band.

Section 1.02. Serious legal questions have been raised whether the Agreement lawfully authorizes the collection of sales, use and motor vehicle excise taxes from Band members.

Section 1.03. Notwithstanding these legal questions, the Department has continued to collect sales, use and motor vehicle excise taxes from Band members. However, it has failed to make refund payments due to the Band under the Agreement. The Department is currently in default on its obligations in an amount believed to exceed One Hundred Thousand Dollars (\$100,000.00).

Section 1.04. The Department claims approximately Twenty-seven Thousand Dollars (\$27,000.00) from the Band in back taxes, interest, and penalties arising from the Band's operation of the "Drift Inn." The Band disputes both the application of the Agreement to purchases made from the Band itself and the amount claimed by the Department in connection with the "Drift Inn."

Section 1.05. This statute is enacted to supply the necessary legal authority for the collection of sales, use and motor vehicle excise taxes from Band members, and to resolve the current dispute with the Department over the refund payments that it has failed to make.

Section 2. Tax Imposed. Subject to the provisions of Section 3 of this statute, a tax equivalent to the tax imposed by Minnesota Statutes, Chapters 297A and 297B, is hereby imposed on all sales made on the Mille Lacs Reservation to members of the Mille Lacs Band in the same manner and to the same extent imposed by Chapters 297A and 297B. The tax imposed by this statute shall be collected by all vendors on the Reservation and remitted to the Department in the same manner as required under Chapters 297A and 297B, and such vendors shall be subject to the same penalties, interest and enforcement provisions as set forth in Chapters 297A and 297B.

Section 3. Effect of Statute Conditioned on Certification by the Solicitor General. This statute shall become effective only upon certification by the Solicitor General of performance by the Department of its obligations under the Agreement.

Section 3.01 "Performance by the Department of its obligations under the Agreement" shall mean that the Department: (a) makes payment of all refund payments due under the Agreement less a reasonable amount to be withheld pending resolution of the amount due in connection with the "Drift Inn"; (b) states in writing that the retention of funds equivalent to the amount due in connection with the "Drift Inn" shall be in full and final settlement of all claims against the Band arising under the Agreement on or before the date of enactment of this statute; and (c) pledges in writing the Department's support for legislation authorizing the payment of interest on refund payments that were withheld by the Department.

Section 3.02. The Solicitor General shall certify the Department's performance or non-performance of its obligations under the Agreement of the Band Assembly and Chief Executive on or before December 21, 1984. In the event of a certificate of non-performance, this statute shall be null and void.

Section 4. Termination. In the event the Agreement is terminated by the Band or the Department, this statute shall be null and void as of the date of such termination.

## CHAPTER 27

### EMPLOYEE CREDIT UNION

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## BAND STATUTE 1062-MLC-27

### Preamble

It is enacted by the Band Assembly of the Mille Lacs Band of Chippewa Indians for the purpose of establishing an Employee Credit Union for the employees of the Mille Lacs Band of Chippewa Indians.

### Chapter 27

Section 1. Board of Directors. The Board of Directors is hereby established for the purpose of consulting with, advising and making recommendations to the Secretary of Treasury in all matters pertaining to credit unions. The Board of Directors shall consist of five members who shall be appointed by the Speaker of the Assembly and confirmed by the Band Assembly, and who shall be persons who are knowledgeable or experienced as credit union officer, director or committee member. To aid in making a selection of the five Board of Directors, the Speaker of the Assembly shall submit a list of not less than seven names. The Chairman of the Board shall be elected annually by and from the members thereof. Meetings shall be held at such times and places as shall be determined by the Chairman. Meetings may be called by the Chairman of the Board. Three members of the Board shall constitute a quorum. The authority and responsibility of the Board shall be to advise the Secretary of Treasury on problems concerning credit unions and to foster the interest and cooperation of the credit union on improving their methods of operation. The Board shall ensure accurate record keeping on all meetings and transcripts thereof. Such records shall be Prima Facie evidence of the facts therein. The Board shall expire and the terms and removal of members shall be pursuant to Band Statute 1002-MLC-2, Section 20.

Section 1.01. Meetings, Officers. At their first meeting and annually thereafter at the first meeting following the annual meeting of members, the Directors shall elect from their own number, a President, Vice-President, and a Secretary-Treasurer.

Section 1.02. Particular Duties. It shall be the duty of the Directors to have general management of the affairs of their credit union, particularly: (1) To act on applications for membership, providing that the power be delegated to a membership chairman who shall serve at the pleasure of the Board of Directors and subject to its rules; however, such application shall contain a certification signed by the Chairman or member of the Board showing the basis of membership. (2) To determine interest rates on loans and deposits, the interest period of deposits may be on a daily, monthly, quarterly, semi-annual, or an annual basis and may be paid on all deposits whether said deposits have been withdrawn during the interest period. Interest may be computed on a daily basis at the discretion of the Board of Directors. Interest may not be paid on deposit accounts of less than ten dollars. (3) To fix the amount of surety bond which shall be required of all officers and employees handling money. (4) To declare dividend and to transmit to the members recommended amendments to the by-laws. (5) To fill vacancies in the Board until successors are chosen and qualify at the next annual meeting. (6) To designate the bank or banks in which the funds of the credit union shall be deposited.

Section 2. Board of Directors Powers. The Mille Lacs Band of Chippewa Indians Credit Union Board of Directors shall have the following powers.

Section 2.01. To make loans to members or other organizations in the credit union.

Section 2.011. To receive the savings of its members either as payment on shares or as deposits, including the right to conduct Christmas clubs, vacation clubs and other such thrift organizations within its membership.

Section 2.012. To deposit in state banks, national banks, and trust companies authorized to receive deposits.

Section 2.013. To invest in any investment legal for savings banks or for trust funds in the state.

Section 2.014. To adopt and use a seal.

Section 2.015. To contract with a licensed insurance company or society to insure the lives of members to the extent of their account in whole or in part and to pay all or a portion of the premium thereof.

Section 2.016. To indemnify each director, officer or committee member or former director, officer or committee member against all expenses, including attorney fees, but excluding amounts paid pursuant to a judgement or settlement agreement, reasonably incurred by him in connection with or arising out of any action, suit or proceeding to which he is a party by reason of being or having been a director, officer or committee member of the credit union, except with respect to matters as to which he shall be finally adjudged in such action, suit or proceeding to be liable for negligence or misconduct in performance of his duties. Such indemnification shall not be exclusive of any other right to which he may be entitled under any by-law, agreement, vote of member or otherwise.

Section 2.017. Upon written authorization for a member retained at the credit union to make payment to third parties by withdrawal from a member's share or deposit accounts or through proceeds of loans made to such member or by permitting the credit union to make such payments for the members funds prior to deposit; to permit draft withdrawals from member account; however, the clause does not permit a credit union to establish demand deposits (checking accounts) for its members.

Section 2.018. To inform its members as to the availability of various group purchasing plans which are related to the promotion of thrift or the borrowing of money for provident and productive purpose by means of informational materials placed in the credit union's office, through its publication or by direct mail to members of the credit union.

Section 2.019. To facilitate its members' voluntary purchases of types of insurance incidental to promotion of thrift or the borrowing of money for provident and productive purposes including, but not limited to the following types of group or individual insurances: fire, theft, automobile, life and temporary disability; to be policy holder of a group insurance plan or sub-group under a master plan and to disseminate information to its members concerning the insurance provided thereunder. To remit premium to an insurer of the holder of a master policy on behalf of a credit union member, provided that the credit union shall obtain written authorization from such member for remittance by share or deposit withdrawals or through proceeds of loans made by such members, or by permitting the credit union to make such payment from the members' funds prior to deposit; and to accept from the insurer reimbursement for the actual cost of ministerial tasks pertaining to insurance.

Section 2.020. In furtherance of the two-fold purpose of promoting thrift among its members and creating a source of credit for them at legitimate rates of interest for provident purposes, and not in limitations of specific powers herein before conferred, to have all the powers enumerated, authorized and permitted by

this chapter and such other rights, privileges and powers as may be incidental to, or necessary for, the accomplishment of the objectives and purpose of the credit union.

Section 2.021. To rent safe deposit boxes to its members provided the credit union obtains adequate insurance or bonding coverage for losses which might result from the rental of safe deposit boxes.

Section 2.022. To accept and maintain treasury tax and loan account of the United States and to pledge collateral to secure the treasury tax and loan accounts, in accordance to the regulations of the Department of the Treasury of the United States.

Section 3. Membership. Credit Union membership shall consist of employees of the Band who pay initial installment therein and the entrance fee, if any. Organizations incorporated or otherwise, composed for the most part of the same general group as the credit union membership may be members. Credit union chartered by this or any other state, or any federal credit union may be members. Credit union organizations shall be limited to groups of both large and small membership, having a common bond of occupation or association, or to residents under the jurisdiction of the Mille Lacs Band of Chippewa Indians.

Section 4. Supervision; Reports; Audits; Fees. Credit union shall be under the supervision of the Secretary of the Treasury of the Mille Lacs Band of Chippewa Indians. Each credit union shall annually, on or before January 25th, file a report to the Band Assembly for the purpose of giving such relevant information as may be required concerning the operations during the preceding calendar year. Additional reports may be required. Credit unions shall be examined, at least annually, by the Secretary of the Treasury, except that if a credit union requests. The Secretary of the Treasury may accept the audit of a certified public accountant in place of the examination. The qualitative type of audit shall be defined by banking division regulations and approved by the Board of Directors. A report of the examination shall be forwarded to the Band Assembly within sixty days after the completion of the examination. For failure to file reports when due, unless excused for cause, the credit union shall pay to the Band's treasury five dollars for each day of its delinquency.

Section 4.01. Whenever it shall appear to the Secretary of Treasury that the credit union does not keep books and accounts in such manner as to enable him to ascertain the true condition of the credit union, he shall have the power to require the Board of Directors of such credit union or any of them to open and keep such books or accounts as he may at his discretion determine and prescribe for the purpose of keeping accurate



and convenient records of the transactions and accounts of such credit union. Credit union books and records must be maintained in one location and be available for examination sometime between the hours of 8:00 a.m. and 5:00 p.m. weekdays.

**Section 5. Suspension of Operations.** Whenever the Secretary of Treasury finds that a credit union is engaged in unsafe or unsound practice in conducting its business or that such credit union has knowingly or negligently permitted any of its officers, directors, committee members or employees to violate any material provision of any law, by-law or regulation to which the credit union is subject, the Secretary of Treasury shall suspend operation of the credit union.

**Section 5.01.** The Secretary of the Treasury may suspend the operation of the credit union by giving notice to its Board of Directors by certified mail. Said notice shall include a list of reasons for said suspension and a list of any specific violations of law, by-law or regulation and shall specify which operations of the credit union may be continued during the period of suspension. The notice shall also fix a time and place for a hearing before the Secretary of Treasury for the Mille Lacs Band of Chippewa Indians. The hearing shall be held within thirty days of the notice of suspension. Evidence may be produced at such hearing by any party thereto, and the Secretary of Treasury of the Mille Lacs Band of Chippewa Indians shall base his decision as to the continued suspension of operations of the credit union upon said evidence. If the Secretary of Treasury decides to continue suspension, he shall give notice of his decision to the Board of Directors.

**Section 5.02.** In lieu of immediate suspension of the operation of the credit union, the Secretary of Treasury may submit a copy to the affected credit union. A statement with respect to said practices or violations for the purpose of investigation and review by the Board of Directors so that it may attempt to cause the correction of said practices or violations. Unless said corrections shall be made within thirty days of the notice to the Board of Directors and the credit union, the Secretary of Treasury, if he shall determine to proceed further, shall give to the affected credit union written notice of his intentions to suspend the operation of the credit union, and shall fix a time and place for a hearing by any party thereto, and the Secretary of Treasury shall base his decision as to the suspension of operation of the credit union upon said evidence. If the Secretary of Treasury decides to suspend operation of the credit union, the Board of Directors shall be given notice by certified mail of such suspension, which notice shall include a list of any specific reasons for any such suspension and a list of specific violations of law, by-law or regulations, and shall specify which operation of the credit union may continue during the period of suspension.

Section 6. Proceeding following Suspension and Continuance of Suspension. Upon receipt of the suspension notice or the nature of the continuation of suspension, the credit union shall immediately cease or continue cessation of all operations except those operations specifically authorized by the Secretary of Treasury for the Mille Lacs Band of Chippewa Indians. If the notice is given pursuant to determination by the Secretary of Treasury after a hearing, the Board of Directors shall have thirty days from the receipt of said notice in which to file with the Secretary of Treasury a proposed plan of corrective actions or to request that a receiver be appointed for the credit union. The Secretary of Treasury shall have thirty days from the receipt of the proposed plan of corrective action to determine if the proposed corrective actions are sufficient to correct the deficiencies which formed the basis for the suspension. If the Secretary of Treasury determines that the proposed corrective actions are sufficient, the suspension shall be lifted and the credit union returned to normal operations under its Board of Directors. If the Secretary of Treasury believes the proposed corrective actions are insufficient, or if the Board of Directors has failed to answer the suspension notice or has requested that a receiver be appointed, then the Secretary of Treasury shall apply to the Court of Central Jurisdiction for appointment of a receiver. The credit union shall have the right, within six months of the receipt of any notice of suspension pursuant to a determination by the Secretary of Treasury after the hearing, to appeal to the Court of Central Jurisdiction for a ruling as to the validity of such notice.

Section 7. Receivership. A receiver shall take possession and control of all the books, assets and records of the credit union, which shall not be subject to any levy or attachment, and shall cease or continue cessation of all operations except those which have been authorized by the Court. For a period of ninety days after the appointment of the receiver, or such longer time as the Court may prescribe the receiver, the Board of Directors of the credit union, or any group of five members of the credit union may apply to the Court of Central Jurisdiction for permission to file, and if permitted, may file a plan of reorganization, merger or consolidation for the credit union. If such a plan is approved by the Secretary of Treasury and the Court, the books, assets and records of the credit union shall be returned to the members pursuant to the plan and the receiver shall be discharged.

Section 7.01. If a plan or reorganization, merger or consolidation is not submitted during the ninety day period, or such other period allowed by the Court, or if any such plan is not approved by the Secretary of Treasury and the Court, the receiver shall proceed to collect and distribute the assets of the credit union, discharge its debts, and do such other acts required in order to wind up its business and may sue and be sued for the purpose of enforcing its claims, debts and obligations until its affairs are completed and the receiver is discharged. The receiver shall use expenses incidental to the receivership and liquidation proceedings; second, and creditors other than depositors, assets, then remaining shall be distributed to the members proportionately to shares held by each member as of the date the receiver is appointed.

Section 8. Fiscal Year. Meetings. Voting. The fiscal year of the Mille Lacs Band of Chippewa Indians Credit Union shall end December 31. General and Special meetings may be held in the manner and for the purpose indicated in the by-laws.

Section 9. By-Laws. Compensation. The Board of Directors shall adopt by-laws which shall be ratified by the Band Assembly before April 30, 1985. No members of the Board shall receive a salary as such.

Section 10. Rights of Adjudication. The Band Assembly hereby gives its consent to permit the credit union to sue and be sued in its name and to waive any immunity to suit in the Court of Central Jurisdiction or U.S. District Court, which it might otherwise have, except those cases where the cause of action arises from the performance of a governmental function or where the judgement would expend itself on tribal property. The Band shall not be liable for the debts or obligations of the credit union except insofar as expressly authorized in this chapter.

Section 11. Reservation Rights of Amendment. The Band Assembly hereby fully reserves the right to alter, amend or repeal the several provisions of this chapter, and all rights and privileges granted or extended hereunder shall be subject to such reserved right.

Section 12. Court of Central Jurisdiction. The Court of Central Jurisdiction is hereby granted subject matter jurisdiction for any cause of action which arises from this chapter. Nothing in this chapter shall be construed as a waiver of sovereign immunity of the Non-Removable Mille Lacs Band of Chippewa Indians in any state or federal court of competent jurisdiction.

Section 13. Solicitor General Obligations. The Solicitor General of the Non-Removable Mille Lacs Band of Chippewa Indians shall not represent the interest of the credit union in any matter before the Court of Central Jurisdiction with the exception that he shall represent the credit union in any case where the cause of action arises from the performance of a governmental function or where the judgement would expend itself on the property of the Non-Removable Mille Lacs Band of Chippewa Indians.

Section 14. Retrospective Law. All loans prior to enactment of this statute shall be under retrospective law.

C H A P T E R 28

HUMAN RESOURCE CODE

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## BAND STATUTE 1096-MLC-28

### Preamble

It is enacted, a code for protecting the general health and welfare of the people of the constituent Bands of the Mille Lacs Band of Chippewa Indians. The people of our constituent Bands represent the greatest natural resource that is available for our continued existence. In order to ensure that this resource will be available now and in the future, the government for the constituent Bands must take measures to ensure the freedom, safety, care and guidance of our people. As it is from the Great Spirit that these gifts are received by our people and we, in turn, have a cultural obligation to follow our traditional customs and beliefs in the best interest of perpetuating our existence. We, therefore, do this so that non-Indians may cherish the members of our Band when they have cause to interact with us. Let them be morally bound.

### Chapter 28

Section 1. Findings And Determinations. The Band Assembly hereby finds that the purpose of this Statute is to secure for each child who may come before the Court of Central Jurisdiction such care, guidance and control preferably in his own home, as will serve his welfare and the best interests of the Bands. To preserve and strengthen the child's family ties, to preserve and strengthen the child's cultural and ethnic identity. Additionally, to secure for any child who may be removed from his home the care, guidance and control as nearly equivalent as that which he should have been given by his parents to help him develop into a responsible, well adjusted adult and to improve any conditions or home environment which may be contributing to his delinquency. To this end, this Statute shall be liberally construed.

Section 1.01. The Band Assembly hereby finds that there is no resource that's more vital to the continued existence and integrity of the Band than our children and our elders and all the people who comprise the Non-Removable Mille Lacs Band of Chippewa Indians.

Section 1.02. The Band Assembly hereby finds that the state of Minnesota, exercising their concurrent jurisdiction over child custody proceedings through administrative and judicial bodies, have failed to recognize the essential relations of the constituent Bands and the cultural and social standards prevailing in our communities and families.



Section 1.03. The Band Assembly hereby finds and determines that it shall be the policy of the constituent Bands to protect the best interests of all children under the jurisdiction of the Bands and to promote stability and security of the constituent Bands and the families thereof, by establishing standards for the care of our children by choosing courses of action which least restricts the child's freedom and is consistent with the safety and interests of the constituent Bands of the Mille Lacs Band of Chippewa Indians.

Section 1.04. The Band Assembly hereby finds and determines that the purposes of this Statute shall be fulfilled by the creation of a special division under the Court of Central Jurisdiction.

Section 2. Jurisdiction For The Court Of Central Jurisdiction. The Court of Central Jurisdiction is hereby conferred exclusive and original subject matter jurisdiction over any cause of action that may arise pursuant to this Statute.

Section 2.01. The Court is authorized to cooperate fully with any federal, tribal, public or private agency to participate in any diversion, rehabilitation or training programs and to receive grants-in-aid to carry out the purpose of this Statute, subject to appropriation of all funds by the Band Assembly.

Section 2.02. The Court shall utilize such social services as may be furnished by any tribal or federal agency, provided that it is economically administered without unnecessary duplication and expense.

Section 2.03. The Court may negotiate a contract, on behalf of the Band with tribal or federal agencies and departments for the care and placement of minors whose status is adjudicated under this Court, subject to ratification by the Band Assembly.

Section 2.04. The Court shall accept all state court transfers of child custody proceedings.

Section 2.05. No adjudication upon the status of any child in the jurisdiction of the Court shall be deemed criminal or a conviction of a crime.

Section 2.06. The disposition of a child or of evidence given shall not be admissible as evidence against the child in any proceedings in another court.

Section 3. General Provisions. The Court shall have exclusive and original jurisdiction of the following proceedings. A minor is alleged to be a juvenile offender, unless the Court transfers jurisdiction to an exterior court; a minor is alleged to be a minor-in-need-of-care; termination of parental rights; adoption of a minor; custody of or appointment of a custodian, conservator or a guardian for a minor; a mentally retarded or mentally ill minor; child custody proceedings, as defined by the Indian Child Welfare Act, if the minor is domiciled or resides on territories under the jurisdiction of the Band and transfer of jurisdiction from any court of a child custody proceedings, as defined by the Indian Child Welfare Act, if the minor is not domiciled or resides on territories under the jurisdiction of the Band.

Section 3.01. In any child custody transfer from any court, the Band has exclusive jurisdiction over child custody proceedings, as defined by the Indian Child Welfare Act, if the minor is domiciled or resides on lands under the jurisdiction of the Band.

Section 3.011. The Band may petition for transfer from any court of jurisdiction over child custody proceedings, as defined by the Indian Child Welfare Act, if the minor is domiciled or resides exterior to lands under the jurisdiction of the Band.

Section 3.012. Upon receipt of transfer jurisdiction from any court, the Solicitor General shall file a minor-in-need-of-care petition and an adjudicatory hearing shall be held in accordance of this Statute.

Section 3.02. The Band agent for service of notice of state court child custody proceedings, as defined by the Indian Child Welfare Act, shall be the Commissioner of Human Services.

Section 3.03. The Band petition for transfer shall be filed by the Solicitor General or selected representative within five days of receipt of notice from a state court.

Section 3.04. The Band may intervene in state court child custody proceedings, as defined by the Indian Child Welfare Act at any point in the proceedings.

Section 3.041. The Solicitor General or selected representative shall file a motion to intervene within five days of receipt of notice from a state court.

Section 3.05. If a parent or Indian custodian petition to state court for transfer of jurisdiction is granted, the Court shall not refuse to accept such transfer.

Section 3.051. If the Band's petition for transfer is granted or if a parent or Indian custodian's petition for transfer is granted, the Band shall expeditiously transfer the minor to the jurisdiction of the Band.

Section 3.052. Upon receipt of transfer jurisdiction from state court, the Solicitor General shall file a minor-in-need-of-care petition and an adjudicatory hearing shall be held in accordance with this Statute.

Section 3.06. The Court shall give full faith and credit to other tribes' child custody court orders, as defined by the Indian Child Welfare Act.

Section 4. Basic Rights Of Children Taken Into Custody. At the time a minor is taken into custody as a juvenile offender, the arresting officer shall give the following warning. The minor has a right to remain silent. Anything the minor says can be used against the minor in court as he is presumed to be guilty until he can prove his innocence. The minor has a right to the presence of an attorney, parents or person of his choice during questioning. If he cannot afford an attorney, the Court is not required to provide free legal service, the Court will assist the minor in obtaining the services of any attorney through available services and parents of the minor cannot waive these rights for the minor.

Section 4.01. A minor alleged to be a juvenile offender who is taken into custody and placed in detention or shelter care shall not be questioned except to determine identity.

Section 4.02. An alleged juvenile offender shall not be fingerprinted or photographed without the consent of the Court.

Section 4.03. In a minor-in-need-of-care proceedings, the parent, guardian or custodian shall be informed of their right to an attorney.

Section 4.04. The Court, at any stage of a proceedings, may appoint a Guardian Ad Litem for a minor who is a party, if the minor has no parent, guardian or custodian appearing on behalf of the minor or if their interests conflict with those of a minor.

Section 4.05. At his first appearance before the Court, the minor, who is alleged to be a juvenile offender, the parent(s), guardian or custodian, when a minor is alleged to be a minor-in-need-of-care, and the parent(s), in a termination of parental rights proceeding, shall be informed by the Court of:

Section 4.051. The allegations against him;

Section 4.052. The right to an attorney at his own expense;

Section 4.053. The right to testify or remain silent and that any statement made by him may be used against him;

Section 4.054. The right to cross-examine witnesses;

Section 4.055. The right to subpoena witnesses on his own behalf; and

Section 4.056. The possible consequences if the allegations of the petition are found to be true.

Section 5. Duty To Report Abuse And Neglect. Persons who have a reasonable cause to suspect that any person under the jurisdiction of the Band has been abused or neglected shall report the abuse or neglect to a law enforcement officer of the Band.

Section 5.01. Those persons who are mandated to report suspected abuse or neglect include: any physician, nurse, dentist, optometrist or any other medical or mental health professional; school principal, school teacher, or other school official; social worker; child day care center worker or other child care staff including foster parents, residential care or institutional personnel; counselor; peace officer, or other law enforcement official; judge, legal officer, court counselor, clerk of the court or other judicial system official.

Section 5.02. Any person may make a report of suspected abuse or neglect. Those persons reporting, except those specified in Section 5.01 may remain anonymous.

Section 5.03. All persons or agencies reporting, in good faith, known or suspected instances of abuse or neglect shall be immune from civil liability and criminal prosecution.

Section 5.04. Those persons mandated to report a case of known or suspected abuse or neglect who knowingly fail to do so, or willingly prevent someone else from doing so, shall be subject to a civil cause of action proceedings in the Court of Central Jurisdiction.

Section 5.05. The communications between a husband and wife, physician and patient, or social worker and client shall not be privileged when such communication involves information about abuse or neglect. All communications about abuse or neglect between a legal officer and client shall be privileged.

Section 5.06. Any person mandated to report suspected abuse or neglect, may take or cause to be taken without the parents' permission, photographs of the area of trauma visible on a minor who is suspected of being abuse, and if medically indicated, cause to be performed a radiological examination of the child. Color photographs of visible trauma may be taken, and if medically indicated x-rays, provided that such photographs or x-rays shall be destroyed if a report of suspected abuse or neglect is determined (judicially or otherwise) to be unfounded.

Section 5.07. Information to be included in all written reports of suspected abuse or neglect includes: the names and addresses of the person and his parent(s), guardian or custodian, if under age. The person's age. The nature and extent of the persons abuse or neglect. Previous abuse or neglect of the person or his siblings, if known. The name, age and address of the person alleged to be responsible for the person's abuse or neglect, if known and the name and address of the person or agency making the report.

Section 5.08. Upon receipt of a report of suspected abuse or neglect, the Court shall conduct a preliminary inquiry to determine whether or not a petition should be filed, order medical treatment as needed, or issue an ex parte emergency custody order.

Section 6. Juvenile Offender Procedure - Complaint. A complaint may be filed by a person who has knowledge of the facts alleged. The complaint shall be signed by the complainant. The complaint shall contain: a citation to the specific statutory provisions of this code which gives the Court jurisdiction of the proceedings, A citation to the Band Statute provision or custom and tradition which the minor is alleged to have violated. Name, age and address of the minor who is the subject of the complaint, the name and address of parents, custodian or guardian, if known and a plain and concise statement of the facts upon which the allegations are based, including the date, time and location at which the alleged facts occurred.

Section 7. Warrants. The Court may issue a warrant directing that a minor be taken into custody if the Court finds probable cause to believe the minor has committed the acts alleged in the complaint, and there is probable cause to believe that the child will not appear for a hearing, or is in immediate and serious emotional or physical harm or would commit additional criminal offenses.

Section 7.01. The Court may issue a warrant authorizing a law enforcement officer to search for a minor if there is probable cause to believe that the minor is within the Court's jurisdiction and a custodial warrant has been issued for the alleged juvenile offender.

Section 7.02. The Court may issue a warrant authorizing a law enforcement officer to search for and seize property when the property has been obtained or is possessed in a manner which constitutes a delinquent act; or is designed or intended for use, or which is, or has been used as a means of committing a delinquent act; or would be material evidence in a juvenile offender proceeding.

Section 7.03. The Court may issue a warrant for a person's arrest immediately upon the failure to appear, either in person or by counsel, in Court as directed for contempt of court.

Section 8. Custody. A minor may be taken into custody by a law enforcement officer if:

Section 8.01. The officer has reasonable grounds to believe a delinquent act has been committed and that the minor has committed the delinquent act; or

Section 8.02. If the minor is found in surroundings or conditions which pose an immediate and serious threat of emotional or physical harm; or

Section 8.03. A warrant pursuant to Section 7 in toto of this Statute has been issued for the minor.

Section 9. Law Enforcement Officer's Duties. A law enforcement officer who takes a minor into custody pursuant to Section 8 in toto of this Statute shall proceed as follows.

Section 9.01. An arresting officer shall give the warnings listed in Section 4 to any minor he takes into custody prior to any questioning.

Section 9.02. An arresting officer shall release the minor to the minor's parent, guardian or custodian, and issue verbal counsel or warning as may be appropriate, unless shelter care or detention is necessary.

Section 9.03. If the minor is not released, an arresting officer shall make immediate and recurring efforts to notify the minor's parent, guardian or custodian to inform them that the minor has been taken into custody and inform them of their right to be present with the minor until an investigation to determine the need for shelter care or detention is made by the Human Resource Officer pursuant to Section 10 of this code. If the minor is not released, the minor shall be taken immediately to the Human Resource Officer by the arresting officer.

Section 9.031. The Human Resource Officer shall be any and all employees of the Mille Lacs Band of Chippewa Indians - Human Services Administration who are funded pursuant to any grant or contract to service any human assistance need of any person under the jurisdiction of the Band.

Section 10. Court Counselor's Duties. The Court Counselor shall not place a minor in detention unless a complaint is filed in accordance with Section 6 of this code or the court orders that a minor be taken into custody pursuant to Section 7 of this code.

Section 10.01. If the minor's parent, guardian or custodian has not been contacted, the Court Counselor shall make immediate and recurring efforts to inform them that the minor has been taken into custody and release the minor to the parent, guardian or custodian, unless detention or shelter care is immediately necessary.

Section 10.02. If a minor is not released to his parent, guardian or custodian, the Court Counselor shall place the minor in detention or shelter care, pending the preliminary inquiry.

Section 10.03. If a minor is not released to his parent, guardian or custodian, the Court Counselor shall immediately explore alternative preadjudication custody arrangements and prepare recommendation for temporary care and custody for presentation at the preliminary inquiry.

Section 11. Detention And Shelter Care. A minor alleged to be a juvenile offender may be detained, pending a court hearing, in the following places: A foster care facility on the reservation licensed or approved by the Band. A detention home on the reservation approved by the Band; or a private family home on the reservation approved by the Band.

Section 11.01. A minor who is sixteen years of age or older may be detained in a county jail or facility used for the detention of adults only if:

Section 11.011. A facility in Section 11 is not available or would not assure adequate supervision of the minor;

Section 11.012. Detention is in a cell separate, but not removed, from sight and sound of adults, whenever possible;

Section 11.013. Adequate supervision is provided twenty-four hours a day.

Section 12. Detention And Shelter Care For Hearings. If a minor is placed in detention or shelter care by the Human Resource Officer pursuant to Section 10.02 of this code, the Court shall conduct a preliminary inquiry within twenty-four hours for the purpose of determining: Whether probable cause exists to believe the minor committed the alleged delinquent act and whether continued detention or shelter care is necessary, pending further proceedings. The minor must be released to parent, guardian, custodian or other suitable person, unless there is reason to believe that the child would endanger himself or others; not return for a court hearing; not remain in care or control of the person the child is to be released to; or that the child's health or welfare would be endangered.

Section 12.01. If a minor has been released to his parent, guardian or custodian, the Court shall conduct a preliminary inquiry within three days after receipt of the complaint for the sole purpose of determining whether probable cause exists to believe the minor committed the alleged delinquent act.

Section 12.02. If the minor's parent, guardian or custodian is not present at the preliminary inquiry, the Court shall determine what efforts have been made to notify and to obtain the presence of the parent, guardian or custodian. If it appears that further efforts are likely to produce the parent, guardian or custodian, the Court shall recess for not more than twenty-four hours and direct the Human Resource Officer to make continued efforts to obtain the presence of a parent, guardian or custodian.

Section 12.03. Notice of the preliminary inquiry shall be given to the minor and his parent, guardian or custodian and their counsel as soon as the time for the inquiry has been established. The notice shall contain: the name of the court; the title of the proceedings; a brief statement of the substance of the allegations against the minor; and the date, time and place of the preliminary inquiry.

Section 12.031. The notice shall be delivered by a law enforcement officer or an appointee of the Court



Section 12.04. The circumstances that give rise to the complaint or the taking of the minor into custody and the need for detention or shelter care. If the Court finds that probable cause exists to believe the minor performed the delinquent act, the minor may be released to his parents and ordered to appear at the adjudicatory hearing.

Section 12.05. If the act is serious enough to warrant continued detention or shelter care and there is reasonable cause to believe the minor will run away so that he will be unavailable for further proceedings or there is reasonable cause to believe that the minor will commit a serious act causing damage to person or property, the Court may:

Section 12.051. Release the minor pursuant to Section 2.7 of this code to a relative or other responsible adult tribal member, if the parent, guardian or custodian of the minor consents to the release. If the minor is ten years of age or older, the minor and his parent, guardian or custodian must both consent to the release.

Section 12.06. Upon a finding that probable cause exists to believe that the minor committed the alleged delinquent act and that there is a need for detention or shelter care and the minor's detention or shelter care shall be continued, the Court shall consider the Court Counselor's recommendation prepared pursuant to Section 10.03:

Section 12.061. If probable cause exists to believe the minor committed the alleged delinquent act and the need for detention or shelter care is not found, the complaint shall be dismissed with or without prejudice and the minor released.

Section 13. Human Resource Officer. The Human Resource Officer shall make an investigation within twenty-four hours of the preliminary inquiry or the release of the minor to determine whether the interests of the minor and the Band require that further action be taken. Upon the basis of his investigation, the Human Resource Officer may recommend that no further action be taken. Suggest to the minor, his parent, guardian or custodian that they appear for an informal hearing pursuant to Section 14 of this code; a petition be filed; or a transfer petition be filed. The Human Resource Officer may recommend that the Solicitor General file a petition pursuant to Section 15 of this code in the Court to initiate further proceedings. The petition shall be filed within forty-eight hours if the minor is in detention or shelter care. If the minor has been previously released to his parent, guardian, custodian, relative or responsible adult, the petition shall be filed within five days. Trial upon the merits shall commence with thirty days of filing of the complaint or be dismissed with or

Section 14. Informal Hearing. The Human Resource Officer may hold an informal conference with the minor and the minor's parent, guardian or custodian to discuss alternatives to the filing of a petition if: the admitted facts bring the case within the jurisdiction of the Court; an informal adjustment of the matter would be in the best interest of the minor and the Band; and the minor and his parent, guardian or custodian consent to an informal adjustment with knowledge that the consent is voluntary.

Section 14.01. Notice of the informal hearing shall be given to the minor and his parent, guardian or custodian and their counsel as soon as the time for the hearing has been established.

Section 14.011. The notice shall contain: the name of the Court; the title of the proceeding; a brief statement of the substance of the allegation against the minor; and the date, time and place of the informal hearing.

Section 14.012. The notice shall be delivered by a law enforcement officer or an appointee of the Court. If the notice cannot be delivered personally, the notice shall be delivered by registered mail.

Section 14.02. No statement made during the informal hearing may be admitted into evidence at an adjudicatory hearing or any proceedings against the minor under this code.

Section 14.03. This Section does not authorize the Human Resource Officer to compel any person to appear at any conference, produce any papers or visit any place.

Section 14.04. At the informal hearing, the Human Resource Officer may:

Section 14.041. Refer the minor and the parent, guardian or custodian to the community agency for needed assistance.

Section 14.042. Order terms of supervision calculated to assist and benefit the minor which regulate the minor's activities and which are within the ability of the minor to perform.

Section 14.043. Accept an offer of restitution, if voluntarily made by the minor.

Section 14.044. Recommend that the Solicitor General file a petition pursuant to Section 15 of this code.

Section 14.05. Any informal adjustment period shall not exceed six months.

Section 14.06. The Human Resource Officer shall set forth in writing the agreements and conclusions reached at the informal hearing and the disposition agreed to by the parties for remedying the situation.

Section 14.07. The Human Resource Officer shall review the minor's progress every thirty days. If, at anytime after the initial thirty day period, the Human Resource Officer concludes that positive results are not being achieved, the Human Resource Officer shall recommend that the Solicitor General file a petition pursuant to Section 15.

Section 15. Petition. Proceedings under this Statute shall be instituted by a petition filed by the Solicitor General on behalf of the Band and in the interests of the minor. The Solicitor General shall file no petition with the Court unless the Commissioner of Human Services shall certify to the facts contained therein. No Human Resource Officer shall certify to any facts contained therein on any petition, however this shall not relieve any Human Resource Officer from civil liability for malfeasance in the performance of their official duties. Human Resource Officers shall testify at any Court hearing to which they have factual knowledge of the circumstance surrounding the cause of action.

Section 15.01. The petition shall state the name, birthdate and residence of the minor.

Section 15.011. The names and residences of the minor's parent, guardian or custodian.

Section 15.012. A citation to the specific statutory provision of this code which gives the Court jurisdiction of the proceedings.

Section 15.013. A citation to the Tribal Code provision which the minor is alleged to have violated.

Section 15.014. If the minor is in detention or shelter care, the place of detention or shelter care and the time he was taken into custody.

Section 15.02. Prospective adoptive parents are authorized to file an adoption petition upon completion of all pre-adoptive reports. Adoptions pursuant to custom and tradition shall be permissible.

Section 16. Court Procedures. Upon receipt of the petition, the Court Clerk shall set a date for the hearing which shall not be more than five days after the Court received the petition from the Solicitor General. Mediation required pursuant to Band Statute 1024-MLC-3, Section 17, shall be waived, if the adjudicatory hearing is not held within ten days after the filing of the petition.

Section 16.01. The hearing is continued upon motion of the minor, the petition shall be dismissed and cannot be filed again.

Section 16.011. The hearing is continued upon motion of the Solicitor General by reason of the unavailability of material evidence or witnesses and the Court finds the Solicitor General has exercised due diligence to obtain the material or evidence and reasonable grounds exist to believe that the material or evidence will become available.

Section 16.02. A finding that a minor is a juvenile offender constitutes a final order for purpose of appeal.

Section 16.03. If the minor admits the allegations of the petition, the Court shall proceed to the dispositional stage only if the Court finds:

Section 16.031. The minor fully understands his rights as set forth in Section 4.05 of this code and fully understands the potential consequences of his admission.

Section 16.032. The minor voluntarily, intelligently and knowingly admits to all facts necessary to constitute a basis for Court action.

Section 16.033. The minor has not, in his purported admission to the allegations, set forth facts which, if found to be true, constitute a defense to the allegations.

Section 16.04. At least five days prior to the adjudicatory hearing, the Court shall issue summons to: the minor; the minor's parent, guardian or custodian; any person the Court believes necessary for the proper adjudication of the hearing; and any person the parties believes necessary for the proper adjudication of the hearing.

Section 16.041. The summons shall contain the name of the Court; the title of the proceedings; and the date, time and place of the hearing.

Section 16.042. A copy of the petition shall be attached to the summons.

Section 16.043. The summons shall be delivered personally by a tribal law enforcement officer or appointee of the Court. If the summons cannot be delivered personally, the Court may deliver the summons by registered mail.

Section 16.044. If a person who has been issued a summons fails to appear at the hearing, that person shall be held in contempt of court and a bench warrant shall be issued.

Section 17. Adjudicatory Hearing. An adjudicatory hearing shall be conducted within ten days of receipt of the petition by the Court. The adjudicatory hearing shall be held for the sole purpose of determining the guilt or innocence of a juvenile offender or for determining if the minor is a minor-in-need-of-care.

Section 17.01. Testimony. The Court shall hear testimony concerning the circumstances which gave rise to the complaint.

Section 17.02. No evidence that would be inadmissible in a civil proceeding shall be admitted.

Section 17.03. The parties shall have the right to cross-examine and present witnesses.

Section 17.04. If the allegations of the petition are sustained by proof beyond a reasonable doubt, the Court shall find the minor to be a juvenile offender and proceed to the dispositional hearing.

Section 18. Predispositional Report. The Human Resource Officer shall prepare and present a written report to the Court at least one day before a dispositional hearing. The report shall contain a plan for the care and assistance to the minor or his parents, guardian or custodian which is calculated to resolve the problems presented in the petition.

Section 18.01. The report shall contain a detailed explanation showing the necessity for the proposed plan of disposition and the benefits to the minor under the proposed plan.

Section 18.02. Preference shall be given to the dispositional alternatives which are listed in Section 19.07 and select that which is the least restrictive of the minor's freedom and is consistent with the interests of the Band. The report shall contain specific reasons for not recommending placement of the minor with his parent, guardian or custodian.

Section 18.03. The Human Resource Officer shall present the predispositional report to the Court, the person selected by the minor to represent him and the Solicitor General at least one day before the dispositional hearing.

Section 19. Dispositional Hearing. A dispositional hearing shall take place no more than ten days after the adjudicatory hearing.

Section 19.01. Evidence. At the dispositional hearing, the Court shall hear evidence on the question of proper disposition.

Section 19.02. Notice of the dispositional hearing shall be given to the minor and his parent, guardian or custodian and their counsel at least forty-eight hours before the hearing.

Section 19.03. The content of a dispositional hearing notice shall contain: the name of the Court; the title of the proceedings; a statement that the hearing is to determine the disposition of the case; and the date, time and place of the dispositional hearing.

Section 19.04. The notice shall be delivered by a law enforcement officer or an appointee of the Court. If the notice cannot be delivered personally, the notice shall be delivered by registered mail.

Section 19.05. At the dispositional hearing, the Court shall review and consider the predisposition report submitted by the Human Resource Officer and afford the parents an opportunity to controvert the factual contents and conclusions of the reports. The Court shall also consider the alternative predisposition report prepared by the minor and his attorney, if any.

Section 19.06. The dispositional order constitutes a final order for purposes of appeal.

Section 19.07. If a minor has been adjudged a juvenile offender, the Court may make the following dispositions: place the minor on probation subject to conditions set by the Court; place the minor in an institution or agency designated by the Court. The dispositional orders are to be in effect for the time limit set by the Court, but no order shall continue after the minor reaches the age of eighteen years of age. The dispositional orders are to be reviewed at the Courts discretion, but at least once every six months.

Section 19.08. A dispositional order of the Court may be modified upon a showing of change of circumstances.

Section 19.081. The Court may modify a dispositional order at any time upon the motion of the following: the minor, the minor's parent, guardian or custodian and the Court Counselor.

Section 19.082. If the modification involves a change of custody the Court shall conduct a hearing pursuant to Section 19.083. to review its dispositional order.

Section 19.083. Hearing - a hearing to review a dispositional order shall be conducted as follows: notice in writing or the hearing shall be given to the minor, the minor's parent, guardian or custodian and their counsel at least forty-eight hours before the hearing. The Notice shall contain the name of the Court, the title of the proceedings, a statement that the hearing is to review the disposition and the date, time and place of the hearing. The notice shall be delivered by a tribal law enforcement officer or an appointee of the Court. The Court shall review the performance of the minor, the minor's parents, guardian and custodian and the Human Resource Officer and other persons providing assistance to the minor and the minor's family. In determining modification of disposition, the procedures prescribed in Section 18 and Section 19 of this code shall apply. If the request for review of disposition is based upon an alleged violation of a Court order, the Court shall not modify its dispositional order unless it finds clear and convincing evidence of the violation.

Section 20. Court Records. A record of all hearings under this code shall be made and preserved.

Section 20.01. All court records shall be confidential and shall not be open to inspection to any, but the following: the minor, the minor's parent, guardian or custodian, the Court Counselor, the Solicitor General or the parents and the minor's attorney.

Section 20.02. Law enforcement records and files concerning a minor shall be kept separate from the records and files of adults. All law enforcement records and files shall be confidential and shall not be open to inspection to any, but the following: the minor, the minor's parent, guardian or custodian, the Court Counselor, or the Solicitor General, the parents and the minor's attorney.

Section 20.03. When a minor who has been the subject of any proceeding before the Court attains his eighteenth birthday, the Chief Justice of the Tribal Court shall order the Clerk of Court to destroy both the Court records and the law enforcement records.

Section 21. Appeal. For purposes of appeal, a record of the proceedings shall be made available to the minor, his parents, guardian or custodian. Costs of obtaining this record shall be paid by the party seeking the appeal.

Section 21.01. Any party to a Court hearing may appeal a final order or disposition of the case by filing a written notice of appeal with the Court within thirty days of the final order of disposition.

Section 21.02. A decree or disposition of a hearing may be stayed by such appeal. All appeals shall be conducted in accordance with Band Statute 1024-MLC-3, Section 33.

Section 22. Contempt Of Court. All willful disobedience or interference with any order of the Court constitutes contempt of court. The Court may punish an adult for contempt of court in accordance with Band Statute 1024-MLC-3, Section 26.

Section 23. Medical Examination. The Court may order a medical examination for a minor who is alleged to be a juvenile offender.

Section 23.01. The Court may order a mental and/or physical examination at any time subsequent to the time that the party who is the subject of the cause admits the allegations of the petition, or if he does not admit, at any time subsequent to the time the Court finds the allegations of the petition have been proved.

Section 23.02. The report of a medical examination shall not be admissible in evidence, nor shall it be considered by the Court, at the adjudicatory hearing in any juvenile Court case. It shall be admissible in evidence at the dispositional hearing in any juvenile Court case.



Section 24. Line-up for Identification. The Court may authorize a line-up that includes a minor in custody as an alleged juvenile offender for identification purposes only if the minor and the minor's parent, guardian or custodian give their written consent and the minor is represented by Counsel at the time of the line-up.

Section 25. Fingerprints. If latent fingerprints are found during the investigation of an offense and a law enforcement officer has reasonable grounds to believe that the fingerprints are those of a minor in custody, he may fingerprint the minor for the purpose of immediate comparison with the latent fingerprints, only with the consent of the Court. Copies of the fingerprints shall be immediately destroyed, if the comparison is negative, or if the minor is not referred to the Court.

Section 26. Minor-In-Need-Of-Care: Complaint. A complaint may be filed by a person who has knowledge of the facts alleged. The complaint shall be signed by the complainant. The complaint shall contain: a citation to the specific statutory provisions of this code which gives the Court jurisdiction of the proceedings; name, age and address of the minor who is the subject of the complaint, if known; and a plain and concise statement of the facts upon which the allegations are based, including the date, time and location at which the alleged facts occurred.

Section 26.01. Emergency custody order (Ex Parte Custody Order). The Court may issue an emergency custody order (Ex Parte Custody Order) upon a sworn written statement of facts, showing probable cause exists to believe that a minor is a minor-in-need-of-care.

Section 26.011. The Court may issue a warrant authorizing a law enforcement officer to search for a minor if there is probable cause to believe that the minor is within the Court's jurisdiction and an emergency custody order has been issued for the alleged minor-in-need-of-care.

Section 26.012. The Court may issue a warrant for a person's arrest immediately upon the failure to appear, either in person or by counsel, in Court as directed for contempt of court.

Section 26.02. Custody. A minor may be taken into custody by a law enforcement officer if: the officer has reasonable grounds to believe that the minor is a minor-in-need-of-care and that the minor is in immediate danger from his surroundings and that his removal is necessary or a warrant or emergency custody order pursuant to Section 26.01 of this code has been issued for the minor.

Section 26.03. Law Enforcement Officer's Duties. A law enforcement officer who takes a minor into custody pursuant to Section 26.02 of this code shall proceed as follows:

Section 26.031. Release the minor to the minor's parent, guardian or custodian and issue verbal counsel or warning as may be appropriate unless shelter care is necessary.

Section 26.032. If the minor is not released, the officer shall make immediate and recurring efforts to notify the minor's parent, guardian or custodian to inform them that the minor has been taken into custody and inform them of their right to be present with the minor until an investigation to determine the need for shelter care is made by the Human Resource Officer pursuant to Section 26.04 of this code.

Section 26.033. If the minor is not released, the minor shall be taken immediately to the Human Resource Officer by the arresting officer.

Section 26.04. The Human Resource Officer shall not place a minor in shelter care unless a complaint is filed in accordance with Section 26 of this code or the Court orders that a minor be taken into custody pursuant to Section 26.01 of this code.

Section 26.041. If the minor's parent, guardian or custodian has not been contacted, the Court Counselor shall make immediate and recurring efforts to inform them that the minor has been taken into custody and release the minor to the parent, guardian or custodian unless shelter care is immediately necessary.

Section 26.042. If a minor is not released to his parent, guardian or custodian, the Court Counselor shall place the minor in shelter care pending the preliminary inquiry.

Section 26.043. If a minor is not released to his parent, guardian or custodian, the Court Counselor shall immediately explore alternative preadjudication custody arrangements and prepare recommendations for temporary care and custody for presentation at the preliminary inquiry.

Section 26.05. Shelter Care. A minor alleged to be a minor-in-need-of-care may be detained, pending a Court hearing, in the following places: a foster care facility on the reservation licensed or approved by the Band; a private family home on the reservation approved by the Band; or a shelter care facility on the reservation approved by the Band.

Section 26.051. A minor alleged to be a minor-in-need-of-care may not be detained in a jail or other facility used for the detention of adults. If such minor is detained in a facility used for the detention of juvenile offenders, he must be detained in a room separate from juvenile offenders.

Section 26.06. Preliminary Inquiry. If a minor is placed in shelter care by the Court Counselor pursuant to Section 26.042 of this code, the Court shall conduct a preliminary inquiry within twenty-four hours determining: whether probable cause exists to believe the minor is a minor-in-need-of-care and whether continued shelter care is necessary pending further proceedings.

Section 26.061. If a minor has been released to his parent, guardian or custodian, the Court shall conduct a preliminary inquiry within three days after receipt of the complaint for the sole purpose of determining whether probable cause exists to believe the minor is a minor-in-need-of-care.

Section 26.062. If the minor's parent, guardian or custodian is not present at the preliminary inquiry, the Court shall determine what efforts have been made to notify and to obtain the presence of the parent, guardian or custodian. If it appears that further efforts are likely to produce the parent, guardian or custodian, the Court shall recess for not more than twenty-four hours and direct the Human Resource Officer to make continued efforts to obtain the presence of a parent, guardian or custodian.

Section 26.07. Notice of the preliminary inquiry shall be given to the minor and his parent, guardian or custodian and their counsel as soon as the time for the inquiry has been established.

Section 26.071. Any preliminary inquiry notice shall contain: the name of the Court; the title of the proceedings; a brief statement of the alleged circumstances upon which the minor-in-need-of-care allegations is based; and the date, time and place of the preliminary inquiry.

Section 26.08. The Court shall hear testimony concerning: the circumstances that gave rise to the complaint or the taking of the minor into custody and the need for shelter care.

Section 26.09. If the Court finds that probable cause exists to believe the minor is a minor-in-need-of-care, the minor shall be released to his parents and ordered to appear at the adjudicatory hearing, unless:

Section 26.091. The minor is suffering from an illness or injury, and no parent, guardian, custodian or other person is providing adequate care of him.

Section 26.092. The minor is in immediate danger from his surroundings and removal is necessary for his safety or well-being.

Section 26.093. The minor will be subject to injury by others if not placed in the custody of the Court.

Section 26.094. The minor has been abandoned by his parent, guardian or custodian.

Section 26.095. No parent, guardian, custodian or other person is able or willing to provide adequate supervision and care for a minor.

Section 26.096. The minor will run away so that he will be unavailable for further proceedings.

Section 26.10. The Court may release a minor pursuant to Section 26.09 of this code to a relative or other responsible adult Band member, if the parent, guardian or custodian of the minor consents to the release. If the minor is ten years of age or older, the minor and his parent, guardian or custodian must both consent to the release.

Section 26.11. Upon a finding that probable cause exists to believe that the minor is a minor-in-need-of-care and that there is a need for shelter care, the minor's shelter care shall be continued. The Court shall consider the Human Resource Officer's recommendation prepared pursuant to Section 26.043.

Section 26.12. The Human Resource Officer shall make an investigation within twenty-four hours of the preliminary inquiry or the release of the minor to his parent, guardian or custodian to determine whether the interests of the minor and the public require that further action be taken. Upon the basis of the investigation, the Human Resource Officer may:

Section 26.121. Recommend that no further action be taken.

Section 26.122. Suggest to the minor, his parent, guardian or custodian that they appear for an informal hearing pursuant to Section 26.13 of this code.

Section 26.123. Recommend that the Solicitor General file a petition pursuant to Section 26.14 of this code, tell the Court to initiate further proceedings. The petition shall be filed within forty-eight hours if

the minor is in shelter care. If the minor has been previously released to his parent, guardian, custodian, relative or responsible adult, the petition shall be filed within ten days.

Section 26.13. The Human Resource Officer may hold an informal conference with the minor and the minor's parent, guardian or custodian to discuss alternatives to the filing of a petition if: the admitted facts bring the case within the jurisdiction of the Court; an informal adjustment of the matter would be in the best interest of the minor and the Band and the minor and his parent, guardian or custodian consent to an informal adjustment with knowledge that the consent is voluntary.

Section 26.131. Notice of the informal hearing shall be given to the minor and his parent, guardian or custodian and their counsel as soon as the time for the hearing has been established.

Section 26.132. Any informal hearing notice shall contain: the name of the Court; the title of the proceedings; a brief statement of the alleged circumstance upon which the minor-in-need-of-care allegations is based; and the date, time and place of the informal hearing.

Section 26.133. The notice shall be delivered by a law enforcement officer or an appointee of the Court. If the notice cannot be delivered personally, the notice shall be delivered by registered mail.

Section 26.134. No statement made during the informal hearing may be admitted into evidence at an adjudicatory hearing or any proceedings against the minor or his parents under this code. This Section does not authorize the Human Resource Officer to compel any person to appear at any conference, produce any papers or visit any place.

Section 26.135. Refer the minor and/or the parent, guardian or custodian to the Community Agency for needed assistance. Order terms of supervision, calculated to assist and benefit the minor and parents which regulate both the minor's and parents activities and which are within the ability of the minor and parents to perform or recommend that the Solicitor General file a petition pursuant to Section 26.14 of the code.

Section 26.136. The Human Resource Officer shall set forth in writing the conclusion reached at the informal hearing and the disposition agreed to by the parties for remedying the situation. Any informal adjustment period shall not exceed six months.

Section 26.137. The Human Resource Officer shall review the minor's progress every thirty days. If at any time after the initial thirty day period, the Human Resource Officer concludes that positive results are not being achieved, the Human Resources Officer shall recommend that the Solicitor General file a petition pursuant to Section 26.14.

Section 26.14. Proceedings under this code shall be instituted by a petition filed by the Solicitor General on behalf of the Band and in the interests of the minor. The petition shall state:

Section 26.141. The name, birthdate and residence of the minor.

Section 26.142. The names and residences of the minor's parents, guardian or custodian.

Section 26.143. A citation to the specific statutory provision of this code which gives the Court jurisdiction over the proceedings.

Section 26.144. If the minor is in shelter care, the place of shelter care and the time he was taken into custody.

Section 26.15. Upon receipt of the petition, the Court shall set a date for the hearing which shall be not more than ten days after the Court receives the petition from the Solicitor General. If the adjudicatory hearing is not held within ten days after the filing of the petition, the petition shall be dismissed and cannot be filed again, unless:

Section 26.151. The hearing is continued upon motion of the minor.

Section 26.152. The hearing is continued upon motion of the Solicitor General by reason of the unavailability of material evidence or witnesses, and the Court finds the Solicitor General has exercised due diligence to obtain the material or evidence and reasonable grounds exist to believe that the material or evidence will become available.

Section 26.16. At least five days prior to the adjudicatory hearing the Court shall issue summons to: the minor; the minor's parent, guardian or custodian; any person the Court believes necessary for the proper adjudication of the hearing; and any person the minor believes necessary for the proper adjudication of the hearing.

Section 26.161. The summons shall contain: the name of the Court; the title of the proceedings; the date, time and place of the hearing. A copy of the petition shall be attached to the summons.

Section 26.162. The summons shall be delivered personally by a law enforcement officer or an appointee of the Court. If the summons cannot be delivered personally, the Court may deliver the summons by registered mail.

Section 26.163. If a person who has been issued a summons fails to appear at the hearing, that person shall be held in contempt of court.

Section 26.17. The Court shall conduct the adjudicatory hearing for the sole purpose of determining whether the minor is a minor-in-need-of-care. The hearing shall be private and closed.

Section 26.171. The Court shall hear testimony concerning the circumstances which gave rise to the complaint.

Section 26.172. If the allegations of the petition are sustained by proof which is clear and convincing, the Court shall find the minor to be a minor-in-need-of-care and proceed to the dispositional hearing.

Section 26.173. A finding that the minor is a minor-in-need-of-care constitutes a final order for purposes of appeal.

Section 26.18. The Human Resource Officer shall prepare a written report describe all reasonable and appropriate alternative dispositions. The report shall contain a specific plan for the care of and assistance to the minor, calculated to resolve the problems presented in the petition.

Section 26.181. The report shall contain a detailed explanation showing the necessity for the proposed plan of disposition and the benefits to the minor under the proposed plan.

Section 26.182. Preference shall be given to the dispositional alternatives which are listed in Section 26.20 and select that which is the least restrictive of the minor's freedom and is consistent with the interest of the Band. The report shall contain specific reasons for not recommending placement of the minor with his parent, guardian or custodian.

Section 26.183. In recommending a plan for care and assistance to the minor, the Human Resource Officer shall consider the desires of the minor.

Section 26.184. The Human Resource Officer shall present the predispositional report to the Court, the person selected by the minor to represent him and the Solicitor General, at least one day before the dispositional hearing.

Section 26.19. A dispositional hearing shall take place not more than ten days after the adjudicatory hearing.

Section 26.191. At the dispositional hearing the Court shall hear evidence on the question of proper disposition.

Section 26.192. Notice of the dispositional hearing shall be given to the minor and his parent, guardian or custodian and their counsel at least forty-eight hours before the hearing.

Section 26.193. Any dispositional hearing notice shall contain: the name of the Court; the title of the proceedings; a statement that the hearing is to determine the disposition of the case; and the date, time and place of the dispositional hearing.

Section 26.194. The notice shall be delivered by a law enforcement officer or an appointee of the Court. If the notice cannot be delivered personally, the notice shall be delivered by registered mail.

Section 26.195. At the dispositional hearing, the Court shall review and consider the predisposition report submitted by the Human Resource Officer and afford the parties an opportunity to controvert the factual contents and conclusions of the reports. The Court shall also consider the alternative predisposition report prepared by the minor and his attorney, if any.

Section 26.196. The dispositional order constitutes a final order for purposes of appeal.

Section 26.20. If a minor has been adjudged a minor-in-need-of-care the Court may make any of the following dispositions which are listed by priority.

Section 26.201. Permit the minor to remain with his parents, guardian or custodian subject to such limitations and conditions as the Court may prescribe.



Section 26.202. Place the minor with an extended family member within the exterior boundaries of the reservation subject to such limitations and conditions as the Court may prescribe.

Section 26.203. Place the minor in a foster home within the exterior boundaries of the reservation which as been licensed or approved by the Band, subject to such limitations and conditions as the Court may prescribe.

Section 26.204. Place the minor in shelter care facilities designated by the Court.

Section 26.205. Place the minor in a foster home or an extended family member's home outside the exterior boundaries of the reservation, subject to such limitations and conditions as the Court may prescribe.

Section 26.206. Recommend that termination proceedings begin.

Section 26.21. Whenever a minor is placed in a home or facility located outside the boundaries of the reservation, the Court shall require the party receiving custody of the minor to sign an agreement that the minor will be returned to the Court upon order of the Court.

Section 26.22. The dispositional orders are to be in effect for the time limit set by the Court, but no order shall continue after the minor reaches the age of eighteen years.

Section 26.23. The dispositional orders are to be reviewed at the Court discretion, but at least once every six months.

Section 26.24. A dispositional order of the Court may be modified upon a showing of change of circumstances.

Section 26.241. The Court may modify a dispositional order at any time upon the motion of the following: the minor; the minor's parents, guardian or custodian; or the Human Resource Officer.

Section 26.242. If the modification involves a change of custody the Court shall conduct a hearing pursuant to Section 26.243 to review it's dispositional order.

Section 26.243. A hearing to review a dispositional order shall be conducted as follows: notice in writing of the hearing shall be given to the minor, the minor's parents, guardian or custodian and their counsel at least forty-eight hours before the hearing.

Section 26.2431. The notice shall contain: the name of the Court; the title of the proceedings; a statement that the hearing is to review the disposition; and the date, time and place of the hearing.

Section 26.2432. The notice shall be delivered by a law enforcement officer or an appointee of the Court. If the summons cannot be delivered personally, the Court may deliver the summons by registered mail.

Section 26.244. The Court shall review the performance of the minor; the minor's parents, guardian or custodian, and the Human Resource Officer or other persons providing assistance to the minor and the minor's family.

Section 26.245. In determining modification of disposition, the procedures prescribed in Section 26.18 and 26.19 of this code shall apply.

Section 26.246. If the request for review of disposition is based upon an alleged violation of a court order, the Court shall not modify its dispositional order unless it finds clear and convincing evidence of the violation.

Section 27. Termination Of Parental Rights. Parental rights to a child may be terminated by the Court according to the procedures in this Section.

Section 27.01. Proceedings to terminate parental rights shall be instituted by a petition filed by the Solicitor General on behalf of the Band pursuant to Section 26.20 or by the parents or guardian of the child. The petition shall state:

Section 27.011. The name, birthdate and residence of the minor.

Section 27.012. The names and residences of the minor's parent, guardian or custodian.

Section 27.013. If the child is in detention or shelter care, the place of detention or shelter care and the time he was taken into custody.

Section 27.02. Upon receipt of the petition, the Court shall set a date for the termination hearing which shall be not more than ten days after the Court receives the petition from the Solicitor General. The hearing may be continued:

Section 27.021. Upon motion of the minor's parent, guardian or custodian.

Section 27.022. Upon motion of the Solicitor General by reason of the unavailability of material evidence or witnesses and the Court finds the Solicitor General has exercised due diligence to obtain the material or evidence and reasonable grounds exist to believe that the material or evidence will become available.

Section 27.03. Within two days of receiving the petition, the judge/justice shall order the preparation of a pre-termination report by the Human Resource Officer.

Section 27.031. The Human Resource Officer shall consult with the minor's parents and all social services, health, education and other personnel who have had prior professional contacts with the minor and his parent, guardian or custodian, to determine whether termination of parental rights is consistent with the best interests of the child. The Solicitor General may also review any of the minor's previous Court records.

Section 27.032. The Human Resource Officer shall prepare a written report containing the professional opinions of all personnel with whom he has consulted. The report shall be presented to the Court at least two days before the termination hearing.

Section 27.04. At least five days prior to the termination hearing, the Court shall issue summons to the minor, the minor's parent, guardian or custodian, and any person the Court believes necessary for the proper adjudication of the hearing and any person the minor's parent, guardian or custodian believes necessary for the proper adjudication of the hearing.

Section 27.041. The summons shall contain the name of the Court, the title of the proceedings and the date, time and place of the hearing. A copy of the petition shall be attached to the summons.

Section 27.042. The summons shall be delivered personally by a law enforcement officer or an appointee of the Court. If the summons cannot be delivered personally, the Court may deliver the summons by registered mail.

Section 27.043. If a person who has been issued a summons fails to appear at the hearing, that person shall be held in contempt of court.

Section 27.05. The Court shall conduct the termination hearing for the sole purpose of determining whether parental rights shall be terminated. The hearing shall be private and closed.

Section 27.051. The Court shall hear testimony concerning the circumstances that gave rise to the petition and the need for termination of parental rights.

Section 27.052. The Court may terminate the parental rights of the parent(s) to his child if it finds evidence beyond a reasonable doubt that:

Section 27.0521. The parent has abandoned his child.

Section 27.0522. The minor has suffered physical injuries willfully and repeatedly inflicted by his parent(s) upon him which causes or creates a substantial risk of death, disfigurement or impairment of bodily functions.

Section 27.053. The parent(s) have subjected the minor to willful and repeated acts of sexual abuse.

Section 27.054. The voluntary written consent of a parent has been acknowledged before the Court and is accompanied by the presiding judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The Court shall also certify that either the parent or Indian custodian fully understood the explanation in English and that it was interpreted into a language that the parent or Indian custodian understood.

Section 27.06. If parental rights to a child are terminated, the Court shall: place the minor with an extended family member; place the minor in a foster care or shelter care facility which has been approved by the Band; and proceed to the adoption Section of this code.

Section 27.061. If parental rights to a child are not terminated, the Court shall make a disposition according to Section 26.20 of this code.

Section 27.07. The termination order constitutes a final order for purposes of appeal.

Section 27.08. No adjudication of termination of parental rights shall affect the minor's enrollment status as a member of any Band or the minor's degree of blood quantum of any Band.

Section 28. Adoption. Any individual, minor or adult who is a member of or eligible for membership of any constituent Band of the Mille Lacs Band of Chippewa Indians may be adopted by the Court according to the procedures of this Section.

Section 28.01. The following persons may adopt: individuals married to each other, whether or not one or both are minors.

Section 28.02. An adult unmarried individual.

Section 28.03. A married individual, adult or minor, without the spouse joining as a petitioner, if:

Section 28.031. The non-joining spouse is a parent of the individual to be adopted.

Section 28.032. The individual to be adopted is not the petitioner's spouse.

Section 28.0321. The petitioner and the non-joining spouse are legally separated.

Section 28.0322. The failure of the non-joining spouse is excused by the Court by reason of prolonged or unexplained absence, unavailability, incapacity or circumstances constituting an unreasonable failure to join.

Section 28.04. The order of preference in adoption of a child shall be: a member of the child's extended family who is Indian; other members of the Indian child's Band; other Indian families; or if this order of preference cannot be met, then placement may be made with any person who has sufficient knowledge of the child's Band affiliation so that the child's cultural needs may be met.

Section 28.05. Unless consent is not required because of termination of parental rights, involuntary or voluntary, a petition to adopt a minor may be granted only if written consent to the adoption has been executed by:

Section 28.051. The mother of the minor.

Section 28.052. The father of the minor, if the minor was conceived or born while the father was married to the mother. If the minor is his child by adoption, or if the minor has been established to be his child by affidavit signed before a court of competent jurisdiction or a Court proceeding.

Section 28.053. The custodian of the minor if empowered to consent to the adoption of the minor.

Section 28.054. The Court having jurisdiction of the custody if the custodian of the minor is not empowered to consent to the adoption.

Section 28.055. The minor to be adopted, if more than two years of age, unless the Court in the best interest of the child dispenses with the minor's consent.

Section 28.056. The spouse, if any, of the minor to be adopted.

Section 28.06. A petition to adopt an adult may be granted only, if written consent to the adoption has been executed by the adult to be adopted and the spouse or custodian, if any of the adult to be adopted.

Section 28.07. Consent to adoption is not required from:

Section 28.071. A parent who has abandoned the minor to be adopted.

Section 28.072. A parent of a minor who is a ward of the Court and in the custody of an agency, institution or person, not the minor's parent, if the parent.

Section 28.0721. For a period of at least one year has failed without justifiable cause to communicate with the minor or the agency, institution or person, not the minor's parent having custody of the minor.

Section 28.0722. If required by judicial decree to do so, has failed to provide for the care and support of the minor when able to do so.

Section 28.073. A parent whose parental rights with the minor to be adopted have been involuntarily terminated.

Section 28.074. A parent who has voluntarily terminated parental rights over the minor to be adopted.

Section 28.075. A parent judicially declared incompetent or mentally defective.

Section 28.08. A required consent to adoption shall be executed and acknowledged by the person consenting to the adoption in the presence of the Court and shall be acknowledged and signed by the judge. At no time shall a consent for adoption be acknowledged by the Court prior to ten days after birth of the minor to be adopted.

Section 28.081. A consent to adoption cannot be withdrawn after the entry of a judgment of adoption. A consent adoption may not be withdrawn prior to the entry of a judgment of adoption unless the Court finds, after notice and opportunity to be heard is afforded to the petitioner, the person seeking the withdrawal and the agency placing the minor for adoption, that the consent was obtained by fraud, coercion or duress.

Section 28.09. The consent form shall be in the form as prescribed by the Court.

Section 28.10. Before any person may adopt a minor, the Court must certify this person as acceptable to adopt children. The certification shall be issued by the Court after a pre-adoptive investigation has been conducted by an officer of the Court or other person appointed by the Court.

Section 28.101. Investigation of the prospective adoptive parent, the person designated by the Court to conduct the investigation shall consider, but not be limited to the following factors concerning the prospective adoptive parent: social history, financial condition, moral fitness, religious and tribe/religious background, mental and physical health conditions and all other factors bearing on the issue of fitness of the prospective adoptive parent that the Court may deem relevant.

Section 28.102. Within ninety days of the original application by the prospective adoptive parent(s), the investigator shall file a written report with the Court. The report shall include a recommendation for or against placement of a minor with the applicant and the reasons thereof.

Section 28.103. Upon certification of acceptability to adopt children, the certificate shall remain in effect for one year. The Court may extend the certification for an additional one year, if after review the Court finds that there are no material changes which would adversely affect the acceptability of the applicant to adopt.

Section 28.104. The applicant who has been certified as non-acceptable may petition the Court to review such certification.

Section 28.1041. A hearing shall be held within twenty days of filing of the petition.

Section 28.1042. Findings of the Court shall be final and the applicant may not reapply for certification for one year.

Section 28.105. As soon as the identity of a minor to be adopted is known to the Court, it may order an officer of the Court or other person to conduct an investigation of the following:

Section 28.1051. Whether the natural parent(s) will consent to the adoption of the minor and the reasons thereof.

Section 28.1052. Whether the parent-child relationship has been terminated, voluntarily or involuntarily by Court order the circumstances thereof.

Section 28.1053. Whether the minor is a member or eligible for membership in any constituent Band of the Mille Lacs Band of Chippewa Indians.

Section 28.1054. Whether the special needs of the minor will make him hard to place.

Section 28.1055. The physical and mental condition of the minor.

Section 28.1056. The suitability of the minor's placement with a particular prospective adoptive parent.

Section 28.1057. The desires of the minor, if he is ten years of age or older.



Section 28.106. Within fifteen days of the Court ordered investigation of a minor to be adopted, the investigator shall file a written report with the Court.

Section 28.107. At no time shall the investigator or other Court officer reveal to a prospective adoptive parent the identity of the minor to be adopted or its natural parent(s), nor reveal to the minor or its natural parent(s) the identity of the adoptive parent(s).

Section 28.11. A petition for adoption shall be signed and verified by the individual certified and wishing to adopt an individual, filed with the Court and set shall state:

Section 28.111. The date, place of birth and marital status of the individual to be adopted, if known.

Section 28.112. The name by which the individual to be adopt is known.

Section 28.113. The date of any placement and the name of any person placing the individual to be adopted.

Section 28.114. The name, age and place and duration of residence of the petitioner.

Section 28.115. The marital status of the petitioner and the date and place of any marriage, separation or divorce.

Section 28.116. The fact that a certificate of acceptability to adopt a minor has been issued by the Court and the date of its issuance.

Section 28.117. The date, if applicable, when the petitioner acquired custody of the minor and from whom.

Section 28.118. The desire of the petitioner to adopt the minor and that petitioner's spouse, if any, has approved the adoption.

Section 28.119. That consent has been given, or any reason that consent need not be given.

Section 28.1110. That the petitioner is a member of or eligible for membership in the Mille Lacs Band of Chippewa Indians.

Section 28.12. Any written consent required by Section 28.05 may be attached to the petition or filed with the Court at or prior to the hearing.

Section 28.13. In any case in which a petition for adoption is withdrawn or denied, the Court shall order the removal of the minor from the proposed adoptive home, if the Court finds that such removal is in the minor's best interest.

Section 28.131. Upon an order removing the minor from a proposed adoptive home, the Court may vest legal custody in another person. This person must have the ability to care for the minor's welfare. The Court may make such orders for child support as may be necessary for the minor's welfare.

Section 28.14. In the event of the death of the petitioner prior to adoption, the petition shall be dismissed, except if there are two petitioners and one of the petitioners die, the proceeding shall continue as to the surviving petitioner unless withdrawn by him. The Court may require a reinvestigation of the surviving petitioner prior to adoption.

Section 28.15. Any notice of an adoption proceeding shall be issued at least twenty days before the adoption hearing, notice shall be given by the Court to: the petitioner; any person whose consent to the adoption of the individual is required and who has not consented; if the individual to be adopted is a minor, then also to any custodian of the minor to be adopted, who has not consented to the adoption; and any parent of the minor to be adopted whose consent to the adoption is excused because of abandonment, failure to communicate, failure to provide care and support, or a defectively executed relinquishment and who has not consented to the adoption; the person(s) who conducted the preadoptive investigation of the prospective adoptive parent and of the minor to be adopted.

Sec 28.151. Any said adoption notice shall contain: the name of the Court; the title of the proceedings; the date, time and place of the hearing; and a copy of the petition shall be attached to the notice.

Section 28.152. Notice shall be delivered by a law enforcement officer or an appointee of the Court. If the notice cannot be delivered personally, the Court may deliver it by registered mail.

Section 28.16. The adoption hearing shall be conducted as a closed hearing unless an interested person makes an objection and the Court finds that an open hearing is to be preferred under the particular circumstances.

Section 28.161. The petitioner and the individual to be adopted shall appear at the hearing unless the absence of either is excused or ordered by the Court.

Section 28.162. The Court may continue the hearing from time to time to permit further observation, investigation or consideration of any facts or circumstances affecting the granting of the petition.

Section 28.163. The Court, after a hearing, shall issue a judgment which shall recite the findings upon which it is based in the judgment of the Court may:

Section 28.1631. If in the best interest of the individual to be adopted, dismiss the petition and, if appropriate, determine the person who should have custody of a minor, including the petitioners.

Section 28.1632. If the Court finds that the required consents have been obtained or excused, and the adoption is in the best interest of the individual to be adopted, conclude that the adoption should be completed and grant a judgment of adoption.

Section 28.164. Unless the Court in its discretion after the showing of good cause, waives the time the minor must live in the home of its adoptive parents, no judgment of adoption of a minor shall be granted until the minor to be adopted has lived in the prospective adoptive home for not less than six months after placement in the home.

Section 28.17. A judgment of adoption has the following effects as to matters before the Court.

Section 28.171. To divest the natural parents and the minor of all legal rights, privileges, duties and obligations, including rights of inheritance with respect to each other.

Section 28.172. To create a relationship of parent and minor between the petitioner and the individual to be adopted, as if the individual adopted were a legitimate blood descendant of the petitioner for all purposes except that if the petitioner is not an enrolled member of or eligible for membership in any constituent Band of the Mille Lacs Band of Chippewa Indians, then the adoptive parent shall not be eligible to inherit any interest of the deceased Band member's estate that may be a Band privilege, right, land or property of any kind.

Section 28.18. After two years from the entry of a judgment of adoption, the judgment cannot be questioned by any person, including the petitioner in any manner upon any ground, including fraud, misrepresentation or failure to give any required notice.

Section 28.19. When a minor to be adopted appears to be eligible for enrollment, the Court shall require that application for enrollment be made for the minor.

Section 28.191. A judgment of adoption shall not extinguish any status, right or privileges due or incident to the minor's Indian ancestry, heritage or Band membership.

Section 28.20. The Court may set reasonable fees for the cost of services for the adoption. Such fees may be reduced or waived in cases of undue hardship, in which event they shall become a charge to the Court.

Section 29. Definitions. For the purpose of this code the words and phrases shall have the meanings respectively ascribed to them.

Section 29.01. "Abandon" means when a parent leaves a child without communication or fails to support a child and there is no indication of the parent(s) willingness to assume his parental role(s) for a period exceeding two years.

Section 29.02. "Adult" means any person subject to the jurisdiction of the Mille Lacs Band of Chippewa Indians who is eighteen years of age or older.

Section 29.03. "Court" means the Human Resources Division of the Court of Central Jurisdiction when exercising jurisdiction under this Statute.

Section 29.04. "Court Magistrate - Judge" means any (duly appointed, elected) judge of the Human Resources Division of the Court of Central Jurisdiction when exercising jurisdiction under this Statute.

Section 29.05. "Custodian" means one who has physical custody of a minor and who is providing food, shelter and supervision to him.

Section 29.06. "Delinquent Act" means an act, which if committed by an adult, is designated a crime under the laws of the state of Minnesota or is designated a crime under the tribal law and order code or tribal ordinance.

Section 29.07. "Detention" means the placement of a minor in an appropriate physically restrictive facility.

Section 29.08. "Extended Family" means a person who has reached the age of sixteen and who is the minor's grandparent, aunt, or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent, or made part of the extended family by tribal resolution, or as defined by the law of custom of the child's tribe.

Section 29.09. "Guardian" means a person other than the minor's parent who is by law responsible for that minor (but not the minor's property).

Section 29.10. "Guardian Ad Litem" means an adult appointed by the Court to prosecute or defend for a minor in any proceeding to which he may be a party.

Section 29.11. "Indian Custodian" means an adult Band member who has reached the age of twenty-one in whom temporary physical care, custody and control has been transferred by the parent of such minor.

Section 29.12. "Juvenile Offender" means a person who commits a delinquent act prior to his eighteenth birthday.

Section 29.13. "Least Restrictive Alternative" means the terms in the code directs the Court to select the least drastic method of achieving its goal; the restrictions placed on the child must be reasonable related to the Court's objectives and must be the least restrictive way of achieving that objective. For example, the reason any person is held in detention before trial is to insure that the person will not leave the area, therefore, the only restraint on that person's freedom is the restriction on his freedom of movement. No other restriction such as mail censorship or being placed in solitary confinement is related to the stated purpose of pretrial detention.

Section 29.14. "Minor" means a person under eighteen years of age. A person eighteen years of age or older concerning whom proceedings are commenced in the Court of Central Jurisdiction prior to his eighteenth birthday. A person eighteen years of age or older who is under the continuing jurisdiction of the Court of Central Jurisdiction.

Section 29.15. "Minor-in-need-of-care" means a minor who has no parent(s), guardian or custodian available who is capable and willing to care for him, or has suffered, or is likely to certainly suffer a physical injury, inflicted upon him by other than accidental means, which causes or creates a substantial risk of death, disfigurement or impairment of bodily functions. Or, has not been provided with adequate food, clothing, shelter, medical care, education or supervision by his parent(s), guardian or custodian necessary for his health and well-being. Or, has been sexually abused, or has been committing delinquent acts as a result of parental pressure, guidance or approval.

Section 29.16. "Parent" includes a natural or adoptive parent as defined by the Court of Central Jurisdiction, but does not include persons whose parental rights have been terminated, nor does it include the unwed father whose paternity has not been acknowledged or established.

Section 30. Legal Duties Of Human Resource Officers And Child Social Workers. The Human Resource Officer and Child Social Workers shall carry-out duties conferred throughout this code. The Human Resource Officer and Child Social Workers duties do not include acting on behalf of the Band against the child. His/her sole responsibility is to serve as a friend of the child, on the child's behalf and in the child's best interest.

Section 30.01. The duties and responsibilities of the Human Resources Officer and Child Social Worker of the Band shall include, but not be limited to the following: make investigations as provided in this code, or as directed by the Court; make reports to the Court as provided in this code or as directed by the Court; conduct informal hearings with the minor and the minor's parent(s), guardian or custodian; place a minor in detention or shelter care as provided in this code; and perform such other duties in connection with the care, custody or transportation of minors as the Court may require.

Section 30.02. The Human Resource Officer must have an educational background and/or prior experience in the field of delivering social services to youth.

Section 30.03. The Human Resource Officer shall identify and develop resources on the reservation designed to enhance each minor's potential as a viable member of the Band community.

Section 30.04. The Human Resource Officer shall not be employed at or perform the duties of a prosecutor, Solicitor General or law enforcement official.

Section 30.05. The Human Resource Officer shall not testify against any minor in any proceeding under this code or any adjudicatory proceeding.

Section 31. Obligations Of The Solicitor General. The Solicitor General shall represent the people of the constituent Band of the Mille Lacs Band of Chippewa Indians under this code.

Section 31.01. The Solicitor General's duties shall include, but not be limited to: filing petitions with the Court as provided in this code; representing the Band in all proceedings under this code; and performing such other duties as the Court may order.

Section 32. Guardian Ad Litem. The Court, under any proceeding authorized by this code, shall appoint for the purposes of that proceeding(s) a Guardian Ad Litem for a minor where the Court finds that the minor does not have a natural or adoptive parent, guardian or custodian willing and able to exercise effective guardianship.

Section 32.01. The duties of the Guardian Ad Litem shall be to represent the minor's interest in any proceeding as required by the Court and make recommendations to the Court on disposition.

Section 33. Standard For Shelter Care And Detention Facilities. The Chief Justice of the Court of Central Jurisdiction shall proscribe and enforce rules and regulations governing the operation of detention and shelter care facilities. He may assign the responsibilities to another qualified tribal agency.

Section 33.01. The rules and regulations shall include, but are not limited to the following: cleanliness standards, heat, water and light standards, personnel standards, visitation privileges, occupancy standards, provisions for medical and dental care and provisions for food, furnishing, clothing and toilet articles.

Section 33.02. The Chief Justice of the Court of Central Jurisdiction shall proscribe and enforce written policies and procedures governing the administration of detention and shelter care facilities. Such policies and procedures shall include, but are not limited to the following:

Section 33.021. A minor shall not be punished, ridiculed or criticized for expressing through speech, custom or dress, the minor's Indian and tribal heritage.

Section 33.022. A minor shall be allowed to wear his hair according to his personal taste. The minor shall not be punished, ridiculed or criticized for the hairstyle he selects.

Section 33.023. A minor may wear his own clothes rather than clothes supplied by the detention facility, as long as they comply with minimum standards of cleanliness.

Section 33.024. Incoming and outgoing mail may be inspected for contraband, but shall not be read.

Section 33.025. Whenever possible, the minor shall be allowed to attend the school in which he is enrolled. School work and educational assistance, at the minor's level of development, shall be provided for the minor in detention facilities.

Section 33.026. A minor shall be allowed to attend traditional ceremonies provided that he is accompanied by a parent, guardian or custodian, has received consent to do so by the child's Court Counselor, parent or custodian, who has been delegated the authority to consent from the judge/justice of the Court of Central Jurisdiction and returns immediately to the detention or shelter care facility.

Section 33.027. A minor shall be allowed to attend the funeral and any related activities of his brother, sister, mother, father, aunt, uncle, grandmother, grandfather or cousin, whether they be natural or adopted provided that:

Section 33.0271. His parent, guardian or custodian request and receive permission from the judge/justice of the Human Resource Division and he is accompanied by a parent, guardian or custodian and he return immediately to the shelter care or detention facility.

Section 33.028. A minor shall be given the opportunity to engage in physical exercise everyday.

Section 33.0281. A minor shall not be locked alone in a room unless there exists a reasonable belief that he may cause physical injury to himself or others if not locked alone. An emergency fire exit must be accessible and toilet facilities must be available to the minor. While a minor is locked alone in a room, he must be visited at least once an hour. The confinement shall not exceed four hour time period.



Section 33.029. A minor shall not be punished by physical force, solitary confinement or deprivation of meals or family visits.

Section 33.0210. A minor in a detention facility shall not be required to perform work duties, excepting household chores.

Section 33.0211. A judge/justice shall have the authority to close any facility in violation of Section 33.

Section 34. Evidentiary Standards. In all cases before the Human Resource Division, the judge/justice shall utilize a clear and convincing standard of proof.

Section 35. Rights Of Foster Parents. At the time any child is placed into a foster home, said foster parents shall have de-factor parent status for the duration of the time that the child is lawfully placed under their care.

Section 36. State Of Minnesota: Agreement Regarding Indian Child Custody Proceedings. The Band Assembly hereby authorized the Chief Executive to officially notify the state of Minnesota - Commissioner of Department of Human Services of the intention of the Mille Lacs Band of Chippewa Indians to revoke the agreement regarding Indian Child Custody Proceedings with cause following a minimum of thirty days after delivery of said written notice to the Commissioner of Human Services, said revocation shall not affect any action or proceeding over which a state court has previously assumed jurisdiction.

Section 37. Guardianship - Conservatorship. That the Court of Central Jurisdiction shall have the power to appoint a guardian or conservator who shall be under the control and direction of the Court at all times and in all matters. Additionally:

Section 37.01. The Court shall grant to any conservator or guardian only those specific powers necessary to provide for the demonstrated needs of the ward or conservatee.

Section 37.02. The Court may grant to any conservator or guardian, the following powers and duties: to recommend and establish the place of abode within the jurisdiction of the Band. To provide for the ward's or conservatee's care, comfort and maintenance needs, including food, clothing, shelter, health care, social and recreational requirements, and whenever appropriate, training, education

and rehabilitation. The guardian or conservator has no duty to pay for these requirements out of his own funds. Whenever possible and appropriate, the guardian or conservator has the duty to meet these requirements through governmental benefits or services to which the ward or conservatee is entitled, rather than from the ward's or conservatee's estate. To take reasonable care of the ward's or conservatee's clothing, furniture, vehicle or other personal effects. To refrain from disposing of the ward's or conservatee's clothing, furniture, vehicles or other personal effects without notice of Court hearing for an opportunity of the ward or conservatee to object after he receives written notice of intent. Once notice is served, the conservator shall not dispose of any personal property unless the Court approves of the disposition. To approve or withhold approval of any contract except the necessities which the ward or conservatee may make or wish to make. To pay out of the ward's or conservatee's account all just and lawful debts as determined by Band law. To initiate civil suit in the Court of Central Jurisdiction on behalf of any ward or conservatee. To invest all funds not currently needed for the debts and charges of the ward's or conservatee's estate in secure and guaranteed accounts.

Section 37.03. The Court shall require the presence of any proposed ward or conservatee at the hearing unless he is not able to attend by reason of medical condition as evidenced by a notarized letter from two independent licensed physicians. Said letters shall be evidence only of the proposed ward's or conservatee's medical inability to attend the hearing. The Court shall specify its findings of fact the reason for non-attendance.

Section 37.031. If the circumstance warrant, the Court may treat a petition for guardianship as a petition for conservatorship.

Section 37.032. The proposed ward or conservatee has the right to summon and cross-examine witnesses. The rules of evidence shall apply as established in Band law. In the proceedings, there is a legal presumption of capacity and the burden of proof shall be on the petitioner.

Section 37.033. In all cases, the Court shall find the facts specifically which shall include the enrollment of the individual in the Band, state separately the conclusions of law thereon, and direct the entry of an appropriate judgment.

Section 37.034. The Court may require a bond in an amount deemed appropriate and shall administer an oath of office to each guardian or conservator as cited in Band Statute 1024-MLC-3, Section 11. The Court may waive the finding of a bond, if no personal property is involved.

Section 37.035. In case of breach of a condition of the bond or any act in breach of trust, an action thereon may be prosecuted by leave of the Court by an interested person.

Section 38. Letters Of Guardianship Or Conservatorship. A copy of the order appointing the guardian or conservator shall be served upon the ward or conservatee and his counsel, if he was represented at the hearing. The order shall be accompanied by a notice which advises the ward or conservatee of his right to appeal the guardianship or conservatorship appointment within thirty days.

Section 38.01. Letters of guardianship or conservatorship shall contain: the name, address and telephone number of the guardian or conservator. The name, address and telephone number of the ward or conservatee. The nature and scope of the guardianship or conservatorship. The specific powers and legal limitations imposed by the Court on the guardian or conservator. A specific listing of the legal rights the ward or conservatee is not able to exercise.

Section 38.02. Letters of guardianship or conservatorship shall be issued to the guardian or conservator. Copies shall be mailed or personally served on the ward or conservatee, his counsel, if he was represented at the hearing, the relatives of the ward or conservatee whose names and addresses appeared on the original petition and any other person, institution, organization or agency which the Court deems reasonable to notify under the circumstances of the guardianship or conservatorship.

Section 39. Petitioners. Only the Commissioner of Human Services may petition for the appointment of a guardian or conservator for any Band member believed to be subject to guardianship or conservatorship. The petition of an adult Band member for the appointment of a guardian or conservator of his own person or estate shall have priority over a petition of the Commissioner of Human Services.

Section 40. Contested Cases - Standard Of Proof. The standard of proof in contested cases of guardianship or conservatorship shall be that of clear and convincing evidence.

Section 41. Definition. "Conservator" means a person appointed by the Court to exercise some, but not all of the powers and duties designated for the care of an incapacitated person or his estate or both.

Section 41.01. "Conservatee" means an incapacitated person for whom the Court has appointed a conservator.

Section 41.02. "Conservator" means a person appointed by the Court to exercise, some, but not all of the powers and duties designed for the care of an incapacitated person, or his estate, or both.

Section 41.03. "Incapacitated Band Member" means in the case of guardianship or conservatorship of the Band member, any adult Band member who is impaired by reason for mental condition to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person and who has demonstrated deficits in behavior which evidences his inability to meet essential requirements for his health or safety. "Unable to meet essential requirements for his health or safety" means unable to meet his needs for medical care, nutrition, clothing, shelter or safety so that, in the absence of guardianship or conservatorship, injury or illness is likely to occur in the near future.

Section 41.04. "Ward" means an incapacitated person for whom the Court has appointed a guardian.

Section 42. Appointment Of Guardian - Conservator: Petition Contents. That the Court of Central Jurisdiction may appoint a suitable and competent person upon proof of a petition to discharge the trust duties, as conservator or guardian of the person who is a minor or is an incapacitated person or who because of old age, or other cause is in need of assistance to guarantee personal freedoms or needs protection from being deceived or imposed upon by persons attempting unlawful activities upon petition of the Commissioner of Human Services. Said petition shall show: the name and address of the person for whom conservatorship is requested. The date and place of birth. The reasons for the conservatorship request and the name, address and occupation of the proposed conservator. The Court of Central Jurisdiction shall notify the nearest kin of the person at least seven days prior to the date of Court hearing, fixing the time and place for the hearing thereof, unless parties to the matter receive verbal notification and appear at the appointed day and time. Notification of hearing shall be by certified United States mail, return receipt requested or by personal service by any duly authorized Band law enforcement officer. Failure to receive notice shall not constitute grounds for dismissal of action. The Court of Central Jurisdiction shall appoint a legal officer to represent the interests of the person affected.

Section 42.01. The Court shall require a report from the appropriate Band Social Services personnel or the Bureau of Indian Affairs Social Service Division or other persons designated by the Court to make a report on the parties involved.

Section 42.02. Any guardian appointed under this Chapter shall advise the Court by written report at least

Section 42.03. Any guardianship over the person of a minor shall be automatically terminated when the ward becomes eighteen, but does not affect the guardians's liability for prior acts, nor his/her obligation to account for funds and assets of his/her ward.

Section 43. Change Of Name. The Court of Central Jurisdiction of the Mille Lacs Band of Chippewa Indians, shall have the authority to change the name of any person upon petition of the person or upon the petition of the parents of the minor. Any order issued by the Court for change of name shall be kept as a permanent record and copies shall be filed with the appropriate Federal or State Governmental Agencies.

Section 43.01. An enrolled member of the Band who shall have resided on lands under jurisdiction of the Band for one year may apply to the Court thereof, to have his name, the names of his minor children, if any, and the name of his spouse, if the spouse joins in the application, changed in the manner herein specified. They shall state in his application the name and age of his spouse and each of his children, if any, and shall describe all lands in the state in or upon which he, his children and his spouse if their names are also to be changed by this application, claim any interest or lien, and shall appear personally before the Court and prove his identity by at least two witnesses. If he be a minor and the application shall be made by his guardian or next of kin. Every person who, with intent to defraud, shall make a false statement in any such application shall be guilty of a fraud offense, however, that no minor child's name may be changed without both of his parents having notice of the pending of the application for change of name, whenever practicable, as determined by the Court.

Section 43.02. Upon meeting the requirements of Section 43.01, the Court shall grant the application unless it finds that there is an intent to defraud or mislead or in the case of the change of a minor child's name, the Court finds that such name change is not in the best interest of the child. The Court shall set forth in the order the name and age of his spouse and each child of the applicant, if any, and shall state a description of the lands, if any, in which the applicant and his spouse and children, if any, claim to have an interest. The Clerk shall file such order and record the same in the judgment book. If lands be described therein, a certified copy of the order shall be filed for record by the Clerk with the county recorder of each county wherein any of the same are situated. Before doing so he shall present the same to the county auditor who shall enter the change of name in his official records and note upon the instrument, over his official signature, the words "change of name recorded." Any such order shall not be filed, nor any certified copy thereof be issued, until the applicant shall have paid to the Clerk the cost of such record. The fee of the Clerk shall be as provided by law. No application shall be denied on the basis of the marital status of the applicant.

Section 44. Immunity For Band Officers And Officials For Good Faith Performance Of Public Acts And Deeds. Any employee or appointee to a position in the civil service of the Mille Lacs Band of Chippewa Indians who shall act in a manner consistent with their statutory authority shall be immune from any civil cause of action in any court of competent jurisdiction. Burden of proof shall rest upon the complainant.

Section 45. Severability. If any provisions of this Chapter or the application thereof to any person, business, corporation or circumstances is held invalid, the invalidity shall not affect other provisions or application of this Chapter which can be given effect without the invalid provisions or application and to this end the provisions of this Chapter are declared severable.

Section 46. Reservation of Right of Amendment. The Band Assembly hereby fully reserves the right to alter, amend, or repeal the several provisions of this Chapter, and all rights and privileges granted or extended hereunder shall be subject to such reserved rights.

Section 47. Domestic Abuse Prevention. There shall exist an action known as a petition for an order for protection in cases of domestic abuse before the Court of Central Jurisdiction. Domestic abuse is hereby defined as physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members. Family or household members is defined as the spouse, parents and children, person related by consanguinity, and persons jointly residing in the same dwelling unit. All actions brought under this and subsequent related Sections shall be given docket priority by the Court of Central Jurisdiction.

Section 48. Order for Protection. A petition for relief under this Section may be made by any family or household member on behalf of himself or on behalf of minor family or household members.

Section 48.01. A petition for relief shall allege the existence of domestic abuse, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought.

Section 48.02. A petition for relief may be made regardless of whether or not there is a pending lawsuit, complaint, petition or other action between the parties.

Section 48.03. The Court shall provide simplified forms and clerical assistance to help with the writing and filing of a petition under this Section by a person not represented by counsel.

Section 48.04. The Court shall advise a petitioner under Section 48.03. of the right to file a motion and affidavit and to sue in forma pauperis pursuant to Band Statute and shall assist with the writing and filing of the motion and affidavit.

Section 49. Hearing on Application. Upon receipt of the petition, the Court shall order a hearing which shall be held not later than 14 days after the date of the order. Personal service shall be made upon the respondent not less than five days prior to the hearing. In the event that service cannot be made, the Court may set a new date.

Section 50. Relief by the Court. Upon notice and hearing, the Court may provide relief as follows:

- (a) Restrain any party from committing acts of domestic abuse;
- (b) Exclude the abusing party from the dwelling which parties share or from the residence of the petitioner;
- (c) Award temporary custody or establish temporary visitation with regard to minor children of the parties;
- (d) Establish temporary support for minor children or a spouse;
- (e) Provide counseling or other social services from the abusing party or if there are minor children;
- (f) Order, in its discretion, other relief as it deems necessary for the protection of a family or household member, including orders or directives to the Law Enforcement Agency of the Band, as provided in this Section.

Section 50.01. Any relief granted by the order for protection shall be for a fixed period not to exceed one year.

Section 51. Temporary Order. Where an application under this Section alleges an immediate and present danger of domestic abuse, the Court may grant an ex parte temporary order for protection, pending a full hearing, and granting relief as the Court deems proper, including an order:

- (a) Restraining any party from committing acts of domestic abuse;
- (b) Excluding any party from the dwelling they share or from the residence of the other except by further order of the Court.

Section 51.01. An ex parte temporary order for protection shall be effective for a fixed period not to exceed 14 days. A full hearing, as provided by this Section, shall be set for not later than seven days from the issuance of the temporary order. The respondent shall be served forthwith, a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing.

Section 51.02. Service of Order. Any order issued under this Section shall be personally served upon the respondent.

Section 51.03. Assistance of the Law Enforcement Agency of the Band in service or execution. When an order is issued under this Section upon request of the petitioner, the Court shall order the Law Enforcement Agency of the Band to accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence, or otherwise assist in execution or service of the order of protection.

Section 51.04. Right to Apply for Relief. (a) A person's right to apply for relief shall not be affected by his or her leaving the residence or household to avoid abuse. (b) The Court shall not require security or bond of any party unless it deems necessary in exceptional cases.

Section 51.05. Modification of Order. Upon application, notice to all parties, and hearing, the Court may modify the terms of an existing order for protection.

Section 51.06. Titles. Nothing in this Section shall affect the title to property, real or personal.

Section 51.07. Copy to Law Enforcement Agency. Upon the request of the petitioner, any order for protection granted pursuant to this Section shall be forwarded by the Clerk of Court within 24 hours to the Law Enforcement Agency of the Band with jurisdiction over the residence of the applicant.

Section 51.08. Violation of an Order for Protection. (a) Whenever an order for protection is granted pursuant to this Section, and the respondent or person to be restrained knows of the order, violation of the order for protection is a misdemeanor pursuant to Band Statute 1024-MLC-3, Section 31.03.



Section 51.09. Upon the filing of an affidavit by the petitioner or any Law Enforcement Officer, alleging that the respondent has violated any order for protection granted pursuant to this Section, the Court may issue an order to the respondent, requiring the respondent to appear and show cause within 14 days why he should not be found in contempt of court and punished therefor. The hearing may be held by the District in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation.

Section 51.10. Immunity for Law Enforcement. A Law Enforcement Officer is not liable for a failure to perform a duty required by Section 51.09.

CHAPTER 30

CIGARETTE EXCISE TAX

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Band Statute 1085-MLC-30

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## BAND STATUTE 1085-MLC-30-39

### Preamble

It is enacted, a code for the imposition of general sales and excise taxes on territories governed by the Non-Removable Mille Lacs Band of Chippewa Indians. The imposition of excise taxes on the sale, use, consumption, handling, possession and distribution of cigarettes, general sales, gasoline and petroleum products excise tax along with income tax, estate tax, and occupation tax and employment rights provisions for Indians on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians for the expressed purpose of preemption of any applicable taxes imposed pursuant to Minnesota Statutes, Chapter 270-298 on transactions involving the Band and its members of any constituent Band of the Non-Removable Mille Lacs Band of Chippewa Indians; and, for other expressed and related purposes vital to the economic affairs and sovereignty of the Non-Removable Mille Lacs Band of Chippewa Indians.

Section 1. Findings and Determinations. The Band Assembly hereby finds that the agreement relating to the refundment of sales and use taxes and motor vehicle excise taxes which purports to grant continuing authority to the state of Minnesota to collect taxes from members of any constituent Band of the Non-Removable Mille Lacs Band of Chippewa Indians, absent the consent of the Congress of the United States and the consent of each constituent Band of the Non-Removable Mille Lacs Band of Chippewa Indians pursuant to 25 U.S.C. 1322 and 1326 was ultra vires, to each party; and, that the Solicitor General properly declared such agreement null and void.

Section 1.01. The Band Assembly hereby finds that the state of Minnesota was officially notified that the agreements on cigarette and alcoholic beverages and petroleum products taxes are terminated effective January 30, 1985.

Section 1.02. The Band Assembly hereby finds and determines that the imposition of an excise tax on the gross receipts from sales at retail establishments under the jurisdiction of the Mille Lacs Band of Chippewa Indians - Corporate Commission is an effective way to regulate commercial activity in this area; and, that such regulations is vital to the economic security, political integrity and general welfare of the constituent Bands on territories governed by the Non-Removable Mille Lacs Band of Chippewa Indians. Any such tax, imposed herewith shall pre-empt any such similar tax imposed by Minnesota Statutes.

Section 1.03. The Band Assembly hereby finds that the imposition of cigarette excise tax on the sale, use, consumption, handling, possession and distribution of cigarettes and tobacco products is an effective way to regulate commercial activity in this area; and, that such regulation is vital to the economic security, political integrity and general welfare of the constituent Bands on territories governed by the Non-Removable Mille Lacs Band of Chippewa Indians. Any such tax imposed herewith shall pre-empt any such similar tax imposed by Minnesota Statutes.

Section 1.031. The Band Assembly hereby finds that the Mille Lacs Band of Chippewa Indians - Corporate Commission shall be the sole licensed distributor of cigarette and tobacco products to members of any constituent Band on territories under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians, and that the interests of the Band for such a licensed and regulated commercial enterprise outweighs any interest of the state of Minnesota that might exist in the unregulated sale of such products within said territory by the Band.

Section 1.032. The Band Assembly hereby finds that the sale of state tax-exempt cigarette and tobacco products to non-Indians who enter lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians is prohibited until such time as a government-to-government agreement with the state of Minnesota is concluded which specifically designates the Band as an agent of the state authorized to collect and enforce the Minnesota cigarette excise tax pursuant to Chapter 297 - Minnesota Statutes.

Section 1.033. The Band Assembly hereby finds that the Mille Lacs Band of Chippewa Indians - Corporate Commission shall generate revenues for the Non-Removable Mille Lacs Band of Chippewa Indians through their licensed operation of a cigarette and tobacco products enterprise at the wholesale and retail levels without any loss of a competitive advantage with respect to other businesses in the surrounding territories as a result of any taxation mechanism imposed herewith.

Section 1.034. The Band Assembly hereby finds that the provisions of Section 1.03 shall be liberally construed so as to be legally sufficient to preclude any justifiable cause for the state of Minnesota and any of its governmental entities or political sub-divisions thereof, from any action of seizure, as contraband, of unstamped cigarettes and/or tobacco products travelling to the Mille Lacs Band of Chippewa Indians - Corporate Commission from any out-of-state Indian entity under provisions of the Buy Indian Act (25 U.S.C. 47).

Section 1.04. The Band Assembly hereby finds and determines that the imposition of an excise tax on all gasoline used in producing and generating power from propelling motor vehicles used in the performance of official Government functions and on all public service contracts whereby the roads under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians shall be used, is an effective way to regulate commercial activity in this area; and, that such regulation is vital to the economic security, political integrity and general welfare of the constituent Bands on territories governed by the Non-Removable Mille Lacs Band of Chippewa Indians. Any such tax imposed herewith shall pre-empt any such similar tax imposed by Minnesota Statutes.

Section 1.05. The Band Assembly hereby finds and determines that the imposition of an excise tax on the purchase price of any motor vehicle purchased or acquired either in or outside of territories under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians, which is required to be registered under the laws of the Non-Removable Mille Lacs Band of Chippewa Indians, is an effective way to regulate commercial activity in this area; and, that such regulation is vital to the economic security, political integrity and general welfare of the constituent Bands on territories governed by the Non-Removable Mille Lacs Band of Chippewa Indians. Any such tax imposed herewith shall pre-empt any such tax imposed by Minnesota Statutes.

Section 1.06. The Band Assembly hereby finds and determines that the imposition of an annual income tax on those persons who earn income from the Non-Removable Mille Lacs Band of Chippewa Indians and any of its political sub-divisions or entities is an effective way to fulfill the general public policy of the Band and that such an imposition of said taxes is vital to the economic security, political integrity and general welfare of the constituent Bands on territories governed by the Non-Removable Mille Lacs Band of Chippewa Indians. Any such tax imposed herewith shall pre-empt any such similar tax imposed by Minnesota Statutes.

Section 1.07. The Band Assembly hereby finds and determines that the imposition of an estate tax upon the transfer of estates of decedents, is an effective way to regulate estate transfers; and, that such regulation is vital to the economic security, political integrity and general welfare of the constituent Bands on territories governed by the Non-Removable Mille Lacs Band of Chippewa Indians. Any such tax imposed herewith shall pre-empt any such similar tax imposed by Minnesota Statutes.

Section 1.08. The Band Assembly hereby declares that the inherent sovereign right to tax shall never be surrendered, suspended or contracted away. Taxes shall be uniform upon the same class of subjects and shall be levied and collected for public purposes.

Section 1.09. The Band Assembly hereby declares that the intent and purposes of Chapters 30-39, inclusive of the statutes of the Non-Removable Mille Lacs Band of Chippewa Indians is to obtain and retain forever the sovereign rights of the people who comprise the constituent Bands of the Non-Removable Mille Lacs Band of Chippewa Indians to be free from all taxation imposed by the state of Minnesota and any of its political sub-divisions by the imposition of like taxes to support government services for the people and by the people, and the same shall be liberally construed to effect this purpose. Nothing herein shall be construed as a waiver of sovereign immunity by the Non-Removable Mille Lacs Band of Chippewa Indians in any court of competent jurisdiction with the exception of limited waivers to the Court of Central Jurisdiction authorized herewith.

Section 1.10. The findings and determinations of Section 1 - 1.09 shall apply as findings and determinations for Chapters 30 - 39 inclusive in their individual and collective application to any interpretation of this Band statute. Therefore, it is hereby declared that only one Band statute citation be used to refer to the provisions of Chapters 30 - 39 in all sections thereof.

Section 1.11. The Band Assembly hereby finds and declares that the Solicitor General in and for the Non-Removable Mille Lacs Band of Chippewa Indians shall have an obligation and duty to represent the interests of the Commissioner of Finance in any matter before the Court of Central Jurisdiction that arises from any provision of this Band statute. He shall represent the Commissioner in any cause of action where the performance of the Commissioner's official government function is called into question or where any judgment would expend itself on the property of the Non-Removable Mille Lacs Band of Chippewa Indians. It is hereby enacted into law.

Section 2. Tax on Cigarettes. A tax is hereby imposed upon the sale of cigarettes on territories governed by the Non-Removable Mille Lacs Band of Chippewa Indians or having cigarettes in possession on territories governed by the Non-Removable Mille Lacs Band of Chippewa Indians with the intent to sell and a tax upon the Mille Lacs Band of Chippewa Indians - Corporate Commission as the licensed distributor at the following rates.

Section 2.01. The tax on cigarettes is hereby imposed in the amount of seventeen cents per package of cigarettes.

Section 2.02. The tax on long cigarettes per unit packages shall be twenty-two cents per package of cigarettes.

Section 3. Tax Upon Use Or Storage Of Cigarettes By Consumers. A tax is hereby imposed upon the use or storage by Indians who consume cigarettes and who reside on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians, and upon such consumers at the following rates.

Section 3.01. The tax on such cigarettes shall be seventeen cents on each such package of cigarettes.

Section 3.02. The tax on such long cigarettes shall be twenty-two cents on each such package of cigarettes.

Section 4. Tax On Tobacco Products. A tax is hereby imposed upon all tobacco products in the territories governed by the Non-Removable Mille Lacs Band of Chippewa Indians and upon the Mille Lacs Band of Chippewa Indians - Corporate Commission, as the sole licensed distributor of tobacco products at the rate of twenty (20) percent of the wholesale sales price of such tobacco products, except little cigars, which shall be taxed at the same rates as cigarettes. Long grain and plug tobacco used for cultural purposes is hereby exempt from taxes imposed herein.

Section 4.01. A tax is hereby imposed upon the use or storage by Indian consumers of tobacco products on territories governed by the Non-Removable Mille Lacs Band of Chippewa Indians, and upon such consumers, at a rate of twenty (20) percent of the cost of such tobacco products, except little cigars which shall be subject to the same rate of tax imposed on cigarettes found in Section 2 with the exception of long grain and plug tobacco used for cultural purposes.

Section 5. Exemptions To Taxes Imposed In Sections 3 and 4. Except as otherwise provided in this Chapter, any consumers who shall store cigarettes or little cigars of two hundred (200) or less in the possession of any one consumer, provided that such cigarettes or little cigars were carried into lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians by such consumers.

Section 5.01. The tax shall not apply to the storage of tobacco products in quantities of:

Section 5.011. Not more than fifty (50) cigars;



Section 5.012. Not more than ten (10) ounces of snuff or snuff powder.

Section 5.013. Not more than one pound of smoking or chewing tobacco or other tobacco products not specifically mentioned herein, in the possession of any one consumer.

Section 5.014. The tax imposed by this Chapter shall be in addition to any and all other taxes or license fees now or hereafter imposed.

Section 5.015. The tax imposed by this Chapter shall not be construed as a cost of doing business or an overhead expense by the Mille Lacs Band of Chippewa Indians - Corporate Commission.

Section 6. Legal Incidence Of Taxes Imposed. The legal incidence of the Non-Removable Mille Lacs Band of Chippewa Indians cigarette and tobacco products excise tax on the sale, use, consumption, handling, possession and distribution of said products shall be placed on the Mille Lacs Band of Chippewa Indians - Corporate Commission, as the sole licensed distributor who will first sell, use, consume, handle, possess and distribute the cigarette and tobacco products. As the first taxable event, the Commission as an Indian retailer upon whom the tax imposed by Minnesota Statutes Chapter 297 cannot be legally imposed as it is herewith pre-empted by this Chapter of the law of the Non-Removable Mille Lacs Band of Chippewa Indians.

Section 6.01. The Mille Lacs Band of Chippewa Indians - Corporate Commission may shift the economic incidence of taxes imposed by this Chapter to the ultimate consumer and such a tax so shifted shall be considered as consensual.

Section 7. Distribution Of Free Sample Packages. The Commissioner of Corporate Affairs may authorize distribution of free packages of cigarettes by the Corporate Commission on the territories under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians provided that monthly reports and payment of taxes as imposed in Section 2 shall be made directly to the Commissioner of Finance in the manner and under the terms provided for by him.

Section 7.01. Any manufacturer is authorized to provide such packages that contain not more than fifteen (15) cigarettes per package.

Section 7.02. No member shall purchase more than five (5) cartons of cigarettes from any licensed retailer or the distributor during one calendar day.

Section 8. Licensure Of Distributor. The Mille Lacs Band of Chippewa Indians - Corporate Commission shall apply to the Band Assembly, upon the recommendation of the Chief Executive no later than March 1, 1985 for a license to distribute to any business entity of the Commission, cigarette and tobacco products for consumption by any member of any constituent Band of the Non-Removable Mille Lacs Band of Chippewa Indians or to any non-member pursuant to any agreement authorized in Section 1.04.

Section 8.01. The application for such a license shall be made on a form prescribed by the Solicitor General and shall state the name and address of the applicant, the names and addresses of the incorporators, the names and addresses of officers, the address of its principal place of business, the locations of business entity(s) where cigarette and tobacco products will be sold and other such information as the Solicitor General may prescribe.

Section 8.02. The application for a distributors license shall be accompanied by a fee of two hundred dollars and a corporate surety bond issued by the Secretary of Treasury in the amount of one thousand dollars, conditioned upon the true and faithful compliance by the licensee with all of the provisions of this Chapter. A separate application for license as a retail vendor shall be made for each place of business authorized pursuant to Section 8, shall be accompanied by a fee of one hundred dollars.

Section 8.03. Any license issued pursuant to the provisions of Section 8 shall be valid for a period of one year from the date of issuance. Renewal license shall be issued, founded upon faithful compliance with the provisions of this Chapter and a fee of one hundred dollars for the distributors license and fifty dollars for the retailers license.

Section 8.04. Each license shall be prominently displayed on the premises covered by the license. No license shall be transferrable to any other person or entity.

Section 8.05. The Solicitor General, upon probable cause, may revoke, cancel or suspend the license of the distributor or any retailer for violations of provisions of Section 9 - 13, or any other law applicable to the sale of tobacco products. No license shall be revoked or cancelled except after notice and hearing as provided in Section 13.

**Section 9. Records Of Distributor And Retailers.** Every distributor and retailer of cigarette and tobacco products, at its licensed place of business shall keep accurate records for that place of business including itemized invoices of cigarettes held, purchased, brought in, all sales of cigarettes made to the retailers and ultimate member consumers. When the distributor sells cigarettes to any member consumer at its licensed address, an invoice of those sales shall be required. The distributor is also required to itemize invoices of its sales to retail vendors. All records, books and other pertinent papers and documents relating to the purchase, sale or disposition of cigarettes shall be preserved for a period of one year after the date of the document or record entry. All records, books and other pertinent papers and documents relating to the purchase, sale or disposition of cigarettes shall be classified and confidential property of the Non-Removable Mille Lacs Band of Chippewa Indians, and shall not be open to inspection by any person or state governmental entity exterior to the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians. All such documents shall be deemed classified and restricted to a cause-to-know-basis for those persons subject to interior jurisdiction; and, the Court of Central Jurisdiction shall be bound thereby.

**Section 9.01.** At any time during normal business hours the Commissioner of Finance, or his duly authorized agents, may enter any retail business of the Corporate Commission, without a search warrant and inspect the premises, the records required to be kept under Section 9 and the packages of cigarettes to determine whether or not all the provisions of these Sections are being fully complied with. Any interference, deception, hindrance or denial of free access in making such examination shall result in the immediate suspension of any license and legal action to revoke said license.

**Section 10. Payment Of Tax And Filing Of Returns.** On or before the tenth day of each month, the retailers shall file a return with the Commissioner of Finance showing the sale price, the quantity of cigarette and tobacco products sold during the previous month, the quantity of cigarettes and tobacco products in inventory and other information deemed necessary on a form prescribed by the Commissioner of Finance. The return shall be accompanied by a certification, under penalty of perjury, that the information contained is true and correct.

**Section 10.01.** On or before the fifteenth day of each month, the distributor shall file a return with the Commissioner of Finance showing the quantity of cigarette and tobacco products brought into the territories under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians, the quantity of said products assigned to the retailers, the quantity of said products held in inventory on a form prescribed by the Commissioner of Finance. The return shall be accompanied by a remittance for the full unpaid tax liability shown by it. The return shall also contain a statement that the information provided is true and correct under penalty of perjury and be signed by the Commissioner of Corporate Affairs.

Section 10.02. All returns, together with any corrections according to the best judgment and information of the Commissioner of Finance, shall be prima facie evidence of the correctness of the amount of tax due, as shown therein.

Section 10.03. All returns which are late and payments of taxes which are due pursuant to time specified in Section 10.01 shall be liable for penalty of twelve percent per day on the tax found due. If it is found that a false and fraudulent return has been filed or filed late with intent to evade the taxes imposed in Section 2, 3 or 4, the penalty shall be twenty-five percent of the entire tax as shown by the corrected return and shall subject the persons to criminal prosecution and civil liability. In no event shall the penalty for failure to pay such tax within the time provided for such payment be less than twenty-five dollars.

Section 11. Contraband. All packages of cigarettes which are sold to members by the distributor and/or any authorized retailer which contain stamps affixed to them pursuant to Minnesota Statutes - Chapter 297.01 - 297.13 shall be deemed as contraband and seized with or without process and shall be subject to forfeiture.

Section 11.01. Any device for the vending of cigarettes to members which contain stamps authorized pursuant to Minnesota Statutes - Chapter 297.01 - 297.13 shall be deemed as contraband and seized with or without process and shall be subject to forfeiture.

Section 12. Unlawful Activity. Any person, who is required to keep records or to make returns who shall falsify or fail to keep such records or falsify or fail to make such returns, shall be deemed guilty of falsification of records, and upon conviction thereof, shall be fined up to five hundred dollars, and/or sentenced to labor not to exceed 180 days.

Section 12.01. Any person other than a licensed distributor and/or retailer, who shall sell, offer to sell or have in his/her possession with intent to sell or offer for sale any cigarettes or tobacco products, shall be deemed guilty of unlawful possession, and upon conviction thereof, shall be sentenced to labor not to exceed 180 days, and/or a fine not to exceed five hundred dollars.

Section 12.02. Any person, who shall refuse to permit the examination of records by authorized officials of the Band or shall interfere with the performance of official duty, shall be deemed guilty of obstruction of government function, and upon conviction thereof, shall be sentenced to labor, not to exceed 180 days, and/or a fine not to exceed five hundred dollars.

Section 12.03. Any person other than an authorized representative of the distributor or retailer, who shall possess, receive or transport more than two thousand cigarettes shall be deemed guilty of an unlawful possession of contraband, and upon conviction thereof, shall be sentenced to labor not to exceed 180 days, forfeiture of said contraband, and/or a fine not to exceed five hundred dollars.

Section 12.04. Any authorized representative of the distributor or retailer, who shall offer for sale or who shall sell any cigarettes or tobacco products to a non-member of the Non-Removable Mille Lacs Band of Chippewa Indians absent provisions authorized by Section 1.04 of this Chapter shall be deemed guilty of an illegal sale of contraband, and upon conviction thereof, shall be sentenced to labor not to exceed 180 days, and/or a fine not to exceed five hundred dollars.

Section 12.05. Any person, who in any manner attempts to evade or who aids or abets in the evasion or attempted evasion of any provisions of this Chapter, shall be deemed guilty of evasion, and upon conviction thereof, shall be sentenced to labor not to exceed 180 days, and/or a fine not to exceed five hundred dollars.

Section 13. Enforcement Of Provisions Of Chapter 30. The Commissioner of finance shall enforce all provisions of this Chapter. He may prescribe all rules and regulations consistent with the provisions of this Chapter through Commissioner's Orders. He may call upon the Solicitor General or any Band law enforcement officer to aid him in the performance of his duties. He may appoint such employees of the Non-Removable Mille Lacs Band of Chippewa Indians as may be required to administer the provisions of this Chapter. He may bring injunction proceedings against the distributor or any licensed retailer from acting in a manner inconsistent with the provisions of this Chapter.

Section 13.01. In no event, shall the expenses of administration of the provisions of this Chapter exceed five percent of the gross receipts of the taxes imposed herein.

Section 13.02. No person shall be excused from testifying or from producing, pursuant to a subpoena, any books, papers, records or memoranda in any investigation, upon the grounds that the testimony or evidence, documentary or otherwise, may tend to incriminate him or subject him to criminal prosecution. Any person, who shall testify, shall receive immunity from such prosecution provided that the testimony under oath be the truth, pursuant to the lawful subpoena. No person shall be exempt from prosecution and punishment for perjury committed in so testifying.

Section 14. Revenue Distribution. All revenues derived from taxes, penalties and interest from this Chapter shall be deposited in a trust fund account in the name of the 'Non-Removable Mille Lacs Band of Chippewa Indians: Taxation Revenue Account' and not be distributed except upon formal Revenue Resolution of the Band Assembly so directing disbursement.

Section 14.01. The Band Assembly hereby declares that the revenues from cigarette and tobacco products taxes shall be distributed to the Rights Protection Fund. Notwithstanding the provisions of Section 14, any expenditure of said funds for purposes other than exterior legal funding purposes shall require a Revenue Resolution of the Band Assembly.

Section 14.02. It shall be unlawful to disburse any revenues from cigarette and tobacco products to any elected or appointed person, or employee of the Non-Removable Mille Lacs Band of Chippewa Indians, or of any entity of the Band or for any purpose inconsistent with provisions of Section 14.01.

Section 15. Court Of Central Jurisdiction - Judicial Review. The Court of Central Jurisdiction is hereby granted exclusive subject matter jurisdiction over any cause of action which may arise from the implementation of provisions of this statute.

Section 15.01. Any person, who shall have a cause of action arising from any provisions of this Chapter, may petition the Court only upon first payment of any tax due or the posting of a bond in the amount due in favor of the Taxation Revenue Account as a means that he/she intends to pay the tax if the Court so requires.

Section 16. Limited Waiver Of Sovereign Immunity. The Band Assembly hereby waives sovereign immunity to be sued only in the Court of Central Jurisdiction in any seizure of property matter pursuant to provisions of this Chapter. However, any such action shall only be directed against the Commissioner of Finance, in his/her official capacity in order to challenge any seizure action.

Section 16.01. Any said limited waiver of sovereign immunity shall be valid only in the Court of Central Jurisdiction and subject to further limitations in Sections 16.02 and 16.03.

Section 16.02. Any and all seizure causes of action which arise pursuant to this Band Statute shall be limited to actions against the Commissioner of Finance in his official capacity for an order returning any seized goods.

Section 16.03. All other causes of action which arise pursuant to this Band Statute shall be limited in relief to declaratory or injunctive measures and no damages, monetary or otherwise, including but not limited to attorney fees shall be permitted.

Section 17. Reservation Of Right. The Band Assembly hereby fully reserves the right to alter, amend, or increase or decrease taxes imposed herein, or repeal the several provisions of this Chapter, and all rights and privileges granted or extended hereunder shall be subject to such reserved right.

Section 18. Severability. If any provisions of this Chapter, or the application thereof, to any person, business, corporation or circumstances is held invalid, the invalidity shall not affect other provisions or application of this Chapter which can be given effect without the invalid provisions or application and to this end of the provisions of this Chapter are declared severable.

Section 19. Definitions. When used in Section 2 - 14, unless the context clearly indicates otherwise, the following terms shall have the meanings, respectively ascribed to them in this Section.

Section 19.01. a) "Cigarettes" means any roll for smoking made wholly or in part of tobacco, and encased in any material except tobacco.

b) "Person" means any individual, firm, association, partnership, joint stock company, joint adventure, corporation, trustee, agency or receiver, or any legal representative of any of the foregoing.

c) "Sale" means any transfer, exchange, or barter, in any manner or by any means whatsoever, for a consideration, and includes and means all sales made by any person. It includes a gift by a person engaged in the business of selling cigarettes, for advertising, as a means of evading the provisions of Sections 12.05, or for any other purpose whatsoever.

d) "Distributor" means the Mille Lacs Band of Chippewa Indians - Corporate Commission.

e) "Place of business" means any place where cigarettes are sold or where cigarettes are manufactured, stored, or kept for the purpose of sale or consumption, including any vessel, vehicle, airplane, train or vending machine.

f) "Retailer - Vendor" means any licensed business entity of the Corporate Commission.

g) "Stamp" means the adhesive stamp supplied by the revenue commissioner or the imprint made by a tax meter machine authorized by the commissioner.

h) "Consumer" means any person who has title to or possession of cigarettes in storage, for use or other consumption in this state.

i) "Storage" means any keeping or retention of cigarettes for use or consumption in this state.

j) "Use" means the exercise of any right or power incidental to the ownership of cigarettes.

k) "Tobacco product" means cigars; little cigars as defined herein; cheroots; stogies; periques; granulated, plug, cut crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clipping, cutting and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but shall not include cigarettes as defined in this Section.

l) "Little Cigar" means any roll for smoking, made wholly or in part of tobacco, which has a factory list price not exceeding \$12 per thousand, irrespective of size or shape and irrespective of whether the tobacco is flavored, adulterated or mixed with any other ingredient where such roll has a wrapper or cover made wholly or in part of tobacco, and where such roll weighs not more than three pounds per thousand.

m) "Member" means any Indian person who resides on or otherwise enters lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians, who is recognized by the governing entities of the Band as an enrolled members in any status who is eligible for government services and participating in activities of the Band.

n) "Non-member" means any person who is not recognized as an enrolled member of the Band and who is not eligible to participate in government services or activities restricted to members only.

o) "Rights Protection Fund" means the exterior legal contract between the Band and Ziontz, Pirtle, Morisset, Ernstoff and Chestnut.



## CHAPTER 31

### GENERAL USE & SALES TAX

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## CHAPTER 31

Section of Findings and Determinations. The Findings and Determinations of the Band Assembly enacted in Band Statute 1085-MLC-30, Sections 1 - 1.11 are reenacted as applicable provisions of law for each Chapter of law entitled 'Band Statute 1085-MLC-31-39'. The designation '31-39' denotes only various Chapter numbers of the same Band Statute, which are established as the Public Taxation Policy of the Non-Removable Mille Lacs Band of Chippewa Indians.

Section 20. Imposition Of General Sales Tax. There is hereby imposed an excise tax of five percent of the gross receipts from sales and retail, as herein defined, made by any licensed retail vendor organized pursuant to Band Statute 1077-MLC-16, on territories governed by the Non-Removable Mille Lacs Band of Chippewa Indians after February 28, 1985. Notwithstanding the foregoing, the tax imposed hereby upon sales at retail through coin-operated vending machines shall be four percent of the gross receipts of such sales.

Section 21. Legal Incidence Of Tax Imposed. The legal incidence of the Non-Removable Mille Lacs Band of Chippewa Indians general sales tax on the gross receipts from sales at retail shall be placed upon each retail vendor organized pursuant to provisions of Band Statute 1077-MLC-16. Each retail vendor may, at the discretion of the Mille Lacs Band of Chippewa Indians - Corporate Commission, shift the economic incidence of said tax forward to any consumer; and any such tax shift shall be considered as consensual. Notwithstanding, the preceding, the legal incidence of this tax shall not be construed as falling upon any consumer.

Section 22. Presumption Of Tax - Burden Of Proof. It is the purpose for proper administration of provisions of Chapter 31 and to prevent any retailer from evading this tax, it shall be presumed that all gross sales are subject to the tax until the contrary is established. The burden of proving that a sale is not a sale at retail is upon the person who makes the sale.

Section 22.01. The use tax required to be collected by the retailer constitutes a debt owed by the retailer to the Non-Removable Mille Lacs Band of Chippewa Indians and shall be a debt from the retailer to the Corporate Commission recoverable at law in the same manner as other debts.

Section 23. Exemptions To Sales Tax. The following are specifically exempted from taxes imposed in Chapter 31.

Section 23.01. The gross receipts from the sale of food products including, but not limited to cereal and cereal products, butter, cheese, milk and milk products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetable and vegetable products, fruit and fruit products, spice and salt, sugar and sugar products, coffee and coffee substitutes, tea, cocoa and cocoa products.

Section 23.02. The gross receipt from the sale of prescribed drugs and medicine intended for use, internal or external, in the cure, mitigation, treatment or prevention of illness or disease in human beings and products consumed by humans for the preservation of health, including prescription glasses, therapeutic and prosthetic devices, but not including cosmetics or toilet articles notwithstanding the presence of medicinal ingredients therein.

Section 23.03. The gross receipts from the sale of an existing home or residence, or the construction a new residence when each is financed in whole or part by the United States, in accordance with 38 U.S.C., Section 8.01 - 8.05, as amended.

Section 23.04. The gross receipt from the sale of residential heating fuels in the following manner: all fuel oil, coal, wood, steam, propane gas, and L.P. gas sold to residential customers for residential use; natural gas sold for residential use to customers who are metered and billed as residential users and who use natural gas for their primary source of residential heat, for the billing months of November, December, January, February, March and April; electricity sold for residential use to customers who are metered and billed as residential users and who use electricity for their primary source of residential heat, for the billing months of November, December, January, February, March and April.

Section 23.05. Nothing herein shall exempt the gross receipts from sales of road building materials intended for use on roads under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians, the construction or repair thereof, whether purchased by the Band or any contractor.

Section 24. Special Surcharge Taxes. There is hereby imposed, a special surcharge tax of one percent on the sale of alcoholic and/or intoxicating beverages to be deposited by the Commissioner of Finance into a special trust fund account entitled 'Non-Removable Mille Lacs Band of Chippewa Indians - Human Resources Trust Fund Account', which is hereby created. Expenditures shall be made from said account only as may be authorized by special Revenue Resolution of the Band Assembly.

Section 24.01. There is hereby imposed, a special surcharge tax of ten percent on all fines imposed pursuant to lawful authority by any Justice of the Court of Central Jurisdiction. Any said surcharge shall be placed in the Judicial Trust Fund Account, which is hereby created. Expenditures shall be made from said account only as may be authorized by special Revenue Court Order of the Chief Justice of the Court of Central Jurisdiction for the day-to-day administration costs of the Court. In no event shall any such funds be utilized for the benefit of any justice or court personnel, either directly or indirectly.

Section 25. Offenses. Any person who is required to keep records or to make returns who shall falsify or fail to keep such records or falsify or fail to make such returns, shall be deemed guilty of falsification of records, and upon conviction thereof, shall be fined up to five hundred dollars, and/or sentenced to labor not to exceed 180 days.

Section 25.01. Any person who shall refuse to permit the examination of records by authorized officials of the Band or shall interfere with the performance of official duty shall be deemed guilty of obstruction of government function, and upon conviction thereof, shall be sentenced to labor, not to exceed 180 days, and/or a fine not to exceed five hundred dollars.

Section 25.02. Any person who in any manner attempts to evade or who aids or abets in the evasion or attempted evasion of any provision of this Chapter shall be deemed guilty of evasion, and upon conviction thereof, shall be sentenced to labor not to exceed 180 days, and/or a fine not to exceed five hundred dollars.

Section 26. Enforcement of Provisions of Chapter 31. The Commissioner of Finance shall enforce all provisions of this Chapter. He may prescribe all rules and regulations not inconsistent with the provisions of this Chapter through Commissioner's Order. He may call upon the Solicitor General or any Band law enforcement officer to aid him in the performance of his duties. He may appoint such employees of the Non-Removable Mille Lacs Band of Chippewa Indians as may be required to administer the provisions of this Chapter. He may bring injunction proceedings against the distributor or any licensed retailer from acting in a manner inconsistent with the provisions of this Chapter.

Section 26.01. In no event, shall the expenses of administration of the provisions of this Chapter exceed five percent of the gross receipts of the taxes imposed herein.

Section 26.02. No person shall be excused from testifying or from producing, pursuant to a subpoena, any books, paper, records or memoranda in any investigation, upon the grounds that the testimony or evidence, documentary or otherwise, may tend to incriminate him or subject him to criminal prosecution. Any person, who shall testify, shall receive immunity from such prosecution provided that the testimony under oath be the truth, pursuant to a lawful subpoena. No person shall be exempt from prosecution and punishment for perjury committed in so testifying.

Section 27. Revenue Distribution. All revenues derived from taxes, penalties, and interest from this Chapter shall be deposited in a trust fund account in the name of the 'Non-Removable Mille Lacs Band of Chippewa Indians: Taxation Revenue Account' and not be distributed except upon formal Revenue Resolution of the Band Assembly so directing disbursement.

Section 28. Court of Central Jurisdiction - Judicial Review. The Court of Central Jurisdiction is hereby granted exclusive subject matter jurisdiction over any cause of action which may arise from the implementation of provisions of this statute.

Section 28.01. Any person who shall have a cause of action arising from any provisions of this Chapter may petition the Court only upon first payment of any tax due or the posting of a bond in the amount due in favor of the Taxation Revenue Account as a means that he/she intends to pay the tax if the Court so requires.

Section 29. Limited Waiver Of Sovereign Immunity. The Band Assembly hereby waives sovereign immunity to be sued only in the Court of Central Jurisdiction in any seizure of property matter pursuant to provisions of this Chapter. However, any such action shall only be directed against the Commissioner of Finance, in his/her official capacity in order to challenge any seizure action.

Section 29.01. Any said limited waiver of sovereign immunity shall be valid only in the Court of Central Jurisdiction, and subject to further limitations in Sections 29.02 and 29.03.

Section 29.02. Any and all seizure causes of action which arise pursuant to this Band Statute shall be limited to actions against the Commissioner of Finance in his official capacity for an order returning any seized goods.

Section 29.03. All other causes of action which arise pursuant to this Band Statute shall be limited in relief to declaratory or injunctive measures and no damages, monetary or otherwise, including but not limited to attorney fees shall be permitted.

Section 30. Reservation Of Right. The Band Assembly hereby fully reserves the right to alter, amend, or increase or decrease taxes imposed herein, or repeal the several provisions of this Chapter, and all rights and privileges granted or extended hereunder shall be subject to such reserved right.

Section 31. Severability. If any provisions of this Chapter, or the application thereof, to any person, business, corporation or circumstances is held invalid, the invalidity shall not affect other provisions or application of this Chapter which can be given effect without the invalid provisions or application and to this end of the provisions of this Chapter are declared severable.

Section 32. Definitions. When used in Section 2 - 14, unless the context clearly indicates otherwise, the following terms shall have the meaning, respectively, ascribed to them in this Section.

Section 32.01. a) "Person" means any individual, partner, officer, director, firm, partnership, joint venture, association, cooperative, social club, fraternal organization, municipal or private corporation whether organized for profit or not, estate, trusts, business trusts, receiver, trustee, syndicate, the United States, the state of Minnesota, any political subdivision of Minnesota, or any other group or combination acting as a unit, and the plural as well as the singular number. As used in the preceding sentence, the term "person" includes, but is not limited to directors and officers of corporations or members of partnerships who, either individually or jointly with others, have the control, supervision or responsibility of filing returns and making payment of the amount of tax imposed by this Chapter. "Person" shall also include any agent or consignee of any individual or organization enumerated in this Section.

b) "Sale" includes, but is not limited to each of the following transactions:

- i) Any transfer of title or possession, or both, of tangible personal property, whether absolutely, or conditionally, and the leasing of or the granting of a license to use or consume tangible personal property, for a consideration in money or by exchange or barter;
- ii) The furnishing for a consideration of lodging and related services by a hotel, rooming house, tourist court, motel or trailer camp and of the granting of a similar license to use real property other than the renting or leasing thereof, for a continuous period of 30 days or more;

iii) The furnishing for a consideration of electricity, gas, water, or steam for use or consumption within this state, or local exchange telephone service and intrastate toll service except such service provided by means of coin operated telephone; the tax imposed on amounts paid for telephone service is a liability of and shall be paid by the person paying for the service. Sales by municipal corporations in a proprietary capacity are included in the provisions of this clause. The furnishing of water and sewer services for residential use shall not be considered a sale.

c) "Gross Receipts" means the total amount received, in money, or otherwise, for all sales at retail as measured by the sales price. Gross receipts from sales may, at the option of the taxpayer, be reported on the cash basis as the consideration is received or on the accrual basis as sales are made.

d) "Retailer" means persons engaged in making sales at retail.



## CHAPTER 32

### GASOLINE & PETROLEUM PRODUCTS EXCISE TAX

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Band Statute 1085-MLC-32

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## CHAPTER 32

Section of Finding And Determinations. The Findings and Determinations of the Band Assembly enacted in Band Statute 1085-MLC-30, Section 1 - 1.11 are reenacted and applicable provisions of law for each Chapter of law entitled 'Band Statute 1085-MLC-31-39'. The designation '31-39' denotes only various chapter numbers of the same Band Statute which are established as the Public Taxation Policy of the Non-Removable Mille Lacs Band of Chippewa Indians.

Section 33. Imposition Of Gasoline Excise Tax. There is hereby imposed an excise tax of fifteen cents per gallon on all gasoline and an excise tax of thirty cents per gallon on all diesel fuel used in producing and generating power for propelling all vehicles used for the lawful business of the Non-Removable Mille Lacs Band of Chippewa Indians used on those roads under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians. Further, said excise tax shall apply to gasoline and diesel fuel used in producing and generating power for propelling all motor vehicles used in the construction of new roads and the repair of existing roads pursuant to any public service contract which benefits members of the Non-Removable Mille Lacs Band of Chippewa Indians. Further, said excise tax shall apply to gasoline used in producing and generating power for propelling all motor vehicles owned by members of the Non-Removable Mille Lacs Band of Chippewa Indians when purchased from a retail vendor organized pursuant to Band Statute 1077-MLC-16.

Section 34. Authorization For Price Bidding Amongst Retailers On Lands Exterior To The Jurisdiction Of The Non-Removable Mille Lacs Band Of Chippewa Indians. The Commissioner of Corporate Affairs is hereby authorized and directed to publish a notice for bids from any gasoline dealer within a thirty mile radius of any lands under the jurisdiction of the Band, for the provisions of gasoline and diesel fuel at a negotiated price to all vehicles used for the lawful business of the Non-Removable Mille Lacs Band of Chippewa Indians, including all vehicles of any retail establishment organized pursuant to Band Statute 1077-MLC-16 by March 1, 1985. The Commissioner of Corporate Affairs is also authorized and directed to negotiate an annual geographical agreement with the lowest geographical bidder(s) to supply gasoline, diesel fuel and petroleum products to all said vehicles pursuant to Section 33 by March 15, 1985 with said contractual agreement to be ratified by the Band Assembly, no later than March 20, 1985.

Section 35. Violations. Any person, subject to the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians, who shall operate any vehicle described in Section 33, who shall purchase gasoline from any retail vendor to which no annual agreement is in force and effect, shall be fully liable for payment of the amount purchased from personal funds of said person; unless, prior written authorization from the Commissioner of Finance is granted.

Section 35.01. The Office of Management and Budget is hereby authorized to make an automatic deduction from the wages of any person who is an employee, upon receipt of proper notice from the Commissioner of Finance, that a gasoline purchase violation has occurred.

Section 35.02. The Office of Management and Budget is hereby authorized and directed to add fifteen cents to each gallon of gasoline purchased and thirty cents to each gallon of diesel fuel purchased and five percent of the gross receipts of petroleum products purchases to fulfill government purposes and to forward such calculated amounts to a trust fund account which is herewith created and entitled 'Non-Removable Mille Lacs Band of Chippewa Indians: Petroleum Products Revenue Account' within five days after monthly payment to any authorized dealer for gasoline, diesel and petroleum products purchases during the previous month.

Section 35.03. The Commissioner of Finance is hereby authorized to refund to any public service contractor one half of the gasoline excise tax and diesel fuel excise tax collected for the use in the construction or repair of roads under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians upon presentation of verifiable receipts of gasoline purchased at any authorized dealer. Any said refund shall be monthly for the previous months purchases on forms prescribed by the Commissioner of Finance, lest they be forfeited.

Section 36. Official Travel For Government Purposes Utilizing Personal Vehicles. Any person who shall operate a personal vehicle on any authorized trip travel to fulfill government purposes, with said destination and return to require one tankful of gasoline or less, shall purchase gasoline only from an authorized dealer at the commencement of said trip. The amount of gasoline purchased to be deducted from any trip travel amount authorized pursuant to policy.

Section 36.01 Any person who shall operate a personal vehicle on any authorized trip travel to fulfill government purposes, with said destination and return requires the purchase of gasoline at a dealer who is not authorized, shall purchase such gasoline from travel funds received and obtained a receipt from said

dealer in the name of the Non-Removable Mille Lacs Band of Chippewa Indians. All such receipts shall be submitted on a monthly basis to the Commissioner of Revenue, state of Minnesota for proper refund of unapplicable taxes.

Section 37. Offenses. Any person who knowing shall with authorization operate a personal or Band owned and operated motor vehicle propelled with gasoline and diesel fuel purchased for government use for non-governmental purposes shall be deemed guilty of an unlawful use of government property, and upon conviction thereof, shall be sentenced to pay a fine of one hundred dollars.

Section 37.01. Any person who shall knowingly purchase gasoline and diesel fuel from an authorized dealer with the intent to operate such vehicle for non-government purposes, shall be deemed guilty of theft, and upon conviction thereof, shall be sentenced to liability for the debt and a fine of one hundred dollars.

Section 37.02. Any person who is required to keep records or to make returns who shall falsify or fail to keep such records or falsify or fail to make such returns, shall be deemed guilty of falsification of records, and upon conviction thereof, shall be fined up to five hundred dollars, and/or sentenced to labor not to exceed 180 days.

Section 37.03. Any person, who shall refuse to permit the examination of records by authorized officials of the Band or shall interfere with the performance of official duty, shall be deemed guilty of obstruction of government function, and upon conviction thereof, shall be sentenced to labor, not to exceed 180 days, and/or a fine not to exceed five hundred dollars.

Section 37.04. Any person, who in any manner attempts to evade or who aids or abets in the evasion or attempted evasion of any provision of this Chapter, shall be deemed guilty of evasion, and upon conviction thereof, shall be sentenced to labor not to exceed 180 days, and/or a fine not to exceed five hundred dollars.

Section 38. Enforcement Of Provisions Of Chapter 32. The Commissioner of Finance shall enforce all provisions of this Chapter. He may prescribe all rules and regulations consistent with the provisions of this Chapter through Commissioner's Orders. He may call upon the Solicitor General or any Band law enforcement officer to aid him in the performance of his duties. He may appoint such employees of the Non-Removable Mille Lacs Band of Chippewa Indians as may be required to administer the provisions of this Chapter. He may bring injunction proceedings against the distributor or any licensed retailer from acting in a manner inconsistent with the provisions of this Chapter.

Section 38.01. In no event, shall the expenses of administration of the provisions of this Chapter exceed five percent of the gross receipts of the taxes imposed herein.

Section 38.02. No person shall be excused from testifying or from producing, pursuant to subpoena, any books, papers, records or memoranda in any investigation, upon the grounds that the testimony or evidence, documentary or otherwise, may tend to incriminate him or subject him to criminal prosecution. Any person who shall testify shall receive immunity from such prosecution provided that the testimony under oath be the truth, pursuant to a lawful subpoena. No person shall be exempt from prosecution and punishment for perjury committed in so testifying.

Section 39. Revenue Distribution. All revenues derived from taxes, penalties and interest from this Chapter shall be deposited in a trust fund account in the name of the 'Non-Removable Mille Lacs Band of Chippewa Indians: Taxation Revenue Account' and not be distributed except upon formal Revenue Resolution of the Band Assembly so directing disbursement.

Section 40. Court Of Central Jurisdiction - Judicial Review. The Court of Central Jurisdiction is hereby granted exclusive subject matter jurisdiction over any cause of action which may arise from the implementation of provisions of this statute.

Section 40.01. Any person who shall have a cause of action arising from any provisions of this Chapter may petition the Court only upon first payment of any tax due or the posting of a bond in the amount due in favor of the Taxation Revenue Account as a means that he/she intends to pay the tax if the Court so requires.

Section 41. Limited Waiver Of Sovereign Immunity. The Band Assembly hereby waives sovereign immunity to be sued only in the Court of Central Jurisdiction in any seizure of property matter pursuant to provisions of this Chapter. However, any such action shall only be directed against the Commissioner of Finance, in his/her official capacity in order to challenge any seizure action.

Section 41.01. Any said limited waiver of sovereign immunity shall be valid only in the Court of Central Jurisdiction, and subject to further limitations in Sections 41.02 and 41.03.

Section 41.02. Any and all seizure causes of action which arise pursuant to this Band Statute shall be limited to actions against the Commissioner of Finance in his official capacity for an order returning any seized goods.

Section 41.03. All other causes of action which arise pursuant to this Band Statute shall be limited in relief to declaratory or injunctive measures and no damages, monetary or otherwise, including but not limited to attorney fees shall be permitted.

Section 42. Reservation Of Right. The Band Assembly hereby fully reserves the right to alter, amend, or increase or decrease taxes imposed herein, or repeal the several provisions of this Chapter, and all rights and privileges granted or extended hereunder shall be subject to such reserved right.

Section 43. Severability. If any provisions of this Chapter, or the application thereof, to any person, business, corporation or circumstances is held invalid, the invalidity shall not affect other provisions or application of this Chapter which can be given effect without the invalid provisions or application and to this end of the provisions of this Chapter are declared severable.

Section 44. Legal Incidence. The legal incidence of the Non-Removable Mille Lacs Band of Chippewa Indians gasoline excise tax shall be placed upon each entity of the Executive branch of government, all independent commissions and all retail vendors licensed pursuant to Band Statute 1077-MLC-16. With specific regard to personal motor vehicle operated for personal use, the legal incidence of this tax shall not be construed as falling upon any consumer in the event of an economic shifting incidence authorized by the Mille Lacs Band of Chippewa Indians - Corporate Commission.

Section 44.01. The Commissioner of Natural Resources is hereby authorized to design and implement a system of Band government identification cards required for the lawful performance of official government service and to promulgate through Commissioner's Orders all regulatory mechanism for the prevention of misuse and abuse of said system. This government identification system shall be required for the lawful purchase of gasoline at any authorized gasoline dealer.

Section 45. Definitions. When used in Sections 2 - 14, unless the context clearly indicates otherwise, the following terms shall have the meanings, respectively, ascribed to them in this Section.

Section 45.01. a) "Petroleum Products" means gasoline and fuel oil.

b) "Gasoline" means all products commonly or commercially known or sold as gasoline (including casinghead and absorption or natural gas) regardless of their classification or uses.

c) "Person" means any individual, firm, trust, estate, partnership, association, cooperative association, joint stock company or corporation, public or private, or any representative appointed by order of any court

- d) "Dealer" means any person, except a distributor, engaged in the business of buying and selling gasoline and other petroleum products in this state.
- e) "For use in motor vehicle" means for use in producing or generating power for propelling motor vehicles on the public highways of this state or in machinery operated on the public highways of this state for the purpose of constructing, reconstructing, or maintaining such public highways. For purpose of this subsection "public highways" shall include bridges.
- f) "Motor vehicle gasoline excise tax" means the tax imposed on gasoline used in producing and generating power for propelling motor vehicles used on the public highways of this state.
- g) "Petroleum Products" means gasoline and fuel oil.



## CHAPTER 33

### MOTOR VEHICLE EXCISE TAX

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## CHAPTER 33

Section of Findings and Determinations. The Findings and Determinations of the Band Assembly enacted in Band Statute 1085-MLC-30, Sections 1 - 1.11 are reenacted as applicable provisions of law for each Chapter of law entitled 'Band Statute 1085-MLC-31-39'. The designation '31-39' denotes only various Chapter numbers of the same Band Statute, which are established as the Public Taxation Policy of the Non-Renovable Mille Lacs Band of Chippewa Indians.

Section 46. Imposition Of Excise Tax On The Purchase Price Of A Motor Vehicle. There is hereby imposed an excise tax of five percent on the purchase price of any motor vehicle purchase or acquired on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians, which is required to be registered under the laws of the Band.

Section 47. Application of Provisions of Chapter 31. All provisions of Chapter 31, Statutes of the Non-Removable Mille Lacs Band of Chippewa Indians in the following sections numbered: Section 22, 25, 26, 27, 28, 29, 30, 31 en toto shall apply herewith.

## CHAPTER 34

### INCOME TAX

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## CHAPTER 34

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Section 48. Imposition Of Income Tax. There is hereby imposed an income tax on all person income earned by the members of the Non-Removable Mille Lacs Band of Chippewa Indians and generated from civil service employment with the Non-Removable Mille Lacs Band of Chippewa Indians for the purpose of pre-emption of any income tax that may now or hereinafter be imposed by the state of Minnesota or any political sub-division thereof in the amount of one dollar.

## CHAPTER 35

### ESTATE TAX

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## CHAPTER 35

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Section 49. Imposition Of Estate Tax. There is hereby imposed, an estate tax upon the transfer of estates of decedents who are members of any constituent Band of the Non-Removable Mille Lacs Band of Chippewa Indians in an amount equal to one one-hundredth of a percent of the total value of the estate, for the purpose of pre-emption of any estate tax that may now or hereinafter be imposed by the state of Minnesota or any political sub-division.

CHAPTER 36

PUBLIC SERVICE CONTRACTS

OCCUPATION TAX

INDIAN EMPLOYMENT RIGHTS PROGRAM

BUY INDIAN

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## CHAPTER 36

Section of Finding And Determinations. The Findings and Determinations of the Band Assembly enacted in Band Statute 1085-MLC-30, Section 1 - 1.1) are reenacted and applicable provisions of law for each Chapter of law entitled 'Band Statute 1085-MLC-31-39'. The designation '31-39' denotes only various chapter numbers of the same Band Statute which are established as the Public Taxation Policy of the Non-Removable Mille Lacs Band of Chippewa Indians.

Section 50. Imposition of Public Service Contracts Occupations Tax. There is hereby imposed a Public Service Occupations Tax in an amount equal to one half of one percent of the total contractual award. Said tax shall not be in lieu of taxes imposed pursuant to Chapter 31, Section 20 on the gross receipts from materials and supply purchases necessary to fulfill any and all contractual obligations. Any contractor shall not have the options of complying with the taxation provisions of Chapter 31, Section 20 or the provisions of Chapter 36, Section 50. In the event, any contractor shall be liable for taxation imposed by Chapter 31, all material and supply purchases shall be made by the Band and in the name 'Non-Removable Mille Lacs Band of Chippewa Indians' and resold at retail/wholesale cost, whichever is applicable, and therefore exempt from general sales tax imposed by any political sub-division of the United States of America, or the state of Minnesota and any of its political sub-divisions.

Section 50.01. All said occupation taxes shall become due and payable from the proceeds of each progress payment in proportional amounts within three days after receipts by the contractor as the work proceeds throughout the completion of the contracts. A lien for any said taxes is hereby imposed upon the progress payment.

Section 51. Declaration Of Band Policy - With Regard To Public Service Contracts. It is hereby declared by the Band Assembly in and for the Non-Removable Mille Lacs Band of Chippewa Indians that all public service contracts shall be awarded to businesses organized pursuant to Band Statute 1077-MLC-16. However, in lieu of fulfillment of this policy, it is necessary to protect the economic security of the Band that the Band act as the purchasing agent on all contracts awarded to businesses organized pursuant to the laws of the state of Minnesota and any of its political sub-divisions, where such contract will execute all provisions exclusively on territories subject to the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians. Further, the Band Assembly is cognizant of the severe economic conditions and wide spread unemployment that exists amongst our sovereign people, and therefore, place a moral obligation upon all contractors for public service projects to assist in relieving such economically depressed conditions. Therefore, to effectuate the policies entered herewith, this

Chapter shall be liberally construed and the taxes imposed in Chapter 31, Section 20 shall apply to all purchases of each branch of government of the Non-Removable Mille Lacs Band of Chippewa Indians, its independent and semi-independent commissions and any other political sub-division thereof.

Section 52. Employment Rights Program. The Administration Policy Board within the Executive Branch of Band government is hereby conferred subject matter jurisdiction to administer an Employment Rights Programs of the Non-Removable Mille Lacs Band of Chippewa Indians in accordance with this Chapter.

Section 53. Powers Of The Administration Policy Board. The Board shall have the power:

- a) To impose numerical hiring goals and time tables specifying the minimum number of Indians an employer must hire by craft and skill level.
- b) To require employers to establish or participate in such training programs as the Commission deems necessary to increase the pool of Indians eligible for employment on the Reservation.
- c) To require that employers may hire non-Indians only after the Assistant Commissioner of Administration has certified that qualified Indians are unavailable to fill vacant job positions.
- d) To prohibit employers from using job qualifications criteria or personnel requirements that bar Indians from employment unless such criteria or requirement are required by business necessity. The Administration Policy Board regulations may adopt Equal Employment Opportunity Commission guidelines or may adopt additional requirements to eliminate employment barriers unique to Indians and the Reservation.
- e) To enter into agreements with the unions to insure union compliance with this Chapter.
- f) To require employers to give preference to businesses organized pursuant to Band Statute 1077-MLC-16 and other Indian-owned businesses in the award of contracts or sub-contracts.
- g) To establish counseling programs to assist Indians to retain employment.
- h) To hold hearings and to subpoena witnesses and documents in accordance with this Chapter.
- i) To require employers to submit reports and take all actions deemed necessary by the Band for the fair and vigorous implementation of this statute.
- j) To enter into cooperative agreements with Federal employment rights agencies to eliminate discrimination against Indians both on and off lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians.
- k) To take such other actions as are necessary to achieve the purposes and objectives of this Employment Rights Program.

Section 53.01. In exercising the above specified powers, the Administration Policy Board shall have the discretion to implement certain powers only or to apply one or more such powers to limited classes or number of employers.

Section 54. Indian Employment Rights. All employment entities of the Non-Removable Mille Lacs Band of Chippewa Indians shall give preference to Indians in hiring, promotion, training and all other aspects of employment, contracting or subcontract and must comply with this Chapter and the rules, regulations and orders of the Administration Policy Board. The above requirements shall apply only to facilities of an employer who is engaged in work on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians or whose subcontractor(s) is located on or engaged in work on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians. Each contractor shall designate the members of his core crew for each construction operation. Other than said core crew, the contractor shall develop goals approved by the Administration Policy Board to implement said preference in employment. No contractor shall be permitted to maintain a position that no employment opportunities exist in the fulfillment of any said contract in order to evade the provisions of this Section. The contractor shall develop a goal statement which is subject to advance approval by the Administration Policy Board prior to the commencement of any work. Additionally, no goal statement shall be approved which contains less than fifty (50) percent for each construction operation in Indian employment opportunities pursuant to any contract.

Section 54.01. The Indian preference requirements contained in this Chapter shall be binding on all contractor and subcontractors of employers regardless of tier, and shall be deemed a part of all resulting contract and specifications. The Administration Policy Board shall have the initial and primary responsibility for insurance that all contractors and subcontractors comply with these requirements and contractors and subcontractors shall be subject to penalties provided herein for violation of the Chapter if the contractor or subcontractor fails to comply.

Section 54.02. The Administration Policy Board will establish the minimum number of Indians each employer must employ on his work force during any year that he or any of his employees are located or engaged in on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians. Numerical goals shall be set for each craft, skill area, job classification, etc., used by the employer and shall include, but not be limited to, administrators, supervisory and professional categories. The goals shall be expressed in terms of manhours of Indian employment as a percentage of the total manhours worked by the employer's work force in the job classification involved. Numeric goals shall be based upon surveys of the available Indian manpower pool and of project employment opportunities.

Section 54.021. For a new employer, the goals shall be established for the entire work force. The employer shall meet with the Administration Policy Board as long before he actually begins work as possible and shall furnish the Board with a precise list of the number and kinds of employees he expects to employ. The Board shall then set specific goals and time tables for the employer after considering any special factors or circumstances the employer wishes to present. The employer shall incorporate the goals into his plan for complying with the provisions of this Chapter and shall agree in writing to meet those goals. Any employer who fails to provide such a written statement will not be permitted to commence work on lands under the jurisdiction of the Band.

Section 54.022. For an existing employer on the Reservation, the goals shall be a percentage of the new employees expected to be employed during the ensuing year by the employer. The employer shall incorporate the goals into his plan for complying with this Chapter and shall agree in writing to meet those goals.

Section 54.023. For both new and existing employers, the goals shall be reviewed by the Board at least annually and shall be revised as necessary to reflect changes in the number of Indians available or changes in employer hiring plans. Each employer shall submit a monthly report to the Board on a form provided by the Board, indicating the number of Indians in his work force, how close he is to meeting his goals, all persons hired or fired during the month, the job positions involved, and other information required by the Board.

Section 54.024. Each employer shall meet his minimum goals for the employment of Indians. Whenever the Board has reasons to believe that an employer is violating the provisions of this Chapter by not meeting his goals, it shall initiate a complaint with the Solicitor General and notify the employer of the alleged violation pursuant to the appropriate section of this Chapter. The Board shall bear the initial burden of proving that an employer has failed or is failing to meet his goals. Upon prima facie proof of such failure, the employer shall then bear the burden of proving pursuant to Band Statute 1011-MLC-5, Section 11 that he has met or is meeting his goals or has made a good faith effort to meeting his goals. It shall not be an excuse for such failure that the union with which the employer has a collective bargaining agreement providing for exclusive referral failed to refer Indians.

Section 54.03. Every employer may be required by the Board to participate in training programs to assist Indians to become qualified in the various job classifications used by employers. Every employer shall employ the maximum number of Indian trainees or apprentices possible. The ratio of Indian trainees to fully qualified workers shall be set by the Board after consultation with the employer. For construction

projects, the number of Indians trainees shall be no less than the minimum ratio established by the United States Department of Labor. Every employer with the collective bargaining agreement with a union shall be required to obtain agreement from the union to establish an advanced journeyman upgrade and apprenticeship program. The contractor shall assist all trainees by the provisions of performance recommendations in writing and shall document what attempts he has made to find any trainee another position with another contractor at the conclusion of any present contractor.

Section 54.04. Every employer is prohibited from using job qualification criteria or personnel requirements which bar Indians from employment unless such criteria or requirements are required by business necessity. The Board shall bear the initial burden of proving that a job qualification criterion or personnel requirement is not required business necessity. Upon a prima facie proof that a job qualification or personnel criterion is not required by business necessity, the employer shall then bear the burden of proving that it is. If the burden is not met, the employer will be required to eliminate the job qualification criterion or personnel requirement at issue. Every employer shall make a reasonable accommodation to the religious beliefs of Indian workers. In implementing this Section, the Board shall be guided by principles established in the United States Equal Employment Opportunities Commission in order to eliminate employment barriers unique to Indians and this Reservation. If the employer and the Board are unable to agree upon any matter treated in this Section, the Board may involve the hearing procedure provided in Section 5 of this Chapter.

Section 54.05. The Administration Policy Board shall establish and administer a Band employment contracts program to assist the Board and employers in placing Indians in job positions. An employer may recruit and hire workers from whatever sources are available to him and by whatever process he chooses, provided that he may not hire a non-Indian until he has given the Board a reasonable time to locate a qualified Indian and the Assistant Commissioner of Administration has certified that a qualified Indian is unavailable to fill the vacant job position.

Section 54.06. For purposes of this Section, "reasonable time" shall be defined as follows: For construction jobs, the Board shall be given 48 hours to locate and an additional 12 hours to refer a qualified Indian; for all other kinds of employment, the Board shall have 5 working days to locate and refer a qualified Indian. The Board may grant a waiver of these time periods upon a showing by the employer that such time periods impose an undue burden upon him. An employer subject to a collective bargaining agreement with the union shall be exempt from this procedure if the union agrees to place on its referral list all names supplied to it by the Board. However, if any union fails to meet its obligation to refer Indians to an employer, the Board may require the employer to accept Indian referrals from sources other than the union.



Section 54.07. If any non-Indian worker is found to be employed in a job in violation of this Section, the employer shall be required by the Board to remove the employee summarily and shall be subject to the penalties provided in Section 58 of this Chapter.

Section 54.08. The Board will establish counseling and other support programs to assist Indians to retain employment. Every member shall be required to cooperate with the Board regarding such counseling and support programs. No Indian person shall be considered for further participation in the provisions of this Chapter if he/she shall refuse to accept employment when offered by any party for a period of 180 days.

Section 54.09. Every employer shall give preference in the award of any contract or subcontract to businesses, organized pursuant to Band Statute 1077-MLC-16, owned and Indian owned businesses which shall be supplied to the employers for their use. Employers shall not be required to take any extraordinary measure to identify or locate any business organized pursuant to Band Statute 1077-MLC-16 or any Indian owned business.

Section 54.10. In all lay-offs and reduction in force, no Indian worker shall be terminated if a non-Indian work in the same job classification is still employed unless the termination is pursuant to a prior approval lay-off plan by the Administration Policy Board; the non-Indian must first be terminated if the Indian possesses the threshold qualification for the job classification. If an employer lays off workers by crews, all qualified Indian workers shall be transferred to crews to be retained so long as non-Indians in the same job classification are employed elsewhere on the job site.

Section 54.11. Every employer shall give Indians preferential consideration for all promotion opportunities and shall encourage Indians to seek such opportunities. For every supervisory position filled by non-Indians, the employer shall file a report with the Board stating what efforts were made to inform Indian workers about the position what Indians, if any, applied for the position, and the reasons why each Indian was not hired for the position.

Section 54.12. Every employer shall give Indian student preferential consideration for summer student employment. The employer shall make every effort to promote after school, summer and vacation employment for Indians students.

Section 55. Contractors and Subcontractors. The Board may assess employers an Employment Rights Fee to provide revenue for operation of the Commission as follows: Every contractor or subcontractor with a contract of \$100,000.00 or more shall pay a one time fee of .5% of the total amount of the contract pursuant to provisions of Band Statute 1083, Chapter 36, Section 50.

Section 55.01. Every employer other than a contractor or subcontractor with 20 or more employees or annual gross sales of \$100,000.00 or more shall pay an annual fee of .5% of the employers annual payroll. This fee shall not be required of educational, health or non-profit employers.

Section 55.02. Employment Rights fees shall be paid to the Commissioner of Finance and placed in a trust account in the name 'Non-Removable Mille Lacs Band of Chippewa Indians: Natural Resource Fund', which is herewith created. The Board shall be responsible for collecting the fees and establishing rules and regulations necessary to insure their fair and timely collection. The Board is authorized to develop a program to rebate up to forty percent of occupation taxes paid by an employer who is found to be in compliance with the requirements imposed by this Chapter or is making a substantial effort to train and employ Indian workers.

Section 56. Compliance By Unions. Every union with a collective bargaining agreement with an employer must file a written agreement stating that the union will comply with the provisions of this Chapter and the rules, regulations and orders of the Administration Policy Board. Until such agreement is filed with the Board, the employer may not commence work on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians.

Section 56.01. Every union agreement with an employer or filed with the Board must provide:

Section 56.011. The union will give absolute preference to Indians in job referrals, regardless of which union referral list they are on.

Section 56.012. The union will cooperate with the Commission in all respects.

Section 56.013. The union will establish a mechanism allowing Indians to register for job referral lists by telephone or mail.

Section 56.014. The union will establish a journeyman upgrade and advanced apprenticeship program.

Section 56.015. The union will "blanket-in" all Indians who qualify for journeyman status and wish to join the union.

Section 56.016. The union will grant temporary work permits to Indians who do not wish to join the union.

Section 56.02. Nothing herein or any activity by the Administration Policy Board authorized hereby shall constitute official Band recognition of any union endorsement of any union activities on lands under the jurisdiction of the Band. No union activities shall take place without prior written approval of the Chief Executive and concurrence in the Band Assembly.

Section 56.03. Nothing in this Chapter shall be construed as a waiver of sovereign immunity to any other agency or government, specifically the National Labor Relations Board and the United States Office of Contract Compliance.

Section 57. Notice. If a hearing is requested by the Administration Policy Board, an individual, an employer, or union pursuant to this Section, a written notice of hearing shall be given to all parties concerned of the nature of the hearing and the evidence to be presented, and shall advise such parties of their right to be present at the hearing, to present testimony of witnesses and other evidence, to be represented by counsel at their own expense, and that the Administration Policy Board shall be represented by the Solicitor General in and for the Non-Removable Mille Lacs Band of Chippewa Indians.

Section 57.01. If the Administration Policy Board believes that an employer contractor, subcontractor, or union has failed to comply with the provisions of this Chapter or rules and regulations or orders of the Board, it may file a complaint with the Solicitor General and notify such party of the alleged violation. The Solicitor General shall attempt to achieve an mediated settlement of the matter, but if such settlement cannot be achieved, the Solicitor General shall file a complaint with the Court of Central Jurisdiction.

Section 57.02. If an Indian believes that an employer has failed to comply with this Chapter or rules, regulations or orders of the Board, or believes he has been discriminated against by an employer because he is an Indian, he may file a complaint with the Administration Policy Board specifying the alleged violation. Upon receipt of the complaint, the Board shall investigate and attempt to achieve an informal settlement of the matter. If an informal settlement cannot be achieved, the individual or Board may request a hearing upon the matter pursuant to Section 57.01.

Section 57.021. If an employer fires, lays off or penalizes in any manner, any Indian employee who utilizes the individual complaint procedure provided herein, or exercises any right provided herein, the employer shall be subject to the penalties in Section 58 of this Chapter.

Section 57.03. If an employer or union believes that any provisions of this Chapter or any rule, regulation or order of the Board is illegal or erroneous, it may file a complaint with the Board specifying the alleged illegality or error. Upon receipt of the complaint, the Board shall investigate and attempt to achieve an informal settlement of the matter. If an informal settlement cannot be achieved, the employer, union or Board may request a hearing upon the matter pursuant to Section 57.01.

Section 57.04. Hearing Procedure. Hearing shall be governed by the following rules of procedure:

- a) All parties may present testimony of witnesses and other evidence and may be represented by counsel at their own expense.
- b) The Board may have the advice and assistance at the hearing of general counsel for the Tribe.
- c) The Commissioner of Administration of the Board or the Assistant Commissioner of Administration may preside. No formal rules of evidence or procedure need to be followed, but the Board shall proceed to ascertain the facts in a reasonable and order fashion.
- d) Any matter to be proven must be proven to the satisfaction of the Board by the preponderance of the evidence.
- e) The hearing may be continued at the discretion of the Board.
- f) At the final close of the hearing, the Board may take immediate action or take the matter under advisement.

g) The Board shall notify all parties within 30 days after its decision in the matter.

**Section 58. Penalties For Violation.** Any employer, contractor, subcontractor or union who violates this Chapter or rules, regulations or order the Administration Policy Board shall be subject to penalties for such violations, including, but not limited to:

- a) Denial of right to commence or continue business on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians.
- b) Suspension of all operations on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians.
- c) Payment of back pay and damages to compensate any injured party.
- d) An order to summarily remove employees hired in violation of this Chapter or rules, regulations and orders of the Board.
- e) Imposition of monetary civil penalties.
- f) Prohibition from engaging in any future operation on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians.
- g) An order requiring employment, promotion and training of Indians injured by the violation.
- h) An order requiring changes in procedures and policies necessary to eliminate the violations.
- i) An order making any other violation deemed by the Commission necessary to alleviate, eliminate or compensate for violation.

The maximum civil penalty which may be imposed is \$500.00 for each violation. Each day during which a violation exists shall constitute a separate violation.

**Section 59. Appeals.** Any party to a hearing shall have the right to appeal any decision of the Administration Policy Board to the Court of Central Jurisdiction pursuant to Band Statute 1024-MLC-3, Section 33.

**Section 60. Publication of Chapter.** The Administration Policy Board shall notify all employers of the provisions of this Chapter and their obligation to comply. All bid announcements issued by the Non-Removable Mille Lacs Band of Chippewa Indians or the United States of America or other private or public entity shall contain a statement that the successful bidder will be obligated to comply with provisions of this Chapter and all rules, regulations and orders of the Board.

**Section 60.01.** All tribal agencies responsible for issuing business permits for Reservation activities or otherwise engaged in activities involving contact with prospective employer on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians shall be responsible for advising such prospective employees of their obligation under this Chapter and rules, regulations and orders of the

Section 60.02. The Board shall send a copy of this Chapter to every employer operating on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians

Section 61. Compliance Plan. As of February 15, 1985, no new employer may commence work on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians until it has consulted with the Administration Policy Board and developed a plan accepted by the Board for meeting its obligation under this Chapter.

Section 62. Reporting and On-Site Inspection. Employers shall submit reports and other information requested by the Administration Policy Board. The Board shall have the right to make on-site inspections during regular working hours in order to monitor any employers compliance with this Chapter and rules, regulations and orders of the Board. The Board shall have the right to inspect and copy all relevant records of any employer, of any signatory union or subcontractor of any employer and shall have a right to speak to workers and conduct an investigation on the job site. All information collected by the Board shall be kept confidential unless disclosure is required during a hearing or appeal as provided in Section 59.

Section 63. Severability. If any provision of this Chapter, or its application to any person or circumstances is held invalid, the remainder of the Chapter, or the application of the provision to other persons or circumstances is not affected.

Section 64. Buy Indian Provisions. The Non-Removable Mille Lacs Band of Chippewa Indians, and all of its political subdivisions, as well as all contractors and subcontractors who conduct business on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians shall comply with all provisions of the Buy Indian Act (25 U.S.C. 47) and regulations promulgated thereunder in (48 CFR 1480)

Section 64.01. The officially recognized purchasing agent for the Non-Removable Mille Lacs Band of Chippewa Indians shall be an entity organized by the Mille Lacs Band of Chippewa Indians - Corporate Commission as a multi-service retail outlet which shall be operational no later than March 1, 1985. All contractors and subcontractors and political subdivisions of the Non-Removable Mille Lacs Band of Chippewa Indians shall purchase all materials and supplies from this retail outlet.

Section 65. Definitions. When used in Sections 2 - 14, unless the context clearly indicates otherwise, the following terms shall have the meaning, respectively, ascribed to them in this Section.

Section 65.01. a) "Employer" means any person, company, contractor, subcontractor or other entity located or engaged in work on the Reservation, employing five or more person. The term "employer" excludes Federal, State and County Government agencies, but includes Tribal and other agencies, contractors and subcontractors of all other agencies.

b) "Engaged in work" means an employer is "engaged in work on lands under the jurisdiction of the Mille Lacs Band of Chippewa Indians, if during any portion of a business enterprise or specific project, contract or subcontract, he or any of this employees spends a majority of this time performing work on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians on a continuing basis.

c) "Indian" means any person recognized as an Indian, who is subject to the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians by entering or occupying lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians.

d) "Indian owned business" means a business entity of which at least 100% is owned by Indians.

e) "Located on lands" means an employer is "located on lands" if during any portion of a business enterprise or specific project contract or subcontract, he is, in fact, maintaining a temporary or permanent office or facility in Indian Country as defined in Federal law in or adjacent to the Mille Lacs Reservation.

CHAPTER 37

TAXATION -- GENERAL PROVISIONS



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## Chapter 37

Section of Finding And Determinations. The Findings and Determinations of the Band Assembly enacted in Band Statute 1085-MLC-30, Section 1 - 1.11 are reenacted and applicable provisions of law for each Chapter of law entitled 'Band Statute 1085-MLC-31-39'. The designation '31-39' denotes only various chapter numbers of the same Band Statute which are established as the Public Taxation Policy of the Non-Removable Mille Lacs Band of Chippewa Indians.

Section 66. Creation And Term Of Office Of Commissioner Of Finance. There is hereby created an appointed position to be known as the Commissioner of Finance. The Commissioner of Finance shall be nominated from amongst three names submitted by the Band Assembly to the Chief Executive. The Chief Executive and Secretary of Treasury shall interview each nominee and return to the Band Assembly within ten days of receipt of the nominees of the Band Assembly, the name of three persons, one of which to be confirmed as Commissioner of Finance. Each nominee shall possess ability and experience in the area of accounting, finance administration or in the area of tax administration. The Commissioner of Finance shall be an appointee of the Non-Removable Mille Lacs Band of Chippewa Indians with responsibility to all branches of Band government in the area of budget and finance. He shall report and fulfill the duties of his office upon direction from the Band Assembly. All such direction to the Commissioner of Finance shall be promulgated pursuant to 'Special Revenue Resolution', which is herewith created. Each 'Special Revenue Resolution' shall contain the signatures of the Speaker of the Assembly, two members of the Band Assembly and be concurred upon by the Chief Executive.

Section 66.01. The Commissioner of Finance shall serve a term of office to expire April 30, 1987. Henceforth, the term of office of the Commissioner of Finance shall be four years. The nomination process established in Section 66 shall apply to all future nominees to this position. All terms of office for the Commissioner of Finance shall commence on May 1 in the applicable odd-year and expire on April 30 in the applicable four year period.

Section 66.02. The Commissioner of Finance shall have no authority to act beyond April 30 of the year in which his term of office expires in the event of his lack of confirmation to a successive term of office before said date.

Section 67. General Powers And Duties Of The Commissioner Of Finance. It shall be the duty of the Commissioner of Finance, and he shall have following powers and duties.

Section 67.01. The Commissioner of Finance shall have and exercise general supervision over the administration of Band Statute 1085-MLC-30-39 pursuant to the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians.

Section 67.02. The Commissioner of Finance shall confer with, advise and give the necessary instructions and directions to the Mille Lacs Band of Chippewa Indians - Corporate Commission in the implementation of Band Statute 1085-MLC-30-39.

Section 67.03. The Commissioner of Finance shall direct proceedings, actions and prosecutions to be instituted to enforce the laws of Band Statute 1085-MLC-30-39 for failure or negligence to comply with said provisions, and to cause complaints to be made against any person for their removal from office for misconduct or negligence of duty with respect to provisions of Band Statute 1085-MLC-30-39

Section 67.04. The Commissioner of Finance shall have the power to require the Solicitor General to assist the commencement of a prosecution in the actions or proceedings for removal, forfeiture and punishment for violations of the laws under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians, and to require the Solicitor General to defend the Commissioner of Finance in any action brought against him by any party.

Section 67.05. The Commissioner of Finance shall have the power to require persons under the jurisdiction of the Band to report information as to the collection of taxes received and fees received from licenses, revenue and other sources, and such other information as may be needed in the performance of official duty.

Section 67.06. The Commissioner of Finance shall have the power to require businesses organized pursuant to Band Statute 1077-MLC-16 and the Mille Lacs Band of Chippewa Indians - Corporate Commission to furnish information concerning their capital, funded or other debt, current assets and liabilities, earnings, operating expenses, taxes as well as all other statements now required by law for taxation purposes.

Section 67.07. The Commissioner of Finance shall have the power to summon witnesses to appear and give testimony and to produce books, records, papers and documents relating to any tax matter which he may have authority to investigate or determine.

Section 67.08. The Commissioner of Finance shall have the power to cause the deposition of witnesses residing within or without the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians, or absent thereof, to be taken upon notice to the interested party, if any, in like manner that deposition of witnesses are taken in civil actions in the Court of Central Jurisdiction, in any matter which he may have authority to investigate or determine.

Section 67.09. The Commissioner of Finance shall have the power to investigate the tax laws of other reservations, and to formulate and submit to the Band Assembly such legislation as he may deem expedient to prevent evasions of the tax laws of the Band.

Section 67.10. The Commissioner of Finance shall consult and confer with the Band Assembly and the Chief Executive upon the subject of taxation, the administration of the laws, in regard thereto, and the progress of the work of the Commissioner and to furnish the Band Assembly and the Chief Executive from time to time, such assistance and information as they may require relating to tax matters.

Section 67.11. The Commissioner of Finance shall transmit to the Band Assembly and Chief Executive, on or before the third Monday in November of each year, a report for the preceding year, showing all revenues and disbursements thereto, whether the budget of the Band government is balanced thereto, and charts which show monthly revenues and disbursements for the purpose of using said information as a planning tool. Said reports shall also contain information as to the equity of taxes imposed, certainty, convenience economy, stability of tax yield and conservation of tax resources. He shall state in expressed terms whether or not all taxes imposed are counterproductive to expressed public policy of the Non-Removable Mille Lacs Band of Chippewa Indians and all recommendations for any and all modifications thereto.

Section 67.12. The Commissioner of Finance shall have the power to promulgate rules and regulations through Commissioner's Order for the administration and enforcement of the provisions of Band Statute 1085-MLC-30-39. Such rules and regulations shall have the force and effect of law.

Section 67.13. The Commissioner shall exercise and perform such further powers and duties, as may be required, or imposed upon him pursuant to 'Special Revenue Resolution' as promulgated in Section 66 of this Chapter only or that imposed by law.

Section 68. Violations. Any person who shall fail to comply with the provisions of any lawful Executive Order, Secretarial Order, Commissioner's Order or Solicitor's Opinion shall be deemed guilty of an offense

against the government, and upon conviction thereof, shall be sentenced to a fine not to exceed five hundred dollars and possible forfeiture of any office or employment opportunity presently held.

Section 69. Additional Powers. Subject to the provisions of this Chapter and Section 67 provisions thereto, the Commissioner of Finance shall have the power to organize a Revenue Division within the Office of Management and Budget as he may deem necessary and expedient.

Section 70. Uniform System Of Records And Accounting. The Commissioner of Finance shall prescribe and establish a uniform system of records and accounting for all revenues and disbursements, which arise from the provisions of Band Statute 1085-MLC-30-39. Additionally, he shall design a voucher system, with a master voucher register, cash receipts journal and other applicable and necessary accounting mechanisms that comprise a general books of accounts.

Section 71. Prohibition Of Automatic Fund Transfers Of Tax Revenue. It shall be unlawful for the Commissioner of Finance or any other person to authorize at any financial institution, where taxation revenue of the Band is kept, the automatic fund transfer of any amounts of said funds into said account, or from said account. All transactions involving the disbursement of taxation revenue shall be pursuant to voucher and written bank drafts or checks and all said disbursements shall conform to that authorized by 'Special Revenue Resolution'.

Section 72. Emergency Expenditure Of Unauthorized Funds. Notwithstanding the provisions of Section 66 and 71 of Band Statute 1085-MLC-37, the Band Assembly hereby recognizes that there may be times when, in the best interests of the Band and at only those times, a sufficient number of signatories are not available to authorize a 'Special Revenue Resolution', and when the Commissioner of Finance does not possess sufficient authority to expend taxation revenue, the Commissioner of Finance is hereby authorized, upon receipt of a special dispensation request of the Chief Executive or the Secretary of Treasury to expend an amount of funds not to exceed five hundred dollars (\$500.00) provided, that the Commissioner prepare a 'Special Revenue Resolution' and obtain the signatures of all available authorized signatories prior to the disbursement of amounts so authorized.

Section 72.01. Upon the exercise of provisions of Section 72 above, the Commissioner of Finance shall appear before the Band Assembly at its next scheduled session to obtain approval for any said authorized disbursement. The provisions of Section 72 shall not be exercised more than one time per any calendar month.

Section 73. Balanced Budget. The Commissioner of Finance is hereby authorized and mandated to prepare and maintain an annual budget for the Band government and under no circumstances shall he authorize the expenditure of taxation revenue beyond the amounts of taxation revenue received regardless of Band Assembly approval of budgeted amounts prior thereto. A balanced governmental budget from taxation revenue and other government sources on an annual basis is hereby mandated.

Section 74. Prohibition Against Any Pledge Of Taxation Revenue Uncollected. The Commissioner of Finance or any other person shall not pledge any future taxation revenue as collateral for any governmental loan at any financial institution. Any said pledge as collateral shall be of no force and effect when entered into in violation of provisions of this Section.

Section 75. Transactions With Financial Institutions And/or Any Business Or Corporation, or Government. All contractual or other types of agreements, regardless of subject matter shall be executed on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians and contain the official seal of the Band to be of any force and effect in any court of law. All said contract or contracts entered into in violation of this Section shall be of no force or effect.

Section 75.01. Under no circumstances or matters of material fact shall the Band Assembly waive sovereign immunity for the provisions of services to members of the Non-Removable Mille Lacs Band of Chippewa Indians, when said members as citizens of the state of Minnesota meet eligibility guidelines to receive said services. Any said official of the Band shall have no authority, upon his authorization of any contractual document to consent, on behalf of the Band to suit in any court of competent jurisdiction or to submit to any binding arbitration utilizing the civil rules of procedure of the United States of America or the state of Minnesota in any dispute which involves the Band. Therefore, the appearance of any signature of any official of the Non-Removable Mille Lacs Band of Chippewa Indians to any contractual document shall be valid only for the purposes of implementing the Indian Self Determination and Education Assistance Act of 1975, Public Law 93-638 by providing assistance to Indians from Indians. The foregoing shall be liberally construed so as to effectuate the purposes thereof.

Section 76. Severability. If any provisions of this Chapter, or the application thereof, to any person, business, corporation or state government, or any political sub-division or circumstance is held invalid, the invalidity shall not effect other provisions or applications of this Chapter which can be given effect without the invalid provisions, or application and to this end the provisions of this Chapter are declared severable.

Section 77. Reservation Of Right. The Band Assembly hereby fully reserves the right to alter, amend or repeal the provisions of this Chapter, and all rights and privileges granted or extended hereunder, shall be subject to such reserved right.

Section 78. Court Of Central Jurisdiction - Judicial Review. The Court of Central Jurisdiction is hereby granted subject matter jurisdiction, which shall be exclusive, over any cause of action which may arise from implementation of provisions of this statute.

Section 78.01. Any cause of action which arises pursuant to the provisions of Band Statute 1085-MLC-37 shall be limited in relief to declaratory or injunctive measures and no damages, monetary or otherwise, including but not limited to attorney fees, shall be permitted.

Section 79. Equality And Consistency In The Exercise Of Powers And Duties. Notwithstanding the provisions of any other Chapter of this Band Statute, the Commissioner of Finance may use any information in his possession, or to which he has access, to insure equal and consistent application and enforcement of all tax laws administered by him. This Section shall not be construed as granting the Commissioner of Finance any power to release information under his direct control to any exterior person, entity or government. All information collected shall be deemed highly classified and confidential.

Section 80. Services Of Notice By Mail. Notwithstanding any other law to the contrary, whenever the Commissioner of Finance is required to serve notices by registered mail, he may, at his discretion, make such service by regular mail retaining for his records adequate proof of such service.

Section 81. Seal. The Commissioner of Finance shall direct the preparation of stationery and have a seal engraved with the words, "Non-Removable Mille Lacs Band of Chippewa Indians - Office of Management and Budget: Division of Revenue". Such seal may be prepared and used to authenticate the official acts of the Commissioner or any other members of this Division, but failure to use such seal shall not invalidate any such acts.

**RIDER**

Additional amendment to Band Statute 1056-MLC-19.

Addition of Section 7: Executive Authorizations.

Section 82. Minnesota State Inter-Tribal Affairs Council. Pursuant to Minnesota Statutes - Chapter 3, Section 922, the Non-Removable Mille Lacs Band of Chippewa Indians may participate in an Indian Affairs Inter-Tribal Council, an entity of the state of Minnesota. The Chief Executive is hereby authorized and directed to notify the Governor of the state of Minnesota and other tribal governments that effective on March 1, 1985 the Non-Removable Mille Lacs Band of Chippewa Indians shall withdraw from participation in this state council and shall in no way sanction any actions of said council as they may apply to the Non-Removable Mille Lacs Band of Chippewa Indians, as the public policy of the Band is to recognize and enhance government to government diplomatic relations.



## RIDER

The Personnel Policies of the Non-Removable Mille Lacs Band of Chippewa Indians, Section 2, adopted September 2, 1982, are hereby amended to provide:

Section 2. The Court of Central Jurisdiction shall have jurisdiction to hear matters of employee grievance only in the following conditions:

- a. If a grieved party shows that a Commissioner's action violated the laws and/or policy of the Band.
- b. If a grieved party shows that any action of the Commissioner violates any provision of Band Statute 1011-MLC-5.
- c. If a grieved party shows that any action of a Commissioner, Policy Board or School Board exceeded their statutory authority.

Section 2.01. If any provision of the Personnel Policies of the Non-Removable Mille Lacs Band of Chippewa Indians, or the application thereof, to any person, business, corporation or circumstance is held invalid, the invalidity shall not effect other provisions of the application of the total policy which can be given effect without the invalid provision or application and to this end the provisions of the Personnel Policies are declared severable. The Court of Central Jurisdiction shall liberally construe the provisions of the Personnel Policies so as to effectuate their purposes.

## CHAPTER 40

### REMEDIES FOR POSSESSION OF PROPERTY

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Band Statute 1087-MLC-40

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Preamble

It is enacted, a code for the provision of legal remedies for the recovery of real and personal property unlawfully held by person subject to the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians when said property is located on territories under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians.

CHAPTER 40

Section 1. Findings and Determinations. The Band Assembly hereby finds that enrolled members of any constituent Band of the Non-Removable Mille Lacs Band of Chippewa Indians have entered into contractual arrangements for the provision of securing adequate housing on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians from the Minnesota Chippewa Tribal Home Loan Program; and that said houses were constructed with funds available from the Home Loan Program on lands under this Band's jurisdiction; and, that said Band members subsequently became delinquent on their payments, which created a legal cause of action for the Home Loan Program to recover possession of said houses; and that to the detriment of self-government by the people of the Non-Removable Mille Lacs Band of Chippewa Indians, the Home Loan Program sought relief from an exterior court which infringed upon the sovereign rights of the Non-Removable Mille Lacs Band of Chippewa Indians.

Section 1.01. The Band Assembly hereby finds and determines that it is in the best interest of the Non-Removable Mille Lacs Band of Chippewa Indians that such contractual disputes clearly threaten the political integrity, economic security and welfare of the Band if they are not adjudicated in the Court of Central Jurisdiction.

Section 1.02. The Band Assembly hereby finds and determines that the Non-Removable Mille Lacs Band of Chippewa Indians has never waived any sovereign immunities with regard to the provision of housing units on territories under the jurisdiction of the Band to any exterior court of competent jurisdiction and is now and hereafter precluded from such a waiver of the sovereign powers of the peoples of the constituent Bands on housing issues.

Section 1.03. The Band Assembly hereby finds and determines that it is necessary to establish fair and impartial legal remedies in the Court of Central Jurisdiction for persons or corporations to seek the recovery of property, real or otherwise, which is alleged to be in possession of a person subject to the jurisdiction of the Band on territories under the jurisdiction of the Band. To this end, this Statute shall be liberally construed so as to effectuate the purposes which gave rise to it.

Section 1.04. The Band Assembly hereby finds and determines that residential dwellings, newly constructed or remodeled on or within lands under the jurisdiction of the Band are real property subject to foreclosure actions outlined in Chapters 41, 42, 43 and 44 of this Band Statute in the event that default conditions of the loan exist.

Section 1.05. The Band Assembly hereby finds and determines that any interests in allotments located within the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians which is to escheat should escheat for the benefit of the Non-Removable Mille Lacs Band of Chippewa Indians rather than any other governmental entity, and that such provisions of law protect the political, social, general welfare and economic integrity of this Band.

Section 2. Jurisdiction For The Court Of Central Jurisdiction. The Court of Central Jurisdiction is hereby conferred exclusive subject matter jurisdiction to resolve disputes over the possession of property, real or otherwise, held by an enrolled member of any constituent Band of the Non-Removable Mille Lacs Band of Chippewa Indians, any Indian from any other Band or Tribe or any person, through marriage or otherwise, who resides on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians.

Section 2.01. The Court shall have the power to establish reasonable fees for the costs of services for legal remedies for possession of property. Such fees may be reduced or waived in cases of undue hardships, in which event they shall become a charge to the Court.

Section 2.02. The Associate Justices of the Court of Central Jurisdiction shall have original and exclusive jurisdiction over civil causes of action arising in their Districts pursuant to provisions of this Statute. They shall perform their duties pursuant to this Statute under the title of Magistrate.

Section 2.03. The Court of Central Jurisdiction shall accept all changes of venue and transfers from any other court of competent jurisdiction in any state on the island of the United States of America, if it involves property located on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians.

Section 3. Possession Of Personal Property. In any action to recover possession of personal property, a claimant may obtain possession of the property prior to final judgments with the exception of houses.

Section 4. Process Of Recovery. Any person seeking to recover possession of personal property after the service of a complaint and summons, but prior to final judgment shall proceed by motion. The motion shall be accompanied by sworn affidavit which contains the following:

Section 4.01. 1) The property sought to be recovered; 2) the facts which gave rise to the claimant's right to possession, referring to the documents, if any, evidencing the claimant's right to possession and the underlying obligation supporting the right; 3) the specific facts showing the respondent is wrongfully detaining the property; 4) if the property being claimed is secured for an obligation, the date and amount of the original obligation, the amount which has been paid by the respondent and the amount now owing to the claimant; 5) a statement that the respondent clearly understood the terms of the agreement; 6) if the claimant asserts that the respondent is wrongfully detaining the property by reason of a breach of contractual duty other than the failure to pay money, the claimant shall state the specific contractual provision and the facts relating thereto; and 7) a good faith approximation of the current market value of each item or categories of like items of property being claimed.

Section 4.02. The claimant's motion to recover possession of property together with claimant's affidavit and a notice of hearing shall be served upon the respondent in the manner prescribed in Band Statute 1024-MLC-3, Section 26. If the respondent has already appeared in the action, and the motion may be served by Registered United States mail, Return Receipt Requested. The notice of hearing served upon the respondent shall be signed by the claimant or the attorney for the claimant and shall provide, at a minimum the following information in substantially the following language:

#### NOTICE OF HEARING

TO: (the respondent)

A hearing will be held on the .....day of ....., 19....., at .....o'clock. ....m., (place) to determine whether the law enforcement officer shall remove from your possession and deliver to (claimant) (hereinafter "claimant") the following property: (List Property)

You have a right to appear at this hearing on your own behalf or with an attorney. You will have the opportunity to present defenses to the claimant's claims and to state reasons why the property described above should not be taken. You shall be presumed to be in illegal possession of the property until you prove otherwise.

If the Court determines that the claimant has a right to have possession of the property while this lawsuit is pending, you may nevertheless keep the property until the lawsuit is decided if you file with the Court a surety bond in the amount of \$.... (an amount computed pursuant to Section 4.05). This amount is (1-1/4 times the claimant's estimate of the value of the property) (1-1/2 times the claimant's claim against you.) If you believe the (value of the property) (amount of the claim) is overstated, you may ask the Court to lower it.

If you do not appear at the hearing, the Court has authority to issue an order directing that the above described property be immediately taken from your possession.

Section 4.03. After a hearing, the Court shall order seizure of the property from respondent and deliver to claimant, if claimant has demonstrated the probability of success on the merits entitling claimant to possession of the property and upon compliance with the bonding requirements set forth in Section 4.05, unless the Court makes the following findings: Respondent has shown a defense to the merits of claimant's claim, the defense is a fair basis for litigation and the defense would, if established at hearing on the merits, entitle respondent to retain possession of the property. The interests of respondent cannot be adequately protected by the bond filed by the claimant pursuant to Section 4.05, if the property is delivered to the claimant prior to final decision on the merits and the harm suffered by the respondent would be substantially greater than the harm which would be suffered by the claimant if the property were not delivered to the claimant prior to final decision on the merits.

Section 4.04. If the Court makes the findings prescribed by Section 4.03 and orders that respondent may retain possession pending final decision on the merits, the Court shall enter a further order protecting the rights of the claimant to the extent possible. The order may require that respondent make partial payment of the debt which may be due and that the payment shall be made either directly to claimant or into an escrow, that respondent post a bond in an amount set by the Court, that respondent make the property available for inspection from time to time, that respondent be restrained from certain activities, including, but not limited to selling, disposing or otherwise encumbering the property, or any other provision the Court may deem just and appropriate.

Section 4.041. An order requiring seizure of property may be stayed up to ten days to allow the respondent time to post a bond pursuant to Section 4.051.

Section 4.05. An order for seizure of property from the respondent shall provide that the seizure shall be contingent upon claimant's filing of a bond approved by the Court conditioned for the return of the property to the respondent, if a return be adjudged and for the payment to the respondent of any sum adjudged against the claimant. The bond shall be in an amount which is 1-1/2 times the fair market value of the property seized.

Section 4.051. Except as otherwise provided in clause, the respondent may retain or regain possession of the property by filing of a bond approved by the Court conditioned that the property shall be delivered to the claimant, if delivery be adjudged, and for the payment to the claimant of any sum adjudged against the respondent. The bond shall be in an amount 1-1/4 times the fair market value of the property or 1-1/2 times the amount of the claimant's claim, whichever is less. An order for seizure may specify a time limitation within which the bond must be filed. For the purpose of protecting or preserving the property pending final hearing on the merits, the Court may in extraordinary circumstances, which shall be specified in its order, provide that the respondent may not retain or regain possession of the property upon rebonding, or may limit or condition the right to retain or regain the property upon rebonding. The cost of regaining possession of the property from the sheriff or the claimant shall be borne by respondent except as set forth in Section 4.052.

Section 4.052. If at a hearing following seizure of property pursuant to Section 4.02, claimant fails to establish a right to continued possession, the Court shall order the property returned to respondent, the costs to be borne by claimant. The Court may order claimant's bond to continue in an amount sufficient to offset damages claimed by respondent by reason of the seizure. The current fair market value of the property shall initially be presumed as stated in the affidavit submitted pursuant to Section 4.02. If the Court determines the current fair market value of the property is different, it shall adjust the required amount of the bonds. In lieu of filing a bond, either claimant or respondent may satisfy bonding requirements by depositing with the Court cash, a cashier's check or a certified check.



Section 5. Order For Seizure Of Property. An order for seizure of property shall: identify the property to be seized; direct a law enforcement officer to seize the property and specify that the claimant is authorized, immediately or after a specified reasonable period of time, to sell or otherwise dispose of the property pending final hearing on the merits unless the Court makes a specific finding that the interests of respondent cannot be adequately protected by the bond.

Section 5.01. An order for seizure of property may: describe the place or places which may be entered by force, by the law enforcement officials, subject to the limitations of Section 5.03.

Section 5.02. Require that the respondent, his agents or employees deliver the property to claimant or disclose its location, and if delivery is not made or the location is not disclosed, that respondent must appear in Court at a specified time and place to give testimony as to the location of the property and to show cause why an order should not be entered finding respondent in contempt of court for failure to deliver the property or to disclose its location.

Section 5.03. Provide that if the property, or any of it is concealed in a building or elsewhere, and a public demand made by the law enforcement official for its delivery is refused or there is no response the law enforcement official shall cause the building or enclosure to be broken open and shall take the property therefrom. The law enforcement official may not enter the residence of a person other than respondent unless the order specifies, identifying with particularity the residence or residences which may be entered, on the basis of a finding by the Court that probable cause exists to believe that the property is at this residence.

Section 5.04. A person asserting a claim to property seized by order of the Court may by motion challenge the sufficiency of the surety for the bond filed with the Court. If the Court finds the surety insufficient, it may grant a reasonable time for filing of another bond.

Section 5.05. When the law enforcement official has taken property pursuant to an order of the Court, he shall keep it in a secure place and shall deliver it to the party entitled thereto as soon as reasonably possible upon receiving his lawful fees and expenses for taking and keeping the property. The law enforcement official shall promptly return, without cost, any property taken which is not specified in the court order.

Section 6. Forcible Entry And Unlawful Detainer. 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.

Section 6.01. 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.

Section 6.02. 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 of any such estate by notice to quit, in all such cases the person entitled to the premises may recover possession thereof, in the manner hereinafter provided.

Section 6.021. 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:

Section 6.0211. 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.

Section 6.0212. 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. If the notice to quit was served within ninety days of the date of any act of the tenant coming within the terms of clauses 6.0211 or 6.0212 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.

Section 6.0213. 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 6.0212, providing that the tenant tender to the Court or to the plaintiff the amount of rent due and payable under his original obligation.

Section 6.0214. Nothing contained herein shall limit the right of the lessor pursuant to the provisions of 6.0211, 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.

Section 6.03. 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.

Section 6.04. 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 Band Statute 1024-MLC-3, Section 26.

Section 6.05. 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 Section 6.06, 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.

Section 6.06. 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 Section 6.02, 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.

Section 6.07. 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. The Magistrate shall issue execution in favor of the plaintiff for such costs and also immediately issue a writ of restitution. No stay of the 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 writ of restitution for a reasonable period not to exceed seven days, except that no stay of the 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 therefor.

Section 6.08. 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.

Section 6.09. 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.

Section 6.10. 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 Section 6.09, 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. 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.

Section 6.11. 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 a Court held at ....., on the ..... day of ....., 19....., 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.

Section 6.12. 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 ....., 19....., 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 ....., 19.....

.....  
Magistrate

Section 6.13.

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 ....., 19....., 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 ....., 19.....

.....  
Magistrate

Section 6.14. 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.

Section 7. Unlawful Removable or Exclusion: Recovery of Possession. Any tenant who is unlawfully removed or excluded from lands or tenements which are demised or let to him may recover possession of the premises in the manner described in this Section and continued in Sections 8, 9, 10, 11 and 12 of this Chapter.

Section 7.01. The tenant shall present a verified petition to the Court of Central Jurisdiction in which the premises are located, which petition shall:

Section 7.011. Describe the premises of which possession is claimed and the owner as defined in Section 16.02, of the premises.

Section 7.012. Specifically state the facts and grounds that demonstrate that the removal or exclusion was unlawful including a statement that no judgment and writ of restitution have been issued under Section 6.07 in favor of the owner and against petitioner as to the premises and executed in accordance with Section 6.14.

Section 7.013. As for possession thereof.

Section 7.02. If it clearly appears from the specific grounds and facts stated in the verified petition or by separate affidavit of petitioner or his counsel or agent that the removal or exclusion was unlawful, the Court shall immediately order that petitioner have possession of the premises.

Section 7.03. The petitioner shall furnish monetary or other security if any as the Court deems appropriate under the circumstances for payment of all costs and damages the defendant may sustain if the order is subsequently found to have been obtained wrongfully. In determining the appropriateness of any security the Court shall consider petitioner's ability to afford monetary security.

Section 7.04. The Court shall direct the order to the chief law enforcement officer in which the premises is located and the chief law enforcement officer shall execute the order immediately by making a demand upon the defendant, if he can be found, or his agent or other person in charge of the premises, for possession of premises. If the defendant fails to comply with the demand, the officer shall take with him whatever assistance may be necessary and immediately place the petitioner in possession of the premises. If the defendant or his agent or other person in control of the premises cannot be found and if there is no person in charge of the premises detained so that no demand can be made, the officer shall immediately enter into possession of the premises and place the petitioner in possession of the premises. The officer shall also serve the order and verified petition or affidavit without delay upon the defendant or upon his agent, in the same manner as a summons is required to be served in a civil action in the Court of Central Jurisdiction.

Section 8. Unlawful Removal Or Exclusion: Recovery of Possession (Cont'd). The defendant by written motion and notice served by mail or personally upon petitioner or his attorney at least two days prior to the hearing date on the motion may obtain dissolution or modification of the order for possession, issued pursuant to Section 7.02 unless the petitioner proves the facts and grounds upon which the writ is issued. A defendant bringing a motion pursuant to this Section 7.02 may recover possession of the premises only in accordance with Section 6.02 to 6.14 or otherwise provided by law. Upon the dissolution of the order, the Court shall tax costs to petitioner, subject to the provisions of Section 6.07 and may allow damages and reasonable attorney's fees for the wrongful granting of the order for possession. If the order is affirmed the Court shall tax costs against defendant and may allow petitioner reasonable attorney's fees.

Section 9. Appeal Of Order For Recovery. An order issued under Section 7.013 or affirmed, modified or dissolved under Section 7.02 is a final order for purposes of appeal and either party aggrieved by the order may appeal within ten days after the entry of the order. If the party appealing remains in possession of the premises, his bond shall be conditioned to pay all costs of the appeal, to abide by the order the Court may make and to pay all rent and other damages justly accruing to the party excluded from possession during the pendency of the appeal.

Section 10. Public Policy Of The Band. Any provisions, whether oral or written, of any lease or other agreement whereby any provisions of this Section is waived by a tenant is contrary to public policy and void.

Section 11. Additional Remedy For Tenants. The purpose of this Section is to provide an additional and summary remedy for tenants unlawfully removed or excluded from rental property and except as where expressly provided in this Section. Sections 6.02 or 6.14 shall not apply to proceedings under this Section.

Section 12. Application of Tenants Restricted. The provisions of this Section shall apply on to tenants as that term is defined in Section 16.01 and buildings as that terms is defined in Section 16.06.

Section 13. Owner's Right To Collect Rent Suspended. When the Court appoints the Secretary of Treasury as an administrator, any right of the owner to rent moneys from the time of judgment or service of judgment shall be void and unenforceable until the administration is terminated by the Court.

Section 14. Proceedings By Owner Limited. A tenant may not be evicted nor may his obligations under his rental agreement be increased nor the services decreased, if the eviction or increase of obligations or decrease of services is intended as a penalty for the tenant's complaint of a violation. The burden of proving otherwise shall be on the owner if said eviction or increase of obligations or decrease of services occurs within ninety days after the filing of the complaint, unless it is found that the complaint was not made in good faith. After ninety days the burden of proof shall be on the tenant.

Section 15. Purpose To Provide Additional Remedies. The purpose of this law is to provide additional remedies and nothing herein contained shall alter the ultimate financial liability of the owner or tenant for repairs or maintenance of any building located on lands under the jurisdiction of the Band.



Section 16. Definitions. As used in this Section and Section 15, the terms in this Section shall have the meanings assigned to them.

Section 16.01. "Tenant" means any person who is occupying a dwelling in a building under any agreement, lease or contract, whether oral or written, and for whatever period of time, which requires the payment of moneys as rent for the use of the dwelling unit, and all other regular occupants of such dwelling unit.

Section 16.02. "Owner" means the owner or owners of the freehold of the premises or lesser estate therein, contract vendee, receiver, executor, trustee, lessee, agent or any other person, firm or corporation directly or indirectly in control of a building subject to the provisions of the Act.

Section 16.03. "Commercial Tenant" means any person paying rent in a building who is not a tenant.

Section 16.04. "Person" means a natural Indian person, corporation, partnership or unincorporated association.

Section 16.05. "Violation" means a violation of any state, county or city health, safety, housing building, fire prevention or housing maintenance code applicable to the building.

Section 16.051. A violation that the premises and all common areas are fit for the use intended by the parties or to keep the premises in reasonable repair during the term of the lease or license, except when the disrepair has been caused by the willful, malicious or irresponsible conduct of the lessee or licensee or a person under his direction or control.

Section 16.052. A violation of an oral or written agreement, lease or contract for the rental of a dwelling in a building.

Section 16.06. "Building" means any building used in whole or in part as a dwelling, including single family homes, multiple family units, such as apartments or structures containing both dwelling units and units used for non-dwelling purposes.

## CHAPTER 41

### REAL ESTATE MORTGAGES: FORECLOSURE

#### ACTION

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## Chapter 41

Section 17. Real Estate Mortgages/Residential Mortgages On Trust/Fee Lands;

Foreclosure Action: Rules Governing. Actions for the foreclosure of mortgages on any residential property and land, shall be governed by the same rules and provisions of Band Statute as civil action, except as in this Chapter otherwise provides.

Section 18. Judgment Transcript. Judgment shall be entered, under the direction of the Court, adjudging the amount due, with costs and disbursements, and the sale of the mortgaged premises, or some part thereof, to satisfy such amount, and directing the Chief Law Enforcement Officer to proceed to sell the same according to the provisions of law relating to the sale of real estate on execution, and to make report to the Court. A certified transcript of the judgment shall be delivered to the Chief Law Enforcement Officer and shall be his authority for making a sale.

Section 19. Purchase By Mortgagee. The mortgagee, or any one claiming under him, may fairly and in good faith bid off the premises at such sale; and in such case the statement of such fact in the report of sale shall have the same effect as a receipt for money paid upon a sale for cash.

Section 20. Surplus. When the sale is for cash, if after satisfying the mortgage debt, with costs and expenses, there is a surplus, it shall be brought into Court for the benefit of the mortgagor or the person entitled thereto, subject to the order of the Court. If such surplus remains in Court for three months without being applied for, the Judge may direct it to be put out at interest, subject to the order of the Court, for the benefit of the person entitled thereto, to be paid to them upon order of the Court.

Section 21. Foreclosure For Installment: Dismissal, Stay. When an action is brought for the foreclosure of the mortgage on which there is due any interest, or any portion of the principal and there are other portions to become due subsequently the action shall be dismissed, upon the defendant bringing into Court, at any time before the judgment of sale, the principal and interest due, with costs. If, after such judgment of sale, the defendant brings into Court the principal and interest due, with costs, the action shall be stayed; but the Court shall enter judgment of foreclosure and sale, to be enforced by a further order upon a subsequent default in the payment of any portion of the principal or of interest thereafter to become due.

Section 22. Report, Confirmation, Resale. Upon the coming in of the report of sale, the Court shall grant an order confirming the sale, or if it appears upon due examination that justice has not been done, it may order a resale on such terms as are just. If the sale is confirmed, the Chief Law Enforcement Officer shall forthwith execute the proper certificate of sale, which shall be recorded with thirty days after such confirmation.

Section 23. Satisfaction Of Judgment, Execution For Deficiency. Upon confirmation of the report of sale, the Clerk shall enter satisfaction of the judgment to the extent of the sum bid for the premises, less expenses and costs, and for any balance of such judgment, execution may issue as in other cases; but no such execution shall issue on the judgment until after a sale of the mortgaged premises, and the application of the amount realized as aforesaid.

Section 24. Redemption By Mortgagor, Creditor. The mortgagor, or those claiming under him, within the time specified in Section 49, after the date of the order of confirmation, may redeem the premises sold, or any separate portion thereof, by paying the amount bid therefore, with interest thereon from the time of sale at the rate provided to be paid on the mortgage debt, not to exceed four percent per annum, and, if no rate to be provided in the mortgage, at the rate of four percent, together with any further sum which may be payable pursuant to Section 28. Creditors having a lien may redeem in the order and manner specified in Section 50 but no creditor shall be entitled to redeem unless within such specified redemption period he files with the Clerk notice of his intent to redeem.

Section 25. Delivery Of Possession. When possession of a residence is wrongfully withheld after expiration of the time of redemption, the Court may compel delivery of possession to the part entitled thereto by order, directing the Chief Law Enforcement Officer to effect such delivery, after hearing to show cause on the merits.

Section 26. Strict Foreclosure. Judgment for the strict foreclosure of a mortgage may be given when such remedy is just or appropriate, but in such case no final decree or foreclosure shall be rendered until the lapse of one year after the judgment adjudging the amount due on such mortgage.

## CHAPTER 42

REAL ESTATE MORTGAGES: FORECLOSURE

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## Chapter 42

Section 27. Limitation. Subject to the provisions of this Chapter, any mortgage or real estate containing a power of sale, upon default being made in any condition thereof, may be foreclosed by advertisement.

Section 28. Requisites For Foreclosure. To entitle any part to make such foreclosure, it is requisite: That some default in a condition of such mortgage has occurred, by which the power to sell has become operative. That no such action or proceeding has been instituted at law to recover the debt then remaining secured by such mortgage, or any part thereof, or if the action or proceeding has been instituted, that the same has been discontinued, or that an execution upon the judgment rendered therein has been returned unsatisfied, in whole or in part. That the mortgage has been recorded, and if it has been assigned, that all assignments thereof have been recorded; provided, that if the mortgage is upon registered land, it shall be sufficient if the mortgage and all assignments thereof have been duly registered.

Section 29. Notice Of Sale, Service On Occupant. Six weeks published notice shall be given that such mortgage will be foreclosed by sale of the mortgaged premises or some part thereof, and at least four weeks before the appointed time of sale a copy of such notice shall be served in like manner as a summons in a civil action in the Court of Central Jurisdiction upon the person in possession of the mortgaged premises, if the same are actually occupied. If there be a building on such premises used by a church or religious corporation, for its usual meetings, service upon any officer or trustee of such corporation shall be a sufficient service upon it.

Section 30. Requisites of Notice. Each notice shall specify: the name of the mortgagor and of the mortgagee and of the assignee of the mortgage, if any and the original principal amount secured by said mortgage. The date of the mortgage and when and where recorded, except where the mortgage is upon registered land, in which case the notice shall state that fact, and when and where registered. The amount claimed to be due thereon, and taxes, if any paid by the mortgagee at the date of the notice. A description of the mortgaged premises, conforming substantially to that contained in the mortgage. The time and place of sale and the time allowed by law for redemption by the mortgagor, his personal representative or assigns.

Section 31. Attorney To Foreclose: Record Of Power. When an attorney at law is employed to conduct such foreclosure, his authority shall appear by power of attorney executed and acknowledged by the mortgagee or assignee of the mortgage in the same manner as a conveyance, and recorded prior to the



sale in the county where the foreclosure proceedings are had. If such attorney be employed on behalf of such mortgagee or assignee by an attorney, in fact his authority shall likewise be evidenced by recorded power.

Section 32. Sale, How And By Whom Made. The sale shall be made by the Chief Law Enforcement Officer at public vendue to the highest bidder, in the district in which the premises to be sold, or some part thereof, are situated, between nine o'clock a.m. and the setting of the sun.

Section 33. Postponement. Such sale may be postponed from time to time, by inserting a notice of such postponement as soon as practicable, in the newspaper in which the original advertisement was published, and continuing such publication until the time to which the sale is postponed at the expense of the party requesting the same.

Section 34. Separate Tracts. If the mortgaged premises consist of separate and distinct farms or tracts, they shall be sold separately, and no more farms or tracts shall be sold than are necessary to satisfy the amount due on such mortgage at the date of notice of such sale, with interest, taxes paid, and costs of sale.

Section 35. Foreclosure For Installments; Sales; Disposition Of Proceeds; Redemption.

Where a mortgage is given to secure the payment of money by installments, each installment, either for principal or interest or both, as is due at any time, may be taken and deemed to be a separate and independent mortgage, and such mortgage for each such installment may be foreclosed by advertisement or by action, in the manner and with like effect as if a separate mortgage were given for each of such installments, and such foreclosure may be made and sale had subject to the installment yet to become due upon the mortgage; and a redemption from any such sale shall have the like effect as if the sale for such installment had been made upon an independent subsequent mortgage; provided in such cases the attorney's fees on the foreclosure so made shall not exceed the amount permitted by law in case of a mortgage securing the amount of the debt then due on such foreclosure. The proceeds of the sale shall be applied first in payment of the costs of the foreclosure sale, and of the installment due with interest thereon, taxes and insurance premiums paid, if any, and then towards the payment of the residue of the sum secured by such mortgage, and not due and payable at the time of such sale; and, if such residue does not bear interest, such application shall be made with rebate of the legal interest for the time during which the residue shall not be due and payable; and the surplus, if any, shall be paid to the subsequent lienor, if any, in the order of their priority, and then to the owner of the equity of redemption, his legal representative or assigns. In case of redemption from any sale herein authorized, at the option of the redemptioner, the whole amount

remaining unpaid on the mortgage, with interest and other items, if any, which have become part of the amount secured by the lien of the mortgage, may be included in the amount paid on redemption, and in such event, the redemption so made shall have like effect as if the foreclosure sale had been made for the entire amount secured by the mortgage, including such additional items.

Section 35.01. Before any sale herein authorized, the holder of the mortgage shall file with the Chief Law Enforcement Officer a verified itemized statement in writing showing the entire amount remaining unpaid on the mortgage, including taxes and insurance premiums paid and other items which have become part of the amount secured, and the rate of interest to accrue on same, which statement shall be subject to public inspection and shall be read by the Chief Law Enforcement Officer at the sale, immediately after reading the notice of sale. The certificate of sale shall set forth correctly, in addition to the amount of sale, the remaining amount still unpaid on and secured by mortgage, subject to which the sale is made, and the rate of interest to accrue on same. If during the time to redeem from the sale, any additional or other item, other than interest at the rate so stated in the certificate shall attach to such amount subject to which the sale was made, or any change shall occur in such amount or the rate of interest thereon, the facts with respect thereto, shall be set forth by affidavit, made and filed for record, and copy furnished the Chief Law Enforcement Officer, in accordance with the provisions of this Chapter and the provisions of that Section shall apply thereto.

Section 36. Surplus. In all cases not provided for in Section 35, if after sale of any real estate, made as herein prescribed, there remains in the hands of the officer making the sale any surplus money, after satisfying the mortgage, with interest, taxes paid, and costs of sale, the surplus shall be paid over by such officer on demand, to the mortgagor, his legal representative or assigns.

Section 37. Mortgagee Or Assignees May Purchase. The mortgagee, his assignees, or his or their legal representatives, may fairly and in good faith purchase the premises so advertise, or any part thereof, at such sale.

Section 38. Certificate Of Sale; Record; Effect. When any sale of real property is made under a power of sale contained in any mortgage, the officer shall make and deliver to the purchaser a certificate, executed in the same manner as a conveyance, containing: A description of the mortgage, a description of the property sold, the price paid for each parcel sold, the time and place of the sale, and the name of the purchaser, the time allowed by the law for redemption. The certificate shall be recorded within twenty days after such sale, and when so recorded, upon expiration of the time for redemption, shall operate as a conveyance to the purchaser or his assignee of all the right, title and interest of the mortgagor in and to the premises named therein at the date of such mortgage, without any other conveyance.

Section 39. Premises In More Than One County; Record. If any mortgage covering real estate in more than one county be foreclosed by proceedings had in one county, and the mortgage debt be thereby paid, in whole or in part, there may be recorded by the clerk of court of the other county a certified copy of the certificate of sale and other foreclosure proceedings of record in the county in which the foreclosure proceedings were had.

Section 40. Execution After Expiration Of Term. Where the terms of office, of the law enforcement officer who made the sale expires within twenty days thereafter, and before he has executed the certificate required by law, he may execute and acknowledge the same in like manner and with like effect as if his term had not expired.

Section 41. Perpetuating Evidence Of Sale. Any party desiring to perpetuate the evidence of any sale made in pursuance of this Chapter may procure:

Section 41.01. An affidavit of the publication of the notice of sale and of any notice of postponement to be made by the printer of the newspaper in which the same was inserted or by some person in his employ knowing the facts.

Section 41.02. An affidavit or return of service of such notice upon the occupant of the mortgaged premises to be made by the officer or person making such service, or in case the premises were vacant or unoccupied at the time the service must be made, an affidavit<sup>(A)</sup> or return showing that fact, to be made by the officer or person attempting to make such service.

Section 41.03. An affidavit by the person foreclosing the mortgage, or his attorney, or someone knowing the facts, setting forth the facts relating to the military service status of the owner of the mortgaged premises at the time of sale.

Section 42. Entry In Record. A note referring to the page and book where the evidence of any such sale is recorded shall be made by the recorder in the margin of the record of the mortgage.

Section 43. Affidavit Of Costs. Within ten days after the filing for record of the certificate of sale, the party foreclosing or his attorney shall make and file for record with the clerk of court an affidavit containing a detailed bill of costs and disbursements of the foreclosure, including attorney's fees, and setting forth that the same have been absolutely and unconditionally paid or incurred.

Section 44. Excessive Costs Or Interest. At any time within one year after the sale, the mortgagor, his heirs or assigns, may recover from the owner of the mortgage at the time of foreclosure three times the amount of any sums charged as costs or disbursements on such foreclosure but not absolutely paid, unless such amounts have been paid to the mortgagor or his assigns.

Section 45. Certificate As Evidence. Every law enforcement officer's certificate of sale made under a power to sell contained in a mortgage shall be prima facie evidence that all the requirements of law in that behalf have been complied with and prima facie evidence of title in fee thereunder in the purchaser at such sale, his heirs or assigns, after the time for redemption therefrom has expired.

Section 46. Action To Set Aside For Certain Defects. No such sale shall be held invalid or be set aside by reason of any defect in the notice thereof, or in the publication or service of such notice, or in the proceedings of the officer making the sale, unless the action in which the validity of such sale is called in question be commenced, or the defense alleging its invalidity be interposed, with reasonable diligence, and not later than five years after the date of such sale; provided that persons under disability to sue when such sale was made by reason of being minors, insane persons, idiots, or persons in captivity of any country with which the United States is at war, may commence such action or interpose such defense at any time within five years after the removal of such disability.

Section 47. Action To Set Aside Sale: Limitation. No such sale shall be held invalid or set aside unless the action in which its validity is called in question be commenced, or the defense alleging its invalidity be interposed, within fifteen years after the date of such sale; provided that persons under disability, as provided in Section 46, may commence such action or interpose such defense within the time therein provided. This Section shall not affect or prejudice the rights of any bona fide purchaser.

Section 48. Interest Of Purchaser; Attachment Or Judgment. The interest acquired upon such sale is subject to the lien of any attachment or judgment duly made or docketed against the person holding the same, as in case of real property, and may be attached and sold on execution in the same manner.

Section 49. Redemption By Mortgagor. When residences and/or fee land have been sold in conformity with the preceding Sections of this Chapter the mortgagor, his personal representatives or assigns, within six months after such sale, except as otherwise provided in Section 49.01, may redeem such residence and/or fee land hereinafter provided, by paying the sum of money for which the same were sold, with interest from the time of sale at the rate provided to be paid on the mortgage debt, not to exceed four percent per annum, and if no rate be provided in the mortgage, at the rate of four percent per annum, together with any further sums which may be payable pursuant to this Chapter. Where the redemption period is as provided in this Section, the mortgagee, or his successors, assigns or personal representative or any other purchaser so purchasing at the Chief Law Enforcement Officer's sale shall by purchasing the property at the officer's sale thereby waive his right to a deficiency judgment against the mortgagor.

Section 49.01. Notwithstanding the provisions of Section 49 hereof, when residences have been sold in conformity with the preceding Sections of this Chapter, the mortgagor, his personal representatives or assigns, within 12 months after such sale may redeem such residence in accordance with the provisions of payment of Section 49 thereof, if the mortgage was executed prior to July 1, 1967, or the amount claimed to be due and owing as of the date of the notice of foreclosure sale is less than  $66 \frac{2}{3}$  percent of the original principal amount secured by the mortgage or the mortgaged premises, as of the date of the execution of the mortgage.

Section 50. Redemption By Creditor. If no such redemption be made by the mortgagor, his personal representatives or assigns, the senior creditor having a lien, legal or equitable, upon the mortgaged premises, or some part subsequent to the mortgage, may redeem within five days after the expiration of the redemption period specified in Section 49 and each subsequent creditor having a lien in succession, according to priority of liens, within five days after the time allowed the prior lienholder, respectively, may redeem by paying the amount aforesaid and all liens prior to his own held by the person from whom redemption is made; provided that no creditor shall be entitled to redeem unless within the period allowed for redemption he file for record notice of his intention to redeem with the clerk of court, of each district where the mortgage is recorded.

Section 51. Redemption: How Made. Redemption shall be made as follows: The person desiring to redeem shall pay to the person holding the right acquired under such sale, or for him to the chief law enforcement officer, who made the sale, or his successor in office, the amount required by law for such redemption, and shall produce to such person or officer.

Section 51.01. A copy of the docket of the judgment, or of the deed or mortgage, or of the record or files evidencing any other lien under which he claims a right to redeem, certified by the officer in whose custody such docket, record or files shall be, or the original deed or mortgage, with the certificate of record endorsed thereon.

Section 51.02 Any assignment necessary to establish his claim, verified by the affidavit of himself or a subscribing witness thereto, or some person acquainted with the signature of the assignor. If the redemption is under an assignment of a judgment, the assignment shall be filed in the court rendering the judgment, as provided by law, and the person so redeeming shall produce a certified copy thereof, and of the record of its filing and the copy of the docket shall show that the proper entry was made upon the docket.

Section 51.03. An affidavit of himself or his agent, showing the amount then actually due on his lien. Within twenty-four hours after such redemption is made, the person redeeming shall cause the documents so required to be produced to be filed with the clerk of court, who shall endorse thereon the date and hour of filing, and shall preserve the same in his office for one year thereafter, for which service he shall be entitled to receive \$1.00. If such redemption shall be made at any place other than the district-seat, it shall be sufficient forthwith to deposit such documents in the nearest post office, addressed to such recorder, with the postage prepaid.

Section 52. Certificate Of Redemption; Record. The person or officer from whom such redemption is made shall make and deliver to the person redeeming a certificate executed and acknowledged in the same manner as a conveyance, containing:

Section 52.01. The name of the person redeeming, and the amount paid by him on such redemption.

Section 52.02. A description of the sale for which such redemption is made and of the property redeemed.

Section 52.03. A statement of the claim upon which such redemption is made and if upon a lien, the amount claimed to be due thereon at the date of redemption. If redemption is made by the owner of the property sold, his heirs, personal representatives, or assigns such certificate shall be recorded within four days after the expiration of the year allowed him for redemption, and if made by a creditor holding a lien, the certificate shall be recorded within four days after such redemption. Unless so recorded, the certificate shall be void as against any person in good faith redeeming from the same person or lien.

Section 53. Effect Of Redemption. If redemption is made by the owner of the property sold, his heirs, personal representatives or assigns, such redemption annuls the sale; if by a creditor holding a lien on the property or some part thereof, the certificate of redemption, executed, acknowledged and recorded as provided in Section 52, operates as an assignment to him of the right acquired under such sale, subject to such right of any other to redeem as provided by law.

Section 54. Foreclosure Pending Action To Set Aside Mortgage; Redemption. When an action is brought wherein it is claimed that any mortgage as to the plaintiff or person for whose benefit the action is brought is fraudulent or void, or has been paid or discharged, in whole or in part, if such mortgage has been foreclosed by advertisement, and the time for redemption from the foreclosure sale will expire before final judgment in such action, the plaintiff or beneficiary having the right to redeem, for the purpose of saving such right in case the action fails, may deposit with the chief law enforcement officer, before the time of redemption expires the amount for which the mortgaged premises were sold, with interest thereon to the time of deposit, together with a bond to the holder of the chief law enforcement officer's certificate of sale in an amount and with sureties to be approved by the chief law enforcement officer, conditioned to pay all interest that may accrue to be allowed on such deposit if the action fail. He shall, in writing, notify such law enforcement officer that he claims the mortgage to be fraudulent or void or to have been paid or discharged, in whole or in part, as the case may be, and that such action is pending, and direct him to retain such money and bond until final judgment. In case such action fails, such deposit shall operate as a redemption of the premises from such foreclosure sale, and entitle the plaintiff to a certificate thereof. Such foreclosure deposit, bond and notice shall be brought to the attention of the court by supplemental complaint in the action and the judgment shall determine the validity of the foreclosure sale, and the rights of the parties to the moneys and bond so deposited, which shall be paid and delivered by the sheriff as directed by such judgment upon delivery to him of a certified copy thereof. The remedy therein provided shall be in addition to other remedies now existing.

Section 55. Holder Of Junior Mortgage May Pay Default In Prior Mortgage. Any person who has a mortgage lien upon any land against which there exists a prior mortgage may pay any taxes or assessments on which any penalty would otherwise accrue, and may pay the premium upon any policy of insurance procured in renewal of any expiring policy upon mortgaged premises, and may in case any interest upon any prior or superior lien is in default, or any part of the principal shall become due, or amortized installment which may be in default upon any such prior lien, pay the same, and all such sums so paid shall become due upon such payment and be a part of the debt secured by such junior mortgage, shall bear interest from date of payment at the same rate as the indebtedness secured by such prior lien,

and shall be collectible with, as a part of, and in the same manner as the amount secured by such junior mortgage. Such payments shall be proved by the affidavit of the junior mortgagee, his agent or attorney, stating the items and describing the premises, and a copy must be filed for record with the clerk of court.

Section 56. Mortgage When Reinstated. In any proceedings for the foreclosure of a real estate mortgage, whether by action or by advertisement, if at any time before the sale of the premises under such foreclosure the mortgagor, the owner, or any holder of any subsequent encumbrance or lien, or any one of them, shall pay or cause to be paid to the holder of the mortgage so being foreclosed, or to the attorney foreclosing the same, or to the chief law enforcement officer, the amount actually due thereon and constituting the default actually existing in the conditions of the mortgage at the time of the commencement of the foreclosure proceedings, including insurance, delinquent taxes, if any, upon the premises, interest to date of payment, cost of publication and services of process or notices, attorney's fees not exceeding one hundred fifty dollars or one-half of the attorney's fees authorized by this Chapter, whichever is greater, together with other lawful disbursement necessarily incurred in connection with the proceedings by the party foreclosing, then and in the event the mortgage shall be fully reinstated and further proceedings in such foreclosure shall be thereupon abandoned.



## CHAPTER 43

### REAL ESTATE MORTGAGES:

#### GENERAL PROVISIONS

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## Chapter 43

Section 57. Attorney's Fees. The mortgagor may, in the mortgage, covenant to pay or authorize the mortgagee to retain an attorney's fees in case of foreclosure; but such fees in case of foreclosure by advertisement shall not exceed the following amounts, and any provisions for fees in excess thereof, shall be void to the extent of the excess:

The original principal amount secured by the mortgage	
less than \$500.00	\$150.00
\$550.00 - \$1,000.00	\$160.00
\$1,000.00 - \$5,000.00	\$170.00
\$5,000.00 - \$10,000.00	\$225.00
Exceeding \$10,000.00	\$275.00 plus \$35.00 for each additional \$5,000.00 or major fraction thereof.

Section 57.01. The Court shall establish the amount of the attorney's fees in case of foreclosure by action. If at the time of the commencement of the foreclosure proceedings, all of the items, constituting said default were less than thirty days past due, then upon redemption the mortgagor shall not be required to pay the attorney's fees authorized in this Section. This Section shall apply only to mortgages executed after May 31, 1971.

Section 58. Purchaser At Foreclosure, Execution, Or Judicial Sale May Pay Taxes, Assessments, Insurance Premiums Or Interest. The purchaser at any sale, upon foreclosure of mortgage or execution or at any judicial sale during the year of redemption, may in case any interest or installment of principal upon any prior or superior mortgage is in default or shall become due during such year of redemption, pay the same, and in all such cases, the sum so paid with interest, shall be a part of the sum required to be paid to redeem from such sale. Such payments shall be proved by the affidavit of the purchaser, his agent or attorney, stating the items and describing the premises, which must be filed for record with the clerk of court and a copy thereof shall be furnished to the chief law enforcement officer at least ten days before the expiration of the year of redemption.

Section 59. Non-Removable Mille Lacs Band Of Chippewa Indians May Be Made Defendant

In Certain Cases. In all cases not otherwise provided for, the consent of the Non-Removable Mille Lacs Band of Chippewa Indians is given to be named a party in any suit which is now pending or which may hereafter be brought in the Court of Central Jurisdiction having jurisdiction of the subject matter, to quiet title to or for the foreclosure of a mortgage or other lien upon real estate or personal property, for the purpose of securing an adjudication touching any mortgage, or other lien the Non-Removable Mille Lacs Band of Chippewa Indians may have or claim on the real estate or personal property involved, or to determine the boundary line between any real property of the Band and real property contiguous thereto; provided, that this shall not be deemed to supersede any express provision of law relating to action to which the Band may be made a party, not to relieve any person from complying with any requirement of such laws.

Section 60. Limitation On Foreclosure. No action or proceeding to foreclosure a real estate mortgage executed prior to January 31, 1975, shall be maintained after May 31, 1985, unless prior to said date the owner of said mortgage shall have filed in the office of the Clerk of Court, in which is located the real estate covered thereby, a notice setting forth the name of the claimant, and description of said real estate and of said mortgage including the volume and page at which it is of record and a statement of the amount claimed to be due thereon. Such notices may be discharged in the same manner as notices of lis pendens, and so discharged, shall together with all information included therein, cease to constitute either actual or constructive notice.

Section 61. Presumption Of Identity. The presumption of identity arising from identity or substantial identity of names of a grantee and of a succeeding grantor in a chain of title, shall extend to those cases where in one instrument the party is designated by initials which correspond with the name appearing in another instrument with the exception of the use of Indians names.

Section 62. Construction. Section 60 through 63 shall be liberally construed for the purpose of ascertaining marketability of title as between vendor and purchaser.

## CHAPTER 44

REAL/PERSONAL PROPERTY - GENERAL PROVISIONS

BAND LAND CONSOLIDATION PROVISIONS

PROVISIONS FOR COMMON LAW

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## Chapter 44

Section 63. General Provisions. Any person who shall enter into a contractual arrangement for the provision of a residence on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians who shall become delinquent in their housing payments for more than two months shall have no authority to relinquish title to their residence in favor of any creditor by entering into any rental option agreement without first having his mortgage foreclosed pursuant to Chapters 41 and 42 of this Band Statute. The redemption period found in Section 49 of Chapter 42 shall be utilized for an opportunity for the home-buyer to recover his residence lost to foreclosure. Any holder of said title to a foreclosed mortgage shall show cause as to why said home-buyer should not have first option to redeem through a six month rent with option to buy contract. Any rents collected pursuant to said agreement shall be utilized to apply to any original principal and interest balance, with attorney fees awarded by the Court, provided the original home-buyer is granted a rent with option contract. In such an event, home-repairs shall be the responsibility of the person who possessed title to the house prior to foreclosure action.

Section 63.01. Any person who shall enter into a contractual arrangement with the Minnesota Chippewa Tribal Housing Corporation for the provisions of a residence to which a mortgage was issued within the previous fifteen years, it is hereby declared by the Band Assembly that all such mortgage documents shall be deemed valid mortgages by the Court of Central Jurisdiction, but subject to provisions found in Chapter 41 - 44 of this Band Statute.

Section 64. Severability. If any provisions of this Band Statute, or the application thereof, to any person, business or corporation or circumstance is held invalid, the invalidity shall not affect any other provision or applications of this Band Statute which can be given effect without the invalid provisions, or application and to this end the provisions of this Band Statute are declared severable.

Section 65. Reservation Of Rights. The Band Assembly hereby fully reserves the right to alter, amend or repeal the provisions of this Band Statute, and all rights and privileges granted or extended hereunder, shall be subject to such reserved right.

Section 66. Pledge Of Allotted Lands As Collateral. Any enrolled member of any constituent Band of the Non-Removable Mille Lacs Band of Chippewa Indians who shall be an allottee of lands held in trust by the United States of America, which said lands are located within the jurisdiction of the Non-Removable

Mille Lacs Band of Chippewa Indians shall not be required to pledge the entire acreage of the allotment as collateral to obtain financial assistance for the construction or renovation of any residential or commercial dwelling located on said allotment from any mortgage creditor of financial institution.

Section 66.01. Notwithstanding the provisions of Section 67, any pledge of an allotment as collateral for the construction or renovation of any residential dwelling shall not exceed two acres of the total allotment when the total exceeds two acres of land.

Section 66.02. The provisions of this Section shall apply to all allotments held by an enrolled member of any constituent Band of the Non-Removable Mille Lacs Band of Chippewa Indians in trust by the United States of America on January 1, 1975. Any such pledge of an entire acreage of an allotment to secure credit for the construction or renovation of any residential dwelling shall be of no force and effect in the event such pledge exceeds the standard amount of acreage granted by the government of the Non-Removable Mille Lacs Band of Chippewa Indians for the construction or renovation of residential dwelling on trust lands by the individual members of the Band.

Section 67. Lands Consolidation Provisions. Pursuant to the authority vested in the Non-Removable Mille Lacs Band of Chippewa Indians by the Indians Land Consolidation Act, 25 United States Code, 2201, et seq., 1983, the Commissioner of Natural Resources is hereby authorized and directed to prepare a plan, subject to the approval of the Secretary of Interior and ratified by the Band Assembly, to ensure that non-members or non-Indians of any constituent Band of the Non-Removable Mille Lacs Band of Chippewa Indians, shall not receive or be entitled to receive by devise or descent any interest of an enrolled member of any constituent Band of the Non-Removable Mille Lacs Band of Chippewa Indians on any lands located within the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians. Notwithstanding any other provision of any other law, it shall be unlawful for any non-member or non-Indian of any constituent Band of the Non-Removable Mille Lacs Band of Chippewa Indians to receive or be entitled to receive any interest in trust or restricted lands within the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians.

Section 67.01. Any enrolled member of the Non-Removable Mille Lacs Band of Chippewa Indians who dies intestate leaving a surviving spouse and/or children who are non-members of any constituent Band of the Non-Removable Mille Lacs Band of Chippewa Indians, or who are non-Indians, the surviving spouse or children shall be entitled to life-time estate on the trust or restricted property of the decedent Band member in lieu of the restriction imposed in Section 68 of this Band Statute provided, that any said surviving spouse or children not be excluded or removed from said lands for cause after hearing pursuant to provisions of Band Statute 1069-MLC-22.



Section 67.02. In the event of death of an enrolled member of any constituent member Band of the Non-Removable Mille Lacs Band of Chippewa Indians, with said death be intestate and without a legitimate heir to whom interests in trust or restricted lands may pass, all such interests shall escheat to the Non-Removable Mille Lacs Band of Chippewa Indians subject to:

Section 67.022. Right of proper notice of intent to take and notice of due process hearing in the Court of Central Jurisdiction to determine the legal membership status of the subject heir, a specific finding of the Court that the subject heir is not eligible to receive an interest in the trust or restricted property, a specific finding if the subject heir is entitled to compensation for the legal taking of the interest by the Non-Removable Mille Lacs Band of Chippewa Indians, any said compensation may include any rental fees established for life-time occupancy, a specific finding of the amount of compensation due to the subject heir and an order for payment of said compensation in an amount reasonable and appropriate not to exceed five hundred dollars by the Non-Removable Mille Lacs Band of Chippewa Indians.

Section 67.023. Right to appeal the decision of the justice to the entire Court of Central Jurisdiction whose decision shall be final.

Section 67.03. The provisions of Title II of Public Law 97-459, 96 Stat. 2515 as amended by Public Law 98-608, 98 Stat. 3171, as well as any and all implementing regulations promulgated by the Secretary of Interior and published in the Federal Register shall apply as law of the Non-Removable Mille Lacs Band of Chippewa Indians in the same manner as if such had been enacted into law pursuant to provisions of Band Statute 1002-MLC-2, Section 12, as amended. The justices of the Court of Central Jurisdiction shall have exclusive jurisdiction in matter related to Section 68 of this Band Statute and each shall be bound thereby to the applicable provisions of the laws of the United States of America.

## RIDER

Section 68. Common Law. The Band Assembly hereby declares that the principles and rules of action, relating to the government of the Non-Removable Mille Lacs Band of Chippewa Indians and the security of those persons subject to the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians, which derive their authority solely from usages and customs of immemorial antiquity of the Non-Removable Mille Lacs Band of Chippewa Indians shall apply to civil causes of action in the Court of Central Jurisdiction, when such does not rest for their authority upon any expressed or positive declaration of the will of the Band Assembly.

Section 68.01. In all other causes of civil action that do not involve directly from usages and customs of immemorial antiquity of the Non-Removable Mille Lacs Band of Chippewa Indians or from any expressed and declared will of the Band Assembly in matters related to the government of the Band or the security of persons and property under the jurisdiction of the Band, the common laws of the United States of America shall prevail in the Court of Central Jurisdiction.

## CHAPTER 48

### REGULATIONS FOR LAND USE

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## **Rider**

### **Band Statute 1098-MLC-48**

The Band Assembly hereby creates Chapter 48 of the Statutes of the Non-Removable Mille Lacs Band of Chippewa Indians for the purpose of exercising jurisdiction over the use of all lands owned in fee or trust status and all trust lands to which the Band is designated as a legal beneficiary of a trust relationship between the Band and the United States of America.

Section 1. Validity of Easements. All easements of records over trust land, on trust land and under trust land within the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians shall have no validity or force of law unless approved upon the recommendation of the Chief Executive, ratified pursuant to formal resolution by the Band Assembly and approved and filed by the U.S. Department of Interior, Bureau of Indian Affairs. All existing easements are hereby declared null and void unless entered into in compliance with Federal Statute and Regulation.

Section 1.01. The provisions of Section 1 - 3 shall not be construed as applicable for obtaining easements over individual trust land.

Section 2. Authority of Commissioner of Natural Resources. The Commissioner of Natural Resources is hereby authorized and directed to review each parcel of land under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians to determine the validity of all easements of record. Should he determine any easement to be invalid, he shall notify in writing the holder of the easement of said invalidity and the United States Department of Interior - Bureau of Indians Affairs for appropriate action pursuant to federal law.

Section 2.01. All persons who reside on or hold leases to trust or restricted property under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians shall be authorized to initiate action which will result in the issuance of a valid easement for purposes of obtaining public utility services including electrical service, telephone service, and water and sewer service. Upon obtaining the consent of the leasee, all requests for easements shall be forwarded to the Commissioner of Natural Resources who shall make a determination of the issues and make his recommendation for acceptance or rejection to the Chief Executive. Upon the authorization of the Chief Executive, he shall forward

said application for easement to the District Representative of the Band Assembly in which the land is located for formal acceptance or rejection of the easement by the Band Assembly. In the event the Band Assembly consents to grant the easement, the easement shall be forwarded to the Superintendent of the Minnesota Agency - Bureau of Indian Affairs for proper action pursuant to federal law. In the event that the Band Assembly rejects said easement, the Solicitor General shall notify the leasee of said action and the right of the leasee to a hearing before the Band Assembly to contest the rejection. Any leasee who seeks to appeal the decision of the Band Assembly shall petition the Speaker of the Assembly within ten days after formal action or forfeit all rights to appeal. The decision of the Band Assembly may be appealed to the Court of Central Jurisdiction but any such appeal must be instituted within five days after the decision of the Band Assembly is rendered or the right of appeal to the Court shall be forfeited.

Section 2.02. Any holder of a valid lease of trust or restricted property or any person who resides or intends to reside on trust or restricted property under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians, who shall offer or authorize through signature any easement in violation of Section 2.01 above to any other person or entity shall be deemed guilty of an unauthorized easement on trust land violation and upon conviction thereof, shall be sentenced to pay a fine not to exceed five hundred dollars.

Section 2.03. Any person who shall go upon or pass over any trust or restricted lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians in violation of any provisions of this or any other law of the Mille Lacs Band of Chippewa Indians shall be deemed guilty of a trespass violation and upon conviction thereof, shall be subject to exclusion for a period not to exceed 180 days and/or a fine not to exceed five hundred dollars.

Section 2.04. The Commissioner of Natural Resources or any law enforcement official of the Band at the time the trespass occurs shall be authorized to seize any motorized vehicles, equipment and material goods, used in connection with the trespass in the name of the Band to be returned at the discretion of the Court at any time during the judicial proceeding.

Section 3. Leases of Restricted Lands under the Jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians. Leases of trust or restricted lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians or from Band member employees of the Mille Lacs Band must be made on sealed bids unless the Chief Executive upon ratification by the Band

Assembly waives this requirement on the basis of a full report showing: the need for the transaction, the benefits accruing to both parties and that the consideration for the proposed transaction shall be not less than the appraised value of the lands or leasehold interest unless the Indian employee qualifies and is intending a transaction in accordance with this Chapter. An affidavit as follows shall accompany each proposed land transaction:

I, \_\_\_\_\_(name), \_\_\_\_\_(title), swear  
(or affirm) that I have not exercised any undue influence nor used any special  
knowledge received by reason of my office in obtaining the (grantor's, purchaser's,  
vendor's) consent to the instant transaction.

## CHAPTER 49

### PERSONNEL POLICIES



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## **Rider**

### **Band Statute 1099-MLC-49**

The Band Assembly hereby creates Chapter 49 of the Statutes of the Non-Removable Mille Lacs Band of Chippewa Indians for purpose of codifying Personnel Policies adopted September 2, 1982.

Additional amendment to Band Statute 1099-MLC-49:

Section 7. Trade involving Employees and Appointees of the Mille Lacs Band. Government employees are not to trade with any entity of the Band except in certain cases. No person employed in the civil service of the Mille Lacs Band shall have any interest or concern in any trade with any entity of the Band except for and on account of the Mille Lacs Band; and any person offending herein shall be liable to a penalty of \$500.00. Pending the promulgation of regulations prescribing in more detail the transactions authorized by the Act of June 19, 1939, United States Code, employees of the Mille Lacs Band, including those employed in political sub-divisions of the Mille Lacs Band, may be permitted to trade with any Band member or Band organization under the conditions specified below:

Section 7.01. Employees of the Mille Lacs Band, including those in the employ of political sub-division thereof, may, with the approval of the Chief Executive in each case where the amount involved exceeds \$500.00 and with the approval of the Chief Executive where the amount involved does not exceed \$500.00, be permitted to purchase from any Band member or Band organization any arts and crafts or any other product, service or commodity produced, rendered, owned, controlled or furnished by any Band member or Band organization. Provided that no employee of the Mille Lacs Band shall be permitted to make any such purchases for the purposes of engaging, directly or indirectly, in the commercial selling, reselling, trading or bartering of said purchases by the said employee.

Section 7.02. Employees of the Mille Lacs Band, who are enrolled members of Mille Lacs Band, may be members in the same manner as other Band members of the Non-Removable Mille Lacs Band of Chippewa Indians not so employed and receive benefits by reason of their membership in such Band or corporation or cooperative associations, organized by and operated for the Non-Removable Mille Lacs Band of Chippewa Indians. Such Band member government employees may engage in all lawful

transactions with Band members, the Non-Removable Mille Lacs Band of Chippewa Indians and such corporations or cooperative associations. None of the transactions authorized herein may be entered into by such employees for the purpose of engaging, directly or indirectly, in the selling, releasing, trading, bartering or passing on in any other way for profit the objects, rights, services or property thus acquired. Nothing in this Section shall prevent in proper cases the disposition of any such property when such transaction cannot be considered as actually engaging in any of the businesses prohibited in this Section. All transactions authorized herein to be valid must be approved by the Chief Executive upon ratification by the Band Assembly.

Section 7.03. The purchase of small quantities for home use or consumption by Government employees or other, of blankets, baskets, etc., and articles of subsistence offered for sale by any entity of the Band, is held not to constitute trading with Band members.

Section 8. Leases of Restricted Lands under the Jurisdiction of the Non-Removable Mille

Lacs Band of Chippewa Indians. Leases of trust or restricted lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians or from Band member employees of the Mille Lacs Band must be made on sealed bids unless the Chief Executive upon ratification by the Band Assembly waives this requirement on the basis of a full report showing: the need for the transaction, the benefits accruing to both parties and that the consideration for the proposed transaction shall be not less than the appraised value of the lands or leasehold interest unless the Indian employee qualifies and is intending a transaction in accordance with this Chapter. An affidavit as follows shall accompany each proposed land transaction:

I, \_\_\_\_\_(name), \_\_\_\_\_(title), swear (or affirm) that I have not exercised any undue influence nor used any special knowledge received by reason of my office in obtaining the (grantor's, purchaser's, vendor's) consent to the instant transaction.

C H A P T E R   5 2

MOTOR VEHICLE REGISTRATION

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Preamble

It is enacted by the Band Assembly of the Mille Lacs Band of Chippewa Indians for the purpose of establishing standards for the registration of motor vehicles, the issuance of certificates of title for conveyance of ownership, any subsequent transfer of title, establishing lawful regulations for the operation of motor vehicles and other related purposes.

Chapter 52

Section 1. Findings and Determinations. The Band Assembly hereby finds that the registration of motor vehicles and the imposition of motor vehicle excise taxes for the privilege of using a motor vehicle on lands subject to the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians owned by enrolled members, who reside on said lands, is consistent with the statutory authority of Indian tribes across the United States of America which has been recognized by the United States Supreme Court in Washington v. Confederated Tribes, 447 US 134, (1980).

Section 1.01. The Band Assembly hereby finds that the agreement relating to the refundment of sales and use tax and motor vehicle excise taxes which purports to grant continuing authority to the State of Minnesota to collect taxes from members of any constituent Bands of the Non-Removable Mille Lacs Band of Chippewa Indians pursuant to 25 U.S.C. 1322 and 1326 was ultra vires, to each party; and, that the Solicitor General properly declared such agreement null and void.

Section 1.02. The Band Assembly hereby declares that the intent and purposes of Chapter 52, inclusive of the Statutes of the Non-Removable Mille Lacs Band of Chippewa Indians is to obtain and retain forever the sovereign rights of the people who comprise the constituent Bands of the Non-Removable Mille Lacs Band of Chippewa Indians to be free from all taxation imposed by the State of Minnesota and any of its political sub-divisions by the imposition of like taxes to support government services for the people and by the people, and the same shall be liberally construed to effect this purpose. Nothing herein shall be construed as a waiver of sovereign immunity by the Non-Removable Mille Lacs Band of Chippewa Indians in any court of competent jurisdiction with the exception of limited waivers to the Court of Central Jurisdiction authorized herewith.

Section 1.03. The Band Assembly hereby finds and determines that the State of Minnesota has continued to collect motor vehicle excise taxes from enrolled members of the Non-Removable Mille Lacs Band of Chippewa Indians since December 14, 1974 in violation of the United States Supreme Court decision, Bryan v. Itasca County, 426 U.S. 373 (1976).

Section 1.04. The Band Assembly hereby finds and determines that the development and implementation of this motor vehicle licensing statute is sufficient to pre-empt Minnesota law and hereby respectfully requests reciprocity from the State of Minnesota in the same manner it offered other governing jurisdictions. The Solicitor General is hereby authorized and directed to implement this provision.

Section 2. Definitions. In this Statute the following words and phrases have the designated meanings unless a different meaning is expressly provided or the context clearly indicates a different meaning.

Section 2.01. Secretary - means the Secretary of Treasury of the Mille Lacs Band of Chippewa Indians.

Section 2.02. Mille Lacs Band - means the Non-Removable Mille Lacs Band of Chippewa Indians.

Section 2.03. Mille Lacs Reservation - means all lands under the jurisdiction of the Mille Lacs Band of Chippewa Indians.

Section 2.04. Mobile Home - means a vehicle designed to be towed as a single unit or in sections upon the highway by a motor vehicle and equipped and used or intended to be used, primarily for human habitation, with walls of rigid uncollapsible construction.

Section 2.05. Motor Vehicle - means any vehicle which is self-propelled.

Section 2.06. Owner - means a person, other than a secured party, having the property in or title to a vehicle. This term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a leasee under a lease not intended as security.



Section 2.07. Vehicle - means every device in, upon or by which any person or property is or may be transported or drawn upon a highway.

Section 2.08. Court - means the Court of Central Jurisdiction for the Mille Lacs Band of Chippewa Indians.

Section 2.09. Manufacturer - means every person engaged in the business of constructing or assembling vehicles of a type for which a certificate of title is required hereunder.

Section 2.10. Manufacturer's or importer's Certificate of Origin - means a certificate over the authorized signature of the manufacturer or importer of a vehicle, describing and identifying the vehicle, giving the name and address of the person to whom the vehicle is first sold by the manufacturer or importer, and containing assignments, duly executed, assigning the same to an applicant for a certificate of title on the vehicle in the Non-Removable Mille Lacs Band of Chippewa Indians.

Section 2.11. Secured Party - means a lender, seller or other person to whom accounts or chattel paper have been sold. When the holders of obligations issued under an indenture of trust, equipment trust agreement or the like are represented by a trustee or other person, the representative is the secured party having an interest in the vehicle.

Section 2.12. For the purposes of effectuating the terms of this Band Statute, any terms not defined herein shall have the meanings given to them in the statutes of the State of Minnesota, except when the context otherwise requires.

Section 3. Penalty for Operating Unregistered or Improperly Registered Vehicle. It is unlawful for any person to operate or for an owner to consent to being operated on any roads of the Mille Lacs Reservation or roads subject to the jurisdiction of the Band, any motor vehicle, mobile home, trailer or semitrailer or any other vehicle for which a registration fee is specifically prescribed unless at the time of operation the vehicle in question either is registered with the Mille Lacs Reservation or is exempt from registration.

Section 3.01. A vehicle may be operated by a private person after the date of purchase of such vehicle by such private person, or after the date such person moved to this Reservation or lands subject to the jurisdiction of the Band, if application for registration and certificate of title has been made.

Section 3.02. All vehicles subject to renewal of registration may be operated provided that application for re-registration has been made.

Section 3.03. Any person violating Section 3 may be fined not more than \$50.00 or imprisoned not more than 30 days, or both. In addition to imposing the penalty, the Court shall order the offender to make application for registration or re-registration and to pay the fee thereof.

Section 3.04. If upon order of the Court of Central Jurisdiction to register or re-register a vehicle, the owner fails to comply, the Court shall have the power to order any Law Enforcement Officer of the Band to seize and impound any unregistered or unlawfully registered vehicle and to hold the same until such time as the owner complies with the provisions of this Statute. All costs incurred in the holding, under seizure by order of the Court shall be the responsibility of the owner of the vehicle. Any vehicle held, under seizure order of the Court, shall be sold at public auction to the highest bidder, including all costs incurred, after thirty (30) days from the date of seizure. The owner of the vehicle shall have the right to petition the Court to halt any public auction of the said vehicle at any time prior to the sale. The Secretary shall have the right to reject any and all bids received which are less than the appraised value of the vehicle. All proceeds derived from the sale of the vehicle, less all costs incurred by the Band, including Court fines and costs, shall become the property of the legal owner as defined in Section 2.06. If, in the event the sale does not realize sufficient proceeds to pay off any security interest, the owner prior to auction shall be obligated to the secured party for any balance remaining. The secured party shall have the right to be listed as a secured party on any other certificate of title for a vehicle registered in the Band and owned by the person prior to the auction. Nothing herein shall limit the rights of any secured party in any vehicle registered within the Mille Lacs Band.

Section 4. When Vehicles Exempt From Registration. A vehicle even though operated upon roads of this Reservation is exempt from registration when such vehicle:

- a) Is operated in accordance with the provisions exempting nonresident or foreign-registered vehicles from registration; or
- b) Is a farm vehicle used exclusively in or incidental to agricultural operations; or
- c) Is a trailer or semitrailer permanently equipped with a well-drilling outfit and used exclusively for such purposes; or
- d) Is a forklift truck, a specially constructed road or truck tractor used for shunting trailers or semitrailers in terminal areas.

- f) Is a trailer or semitrailer not operated in conjunction with a motor vehicle; or
- g) Is a motor vehicle being towed; or
- h) Is a piece of road machinery; or
- i) Is a motor truck which is operated upon a highway only when directly crossing such highway; or
- j) Is a motor vehicle last previously registered in another jurisdiction.

Section 5. Application for Registration. Application for original registration and for renewal of registration shall be made to the Secretary of Treasury of the Mille Lacs Band of Chippewa Indians upon forms prescribed by him and shall be accompanied by the required fee.

Section 5.01. Applications for original registration of a vehicle shall contain the following information:

- a) The name of the owner.
- b) The address of the owner.
- c) A description of the vehicle, including make, model, identifying number and any other information which the Mille Lacs Band may reasonably require for proper identification of the vehicle.
- d) The District in which the vehicle is kept.
- e) Such further information as the Secretary may reasonably require to enable him to determine whether the vehicle is by law entitled to registration or to enable him to determine the proper registration fee for the vehicle.
- f) Proof of liability insurance.

Section 5.02. Applications for removal of registration shall contain the information required in Section 5.01 for applications or such parts thereof as the Secretary deems necessary to assure the proper registration of the vehicle.

Section 5.03. If the applicant for a certificate of registration is under 18 years of age, the application shall be accompanied by a statement made and signed by the applicant's father if he has custody of the applicant; or if the father does not have custody, then by the mother if she has custody; or if neither parent has custody, then by the person or guardian having such custody, stating that the applicant has the consent of such person or guardian to register such vehicle in the applicant's name. The signature of such statement shall not impute any liability for the negligence or misconduct of the applicant while operating such motor vehicle on the highways. Any person who violates this Section may be fined not more than \$50.00 or imprisoned not more than 30 days, or both.

Section 6. Grounds for Refusing Registration. The Secretary shall refuse registration of a vehicle under the following circumstances:

- a) No registration shall be issued unless the applicant is residing within the boundaries of the Mille Lacs Reservation; or
- b) The required fee has not been paid; or
- c) The applicant has failed to furnish the information or documents required by the Mille Lacs Band pursuant to this Statute; or
- d) A certificate of title is a prerequisite to registration of the vehicle and the applicant does not hold a valid certificate of title and is not entitled to the issuance of a certificate of title; or
- e) The applicant has had his registration suspended or revoked in accordance with Section 17 and such suspension or revocation still is in effect.
- f) Proof of liability insurance.

Section 7. Contents, Issuance and Display of Certificates of Registration; Issuance of Duplicate Certificate. The Secretary upon registering a vehicle shall issue and deliver to the owner a certificate of registration. The certificate shall contain the name and address of the owner, a brief description of the vehicle, the registration number assigned and the date of expiration of registration. The certificate shall be in such form and may contain such additional information as the Secretary deems advisable.

Section 7.01. The Secretary shall issue a duplicate certificate of registration upon application thereof by any person in whose name the vehicle is registered and upon payment of a fee of \$2.50.

Section 8. Design, Procurement and Issuance of Registration Plates. The Secretary upon registering a vehicle pursuant to this Statute shall issue and deliver prepaid to the applicant two registration plates for each automobile, motor truck, motor bus, school bus or self-propelled mobile home registered, and one plate for other vehicles registered unless the Secretary believes that two plates will better serve the interests of law enforcement.

Section 8.01. The Band Assembly shall determine the size, color, and design of registration plates with a view toward making them visible evidence of the period for which the vehicle is registered, as well as making them a ready means of identifying the specific vehicle or owner for which the plates were issued.

Section 8.02. All registration plates shall have displayed upon them the following:

- a) The registration number or letters assigned to the vehicle or owner.
- b) The name "Mille Lacs Band of Chippewa Indians" or an abbreviation thereof.
- c) An indication of the period for which the specific plate is issued or the date of expiration of registration.
- d) All registration plates issued shall be treated with a reflectorized material.

Section 9. Display of Registration Plates. When two registration plates are issued for a vehicle, one such plates shall be attached to the front and one to the rear of the vehicle. Whenever only one registration plate is issued, the plate shall be attached to the front, if the vehicle is a truck tractor or road tractor; otherwise, it shall be attached to the rear.

Section 9.01. Registration plates shall be attached firmly and rigidly in a horizontal position and in a conspicuous place. The plates shall at all times be maintained in a legible condition and shall be so displayed that they can be readily and distinctly seen and read. Any peace officer may require the operator of any vehicle on which plates are not properly displayed to display such plates as required by this Section.

Section 9.02. Any of the following may be required to forfeit not more than \$50.00:

- a) A person who operates a vehicle for which current registration plate or insert tag have been issued without such plate or tag being attached to the vehicle;
- b) A person who operates a vehicle with a registration plate attached in a non-rigid or non-horizontal manner or in an inconspicuous place so as to make it difficult to see and read the plate;
- c) A person who operates a vehicle with a registration plate in an illegible condition due to the accumulation of dirt or other foreign matter.

Section 10. Issuance of Duplicate Plates. Whenever a current registration plate is lost or destroyed, the owner of the vehicle to which the plate was attached shall immediately apply to the Secretary for replacement. Upon satisfactory proof of the loss or destruction of the plate and upon payment of a fee of \$5.00 and the cost of replacement, the Secretary shall issue a replacement.

Section 10.01. Whenever a current registration plate becomes illegible, the owner of the vehicle to which the plate is attached shall apply to the Secretary for a replacement. Upon receipt of satisfactory proof of illegibility, and upon payment of all costs and a fee of \$5.00, the Secretary shall issue a replacement. Upon receipt of his replacement plate, the applicant shall forthwith surrender to the Secretary his illegible plate.

Section 10.02. When issuing a replacement plate, the Secretary may assign a new number and issue a new plate rather than a duplicate of the original if in his judgment that is in the best interest of economy or prevention of fraud. In such event, the person receiving the replacement plates shall surrender both original plates, if two plates were issued.

Section 10.03. Any person issued replacement plates who fails to surrender his illegible plates as required by Section 10.02. may be required to forfeit not more than \$50.00.

Section 10.04. The Secretary shall keep an accurate and up dated list of all registration plates issued, the number thereof, the name of the owner and the description of the motor vehicle.

### PROVISIONS RELATING TO REGISTRATION FEES

Section 11. Annual Registration Fees. A registration fee as herein set forth shall be paid for all motor vehicles, not exempted by Section 4, using the public streets or roads of the Mille Lacs Reservation for each calendar year on the following basis:

- a) During the first three years of vehicle life \$50.00 per calendar year.
- b) During the fourth through seventh years of vehicle life \$25.00 per calendar year.
- c) During the eighth and succeeding years of vehicle life \$20.00 per calendar year.
- d) A registration fee of \$3.50 shall be paid for all motorcycles using the public streets and roads of the Mille Lacs Reservation for each calendar year.

Section 11.01. Pro-rated fee -- When a motor vehicle first becomes subject to registration during the calendar year, the registration fee shall be for the remainder of the year pro-rated on a monthly basis, one-twelfth of the annual registration fee for each calendar month or fraction thereof.

Section 12. When Fees Refundable. The Mille Lacs Band shall not refund a fee paid to it except when expressly authorized or direction by this Section.

Section 12.01. The Mille Lacs Band shall refund the unused portion of the registration fee paid for the registration of a vehicle upon application for such refund upon a form prescribed by the Mille Lacs Band and upon furnishing of such proof as the Secretary may require that the vehicle will not be operated in the Mille Lacs Reservation during the remainder of the period for which the vehicle is registered, and returns to the Mille Lacs Band his certificate of registration and registration plates. The refund shall be computed on a monthly basis, one-twelfth of the annual registration fee for each calendar month or fraction thereof, during which the motor vehicle will not be used on any road of the Mille Lacs Reservation.

### EXEMPTION OF NONRESIDENTS

Section 13. Exemption of Nonresidents. Any vehicle which is registered in another jurisdiction is exempt from the laws of the Non-Removable Mille Lacs Band of Chippewa Indians providing for the registration of such vehicles if:

- a) The vehicle carried a registration plate indicating the registration in such other jurisdiction; and
- b) The vehicle is owned by a nonresident of the Mille Lacs Reservation; and
- c) The jurisdiction in which the vehicle is registered allows such vehicles when registered in the Mille Lacs Reservation to be operated tax free upon its roads under conditions substantially as favorable to residents of the Mille Lacs Band as to its own residents.

Section 13.01. If the owner of any such vehicle moves to the Mille Lacs Reservation or if the vehicle is purchased by a resident of the Mille Lacs Reservation the vehicle immediately becomes subject to the laws of the Mille Lacs Reservation providing for the registration of the vehicles.

### PENALTY FOR FRAUDULENT PRACTICES

Section 14. Fraudulent Application for Registration or License. Any person who gives a false or fictitious name or address in an application for license or registration or who makes application for license or registration in the name of a person other than the true owner, or true owner and lessee, may be fined not more than \$50.00 or imprisoned not more than 30 days, or both.

Section 15. Improper Use of Evidence of Registration. Any person who does any of the following may be fined not more than \$50.00 or imprisoned not more than 30 days, or both:

- a) Lends to another a registration plate, knowing that the person borrowing the plate is not authorized by law to use it; or

- b) Display upon a vehicle a registration plate not issued for such vehicle, or not otherwise authorized by law to be used thereon; or
- c) Willfully twists, paints, alters or adds to, or cuts off any portion of a registration plate or sticker; or who places or deposits, or causes to be placed or deposited on such plate or sticker any substance to hinder the normal reading of such plate; or who defaces, disfigures, changes or attempts to change any letter or figure thereon.

Section 16. False Evidence of Registration. Whoever operates or has in his possession a motor vehicle, mobile home, trailer or semitrailer or other vehicle subject to registration which has attached thereto any plate or similar device fashioned in imitation of or altered so as to resemble the current registration plate issued by the Mille Lacs Band may be fined not more than \$50.00 or imprisoned not more than 30 days, or both.

Section 17. When Registration to be Suspended. Any Justice of the Court of Central Jurisdiction for the Mille Lacs Band of Chippewa Indians shall suspend the registration when:

- a) The registration was completed through fraud or error and the person who registered the vehicle does not or cannot register the vehicle properly; or
- b) The required fee has not been paid and the same is not paid upon reasonable notice and demand.

Section 17.01. Any registration suspended pursuant to this Section continues to be suspended until reinstated by the Court. The Court shall reinstate the registration when the reason for the suspension has been removed.

Section 17.02. Whenever the registration of a vehicle is suspended under this Section, the owner or person in possession of the registration plates shall forthwith return them to the Mille Lacs Band. Any person who fails to return the plates as required by this Section may be required to forfeit not more than \$50.00.

### CERTIFICATE OF TITLE

Section 18. When Certificate of Title Required. The owner of a vehicle subject to registration on the Mille Lacs Reservation whether or not such vehicle is operated on any roads of the Reservation, shall make application for certificate of title for the vehicle under the following circumstances:

- a) If he has newly acquired the vehicle.



- b) If he applies for registration of a vehicle for which he does not hold a valid certificate of title previously issued to him by the Secretary for the vehicle in question, he shall at the same time apply for a certificate of title.

Section 18.01. An applicant's eligibility for a certificate of title is a prerequisite to registration of the vehicle. If the applicant for registration holds a valid certificate of title previously issued to him by the Secretary for the vehicle in question, that is prima facie evidence that he is the owner of the vehicle and he need not apply for a new certificate of title each time he applies for registration.

Section 19. Application for Certificate of Title. An application for a certificate of title shall be made to the Secretary upon a form prescribed by him and shall be accompanied by the required fee. Each application for certificate of title shall contain the following information:

- a) The name and address of the owner.
- b) A description of the vehicle, including make, model, identifying number and any other information which the Secretary may reasonably require for proper identification of the vehicle.
- c) The date of purchase by the applicant, the name, and address of the person from whom the vehicle was acquired and the names and addresses of any secured parties in the order of their priority and the dates of their security agreements.
- d) If the vehicle is a new vehicle being registered for the first time, the signature of the dealer authorized to sell such new vehicle.
- e) Any further evidence of ownership, which may reasonable be required by the Secretary to enable him to determine whether the owner is entitled to a certificate of title and the existence or nonexistence of security interests in the vehicle.
- f) If the vehicle is a used motor vehicle which was last previously registered in another jurisdiction, the applicant shall furnish any certificate of ownership issued by the other jurisdiction and a statement pertaining to the title history and ownership of such motor vehicle, such statement to be in the form the Secretary prescribes, and shall furnish a certification by a law enforcement officer, or by an employee designated by the Secretary to the effect that the physical description of the motor vehicle has been checked and conforms to the description given in the application.
- g) Each applicant for a certificate of title shall surrender to the Secretary or his designee, any and all other certificates of title issued by any other governmental agency of any state which is held by the applicant or any other person or entity as a prerequisite to receiving a certificate of title from the Non-Removable Mille Lacs Band of Chippewa Indians.
- h) The vehicle odometer reading with the owner's certification of the accuracy and that to the best of his/her knowledge neither he/she or any other person has altered the odometer.

Section 19.01. Any person who knowingly makes a false statement in an application for a certificate of title may be fined not more than \$50.00 or imprisoned not more than 30 days, or both.

Section 19.02. It is hereby specifically required that the automobile manufacturer's certificate of origin be surrendered to the Secretary or his designee prior to any lawful registration and titling of any new vehicle.

Section 20. Maintenance of Records. The Secretary shall maintain a record of all applications and all certificates of title issued by him:

- a) According to title number
- b) Alphabetically, according to name of owner.
- c) In any other manner which the Secretary determines to be desirable.

Section 21. Contents of Certificate of Title. Each certificate of title issued by the Secretary shall contain:

- a) The name and address of the owner.
- b) The names of any secured parties in the order of priority as shown on the application, or if the application is based on another certificate of title, as shown on such certificate.
- c) The title number assigned to the vehicle.
- d) A description of the vehicle, including make, model and identifying number.
- e) Any other data which the Secretary deems pertinent and desirable.
- f) Vehicle odometer reading and a certification of accuracy of the reading when the vehicle is first registered and every time the ownership is transferred thereafter.

Section 21.01. The certificate of title shall contain forms for assignment and warranty of title by the owner, and for assignment and warranty of title by a dealer, and may contain forms for application for a certificate of title by a transferee and for the naming of a secured party and the assignment or release of a security interest.

Section 21.02. A certificate of title issued by the Secretary is prima facie evidence of the facts appearing on it.

Section 22. Grounds for Refusing Issuance of Certificate of Title. The Secretary shall refuse issuance of a certificate of title if any required fee is not paid or if he has reasonable grounds to believe that:

- a) The person alleged to be the owner of the vehicle is not the owner; or
- b) The application contains false or fraudulent statement; or
- c) The applicant fails to furnish the information or documents required by this Statute.
- d) The vehicle odometer reading is inaccurate or the vehicle odometer has been altered in any manner so as to unlawfully alter the value of the vehicle.

Section 23. Lost, Stolen or Mutilated Certificates. If a certificate of title is lost, stolen, mutilated or destroyed or becomes illegible, the owner or legal representative of the owner named in the certificate, as shown by the records of the Secretary shall promptly make application for and may obtain a duplicate upon furnishing information satisfactory to the Secretary. The duplicate certificate of title shall contain the legend "This is a duplicate certificate and may be subject to the rights of a person under the original certificate".

Section 24. Fees. The Secretary shall be paid the following fees:

- a) For filing an application for the first certificate of title \$5.00 by the owner of the vehicle.
- b) For the original notation and subsequent release of each security interest noted upon a certificate of title, a single fee of \$5.00 by the owner of the vehicle.
- c) For a duplicate certificate of title \$10.00 by the owner of the vehicle.

### TRANSFER OF TITLE

Section 25. Transfer of Interest in a Vehicle. If an owner transfers his interest in a vehicle, he shall at the time of the delivery of the vehicle, execute an assignment and warranty of title to the transferee in the space provided therefor on the certificate, and cause the certificate to be mailed or delivered to the transferee.

Section 25.01. The transferee shall, promptly after delivery to him of the vehicle, execute the application for a new certificate of title in the space provided therefor on the certificate and cause the certificate and application to be mailed or delivered to the Secretary.

Section 25.02. A transfer by an owner is not effective until the provisions of this Section have been complied with. An owner who has delivered possession of the vehicle to the transferee and has complied with the provisions of this Section requiring action by him is not liable as owner for any damages thereafter resulting from operation of the vehicle.

Section 25.03. An owner of a vehicle for which a certificate of title has been issued, who upon transfer of the vehicle fails to execute and deliver the assignment and warranty of title required by Section 25 may be required to forfeit not more than \$50.00.

Section 25.04. Any transferee of a vehicle who fails to make application for a new certificate of title immediately upon transfer to him of a vehicle may be required to forfeit not more than \$50.00. A certificate is considered to have been applied for when the application accompanied by the required fee has been delivered to the Secretary or deposited in the mail properly addressed with postage required.

Section 25.05. When any person dies testate or intestate and said person is the legal owner of a vehicle registered under the laws of the Non-Removable Mille Lacs Band of Chippewa Indians, the Secretary shall issue a new certificate of title only upon receipt of an order from the Court of Central Jurisdiction so directing any said issuance, provided that the new legal owner is a person eligible to have said vehicle registered under the laws of this Band.

Section 26. When Secretary to Issue a New Certificate. The Secretary upon receipt of a properly assigned certificate of title, with an application for a new certificate of title, the required fee and any other transfer documents required by Statute, to support the transfer, shall issue a new certificate of title in the name of the transferee as owner.

Section 27. Perfection of Security Interests. A security interest in a vehicle of a type for which a certificate of title is required is not valid against creditors of the owner or subsequent transferees or secured parties of the vehicle unless perfected as provided in this Statute.

Section 27.01. A security interest is perfected by the delivery to the Secretary of the existing certificate of title, if any, an application for a certificate of title containing the name and address of the secured party and the date of his security agreement, the required fee. It is perfected as of the time of its creation if such delivery is completed within 10 days thereafter.

Section 28. Duties on Creation of Security Interest. If an owner creates a security interest in a vehicle:

- a) The owner shall immediately execute, in the space provided therefor on the certificate of title or on a separate form prescribed by the Secretary an application to name the secured party on the certificate, showing the name and address of the secured party and the date of his security agreement, and cause the certificate, application and the required fee to be delivered to the secured party.
- b) The secured party shall immediately cause the certificate, application and the required fee to be mailed or delivered to the Secretary.
- c) Upon receipt of the certificate of title, application and the required fee, the Secretary shall issue to the owner a new certificate containing the name and address of the new secured party.

Section 29. Assignment of Security Interest. A secured party may assign, absolutely or otherwise, his security interest in the vehicle to a person other than the owner without affecting the interest of the owner of the validity of the security interest, but any person without notice of the assignment is protected in dealing with the secured party as the holder of the security interest and the secured party remains liable for any obligations as a secured party until the assignee is named as secured party on the certificate.

Section 29.01. The assignee may not need to perfect the assignment, have the certificate of title endorsed or issue with the assignee named as secured party, upon delivering to the Secretary the certificate and an assignment by the secured party named in the certificate in the form the Secretary prescribes.

Section 30. Release of Security Interest. Whenever there is no outstanding obligation and no commitment to make advances, incur obligations or otherwise give value, secured by the security interest in a vehicle under any security agreement between the owner and the secured party, the secured party shall execute and deliver to the owner, as the Secretary prescribes, a release of the security interest in the form and manner prescribed by the Secretary. If the secured party fails to execute and deliver such a release within 10 days after receipt of the owner's written demand therefor he shall be liable to the owner for \$25.00 and for any loss caused to the owner by such failure.

Section 30.01. The owner, other than a dealer holding the vehicle for resale, shall promptly cause the certificate and release to be mailed or delivered to the Secretary, which shall release the secured party's rights on the certificate and issue a new certificate.

Section 31. Secured Party's and Owner's Duties. A secured party named in a certificate of title shall, upon written request of the owner or of another secured party named on the certificate, disclose any pertinent information as to his security agreement and the indebtedness secured by it.

Section 31.01. An owner shall promptly deliver his certificate of title to any secured party who is named on it or who has a security interest in the vehicle described in it upon receipt of a notice from such secured party that his security interest is to be assigned, extended or perfected.

Section 31.02. Any secured party who fails to disclose information pursuant to Section 31 shall be liable for any loss caused to owner thereby.

Section 31.03. Any owner who fails to deliver the certificate of title to a secured party requesting it pursuant to Section 31.01 shall be liable to such secured party for any loss caused to the secured party thereby and may be required to forfeit not more than \$25.00.

Section 32. Methods of Perfecting Exclusive. The method provided in this Statute of perfecting and giving notice of security interests subject to this Statute is exclusive.

Section 33. Suspension or Revocation of Certificate. The Secretary shall suspend or revoke a certificate of title if he finds:

- a) The certificate of title was fraudulently procured, erroneously issue, or prohibited by law; or
- b) The vehicle has been scrapped, dismantled or destroyed; or
- c) A transfer of title is set aside by a court by order or judgment.

Section 33.01. Suspension or revocation of a certificate of title does not, in itself, affect the validity of a security interest noted on it.

Section 33.02. When the Secretary suspends or revokes a certificate of title, the owner or person in possession of it shall, immediately upon receiving notice of the suspension or revocation, mail or deliver the certificate to the Secretary.

Section 33.03. The secretary may seize and impound any certificate of title which has been suspended or revoked.

Section 34. Cancellation of Title or Registration. The Secretary shall cancel a title or registration whenever:

- a) A transfer of title is set aside by the Court by order or judgment; or
- b) It is subsequently discovered that the issuance or possession of a title or registration is prohibited by law.

Section 35. Traffic Violations. Every person operating a vehicle of any character on a public road within the territorial jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians shall drive in a careful and prudent manner, and generally at a rate of speed no greater than is reasonable and proper, and so as not to unduly or unreasonable endanger the life, limb, property or other rights of any person entitled to the use of the road. A speed limit of 30 miles per hour is established as reasonable and proper.

Section 35.01. Any person who shall drive or operate any motor vehicle which is self-propelled and any vehicle propelled or drawn by a self-propelled vehicle, and not deriving its power from overhead wires with the exception of snowmobiles, shall do so under a valid license issued by any domestic or foreign Department of Public Safety. Any privilege to operate a motor vehicle which is suspended by the Commissioner of Public Safety shall also suspend said right on road under the jurisdiction of the Band. Any person who shall operate any motor vehicle without a license, shall be deemed guilty of an offense, and upon conviction thereof, may be sentenced to labor for a period of time not to exceed 180 days, and/or a fine not to exceed \$500.00.

Section 35.02. Any person who shall drive or operate any motor vehicle, or any other vehicle, including a snowmobile and three wheel vehicle, in a manner dangerous to the public safety, shall be deemed guilty of an offense of reckless driving, and upon conviction thereof, shall be sentenced to labor for a period of time not to exceed 180 days, and/or a fine not to exceed \$500.00. Additionally, at the discretion of the Court, the privilege to operate a motor vehicle on any road under the jurisdiction of the Band may be suspended for a period not to exceed 180 days.

Section 35.03. Any person who is licensed in good standing to operate a motor vehicle shall have his/her license in his/her immediate possession at all times when operating a motor vehicle and shall display the same, upon demand of an officer authorized by law to enforce provisions of this Statute. However, no person shall be found guilty of a lack of possession offense if he shall produce a valid driver's license to the Law Enforcement Administration within 5 days of the date of a citation. Any

person who fails to produce a valid driver's license shall be deemed guilty of an offense, and upon conviction thereof, may be fined in an amount not to exceed \$100.00, and be required to post an assurance bond in an amount deemed appropriate by the Court.

Section 35.04. Any person whose driver's license or driving privilege has been suspended shall not operate a motor vehicle under any loan, lease or rental conditions from any licensed owner of a motor vehicle, except under conditions of emergency medical care for another person. Any person who shall so act, shall be deemed guilty of an offense, and upon conviction thereof, shall be sentenced to labor for a period of time not to exceed 180 days, and/or a fine not to exceed \$500.00.

Section 35.05. Any person who shall operate, drive or be in physical control of any motor vehicle on the roads under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians, when such person is under the influence of alcohol, or when such person is under the influence of a controlled substance, or when such person is under the influence of any combination of the above two conditions, or when any such person's alcohol concentration is 0.10 or more, shall be deemed guilty of driving under the influence, and upon conviction thereof, shall be sentenced to labor for a period not to exceed 180 days, and/or a fine not to exceed \$500.00, and/or be required to post an assurance bond in an amount at the discretion of the Court.

Section 35.06. Any person who shall have in his/her possession on his person while in a private motor vehicle upon the roads under the jurisdiction of the Band, any bottle or receptacle containing intoxicating liquor or non-intoxicating malt liquor which has been opened, or the seal broken, or the contents of which have been partially removed. Additionally, no person shall drink or consume intoxicating liquors or non-intoxicating malt liquor in any motor vehicle when such vehicle is upon the roads under the jurisdiction of the Band. A utility compartment or glove compartment shall be deemed to be the same as "on his or her person". Whosoever violates the provisions of this Section shall be deemed guilty of an open bottle offense, and upon conviction thereof, shall be sentenced to labor for a period not to exceed 180 days, and/or a fine not to exceed \$500.00.

Section 35.07. No person shall drive a vehicle on any road under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. In every event, speed shall be so restricted as may be necessary to avoid colliding with any person, vehicle or other conveyance on or entering the roads in compliance with the legal requirement and the duty of all persons to use due care.



Section 35.071. Where no special hazard exists, a speed limit of 30 miles per hour shall be lawful, but any speeds in excess of such limit shall be prima facie evidence that the speed is not reasonable or prudent and that it is unlawful. Whosoever violates the provisions of this Section shall be deemed guilty of a speeding offense, and upon conviction thereof, shall be sentenced to a fine of \$100.00 for the first offense, and an additional \$100.00 for each conviction thereafter. Any person whom the Court deems to be a habitual speeder after two convictions within a six month period of time shall be required to forfeit driving privileges and to post an assurance bond in the amount of \$500.00.

Section 35.08. Any person who shall own a motor vehicle of a type which is required to be registered under the laws of the Non-Removable Mille Lacs Band of Chippewa Indians or licensed or is principally garaged on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians shall maintain during the period in which operation or use is contemplated a plan of reparation insuring against loss resulting from liability imposed by law for injury and property damage sustained by any person arising out of the ownership, maintenance, operation or use of the motor vehicle. The non-resident owner of a motor vehicle which is not required to be registered or licensed, or which is not principally garaged on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians, shall maintain such security in effect continuous throughout the period of operation, maintenance or use of such motor vehicle on the roads under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians with respect to accidents that occur on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians. Any person who shall operate a motor vehicle on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians without motor vehicle insurance coverage, shall be deemed guilty of operating a motor vehicle without insurance, and upon conviction thereof, shall be sentenced to labor not to exceed a period of 180 days, and/or a fine not to exceed \$500.00.

Section 35.09. Any person who is the owner of a private motor vehicle, or the driver of a motor vehicle if the owner is not present, and who possesses on his person or knowingly keeps or allows to be kept in a motor vehicle within the area of the vehicle normally occupied by the driver or passengers any marijuana or controlled drugs, shall be deemed guilty of an offense, and upon conviction thereof, may be sentenced to incarceration or labor for a period of time not to exceed 180 days, and/or a fine not to exceed \$500.00, provided that the introduction of said controlled substance on lands under the jurisdiction of the Band is not for distribution purposes. The Justice or jury shall specifically enter a finding of intent based upon the evidence introduced at trial. Should the jury enter a finding of intent to distribute, upon a conviction thereof, a sentence of exclusion from all lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians for a period of time at the discretion of the Court shall be imposed.

Section 35.091. The area of the vehicle shall not include the trunk of the motor vehicle when such vehicle is equipped with a trunk or another area of the vehicle not normally occupied by the driver or passengers if the vehicle is not equipped with a trunk. A utility or glove compartment shall be deemed to be within the area occupied by the driver and passenger. The existence of more than .05 ounces of marijuana in the trunk of any motor vehicle shall be prima facie evidence of an intent to distribute.

Section 35.10. The following provisions of Minnesota Statutes, Chapter 152, Sections 152.01 - Definitions, Section 152.02 - Schedules of Controlled Substances, Section 152.10 - Sales, Persons Eligible, Section 152.11 - Written or Oral Prescription, Requisites, and Section 152.12 - Doctors May Prescribe, shall be incorporated by reference into Section 17 of this Statute for the purposes of enforcement. Provisions of Section 152.19 - Forfeiture is applicable.

Section 36. Police Powers. Any duly sworn Natural Resources Officer of the Non-Removable Mille Lacs Band of Chippewa Indians is hereby authorized and empowered to enforce the provisions of this Statute and to execute and serve all warrants and processes issued by any Justice of the Court of Central Jurisdiction under any law of the Mille Lacs Band of Chippewa Indians. Any Natural Resources Officer may arrest without a warrant any person under the jurisdiction of the Band detected in the actual violation of any provisions of Band law, and to take such person before the Court of Central Jurisdiction and make a proper complaint.

Section 36.01. When a person is arrested for any violation of law which is punishable as a civil misdemeanor and is not taken into custody and immediately taken before the Court, the arresting officer shall prepare in quadruplicate, written notice to appear before the Court. This notice has the effect of, and serves as a summons and complaint. Said notice shall conform with applicable provisions of the United States Government, United States Department of Interior, Title 25-Indians. In order to secure release, without being taken into custody and immediately taken before the Court, the arrested person must give his written promise so to appear before the Court by signing, in quadruplicate, a written notice prepared by the arresting officer. The officer shall retain the original of the notice and deliver the copy thereof marked "summons" to the person arrested. Thereupon the officer shall release the person from custody. If the person so summoned fails to appear on the return day, the Court shall issue a warrant for his arrest, and upon his arrest proceedings shall be had as in any other case.

Section 36.02. Any duly sworn law enforcement officer is hereby authorized and empowered to enter upon any trust land within the jurisdiction of the Band for the purpose of carrying out the duties and functions of his office, or to make investigations of any violation of the Band's game and fish laws, and in aid thereof to take affidavits upon oath administered by him, and to cause proceedings to be instituted if proofs at hand warrant it.

Section 36.03. For purposes of enforcing the provisions of this Statute any duly sworn Natural Resource Officer shall be considered as a duly law enforcement officer of the Band.

Section 36.04. Any duly sworn Natural Resource Officer of the Non-Removable Mille Lacs Band of Chippewa Indians is hereby authorized and empowered to seize and confiscate in the name of the Band, any substances described in Sections 35.06 - 35.10, inclusive, which is possessed in a motor vehicle operated on the roads of the Band in violation of the appropriate Section of this Statute. Anything seized or confiscated shall be held by the Band until proper determination of the case by the Court of Central Jurisdiction is finalized.

Section 37. Enforcement. It shall be illegal for any person under the jurisdiction of the Band to willfully hinder, resist, or obstruct a duly sworn law enforcement officer of the Band in the performance of his official duty, or refuse to submit anything called for by him for his inspection.

Section 38. Court Of Central Jurisdiction. The Court of Central Jurisdiction is hereby granted subject matter jurisdiction for any cause of action which arises from this Chapter. Nothing in this Chapter shall be construed as a waiver of sovereign immunity of the Non-Removable Mille Lacs Band of Chippewa Indians in any state or federal court of competent jurisdiction. Associate Justices of the Court of Central Jurisdiction shall have original jurisdiction over all causes of action which arises from any provisions of this Chapter. A Criminal Division is hereby created in the Court of Central Jurisdiction to hear causes of actions arising from this Statute. The Court of Central Jurisdiction is additionally authorized to adjudicate unwritten cultural law causes of action pursuant to rules and regulations promulgated by Court order.

Section 38.01. The Secretary of Treasury shall enforce all provisions of this Chapter. He may prescribe all rules and regulations consistent with the provisions of this Chapter through the issuance of Secretarial Orders. He may call upon the Solicitor General or any Band law enforcement officer to aid him in the performance of his duties. He may appoint such employees of the Non-Removable Mille Lacs Band of Chippewa Indians as may be required to administer the provisions of this Chapter.

Section 38.02. In no event, shall the expenses of administration of the provisions of this Chapter exceed thirty-five percent of the gross receipts of the taxes imposed herein.

Section 39. Severability. If any provision of this Chapter or the application thereof to any person, business, corporation or circumstances is held invalid, the invalidity shall not affect other provisions or application of the Chapter which can be given effect without the invalid provision or application and to this end the provisions of this Chapter are declared severable.

Section 40. Limited Waiver of Sovereign Immunity. The Band Assembly hereby waives sovereign immunity to be sued only in the Court of Central Jurisdiction in any seizure of property matter pursuant to provisions of this Chapter. However, any such action shall only be directed against the Secretary of Treasury, in his/her official capacity in order to challenge any seizure action. Any and all seizure causes of action which arise pursuant to this Band Statute shall be limited to actions against the Secretary of Treasury in his/her official capacity for an order returning any seized goods. All other causes of action which arise pursuant to this Band Statute shall be limited in relief to declaratory or injunctive measures and no damages, monetary or otherwise, including but not limited to attorney fees shall be permitted.

Section 41. Reservation of Right. The Band Assembly hereby fully reserves the right to alter, amend, or increase or decrease taxes imposed herein, or repeal the several provisions of this Chapter, and all rights and privileges granted or extended hereunder shall be subject to such reserved right.

Section 42. Revenue Distribution. All revenue derived from fees imposed by this Statute shall be deposited in a trust fund account in the name of Non-Removable Mille Lacs Band of Chippewa Indians - Motor Vehicle Revenue Account, which is herewith created and shall not be distributed except upon the adoption of special Revenue Resolution of the Band Assembly so directing disbursement.

Section 43. Solicitor General Obligations. The Solicitor General shall represent the interests of the Non-Removable Mille Lacs Band of Chippewa Indians and the Secretary of Treasury in any matter arising from any provisions of this Band Statute before the Court of Central Jurisdiction.

Section 44. Applicability of Band Statute 1090-MLC-47, Section 21, Remedies for Creditors and Section 28, Uniform Commercial Code. The provisions of Section 21, Remedies for Creditors and Section 28, Uniform Commercial Code of the State of Minnesota found in Band Statute 1090-MLC-47 are hereby declared as mandatory provisions of Band law available to lien holders for the recovery of a vehicle when the owner of record is in default of any security agreement entered into with a member of the Non-Removable Mille Lacs Band of Chippewa Indians who reside on land subject to the jurisdiction of the Band. Provisions for due process in the Court of Central Jurisdiction pursuant to Band Statute 1090-MLC-47, Section 21, are mandatory prior to any repossession action by any lien holder.

Section 45. American Association of Motor Vehicle Administrators: Policy Positions. The Band Assembly hereby declares that the implementation of the provisions of this Statute shall be accomplished, as much as feasible, according to the policies promulgated by the American Association of Motor Vehicle Administrators, which is hereby incorporated by reference into this Statute.

Section 46. Deputy Registrar of Motor Vehicles. The Secretary/Treasurer shall nominate and the Band Assembly shall confirm one person who shall act as the Deputy Registrar of Motor Vehicles for the Non-Removable Mille Lacs Band of Chippewa Indians. This position shall not be on an employment basis with the Band, however this position is designated as self-employment under the terms and conditions established by the Band Assembly. Compensation for registration services is hereby established at three dollars per vehicle registration and three dollars per issuance of certificate of title. It is hereby declared that the fees imposed hereunder shall be in addition to fees imposed in Section 11 of this Statute.

Section 47. Removal of the Deputy Registrar of Motor Vehicles. Any Deputy Registrar who shall act in a manner not consistent with the exercise of authorities conferred herein or pursuant to Secretarial Order may be suspended from further duty, for just cause, by the Secretary/Treasurer. Removal of the Deputy Registrar from office shall be initiated by the Secretary/Treasurer, subject to formal hearing and review by the Band Assembly, after provisions of due process rights pursuant to Band Statute 1011-MLC-5. Under no circumstances shall any suspension exceed two weeks without hearing in the Band Assembly. The Secretary/Treasurer is authorized to temporarily appoint another Deputy Registrar in the event of inability or disability of the Deputy Registrar to perform the duties herein.

Section 48. Director of Reciprocity. The Director of Reciprocity, in and for the Non-Removable Mille Lacs Band of Chippewa Indians for the purpose of conducting relations pursuant to the terms of said agreement with the State of Minnesota, Department of Public Safety and any other State is hereby designated as Margie Anderson.

Section 48.01. The Secretary/Treasurer, Douglas Sam, the Director of Reciprocity, Margie Anderson, and the Solicitor General, Jay Kanassatega are hereby authorized to execute a Reciprocity Agreement with the State of Minnesota - Department of Public Safety. The said Reciprocity Agreement shall remain in full force and effect until repealed by formal legislative act of the Band Assembly, concurrence by the Chief Executive pursuant to provisions of Band Statute 1002-MLC-2, Section 12 and proper notification to the State of Minnesota.

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## BAND STATUTE 1097-MLC-52

### Preamble

It is enacted by the Band Assembly of the Mille Lacs Band of Chippewa Indians for the purpose of establishing standards for the registration of motor vehicles, the issuance of certificates of title for conveyance of ownership, any subsequent transfer of title, establishing lawful regulations for the operation of motor vehicles and other related purposes.

### Chapter 52

**Section 1. Findings and Determinations.** The Band Assembly hereby finds that the registration of motor vehicles and the imposition of motor vehicle excise taxes for the privilege of using a motor vehicle on lands subject to the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians owned by enrolled members, who reside on said lands, is consistent with the statutory authority of Indian tribes across the United States of America which has been recognized by the United States Supreme Court in Washington v. Confederated Tribes, 447 US 134, (1980).

**Section 1.01.** The Band Assembly hereby finds that the agreement relating to the refundment of sales and use tax and motor vehicle excise taxes which purports to grant continuing authority to the State of Minnesota to collect taxes from members of any constituent Bands of the Non-Removable Mille Lacs Band of Chippewa Indians pursuant to 25 U.S.C. 1322 and 1326 was ultra vires, to each party; and, that the Solicitor General properly declared such agreement null and void.

**Section 1.02.** The Band Assembly hereby declares that the intent and purposes of Chapter 52, inclusive of the Statutes of the Non-Removable Mille Lacs Band of Chippewa Indians is to obtain and retain forever the sovereign rights of the people who comprise the constituent Bands of the Non-Removable Mille Lacs Band of Chippewa Indians to be free from all taxation imposed by the State of Minnesota and any of its political sub-divisions by the imposition of like taxes to support government services for the people and by the people, and the same shall be liberally construed to effect this purpose. Nothing herein shall be construed as a waiver of sovereign immunity by the Non-Removable Mille Lacs Band of Chippewa Indians in any court of competent jurisdiction with the exception of limited waivers to the Court of Central Jurisdiction authorized herewith.

**Section 1.03.** The Band Assembly hereby finds and determines that the State of Minnesota has continued to collect motor vehicle excise taxes from enrolled members of the Non-Removable Mille Lacs Band of

Chippewa Indians since December 14, 1974 in violation of the United States Supreme Court decision, Bryan v. Itasca County, 426 U.S. 373 (1976).

Section 1.04. The Band Assembly hereby finds and determines that the development and implementation of this motor vehicle licensing statute is sufficient to pre-empt Minnesota law and hereby respectfully requests reciprocity from the State of Minnesota in the same manner it offered other governing jurisdictions. The Solicitor General is hereby authorized and directed to implement this provision.

Section 2. Definitions. In this Statute the following words and phrases have the designated meanings unless a different meaning is expressly provided or the context clearly indicates a different meaning.

Section 2.01. Secretary - means the Secretary of Treasury of the Mille Lacs Band of Chippewa Indians.

Section 2.02. Mille Lacs Band - means the Non-Removable Mille Lacs Band of Chippewa Indians.

Section 2.03. Mille Lacs Reservation - means all lands under the jurisdiction of the Mille Lacs Band of Chippewa Indians.

Section 2.04. Mobile Home - means a vehicle designed to be towed as a single unit or in sections upon the highway by a motor vehicle and equipped and used or intended to be used, primarily for human habitation, with walls of rigid uncollapsible construction.

Section 2.05. Motor Vehicle - means any vehicle which is self-propelled.

Section 2.06. Owner - means a person, other than a secured party, having the property in or title to a vehicle. This term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security. An Owner also means any person, firm, association, or corporation owning or renting a motor vehicle, or having the exclusive use thereof, under a lease or otherwise, for a period of greater than 30 days.

Section 2.07. Vehicle - means every device in, upon or by which any person or property is or may be transported or drawn upon a highway.

Section 2.08. Court - means the Court of Central Jurisdiction for the Mille Lacs Band of Chippewa Indians.

Section 2.09. Manufacturer - means every person engaged in the business of constructing or assembling vehicles of a type for which a certificate of title is required hereunder.

Section 2.10. Manufacturer's or importer's Certificate of Origin - means a certificate over the authorized signature of the manufacturer or importer of a vehicle, describing and identifying the vehicle, giving the name and address of the person to whom the vehicle is first sold by the manufacturer or importer, and containing assignments, duly executed, assigning the same to an applicant for a certificate of title on the vehicle in the Non-Removable Mille Lacs Band of Chippewa Indians.

Section 2.11. Secured Party - means a lender, seller or other person to whom accounts or chattel paper have been sold. When the holders of obligations issued under an indenture of trust, equipment trust agreement or the like are represented by a trustee or other person, the representative is the secured party having an interest in the vehicle.

Section 2.12. For the purposes of effectuating the terms of this Band Statute, any terms not defined herein shall have the meanings given to them in the statutes of the State of Minnesota, except when the context otherwise requires.

Section 3. Penalty for Operating Unregistered or Improperly Registered Vehicle. It is unlawful for any person to operate or for an owner to consent to being operated on any roads of the Mille Lacs Reservation or roads subject to the jurisdiction of the Band, any motor vehicle, trailer or semitrailer or any other vehicle for which a registration fee is specifically prescribed unless at the time of operation the vehicle in question either is registered with the Mille Lacs Reservation or is exempt from registration.

Section 3.01. A vehicle may be operated by a private person after the date of purchase of such vehicle by such private person, or after the date such person moved to this Reservation or lands subject to the jurisdiction of the Band, once the person has obtained a temporary 21 days registration certificate from the Secretary. All temporary certificates shall be affixed to the interior rear window of the vehicle, on the driver's side of the car and in a position so as not to obstruct the rear-view of any driver. The Secretary shall issue no other temporary registration certificate upon the expiration of the first 21 days permit.

Section 3.02. All vehicles subject to renewal of registration may be operated provided that application for re-registration has been made.

Section 3.03. Any person violating Section 3 may be fined not more than \$50.00 or imprisoned not more than 30 days, or both. In addition to imposing the penalty, the Court shall order the offender to make application for registration or re-registration and to pay the fee thereof.

Section 3.04. If upon order of the Court of Central Jurisdiction to register or re-register a vehicle, the owner fails to comply, the Court shall have the power to order any Law Enforcement Officer of the Band to seize and impound any unregistered or unlawfully registered vehicle and to hold the same until such time as the owner complies with the provisions of this Statute. All costs incurred in the holding, under seizure by order of the Court shall be the responsibility of the owner of the vehicle. Any vehicle held, under seizure order of the Court, shall be sold at public auction to the highest bidder, including all costs incurred, after thirty (30) days from the date of seizure. The owner of the vehicle shall have the right to petition the Court to halt any public auction of the said vehicle at any time prior to the sale. The Secretary shall have the right to reject any and all bids received which are less than the appraised value of the vehicle. All proceeds derived from the sale of the vehicle, less all costs incurred by the Band, including Court fines and costs, shall become the property of the legal owner as defined in Section 2.06. If, in the event the sale does not realize sufficient proceeds to pay off any security interest, the owner prior to auction shall be obligated to the secured party for any balance remaining. The secured party shall have the right to be listed as a secured party on any other certificate of title for a vehicle registered in the Band and owned by the person prior to the auction. Nothing herein shall limit the rights of any secured party in any vehicle registered within the Mille Lacs Band.

Section 4. When Vehicles Exempt From Registration. A vehicle even though operated upon roads of this Reservation is exempt from registration when such vehicle:

- a) Is operated in accordance with the provisions exempting nonresident or foreign-registered vehicles from registration; or
- b) Is a farm vehicle, implements of husbandry used exclusively in or incidental to agricultural operations; or
- c) Is a trailer or semitrailer permanently equipped with a well-drilling outfit and used exclusively for such purposes; or
- d) Is a forklift truck, a specially constructed road or truck tractor used for shunting trailers or semitrailers in terminal areas.
- e) Is a trailer or semitrailer not operated in conjunction with a motor vehicle; or

- f) Is a motor vehicle being towed; or
- g) Is a piece of road machinery; or
- h) Is a motor truck which is operated upon a highway only when directly crossing such highway; or
- i) Is a motor vehicle last currently registered in another jurisdiction.

Section 5. Application for Registration. Application for original registration and for renewal of registration shall be made to the Secretary of Treasury of the Mille Lacs Band of Chippewa Indians upon forms prescribed by him and shall be accompanied by the required fee.

Section 5.01. Applications for original registration of a vehicle shall contain the following information:

- a) The name of the owner.
- b) The address of the owner.
- c) A description of the vehicle, including make, model, identifying number and any other information which the Mille Lacs Band may reasonably require for proper identification of the vehicle.
- d) The District in which the vehicle is kept.
- e) Such further information as the Secretary may reasonably require to enable him to determine whether the vehicle is by law entitled to registration or to enable him to determine the proper registration fee for the vehicle.
- f) Proof of liability insurance. The Deputy Registrar shall conduct periodic insurance checks on any vehicles registered under the jurisdiction of the Band. Any said check shall be random in nature and occur 60 days after issuance of license plates.

Section 5.02. Applications for removal of registration shall contain the information required in Section 5.01 for applications or such parts thereof as the Secretary deems necessary to assure the proper registration of the vehicle.

Section 5.03. If the applicant for a certificate of registration is under 18 years of age, the application shall be accompanied by a statement made and signed by the applicant's father if he has custody of the applicant; or if the father does not have custody, then by the mother if she has custody; or if neither parent has custody, then by the person or guardian having such custody, stating that the applicant has the consent of such person or guardian to register such vehicle in the applicant's name. The signature of such statement shall not impute any liability for the negligence or misconduct of the applicant while operating such motor vehicle on the highways. Any person who violates this Section may be fined not more than \$50.00 or imprisoned not more than 30 days, or both.

Section 6. Grounds for Refusing Registration. The Secretary shall refuse registration of a vehicle under the following circumstances:

- a) No registration shall be issued unless the applicant is residing within the boundaries of the Mille Lacs Reservation; or
- b) The required fee has not been paid; or
- c) The applicant has failed to furnish the information or documents required by the Mille Lacs Band pursuant to this Statute; or
- d) A certificate of title is a prerequisite to registration of the vehicle and the applicant does not hold a valid certificate of title and is not entitled to the issuance of a certificate of title; or
- e) The applicant has had his registration suspended or revoked in accordance with Section 17 and such suspension or revocation still is in effect.
- f) Proof of liability insurance.

Section 7. Contents, Issuance and Display of Certificates of Registration; Issuance of Duplicate Certificate. The Secretary upon registering a vehicle shall issue and deliver to the owner a certificate of registration. The certificate shall contain the name and address of the owner, a brief description of the vehicle, the registration number assigned and the date of expiration of registration. The certificate shall be in such form and may contain such additional information as the Secretary deems advisable.

Section 7.01. The Secretary shall issue a duplicate certificate of registration upon application thereof by any person in whose name the vehicle is registered and upon payment of a fee of \$2.50.

Section 8. Design, Procurement and Issuance of Registration Plates. The Secretary upon registering a vehicle pursuant to this Statute shall issue and deliver prepaid to the applicant two registration plates for each automobile, motor truck, motor bus, school bus or self-propelled mobile home registered, and one plate for other vehicles registered unless the Secretary believes that two plates will better serve the interests of law enforcement.

Section 8.01. The Band Assembly shall determine the size, color, and design of registration plates with a view toward making them visible evidence of the period for which the vehicle is registered, as well as making them a ready means of identifying the specific vehicle or owner for which the plates were issued.

Section 8.02. All registration plates shall have displayed upon them the following:

- a) The registration number or letters assigned to the vehicle or owner.
- b) The name "Mille Lacs Band of Chippewa Indians" or an abbreviation thereof.
- c) An indication of the period for which the specific plate is issued or the date of expiration of registration.
- d) All registration plates issued shall be treated with a reflectorized material.

Section 9. Display of Registration Plates. When two registration plates are issued for a vehicle, one such plates shall be attached to the front and one to the rear of the vehicle. Whenever only one registration plate is issued, it shall be attached to the rear.

Section 9.01. Registration plates shall be attached firmly and rigidly in a horizontal position and in a conspicuous place. The plates shall at all times be maintained in a legible condition and shall be so displayed that they can be readily and distinctly seen and read. Any peace officer may require the operator of any vehicle on which plates are not properly displayed to display such plates as required by this Section.

Section 9.02. Any of the following may be required to forfeit not more than \$50.00:

- a) A person who operates a vehicle for which current registration plate or insert tag have been issued without such plate or tag being attached to the vehicle;
- b) A person who operates a vehicle with a registration plate attached in a non-rigid or non-horizontal manner or in an inconspicuous place so as to make it difficult to see and read the plate;
- c) A person who operates a vehicle with a registration plate in an illegible condition due to the accumulation of dirt or other foreign matter.

Section 10. Issuance of Duplicate Plates. Whenever a current registration plate is lost or destroyed, the owner of the vehicle to which the plate was attached shall immediately apply to the Secretary for replacement. Upon satisfactory proof of the loss or destruction of the plate and upon payment of a fee of \$5.00 and the cost of replacement, the Secretary shall issue a replacement.

Section 10.01. Whenever a current registration plate becomes illegible, the owner of the vehicle to which the plate is attached shall apply to the Secretary for a replacement. Upon receipt of satisfactory proof of illegibility, and upon payment of all costs and a fee of \$5.00, the Secretary shall issue a replacement. Upon receipt of his replacement plate, the applicant shall forthwith surrender to the



Section 10.02. When issuing a replacement plate, the Secretary may assign a new number and issue a new plate rather than a duplicate of the original if in his judgment that is in the best interest of economy or prevention of fraud. In such event, the person receiving the replacement plates shall surrender both original plates, if two plates were issued.

Section 10.03. Any person issued replacement plates who fails to surrender his illegible plates as required by Section 10.02. may be required to forfeit not more than \$50.00.

Section 10.04. The Secretary shall keep an accurate and up dated list of all registration plates issued, the number thereof, the name of the owner and the description of the motor vehicle.

### PROVISIONS RELATING TO REGISTRATION FEES

Section 11. Annual Registration Fees. A registration fee as herein set forth shall be paid for all motor vehicles, not exempted by Section 4, using the public streets or roads of the Mille Lacs Reservation for each calendar year on the following basis:

- a) During the first three years of vehicle life \$50.00 per calendar year.
- b) During the fourth through seventh years of vehicle life \$25.00 per calendar year.
- c) During the eighth and succeeding years of vehicle life \$20.00 per calendar year.
- d) A registration fee of \$10.00 shall be paid for all motorcycles using the public streets and roads of the Mille Lacs Reservation for each calendar year.
- e) A registration fee of \$10.00 per calendar year shall be paid for two wheel utility trailers. Any other recreational trailer (s) shall be registered at a fee of \$20.00 per calendar year.

Section 11.01. Pro-rated fee -- When a motor vehicle first becomes subject to registration during the calendar year, the registration fee shall be for the remainder of the year pro-rated on a monthly basis, one-twelfth of the annual registration fee for each calendar month or fraction thereof.

Section 12. When Fees Refundable. The Mille Lacs Band shall not refund a fee paid to it except when expressly authorized or direction by this Section.

Section 12.01. The Mille Lacs Band shall refund the unused portion of the registration fee paid for the registration of a vehicle upon application for such refund upon a form prescribed by the Mille Lacs Band and upon furnishing of such proof as the Secretary may require that the vehicle will not be operated in the Mille Lacs Reservation during the remainder of the period for which the vehicle is registered, and returns to the Mille Lacs Band his certificate of registration and registration plates. The refund shall be computed on a monthly basis, one-twelfth of the annual registration fee for each calendar month or fraction thereof, during which the motor vehicle will not be used on any road of the Mille Lacs Reservation.

### EXEMPTION OF NONRESIDENTS

Section 13. Exemption of Nonresidents. Any vehicle which is registered in another jurisdiction is exempt from the laws of the Non-Removable Mille Lacs Band of Chippewa Indians providing for the registration of such vehicles if:

- a) The vehicle carried a registration plate indicating the registration in such other jurisdiction; and
- b) The vehicle is owned by a nonresident of the Mille Lacs Reservation; and
- c) The jurisdiction in which the vehicle is registered allows such vehicles when registered in the Mille Lacs Reservation to be operated tax free upon its roads under conditions substantially as favorable to residents of the Mille Lacs Band as to its own residents.

Section 13.01. If the owner of any such vehicle moves to the Mille Lacs Reservation or if the vehicle is purchased by a resident of the Mille Lacs Reservation the vehicle immediately becomes subject to the laws of the Mille Lacs Reservation providing for the registration of the vehicles.

### PENALTY FOR FRAUDULENT PRACTICES

Section 14. Fraudulent Application for Registration or License. A person who with fraudulent intent uses a false or fictitious name or address, or makes a material false statement, or fails to disclose a security interest, or conceals any other material fact, in an application for a certificate of title or submits a false, forged, or fictitious document in support of an application for a certificate of title, shall be guilty of fraud and may be sentenced to a term of not more than 180 days incarceration, a five hundred dollar fine or exclusion from the Band for not more than 180 days, or all of the above.

Section 14.01. A person is in violation of the provisions of this Band Statute who with fraudulent intent permits another, not entitled thereto, to use or have possession of a certificate of title, who willfully fails to mail or deliver a certificate of title to the Secretary of Treasury within ten days after legal sale or transfer of interest; who commits fraud in any application for a certificate of title, who fails to notify the Secretary of Treasury or his designee of any fact required under the provisions of this Band Statute; or, who willfully violates any provisions of this Statute shall be guilty of fraudulent practices involving the registration and titling of a motor vehicle and upon conviction sentenced to up to 180 days incarceration and/or a fine of up to five hundred dollars.

Section 14.02. Any person who knowingly tampers with or alters a motor vehicle odometer reading, or causes another person to alter or tamper with a motor vehicle odometer reading, shall be guilty of fraud and may be sentenced to a term of not more than 180 days incarceration and a punitive fine not to exceed five hundred dollars. Any person so convicted pursuant to the provisions of this Section is liable for all Court costs including compensatory damages that result from his/her unlawful acts payable to the injured party at the direction of the Court.

Section 15. Improper Use of Evidence of Registration. Any person who does any of the following may be fined not more than \$50.00 or imprisoned not more than 30 days, or both:

- a) Lends to another a registration plate, knowing that the person borrowing the plate is not authorized by law to use it; or
- b) Display upon a vehicle a registration plate not issued for such vehicle, or not otherwise authorized by law to be used thereon; or
- c) Willfully twists, paints, alters or adds to, or cuts off any portion of a registration plate or sticker; or who places or deposits, or causes to be placed or deposited on such plate or sticker any substance to hinder the normal reading of such plate; or who defaces, disfigures, changes or attempts to change any letter or figure thereon.

Section 16. False Evidence of Registration. Whoever operates or has in his possession a motor vehicle, mobile home, trailer or semitrailer or other vehicle subject to registration which has attached thereto any plate or similar device fashioned in imitation of or altered so as to resemble the current registration plate issued by the Mille Lacs Band may be fined not more than \$50.00 or imprisoned not more than 30 days, or both.

Section 17. When Registration to be Suspended. Any Justice of the Court of Central Jurisdiction for the Mille Lacs Band of Chippewa Indians shall suspend the registration when:

- a) The registration was completed through fraud or error and the person who registered the vehicle does not or cannot register the vehicle properly; or
- b) The required fee has not been paid and the same is not paid upon reasonable notice and demand.

Section 17.01. Any registration suspended pursuant to this Section continues to be suspended until reinstated by the Court. The Court shall reinstate the registration when the reason for the suspension has been removed.

Section 17.02. Whenever the registration of a vehicle is suspended under this Section, the owner or person in possession of the registration plates shall forthwith return them to the Mille Lacs Band. Any person who fails to return the plates as required by this Section may be required to forfeit not more than \$50.00.

### CERTIFICATE OF TITLE

Section 18. When Certificate of Title Required. The owner of a vehicle subject to registration on the Mille Lacs Reservation whether or not such vehicle is operated on any roads of the Reservation, shall make application for certificate of title for the vehicle under the following circumstances:

- a) If he has newly acquired the vehicle.
- b) If he applies for registration of a vehicle for which he does not hold a valid certificate of title previously issued to him by the Secretary for the vehicle in question, he shall at the same time apply for a certificate of title.
- c) A vehicle which is presently in possession.

Section 18.01. An applicant's eligibility for a certificate of title is a prerequisite to registration of the vehicle. If the applicant for registration holds a valid certificate of title previously issued to him by the Secretary for the vehicle in question, that is prima facie evidence that he is the record owner of the vehicle and he need not apply for a new certificate of title each time he applies for registration.

Section 19. Application for Certificate of Title. An application for a certificate of title shall be made to the Secretary upon a form prescribed by him and shall be accompanied by the required fee. Each application for certificate of title shall contain the following information:

- a) The name and address of the owner.
- b) A description of the vehicle, including make, model, identifying number and any other information which the Secretary may reasonably require for proper identification of the vehicle.
- c) The date of purchase by the applicant, the name, and address of the person from whom the vehicle was acquired and the names and addresses of any secured parties in the order of their priority and the dates of their security agreements.
- d) If the vehicle is a new vehicle being registered for the first time, the signature of the dealer authorized to sell such new vehicle.
- e) Any further evidence of ownership, which may reasonable be required by the Secretary to enable him to determine whether the owner is entitled to a certificate of title and the existence or non-existence of security interests in the vehicle.
- f) If the vehicle is a used motor vehicle which was last previously registered in another jurisdiction, the applicant shall furnish any certificate of ownership issued by the other jurisdiction and a statement pertaining to the title history and ownership of such motor vehicle, such statement to be in the form the Secretary prescribes, and shall furnish a certification by a law enforcement officer, or by an employee designated by the Secretary to the effect that the physical description of the motor vehicle has been checked and conforms to the description given in the application.
- g) Each applicant for a certificate of title shall surrender to the Secretary or his designee, any and all other certificates of title issued by any other governmental agency of any state which is held by the applicant or any other person or entity as a prerequisite to receiving a certificate of title from the Non-Removable Mille Lacs Band of Chippewa Indians.
- h) The vehicle odometer reading with the owner's certification of the accuracy and that to the best of his/her knowledge neither he/she or any other person has altered the odometer.

Section 19.01. It is hereby specifically required that the automobile manufacturer's certificate of origin be surrendered to the Secretary or his designee prior to any lawful registration and titling of any new vehicle.

Section 20. Maintenance of Records. The Secretary shall maintain a record of all applications and all certificates of title issued by him.

- a) According to title number.
- b) Alphabetically, according to name of owner.
- c) In any other manner which the Secretary determines to be desirable.

Section 21. Contents of Certificate of Title. Each certificate of title issued by the Secretary shall contain:

- a) The name and address of the owner.
- b) The names of any secured parties in the order of priority as shown on the application, or if the application is based on another certificate of title, as shown on such certificate.
- c) The title number assigned to the vehicle.
- d) A description of the vehicle, including make, model and identifying number.
- e) Any other data which the Secretary deems pertinent and desirable.
- f) Vehicle odometer reading and a certification of accuracy of the reading when the vehicle is first registered and every time the ownership is transferred thereafter.

Section 21.01. The certificate of title shall contain forms for assignment and warranty of title by the owner, and for assignment and warranty of title by a dealer, and may contain forms for application for a certificate of title by a transferee and for the naming of a secured party and the assignment or release of a security interest.

Section 21.02. A certificate of title issued by the Secretary is prima facie evidence of the facts appearing on it.

Section 22. Grounds for Refusing Issuance of Certificate of Title. The Secretary shall refuse issuance of a certificate of title if any required fee is not paid or if he has reasonable grounds to believe that:

- a) The person alleged to be the owner of the vehicle is not the owner; or
- b) The application contains false or fraudulent statement; or
- c) The applicant fails to furnish the information or documents required by this Statute.
- d) The vehicle odometer reading is inaccurate or the vehicle odometer has been altered in any manner so as to unlawfully alter the value of the vehicle.

Section 23. Lost, Stolen or Mutilated Certificates. If a certificate of title is lost, stolen, mutilated or destroyed or becomes illegible, the owner or legal representative of the owner named in the certificate, as shown by the records of the Secretary shall promptly make application for and may obtain a duplicate upon furnishing information satisfactory to the Secretary. The duplicate certificate of title shall contain the legend "This is a duplicate certificate and may be subject to the rights of a person under the original certificate".

Section 24. Fees. The Secretary shall be paid the following fees:

- a) For filing an application for the first certificate of title \$5.00 by the owner of the vehicle.
- b) For the original notation and subsequent release of each security interest noted upon a certificate of title, a single fee of \$5.00 by the owner of the vehicle.
- c) For a duplicate certificate of title \$10.00 by the owner of the vehicle.

### TRANSFER OF TITLE

Section 25. Transfer of Interest in a Vehicle. If an owner transfers his interest in a vehicle, he shall at the time of the delivery of the vehicle, execute an assignment and warranty of title to the transferee in the space provided therefor on the certificate, and cause the certificate to be mailed or delivered to the transferee.

Section 25.01. The transferee shall, promptly after delivery to him of the vehicle, execute the application for a new certificate of title in the space provided therefor on the certificate and cause the certificate and application to be mailed or delivered to the Secretary.

Section 25.02. A transfer by an owner is not effective until the provisions of this Section have been complied with. An owner who has delivered possession of the vehicle to the transferee and has complied with the provisions of this Section requiring action by him is not liable as owner for any damages thereafter resulting from operation of the vehicle.

Section 25.03. An owner of a vehicle for which a certificate of title has been issued, who upon transfer of the vehicle fails to execute and deliver the assignment and warranty of title required by Section 25 may be required to forfeit not more than \$50.00.

Section 25.04. Any transferee of a vehicle who fails to make application for a new certificate of title immediately upon transfer to him of a vehicle may be required to forfeit not more than \$50.00. A certificate is considered to have been applied for when the application accompanied by the required fee has been delivered to the Secretary or deposited in the mail properly addressed with postage required.

Section 25.05. When any person dies testate or intestate and said person is the legal owner of a vehicle registered under the laws of the Non-Removable Mille Lacs Band of Chippewa Indians, the Secretary shall issue a new certificate of title only upon receipt of an order from the Court of Central Jurisdiction so directing any said issuance, provided that the new legal owner is a person eligible to have said vehicle registered under the laws of this Band.

Section 26. When Secretary to Issue a New Certificate. The Secretary upon receipt of a properly assigned certificate of title, with an application for a new certificate of title, the required fee and any other transfer documents required by Statute, to support the transfer, shall issue a new certificate of title in the name of the transferee as owner.

Section 27. Perfection of Security Interests. A security interest in a vehicle of a type for which a certificate of title is required is not valid against creditors of the owner or subsequent transferees or secured parties of the vehicle unless perfected as provided in this Statute.

Section 27.01. A security interest is perfected by the delivery to the Secretary of the existing certificate of title, if any, an application for a certificate of title containing the name and address of the secured party and the date of his security agreement, the required fee. It is perfected as of the time of its creation if such delivery is completed within 10 days thereafter.

Section 28. Duties on Creation of Security Interest. If an owner creates a security interest in a vehicle:

- a) The owner shall immediately execute, in the space provided therefor on the certificate of title or on a separate form prescribed by the Secretary an application to name the secured party on the certificate, showing the name and address of the secured party and the date of his security agreement, and cause the certificate, application and the required fee to be delivered to the secured party.
- b) The secured party shall immediately cause the certificate, application and the required fee to be mailed or delivered to the Secretary.
- c) Upon receipt of the certificate of title, application and the required fee, the Secretary shall issue to the secured party a new certificate which contains the name and address of the lien-holder.



Section 29. Assignment of Security Interest. A secured party may assign, absolutely or otherwise, his security interest in the vehicle to a person other than the owner without affecting the interest of the owner of the validity of the security interest, but any person without notice of the assignment is protected in dealing with the secured party as the holder of the security interest and the secured party remains liable for any obligations as a secured party until the assignee is named as secured party on the certificate.

Section 29.01. The assignee may not need to perfect the assignment, have the certificate of title endorsed or issue with the assignee named as secured party, upon delivering to the Secretary the certificate and an assignment by the secured party named in the certificate in the form the Secretary prescribes.

Section 30. Release of Security Interest. Whenever there is no outstanding obligation and no commitment to make advances, incur obligations or otherwise give value, secured by the security interest in a vehicle under any security agreement between the owner and the secured party, the secured party shall execute and deliver to the owner, as the Secretary prescribes, a release of the security interest in the form and manner prescribed by the Secretary. If the secured party fails to execute and deliver such a release within 10 days after receipt of the owner's written demand therefor he shall be liable to the owner for \$25.00 and for any loss caused to the owner by such failure.

Section 30.01. The owner, other than a dealer holding the vehicle for resale, shall promptly cause the certificate and release to be mailed or delivered to the Secretary, which shall release the secured party's rights on the certificate and issue a new certificate.

Section 31. Secured Party's and Owner's Duties. A secured party named in a certificate of title shall, upon written request of the owner or of another secured party named on the certificate, disclose any pertinent information as to his security agreement and the indebtedness secured by it.

Section 31.01. An owner shall promptly deliver his certificate of title to any secured party who is named on it or who has a security interest in the vehicle described in it upon receipt of a notice from such secured party that his security interest is to be assigned, extended or perfected.

Section 31.02. Any secured party who fails to disclose information pursuant to Section 31 shall be liable for any loss caused to owner thereby.

Section 31.03. Any owner who fails to deliver the certificate of title to a secured party requesting it pursuant to Section 31.01 shall be liable to such secured party for any loss caused to the secured party thereby and may be required to forfeit not more than \$25.00.

Section 32. Methods of Perfecting Exclusive. The method provided in this Statute of perfecting and giving notice of security interests subject to this Statute is exclusive.

Section 33. Suspension or Revocation of Certificate. The Secretary shall suspend or revoke a certificate of title if he finds:

- a) The certificate of title was fraudulently procured, erroneously issue, or prohibited by law; or
- b) The vehicle has been scrapped, dismantled or destroyed; or
- c) A transfer of title is set aside by a court by order or judgment.

Section 33.01. Suspension or revocation of a certificate of title does not, in itself, affect the validity of a security interested noted on it.

Section 33.02. When the Secretary suspends or revokes a certificate of title, the owner or person in possession of it shall, immediately upon receiving notice of the suspension or revocation, mail or deliver the certificate to the Secretary.

Section 33.03. The secretary may seize and impound any certificate of title which has been suspended or revoked.

Section 34. Cancellation of Title or Registration. The Secretary shall cancel a title or registration whenever:

- a) A transfer of title is set aside by the Court by order or judgment, or
- b) It is subsequently discovered that the issuance or possession of a title or registration is prohibited by law.

Section 35. Traffic Violations. Every person operating a vehicle of any character on a public road within the territorial jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians shall drive in a careful and prudent manner, and generally at a rate of speed no greater than is reasonable and proper, and so as not to unduly or unreasonably endanger the life, limb, property or other rights of any person entitled to the use of the road. A speed limit of 30 miles per hour is established as reasonable and proper.

Section 35.01. Any person who shall drive or operate any motor vehicle which is self-propelled and any vehicle propelled or drawn by a self-propelled vehicle, and not deriving its power from overhead wires with the exception of snowmobiles, shall do so under a valid license issued by any domestic or foreign Department of Public Safety. Any privilege to operate a motor vehicle which is suspended by the Commissioner of Public Safety shall also suspend said right on road under the jurisdiction of the Band. Any person who shall operate any motor vehicle without a license, shall be deemed guilty of an offense, and upon conviction thereof, may be sentenced to labor for a period of time not to exceed 180 days, and/or a fine not to exceed \$500.00.

Section 35.02. Any person who shall drive or operate any motor vehicle, or any other vehicle, including a snowmobile and three wheel vehicle, in a manner dangerous to the public safety, shall be deemed guilty of an offense of reckless driving, and upon conviction thereof, shall be sentenced to labor for a period of time not to exceed 180 days, and/or a fine not to exceed \$500.00. Additionally, at the discretion of the Court, the privilege to operate a motor vehicle on any road under the jurisdiction of the Band may be suspended for a period not to exceed 180 days.

Section 35.03. Any person who is licensed in good standing to operate a motor vehicle shall have his/her license in his/her immediate possession at all times when operating a motor vehicle and shall display the same, upon demand of an officer authorized by law to enforce provisions of this Statute. However, no person shall be found guilty of a lack of possession offense if he shall produce a valid driver's license to the Law Enforcement Administration within 5 days of the date of a citation. Any person who fails to produce a valid driver's license shall be deemed guilty of an offense, and upon conviction thereof, may be fined in an amount not to exceed \$100.00, and be required to post an assurance bond in an amount deemed appropriate by the Court.

Section 35.04. Any person whose driver's license or driving privilege has been suspended shall not operate a motor vehicle under any loan, lease or rental conditions from any licensed owner of a motor vehicle, except under conditions of emergency medical care for another person. Any person who shall so act, shall be deemed guilty of an offense, and upon conviction thereof, shall be sentenced to labor for a period of time not to exceed 180 days, and/or a fine not to exceed \$500.00.

Section 35.05. Any person who shall operate, drive or be in physical control of any motor vehicle on the roads under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians, when such person is under the influence of alcohol, or when such person is under the influence of a controlled substance, or when such person is under the influence of any combination of the above two conditions, or when any such person's alcohol concentration is 0.10 or more, shall be deemed guilty of driving under the influence, and upon conviction thereof, shall be sentenced to labor for a period not to exceed 180 days, and/or a fine not to exceed \$500.00, and/or be required to post an assurance bond in an amount at the discretion of the Court.

Section 35.06. Any person who shall have in his/her possession on his person while in a private motor vehicle upon the roads under the jurisdiction of the Band, any bottle or receptacle containing intoxicating liquor or non-intoxicating malt liquor which has been opened, or the seal broken, or the contents of which have been partially removed. Additionally, no person shall drink or consume intoxicating liquors or non-intoxicating malt liquor in any motor vehicle when such vehicle is upon the roads under the jurisdiction of the Band. A utility compartment or glove compartment shall be deemed to be the same as "on his or her person". Whosoever violates the provisions of this Section shall be deemed guilty of an open bottle offense, and upon conviction thereof, shall be sentenced to labor for a period not to exceed 180 days, and/or a fine not to exceed \$500.00.

Section 35.07. No person shall drive a vehicle on any road under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. In every event, speed shall be so restricted as may be necessary to avoid colliding with any person, vehicle or other conveyance on or entering the roads in compliance with the legal requirement and the duty of all persons to use due care.

Section 35.071. Where no special hazard exists, a speed limit of 30 miles per hour shall be lawful, but any speeds in excess of such limit shall be prima facie evidence that the speed is not reasonable or prudent and that it is unlawful. Whosoever violates the provisions of this Section shall be deemed guilty of a speeding offense, and upon conviction thereof, shall be sentenced to a fine of \$100.00 for the first offense, and an additional \$100.00 for each conviction thereafter. Any person whom the Court deems to be a habitual speeder after two convictions within a six month period of time shall be required to forfeit driving privileges and to post an assurance bond in the amount of \$500.00.

Section 35.08. Any person who shall own a motor vehicle of a type which is required to be registered under the laws of the Non-Removable Mille Lacs Band of Chippewa Indians or licensed or is principally garaged on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians shall maintain during the period in which operation or use is contemplated a plan of reparation insuring against loss resulting from liability imposed by law for injury and property damage sustained by any person arising out of the ownership, maintenance, operation or use of the motor vehicle. The non-resident owner of a motor vehicle which is not required to be registered or licensed, or which is not principally garaged on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians, shall maintain such security in effect continuous throughout the period of operation, maintenance or use of such motor vehicle on the roads under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians with respect to accidents that occur on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians. Any person who shall operate a motor vehicle on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians without motor vehicle insurance coverage, shall be deemed guilty of operating a motor vehicle without insurance, and upon conviction thereof, shall be sentenced to labor not to exceed a period of 180 days, and/or a fine not to exceed \$500.00.

Section 35.09. Any person who is the owner of a private motor vehicle, or the driver of a motor vehicle if the owner is not present, and who possesses on his person or knowingly keeps or allows to be kept in a motor vehicle within the area of the vehicle normally occupied by the driver or passengers any marijuana or controlled drugs, shall be deemed guilty of an offense, and upon conviction thereof, may be sentenced to incarceration or labor for a period of time not to exceed 180 days, and/or a fine not to exceed \$500.00, provided that the introduction of said controlled substance on lands under the jurisdiction of the Band is not for distribution purposes. The Justice or jury shall specifically enter a finding of intent based upon the evidence introduced at trial. Should the jury enter a finding of intent to distribute, upon a conviction thereof, a sentence of exclusion from all lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians for a period of time at the discretion of the Court shall be imposed.

Section 35.091. The area of the vehicle shall not include the trunk of the motor vehicle when such vehicle is equipped with a trunk or another area of the vehicle not normally occupied by the driver or passengers if the vehicle is not equipped with a trunk. A utility or glove compartment shall be deemed to be within the area occupied by the driver and passenger. The existence of more than .05 ounces of marijuana in the trunk of any motor vehicle shall be prima facie evidence of an intent to distribute.

Section 35.10. The following provisions of Minnesota Statutes, Chapter 152, Sections 152.01 - Definitions, Section 152.02 - Schedules of Controlled Substances, Section 152.10 - Sales, Persons Eligible, Section 152.11 - Written or Oral Prescription, Requisites, and Section 152.12 - Doctors May Prescribe, shall be incorporated by reference into Section 17 of this Statute for the purposes of enforcement. Provisions of Section 152.19 - Forfeiture is applicable.

Section 36. Police Powers. Any duly sworn Natural Resources Officer of the Non-Removable Mille Lacs Band of Chippewa Indians is hereby authorized and empowered to enforce the provisions of this Statute and to execute and serve all warrants and processes issued by any Justice of the Court of Central Jurisdiction under any law of the Mille Lacs Band of Chippewa Indians. Any Natural Resources Officer may arrest without a warrant any person under the jurisdiction of the Band detected in the actual violation of any provisions of Band law, and to take such person before the Court of Central Jurisdiction and make a proper complaint.

Section 36.01. When a person is arrested for any violation of law which is punishable as a civil misdemeanor and is not taken into custody and immediately taken before the Court, the arresting officer shall prepare in quadruplicate, written notice to appear before the Court. This notice has the effect of, and serves as a summons and complaint. Said notice shall conform with applicable provisions of the United States Government, United States Department of Interior, Title 25-Indians. In order to secure release, without being taken into custody and immediately taken before the Court, the arrested person must give his written promise so to appear before the Court by signing, in quadruplicate, a written notice prepared by the arresting officer. The officer shall retain the original of the notice and deliver the copy thereof marked "summons" to the person arrested. Thereupon the officer shall release the person from custody. If the person so summoned fails to appear on the return day, the Court shall issue a warrant for his arrest, and upon his arrest proceedings shall be had as in any other case.

Section 36.02. Any duly sworn law enforcement officer is hereby authorized and empowered to enter upon any trust land within the jurisdiction of the Band for the purpose of carrying out the duties and functions of his office, or to make investigations of any violation of the Band's game and fish laws, and in aid thereof to take affidavits upon oath administered by him, and to cause proceedings to be instituted if proofs at hand warrant it.

Section 36.03. For purposes of enforcing the provisions of this Statute any duly sworn Natural Resource Officer shall be considered as a duly law enforcement officer of the Band.

Section 36.04. Any duly sworn Natural Resource Officer of the Non-Removable Mille Lacs Band of Chippewa Indians is hereby authorized and empowered to seize and confiscate in the name of the Band, any substances described in Sections 35.06 - 35.10, inclusive, which is possessed in a motor vehicle operated on the roads of the Band in violation of the appropriate Section of this Statute. Anything seized or confiscated shall be held by the Band until proper determination of the case by the Court of Central Jurisdiction is finalized.

Section 37. Enforcement. It shall be illegal for any person under the jurisdiction of the Band to willfully hinder, resist, or obstruct a duly sworn law enforcement officer of the Band in the performance of his official duty, or refuse to submit anything called for by him for his inspection.

Section 38. Court Of Central Jurisdiction. The Court of Central Jurisdiction is hereby granted subject matter jurisdiction for any cause of action which arises from this Chapter. Nothing in this Chapter shall be construed as a waiver of sovereign immunity of the Non-Removable Mille Lacs Band of Chippewa Indians in any state or federal court of competent jurisdiction. Associate Justices of the Court of Central Jurisdiction shall have original jurisdiction over all causes of action which arises from any provisions of this Chapter. A Criminal Division is hereby created in the Court of Central Jurisdiction to hear causes of actions arising from this Statute. The Court of Central Jurisdiction is additionally authorized to adjudicate unwritten cultural law causes of action pursuant to rules and regulations promulgated by Court order.

Section 38.01. The Secretary of Treasury shall enforce all provisions of this Chapter. He may prescribe all rules and regulations consistent with the provisions of this Chapter through the issuance of Secretarial Orders. He may call upon the Solicitor General or any Band law enforcement officer to aid him in the performance of his duties. He may appoint such employees of the Non-Removable Mille Lacs Band of Chippewa Indians as may be required to administer the provisions of this Chapter.

Section 38.02. In no event, shall the expenses of administration of the provisions of this Chapter exceed thirty-five percent of the gross receipts of the taxes imposed herein.

Section 39. Severability. If any provision of this Chapter or the application thereof to any person, business, corporation or circumstances is held invalid, the invalidity shall not affect other provisions or application of the Chapter which can be given effect without the invalid provision or application and to this end the provisions of this Chapter are declared severable.

Section 40. Limited Waiver of Sovereign Immunity. The Band Assembly hereby waives sovereign immunity to be sued only in the Court of Central Jurisdiction in any seizure of property matter pursuant to provisions of this Chapter. However, any such action shall only be directed against the Secretary of Treasury, in his/her official capacity in order to challenge any seizure action. Any and all seizure causes of action which arise pursuant to this Band Statute shall be limited to actions against the Secretary of Treasury in his/her official capacity for an order returning any seized goods. All other causes of action which arise pursuant to this Band Statute shall be limited in relief to declaratory or injunctive measures and no damages, monetary or otherwise, including but not limited to attorney fees shall be permitted.

Section 41. Reservation of Right. The Band Assembly hereby fully reserves the right to alter, amend, or increase or decrease taxes imposed herein, or repeal the several provisions of this Chapter, and all rights and privileges granted or extended hereunder shall be subject to such reserved right.

Section 42. Revenue Distribution. All revenue derived from fees imposed by this Statute shall be deposited in a trust fund account in the name of Non-Removable Mille Lacs Band of Chippewa Indians - Motor Vehicle Revenue Account, which is herewith created and shall not be distributed except upon the adoption of special Revenue Resolution of the Band Assembly so directing disbursement.

Section 43. Solicitor General Obligations. The Solicitor General shall represent the interests of the Non-Removable Mille Lacs Band of Chippewa Indians and the Secretary of Treasury in any matter arising from any provisions of this Band Statute before the Court of Central Jurisdiction.



Section 44. Applicability of Band Statute 1090-MLC-47, Section 21, Remedies for Creditors and Section 28, Uniform Commercial Code. The provisions of Section 21, Remedies for Creditors and Section 28, Uniform Commercial Code of the State of Minnesota found in Band Statute 1090-MLC-47 are hereby declared as mandatory provisions of Band law available to lien holders for the recovery of a vehicle when the owner of record is in default of any security agreement entered into with a member of the Non-Removable Mille Lacs Band of Chippewa Indians who reside on land subject to the jurisdiction of the Band. Provisions for due process in the Court of Central Jurisdiction pursuant to Band Statute 1090-MLC-47, Section 21, are mandatory prior to any repossession action by any lien holder.

Section 45. American Association of Motor Vehicle Administrators: Policy Positions. The Band Assembly hereby declares that the implementation of the provisions of this Statute shall be accomplished, as much as feasible, according to the policies promulgated by the American Association of Motor Vehicle Administrators, which is hereby incorporated by reference into this Statute.

Section 46. Deputy Registrar of Motor Vehicles. The Secretary/Treasurer shall nominate and the Band Assembly shall confirm one person who shall act as the Deputy Registrar of Motor Vehicles for the Non-Removable Mille Lacs Band of Chippewa Indians. This position shall not be on an employment basis with the Band, however this position is designated as self-employment under the terms and conditions established by the Band Assembly. Compensation for registration services is hereby established at three dollars per vehicle registration and three dollars per issuance of certificate of title. It is hereby declared that the fees imposed hereunder shall be in addition to fees imposed in Section 11 of this Statute.

Section 47. Removal of the Deputy Registrar of Motor Vehicles. Any Deputy Registrar who shall act in a manner not consistent with the exercise of authorities conferred herein or pursuant to Secretarial Order may be suspended from further duty, for just cause, by the Secretary/Treasurer. Removal of the Deputy Registrar from office shall be initiated by the Secretary/Treasurer, subject to formal hearing and review by the Band Assembly, after provisions of due process rights pursuant to Band Statute 1011-MLC-5. Under no circumstances shall any suspension exceed two weeks without hearing in the Band Assembly. The Secretary/Treasurer is authorized to temporarily appoint another Deputy Registrar in the event of inability or disability of the Deputy Registrar to perform the duties herein.

Section 48. Director of Reciprocity. The Director of Reciprocity, in and for the Non-Removable Mille Lacs Band of Chippewa Indians for the purpose of conducting relations pursuant to the terms of said agreement with the State of Minnesota, Department of Public Safety and any other State is hereby designated as Margie Anderson.

Section 48.01. The Secretary/Treasurer, Douglas Sam, the Director of Reciprocity, Margie Anderson, and the Solicitor General, Jay Kanassatega are hereby authorized to execute a Reciprocity Agreement with the State of Minnesota - Department of Public Safety. The said Reciprocity Agreement shall remain in full force and effect until repealed by formal legislative act of the Band Assembly, concurrence by the Chief Executive pursuant to provisions of Band Statute 1002-MLC-2, Section 12 and proper notification to the State of Minnesota.

## CHAPTER 53

### JUDICIAL SERVICE FEES

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Band Statute 1100-MLC-53

Section 1      Extent of Jurisdiction

1

**RIDER**

The Band Assembly hereby creates Chapter 53 of the Statutes of the Non-Removable Mille Lacs Band of Chippewa Indians for the purpose of codifying fees for any cause of action which originates in the Court of Central Jurisdiction by any person exterior to the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians.

Section 1. Extent of Jurisdiction. Every person, including the State of Minnesota and all bodies politic and corporate, who shall transact any business in the Judicial branch of government for the Mille Lacs Band of Chippewa Indians, shall pay to the clerk of the Court of Central Jurisdiction, the sundry fees hereinafter prescribed for causes of action which originate in any court or judicial district exterior to the Mille Lacs Band of Chippewa Indians.

Section 1.01. In every civil action or proceeding in said Court, the plaintiff, petitioner, or other moving party shall pay, when the first paper on his part is filed in said action, a fee of twenty five dollars (\$25.00).

Section 1.02. The defendant or other adverse or intervening party, or any one or more of several defendants or other adverse or intervening parties appearing separately from the other, shall pay, when the first paper on his or their part is filed in said action, a fee of twenty dollars (\$20.00).

Section 1.03. The party requesting a trial by jury shall pay twenty dollars (\$20.00).

Section 1.04. The fees above stated shall be the full trial fee chargeable to said parties irrespective of whether trial be to the court alone, to the court and jury or disposed of without trial, and shall include the entry of judgment in the action but does not include copies or certified copies of any papers so filed. The fees above stated do not apply to show cause proceedings, which seek to insure basic due process rights to persons subject to the jurisdiction of the Band.

Section 1.05. Certified copy of any instrument from a civil or criminal proceeding five dollars (\$5.00) and three dollars and fifty cents (\$3.50) for an uncertified copy.

Section 1.06. Filing of a foreign judgment forty dollars (\$40.00).

Section 1.07. Issuing an execution and filing the return thereof; issuing a writ of attachment, injunction, habeas corpus, mandamus, quo warranto, certiorari, or other writs not specifically mentioned, seven dollars and fifty cents (\$7.50).

Section 1.08. Filing and entering a transcript of judgment, or for filing and docketing a transcript of judgment from another court, seven dollars and fifty cents (\$7.50).

Section 1.09. Filing and entering a satisfaction of judgment, partial satisfaction or assignment of judgment, seven dollars fifty cents (\$7.50).

Section 1.10. All other services required by law for which no fee is provided such fees as compares favorably with those herein provided, or such as may be fixed by rule or order of the court.

Section 1.11. All fees of said clerks, except in criminal proceedings, shall be paid in advance at or prior to the time of the performance of any service requiring payment of such fees, and said clerk shall not proceed in any matter requiring the payment of fees until the full amount of the same is paid.

Section 1.12. Nothing in this Section shall be construed as amending, modifying or repealing the provisions of Band Statute 1024-MLC-3, Section 39.

Section 1.13. Notwithstanding any other provision of the law to the contrary, no fee otherwise required to be paid to the clerk of district court by a defendant or defendants when the first paper on his or their part is filed in an action, shall be paid by the Mille Lacs Band of Chippewa Indians, or any department or agency thereof, when the state or a department or agency as plaintiff enters judgment pursuant to a confession of judgment executed by the defendant.

Section 1.14. In lieu of all charges not provided by law as fees of the clerk of court, there shall be paid by the appellant, or moving party or person requiring the service, in all cases of appeal, certiorari, habeas corpus, mandamus, injunction, prohibition, or other original proceeding, the sum of twenty five dollars (\$25.00).

Section 1.15. The clerk shall not file any paper, issue any writ or certificate, or perform any service enumerated herein, until the payment therefor shall have been made, and when made he shall pay such sum into the Judicial Account of the Mille Lacs Band of Chippewa Indians. This restriction shall apply to all fees established pursuant to all provisions of Section 1.

Section 1.16. The fees to be charged and collected by the Law Enforcement unit of the Mille Lacs Band of Chippewa Indians for service of process originating in exterior jurisdictions shall be as follows:

- a. Serving a summons, warrant, writ, subpoena, or any process issued by a court of record. Six dollars (\$6.00) for each defendant served and mileage at a rate of twenty-two and one-half cents (\$.22 1/2) per mile;
- b. Taking and approving a bond, two dollars (\$2.00), and for certified copy thereof, one dollar (\$1.00) per folio;
- c. Collection on execution after levy, five percent of the first two hundred fifty dollars (\$250.00) and three percent of the next one thousand seven hundred fifty dollars (\$1,750.00);
- d. Posting three notices of sale, six dollars (\$6.00);
- e. Certificate of sale of real estate, six dollars (\$6.00), copy thereof, when requested, three dollars (\$3.00).
- f. Selling land on foreclosure of mortgage, for all services required, including executing certificate of sale, ten dollars (\$10.00); postponing such sale two dollars (\$2.00);
- g. Making diligent search and inquiry and returning summons when defendants cannot be found, three dollars (\$3.00);
- h. Returning execution unsatisfied when no service is made, six dollars (\$6.00);
- i. Receiving and paying over money paid on redemption of property and executing certificate, one percent on the amount so received, to be collected from the person redeeming, such fee not to exceed twenty dollars (\$20.00) in any case;
- j. Securing and safely keeping property in replevin or attachment or on execution, to be computed on the basis of the time spent and hourly rate of pay of the Law Enforcement unit executing the process;
- k. For services not herein enumerated, the Law Enforcement unit shall be entitled to the same fees as for similar duties;
- l. For all process when no charge is made for service of a return if not found or unsatisfied, two dollars (\$2.00).