Laws of the Non-Removable

Mille Lacs Band of Ojibwe

2024 - 2

Foreword

The Legislative Branch is pleased to provide an updated publication of the Laws of the Non-Removable Mille Lacs Band of Ojibwe. These statutes belong to the People and are the result of many years of hard work by dedicated individuals in collaboration with elected leaders. The lawmaking process is one of negotiation, review, rewrites, deliberation, and, yes, politics. But these statutes lay the foundation to govern independently and promote our sovereignty as a People.

The Legislative Branch is taking on the task of regular publication of statutes, routine notification to Band membership, and the advancement of the Revisor's Office. Since the most recent publication of the complete Band Statutes in 2020, two titles have been repealed (Titles 13 and 14), one Title has been adopted (Title 25), and several Titles have been amended by act. Thus, Band Statutes continue to be fluid in nature and will need constant review by Band members and elected leaders.

According to 25 MLBS § 12, the Revisor's Office shall certify, in preparing an edition of Band Statutes, "that all sections appear to be correctly printed." The Revisor of Statutes has issued a Certificate of Correctness for the enclosed Titles in the publication of this edition of Band Statutes. As of January 30, 2025, the Titles contained herein are the most current versions known to the Legislative Branch. As more laws are passed, official titles will be uploaded to the Band's website.

We all have a duty to read and know these words, to disagree and second-guess, to recognize and abide by, to make ongoing changes, and to propose the creation of entirely new bodies of law to meet the times we live in. Thank you to all Legislative staff, past and present, who have been instrumental in the exercise of our tribal sovereignty. But the ultimate thank you is to the People of the Band from whom the Legislative Branch derives its power. We must never forget that the inherent power to make law comes only from the People.

Miigwech,

Sheldon Boyd
Speaker of the Assembly

January 30, 2025

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CHAPTER 1

COMMISSIONER OF COMMUNITY DEVELOPMENT

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

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

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

(a) to provide an effective and efficient system of administration to plan, direct and evaluate the functions of Community Development, Public Works, Facilities Management Transportation and the Housing Department;

(b) to provide technical assistance to the Chief Executive, Band Assembly and other departments of the Mille Lacs Band as requested and to recommend or initiate any appropriate action as required with respect to such matters;

(c) to provide information to Band members and other members of the public on programs and services of the various departments under the jurisdiction of the Commissioner of Community Development;

(d) to conduct investigations in order to ensure appropriate resolution of complaints of Band members as well as the general public and order specific actions when justified not inconsistent with other applicable law;

(e) to supervise employees, assign or delegate tasks, define levels of expected performance, and evaluate the performance of department heads and staff not inconsistent with other applicable law;

(f) to prepare and recommend operating and capital improvement budgets for the Band, including but not limited to construction and maintenance projects as well as equipment acquisition and replacement;

(g) to oversee the Debris Clearance and Restoration portion of an Emergency Operation Plan and coordinate responsibilities for a Blizzard Emergency Preparedness Plan;

(h) to develop, oversee and chair Community Development Committees;

(i) to develop and coordinate a Facilities Management Plan on behalf of the Mille Lacs Band of Ojibwe, and direct the maintenance of all Band Facilities not inconsistent with other applicable law;

(j) to negotiate contracts on behalf of the Mille Lacs Band of Ojibwe and when authorized to do so by Band Statute to enter into such contracts not otherwise inconsistent with other applicable law;

(k) to inspect and ensure the safety of all buildings and facilities within the jurisdiction of the Mille Lacs Band of Ojibwe and to condemn the same when appropriate;

(l) To acquire through gift, lease, purchase, in the name of the Band, lands or any interest in lands deemed suitable for the future interests of the Band;

(m) to obtain through grant proposals funds that may be available to meet the housing and community needs of the Band;

(n) to ensure that all contractors and/or any sub-contractor comply with minimum wage and maximum hours of labor or any attached conditions as stipulated in any agreement relating to a federal, state or agency financial assistance housing program;

(o) to develop a Strategic Housing Plan that meets the Band's Housing vision and mission and ensure that the Housing Board approves the same with ratification by Band Assembly before implementation;

(p) to develop Housing Policies that meets the Band's Housing vision and mission and ensure that the Housing Board approves the same with ratification by Band Assembly;

(q) to join or cooperate with any other public housing agency or agencies operating under the laws or ordinance of a state or another tribe for the purpose of financing, planning, undertaking, owning, constructing, operating or contracting with respect to a housing project(s) serving Band Members;

(r) to lease property from the Band and others, for such periods as are authorized by law, and to hold and manage or to sublease the same;

(s) to serve Band members through home loans, renovation loans or any new housing program loan as stipulated by loan agreement; and

(t) to purchase insurance from any stock or mutual company for any property or against any risk or hazards.

Historical and Statutory Notes

Source:

Band Ordinance 20-97, § 4.
Band Ordinance 18-04, § 114.
Band Ordinance 61-21, § 4.

§ 2. Term of Office.

The Commissioner of Community Development shall serve a four-year term of office expiring June 30, 1999 and on this date every four (4) years hence.

Historical and Statutory Notes

Source:

Band Ordinance 20-97, § 5.
Band Ordinance 61-21, § 4.

CHAPTER 2

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SUBCHAPTER 1

GENERAL PROVISIONS

Section

101. Charter.
102. Board of Supervisors.

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

§ 101. Charter.

(a) A commission to be known as the Mille Lacs Band of Ojibwe Public Works Commission is hereby chartered within the Executive Branch of Band Government. The Public Works Commission shall have the powers enumerated within this Chapter and as expressly delegated by the Band Assembly. The Commission shall be within the subject matter jurisdiction of the Commissioner of Community Development.

(b) The Commission shall be a body politic which is an instrumentality of the Mille Lacs Band of Chippewa Indians with the right to initiate, and defend the Commission in, any legal action before any court of competent jurisdiction.

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., §§ 1, 2.
Band Ordinance 20-97, § 3.
Band Ordinance 61-21, § 4.

§ 102. Board of Supervisors.

(a) The governing body of the Public Works Commission shall be a five-member Board of Supervisors, with each member having the title of Supervisor and one vote at regular and special meetings. The Board shall ensure accurate record keeping of all meetings and all transcripts thereof. Such records shall be prima facie evidence of the facts therein stated.

(b) The Public Works Administrator shall be the Chair of the Board of Supervisors and ensure the lawful operation of the Commission. The Director of Operations for Public Works shall also be a member of the Board. The Chief Executive shall nominate three (3) individuals from the Band membership as Supervisors

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

(c) Any Supervisor may be removed from office for just cause as determined by 4 MLBS § 15(g).

(d) In exercising any powers granted in this chapter, no Supervisor shall be immune from any liability which arises from the willful, knowledgeable and unacceptable performance of their duties.

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, TI, §§ 1.01-1.03, 2.
Band Ordinance 61-21, § 4.

§ 103. Regulation and Maintenance of Utilities.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 2.
Band Ordinance 61-21, § 4.

§ 104. Construction and Operation of Utilities.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 2.01.
Band Ordinance 61-21, § 4.

§ 105. Licenses and Permits.

The Commission shall have the power to issue licenses and permits in connection with the operation and maintenance of utility facilities and to establish fees for such licenses or permits.

The issuance of a license or permit by the Public Works Commission does not exempt any person or vendor from any other provisions of the Mille Lacs Band Statutes Annotated requiring procurement of licenses or permits.

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 2.02.
Band Ordinance 61-21, § 4.

§ 106. Bylaws.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20. T.I.§ 2.03.
Band Ordinance 61-21, § 4.

§ 107. Public Works Association.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 2.04.
Band Ordinance 61-21, § 4.

§ 108. Rates, Charges, and Fees.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 2.05.
Band Ordinance 61-21, § 4.

§ 109. Failure to Submit Payment.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 2.06.
Band Ordinance 61-21, § 4.

§ 110. Employees.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 2.07.
Band Ordinance 61-21, § 4.

§ 111. Service Contracts.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.l, § 2.08.
Band Ordinance 61-21, § 4.

§ 112. Obligations.

(a) Subject to the limitations set forth in this section, the Commission shall have the authority to borrow money and incur indebtedness by issuing obligations, in its own name or in the name of and on behalf of the Mille Lacs Band of Chippewa Indians, for purposes of acquiring, constructing, maintaining, managing and improving utility systems on all property within the territorial jurisdiction of the Band consistent with the purposes of the Commission. Such obligations shall be issued and sold in the manner, amount and form and shall bear interest at the rate or rates set by the

Commission. Each such obligation must be approved by the Band Assembly prior to its issuance.

(b) All such obligations shall be payable solely:

(1) from revenues, income, receipts and profits derived by the commission from its operation and management of utility systems for the Band;

(2) from the proceeds of evidences of indebtedness issued and sold by the Commission which are payable solely from such revenues, income, receipts and profits; or

(3) from federal or state grants or other money received by the Commission which are available therefor.

(c) The Commission may pledge to the repayment of any such obligations, and the interest coming due thereon, any or all of the sources set forth in subsection (b), but is without power to pledge or encumber any other revenues, income or assets of the Mille Lacs Band of Chippewa Indians, or any other organization or instrumentality of the Band for the repayment of such obligations. The Band Assembly may, if deemed to be in the best interests of the Band to do so, pledge to the payment of any such obligations, or authorize any organization or instrumentality of the Band to pledge to the payment of such obligations, such specific revenues, income or assets of the Band or such organization or instrumentality as it may deem appropriate. In any event, no such obligations shall be payable from, nor be a charge upon, any funds other than the revenues specifically pledged to the payment thereof, nor shall the Band be liable thereon other than to the extent specifically provided in accordance with this section, and such limitation shall be expressly stated in each such obligation.

(d) The Commission, with the approval of the Band Assembly, may provide for the refunding of any obligation of the Commission through the issuance of other obligations of the Commission, entitled to rights and priorities similar in all respects to those held by the obligations that are refunded.

(e) In connection with the issuance of any obligation pursuant to this section the Commission is authorized to waive its sovereign immunity from suit should an action be commenced to enforce the terms of such obligation, and to consent to the jurisdiction of the courts of the United States of America or the State of Minnesota in connection with any such action; provided that the Commission is without power to waive the sovereign immunity of the Mille Lacs Band of Chippewa Indians, to consent to the jurisdiction of any court over the Band, or to consent to the levy of any judgment, lien or attachment upon any property or income of the Commission, the Band or any other organization or instrumentality of the Band other than that specifically pledged pursuant to subsection (c).

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 2.09.
Band Ordinance 61-21, § 4.

§ 113. Vesting of Property Upon Dissolution.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 2.10.
Band Ordinance 61-21, § 4.

§ 114. Uniform System of Records and Accounting.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 3.
Band Ordinance 61-21, § 4.

§ 115. Administrative Regulations.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 4.
Band Ordinance 61-21, § 4.

§ 116. Meetings.

The Board of Supervisors of the Commission shall meet monthly with an agenda prepared in advance by the Public Works Administrator. All proceedings of the Board shall be open to the public except when an executive session is authorized by unanimous vote of the Board. All

proceedings shall be documented in writing and copies distributed to the Chief Executive and Band Assembly not more than five (5) days following any meeting.

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 6.
Band Ordinance 61-21, § 4.

SUBCHAPTER 2

BYLAWS

Section

121. Establishment of Bylaws.
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124. Public Works Association Membership.
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132. Removal of Supervisors from Office.
133. Powers and Duties of Chair.
134. Powers and duties of Vice-Chair; Vacancy in Office of Chair.
135. Powers and Duties of Secretary.
136. Signatures.
137. Accounting System.
138. Rates and Charges for Utility Services.
139. Alteration, Amendment, or Repeal of Bylaws.
140. Sovereign Immunity.

§ 121. Establishment of Bylaws.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 7.
Band Ordinance 61-21, § 4.

§ 122. Name and Offices.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 7.
Band Ordinance 61-21, § 4.

§ 123. Fiscal Year.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 7.02.
Band Ordinance 61-21, § 4.

§ 124. Public Works Association Membership.

All adult members of the Mille Lacs Band who are enrolled on the Minnesota Agency census roll of the Bureau of Indian Affairs and who reside on trust, allotted or private property within the jurisdiction of the Band shall be considered voting members of the Public Works Association. Each member shall be entitled to one (1) vote. Members may, by vote, express a non-binding preference on any issue within the subject matter jurisdiction of the Commission. Voting by proxy will not be permitted. The rights, privileges and obligations of all members of the Association shall be equal. For the purposes of this provision, adult shall mean a Band member who is 18 years of age or older.

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 7.03.
Band Ordinance 61-21, § 4.

§ 125. Association Meetings.

(a) The annual meeting of the Association shall be held at the Government Center, HCR 67, Vineland, Minnesota, County of Mille Lacs, on the second Thursday of October of each year. The meeting shall be called for the purpose of receiving the annual reports of Supervisors and the transaction of other business. This section shall constitute sufficient notice of the annual meeting.

(b) Special meetings of the Association may be called at any time by the Chair of the Board or upon written petition to the Chair signed by 20% of the membership of the Association. The purpose of every special meeting shall be stated in the notice thereof, and no business shall be transacted except as is specified in the notice. A written notice of the special meeting shall be posted in public places at least ten (10) days prior to the meeting, and shall include the nature, time, place and purpose of the meeting.

(c) At least 25 voting members of the Association present at a duly called meeting shall constitute a quorum for the transaction of Association business. In the event that a quorum is not present, informational packages shall be mailed to the membership.

(d) Robert's Rules of Order shall govern at all meetings of the Association. All meetings of the Association held for the purpose of taking any action within the authority of the Association shall be open to the public, except that the public or any person may be excluded from a meeting for unduly interfering with the orderly conduct of business, in matters relating to personnel, in matters adjudicatory in nature, or in matters concerning purchases that can be made only from one (1) source.

Historical and Statutory Notes

Source:

Band Statutes 1233-MLC-20, T.I., § 7.04.
Band Ordinance 61-21, § 4.

§ 126. Management of Commission Affairs.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.l, § 7.05.
Band Ordinance 61-21, § 4.

§ 127. Appointment and Terms of Board.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, TI, § 7.051.
Band Ordinance 61-21, § 4.

§ 128. Vice-Chair and Secretary of Board.

The Board shall elect by ballot a Vice-Chair and Secretary from the three (3) Supervisors nominated by the Chief Executive, each of whom shall hold office until appointment and qualification of their successor, unless sooner removed by resignation or for just cause.

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.l, § 7.052.
Band Ordinance 61-21, § 4.

§ 129. Compensation of Supervisors.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 7.053.
Band Ordinance 61-21, § 4.

§ 130. Board Meetings.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 7.054.
Band Ordinance 61-21, § 4.

§ 131. General Power of Board.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 7.055.
Band Ordinance 61-21, § 4.

§ 132. Removal of Supervisors from Office.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 7.056.
Band Ordinance 61-21, § 4.

§ 133. Powers and Duties of Chair.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 7.06.
Band Ordinance 61-21, § 4.

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

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 7.061.
Band Ordinance 61-21, § 4.

§ 135. Powers and Duties of Secretary.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 7.062.
Band Ordinance 61-21, § 4.

§ 136. Signatures.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 7.063.
Band Ordinance 61-21, § 4.

§ 137. Accounting System.

(a) An accounting system shall be established as prescribed by 12 MLBS § 114, and include the implementation of Uniform Administrative Requirements at 2 C.F.R. pt. 200.

(b) If the Commission shall at any time receive by way of grant any property of any Federal, State, Tribal or private agencies, the Board shall use the uniform system of records and accounting as prescribed in 12 MLBS § 114.

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., §§ 7.055, 7.07.
Band Ordinance 61-21, § 4.
Band Act 66-23.

§ 138. Rates and Charges for Utility Services.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 7.08.
Band Ordinance 61-21, § 4.

§ 139. Alteration, Amendment or Repeal of Bylaws.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 7.09.
Band Ordinance 61-21, § 4.

§ 140. Sovereign Immunity.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 7.10.
Band Ordinance 61-21, § 4.

SUBCHAPTER 3

RULES AND REGULATIONS

Section

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

§ 141. Compliance with Bylaws.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 8.
Band Ordinance 61-21, § 4.

§ 142. Application for Service.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 8.
Band Ordinance 61-21, § 4.

§ 143. Water Service Generally.

Water service shall consist of facilities to supply water at the normal operating pressure of the system to one (1) residence or place of business. Water service shall be considered available when the Commission maintains the water supply at the normal pressure at the point of delivery in readiness for the member's use, regardless of whether or not the member made use of it, and charges shall be made for service as of this date.

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 8.01.
Band Ordinance 61-21, § 4.

§ 144. Multiple Water Services.

One member may have more than one (1) water service pursuant to rules established by the Board.

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 8.011.
Band Ordinance 61-21, § 4.

§ 145. Transfer of Water Prohibited.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 8.011.
Band Ordinance 61-21, § 4.

§ 146. Connection with Private Water System; Inspection.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 8.012.
Band Ordinance 61-21, § 4.

§ 147. Extension of Main and Service Lines.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 8.013.
Band Ordinance 61-21, § 4.

§ 148. Maintenance of Water Lines.

It is the responsibility of the Commission to maintain the water lines up to the curb stop, or if none, up to within five (5) feet of the building. The building is the owner's responsibility, except for buildings that are being rented from the Housing Authority or the Mille Lacs Band.

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 8.014.
Band Ordinance 61-21, § 4.

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

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 8.02.
Band Ordinance 61-21, § 4.

§ 150. Sewer Service Charge.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 8.03.
Band Ordinance 61-21, § 4.

§ 151. Billing for Water and Sewer Services.

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

Historical and Statutory Notes

Source:
Band Statute 1233-MLC-20, T.I., § 8.04.
Band Ordinance 61-21, § 4.

SUBCHAPTER 4

PLAN OF OPERATION

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

§ 161. Operating Guidelines.

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

Historical and Statutory Notes

Source:
Band Statute 1233-MLC-20, T.I., § 9.
Band Ordinance 61-21, § 4.

§ 162. Purpose of Commission.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 9.01.
Band Ordinance 61-21, § 4.

§ 163. Address of Commission.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 9.02.
Band Ordinance 61-21, § 4.

§ 164. Responsibilities of Commission.

(a)

(1) The Commission is responsible for providing safe, adequate water for a fee to those buildings connected to the mainlines of the community water system. Responsibility for maintenance will include water sources, storage tanks, controls, mainlines, valves and hydrants, and service lines up to the curb stops, or if none; up to within five (5) feet of the building.

(2) The Commission is responsible for providing sanitary disposal of domestic waste for a fee to those buildings connected to the mainlines of Band sewage systems. Responsibility for maintenance will include treatment facilities, pumping stations, mainlines and manholes, and service lines to the property lines only.

(3) The remainder of the sewer and water service lines and interior building plumbing shall be the responsibility of the member, excluding buildings rented from the Housing Authority or the Band, which are the responsibility of the appropriate entity.

(b) To ensure the provision of adequate water and sewage service to its members, the Commission shall retain qualified personnel on duty or on call at all times. The Commission shall respond in a timely manner to breakdowns and other emergencies.

(c) Services for individual septic tank systems may be available at the Commission's discretion in areas within the territorial jurisdiction of the Commission. The Commission may elect to provide for the pumping of individual septic tanks for a fee. The Commission shall have no responsibility for this service except in instances of such elective pumping. The Commission cannot guarantee the operation of improperly designed, constructed or operated septic tank systems.

(d) The Commission may elect, as resources permit, to perform certain plumbing repairs or new installations for a fee in those buildings served by one (1) of the Commission's systems.

(e) Private wells are the responsibility of the individual property owner, and the Commission cannot guarantee the operation of improperly designed, constructed or operated well systems or their water quality.

(f) The Commission may, in its discretion, agree to perform construction, operation or maintenance services under contract with tribal, governmental, or private bodies.

(g) In its discretion, the Commission may assume responsibility to provide other utility services and adopt regulations governing the provision of such other services.

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 9.03.
Band Ordinance 61-21, § 4.

§ 165. Maintenance Services.

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

(a) Inspect and operate valves and hydrants, inspect and repair water mains for leaks or damage, flush water lines, inspect storage tanks and level indicators, and adjust and service controls; and

(b) Flush sewer mains, remove debris from manholes, control weeds and erosion at lagoons inspect and service lift station and mechanical aerators, and, where the responsibility has been assumed by the Commission, inspect individual septic tanks.

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 9.04.
Band Ordinance 61-21, § 4.

§ 166. Amendment of Plan of Operation.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 9.05.
Band Ordinance 61-21, § 4.

SUBCHAPTER 5

POLICIES

Section

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

§ 181. Billing and Payment Policy.

(a) Billing for water and sewage services shall be done jointly. In instances where a member receives only one (1) service, the member shall only be billed for that service. Each bill shall be based upon the usage of water and sewage services under an applicable rate schedule. The schedule shall provide for a minimum monthly service charge, regardless of usage, in addition to rates for water and sewage services in excess of the minimum monthly service charge.

(b) Bills shall be sent to members by the sixth business day of each month for services rendered the previous month, and shall be due and payable at the location indicated on the face of the bill ten (10) days thereafter. Unpaid bills shall become delinquent five (5) days after the due date. The Commission shall then have three (3) days in which to notify the member, either personally or by certified mail, that they are delinquent and subject to a penalty and disconnection of water and sewage service unless their account is paid in full. The member shall have two (2) days after the mailing of notice or personal notification to pay the bill in full without penalty. Thereafter, the Commission may impose a $25.00 penalty, in addition to any other amounts due or chargeable, and may disconnect services at the member's expense.

(c) Bills not paid by the due date shall be subject to a 15% late charge on the unpaid balance in addition to any other service charges or penalties.

(d) A minimum reconnection fee of $25.00 shall be charged for disconnected service. However, should the actual cost of reconnection exceed $25.00, the member shall be charged the actual cost. Any service which has been disconnected, whether due to delinquency or any other reason, shall be reconnected only upon payment of any past due amount and the reconnection fee.

(e) Partial payments may be accepted, but shall not relieve the member of the responsibility for paying bills by their due date, nor does it extend the due or delinquent date.

(f) Advance payments may be accepted and credited to the member's account monthly until exhausted.

(g) All returned checks shall result in a delinquent account, if the check is not redeemed by the due date stated on the applicable bill. In the event that a returned check is not redeemed by the due date, the delinquent account procedures listed in subsection (b) shall apply.

(h) All members who issue a dishonored check shall be charged a fee of $15.00 to reimburse the additional administrative expenses associated with ensuring payment on these items.

(i) The minimum monthly service charge shall be increased from $6.00 to $8.00 for combined water and sewage services. In the event that a member only receives one (1) service, the member shall only be assessed half the minimum monthly service charge.

(1) Notwithstanding any provision of this section to the contrary, members who have attained the age of 55 or who qualify for services from the Elderly Nutrition Program, irrespective of age, shall be exempt from any increase in the minimum monthly service charge above the amount assessed as of January 1, 1985.

(2) Notwithstanding any provision of this chapter to the contrary, members who have attained the age of 55 or who qualify for services from the Elderly Nutrition Program shall be exempt from the payment of all service fees if they have a gross monthly income of less than $300.00. Verification of income shall be certified by the Contracting Officer of the Food Commodity Program or provided by the member seeking this exemption.

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 10.
Band Ordinance 61-21, § 4.

§ 182. Billing and Collection Policies.

Billing and collection policies shall be as follows:

(a) the Commission shall maintain a complete and up-to-date record of all members served by those systems operated by the Commission. Additions and deletions to the records shall be made as soon as the Commission learns of the changes;

(b) the Commission shall ensure that each member is billed for services in accordance with 12 MLBS § 181 and this Section;

(c) members may make payments by cash or check or money order, payable to the Commission, by mailing payments to the Commission's office at the Mille Lacs Government Center or personally delivering payments thereto. Members shall receive a receipt for payments personally made at the Government Center;

(d) members who live in buildings managed by the Housing Authority or other tribal enterprises shall include monthly water and sewage payments along with their rent or house payment. The agency collecting the payments shall then pay the Commission for services to all of its housing occupants. The agency shall receive a receipt for this payment; and

(e) members requesting a new service, reconnection, plumbing repairs, or pumping of a septic tank shall make arrangements with the Director of Operations for Public Works for payment prior to receiving the services. Normally, such charges shall be due on the next month's bill.

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 10.09.
Band Ordinance 61-21, § 4.

§ 183. Enforcement Policies.

Enforcement policies shall be as follows:

(a) the Commission is hereby authorized to collect fees for services and to disconnect services for nonpayment; and

(b) the Commission shall enforce its regulations and fee collections by disconnecting services to any and all violators and delinquent members. The Commission shall not

seek to attach members' property nor to have fines assessed by the Court of Central Jurisdiction, except in cases of blatant or continued abuse or destruction of property.

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 10.10.
Band Ordinance 61-21, § 4.

§ 184. Bookkeeping and Handling of Funds Policies.

Bookkeeping and handling of funds policies shall be as follows:

(a) the Commission shall follow the established Band procedures for bookkeeping and banking. This will allow the convenient handling of Commission funds through the bank accounts of the Band, while also providing a separate accounting of the funds. The Public Works Administrator shall make a monthly accounting of the Commission's funds available to the Board;

(b) actual handling of the Commission's funds shall be performed by the Band's Secretary of Treasury; and

(c) all accounts and ledgers of the Commission shall be available for audit at any time by any auditor appointed by the Secretary of Treasury.

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 10.11.
Band Ordinance 61-21, § 4.

§ 185. Management Policies.

Management policies shall be as follows:

(a) the Board may establish overall program objectives which shall be implemented by the Public Works Administrator;

(b) the Public Works Administrator shall manage the daily operations of the Commission. The Public Works Administrator shall have responsibility to direct the work of all employees of the Commission and shall establish a direct chain of command for orderly functioning of the office and operation and maintenance of all utility systems;

(c) job descriptions for all employees shall be developed and followed; and

(d) employees of the Commission shall receive wages and benefits comparable to other employees of the Band. Employees shall have the right of appeal pursuant to the Band's personnel policies should any employment-related dispute not be resolved to their satisfaction by the Public Works Administrator or the Board.

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 10.12.
Band Ordinance 61-21, § 4.

§ 186. Public Service.

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

Historical and Statutory Notes

Source:

Band Statute 1233-MLC-20, T.I., § 10.13.
Band Ordinance 61-21, § 4.

CHAPTER 3

CAPITAL IMPROVEMENTS AUTHORITY

Section

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

§ 201. Establishment.

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

Historical and Statutory Notes

Source:

Band Statute 1234-MLC-53, § 1.
Band Ordinance 61-21, § 4.

§ 202. Board of Commissioners.

(a) The affairs of the Capital Improvements Authority shall be managed by a Board of Commissioners comprised of five (5) persons. The Board members shall be nominated by the Chief Executive and ratified by the Band Assembly.

(b) The Chief Executive shall select three (3) among the Board members who shall serve a four-year term, and two (2) who shall serve a two-year term. Subsequent appointments after these terms expire shall run for four (4) years.

(c) At least one (1) member of the Board shall be a Band member residing in District 1; at least one (1) member of the Board shall be a Band member residing in District 2; at least one (1) member of the Board shall be a Band member residing in District 3. Each member shall hold office until a successor has been nominated and ratified.

(d) The Chief Executive shall name one (1) of the Board members as Chair of the Board. The Board shall select from among its own members a Vice Chair, a Secretary and a Treasurer, and any member may hold two (2) of these positions. In the absence of the Chair, the Vice-Chair shall preside, and in the absence of both the Chair and the Vice-Chair, the Secretary shall preside.

Historical and Statutory Notes

Source:

Band Statute 1234-MLC-53, § 2.
Band Ordinance 61-21, § 4.

§ 203. Removal of Board Members.

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

Historical and Statutory Notes

Source:

Band Statute 1234-MLC-53, § 2.03.
Band Ordinance 61-21, § 4.

§ 204. Compensation.

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

Historical and Statutory Notes

Source:

Band Statute 1234-MLC-53, § 2.04.
Band Ordinance 61-21, § 4.

§ 205. Quorum.

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

Historical and Statutory Notes

Source:

Band Statute 1234-MLC-53, § 2.05.
Band Ordinance 61-21, § 4.

§ 206. Records of Board Meetings and Actions.

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

Historical and Statutory Notes

Source:

Band Statute 1234-MLC-53, § 2.06.
Band Ordinance 61-21, § 4.

§ 207. Financial Records and Reports.

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

Historical and Statutory Notes

Source:

Band Statute 1234-MLC-53, § 2.07.
Band Ordinance 61-21, § 4.

§ 208. Meetings.

Meetings of the Board shall be held as deemed appropriate with an agenda prepared in advance by the Chair. All proceedings of the Board shall be open to the public except when an executive session is authorized by unanimous vote of the Board. All proceedings shall be documented in writing and copies distributed to the Chief Executive and Band Assembly not more than five (5) days following each meeting. Meetings may be held upon 24 hours actual notice.

Historical and Statutory Notes

Source:

Band Statute 1234-MLC-53, § 2.08.
Band Ordinance 61-21, § 4.

§ 209. Enumerated Powers.

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

(a) to adopt and use an official seal;

(b) subject to Band Assembly approval, to enter any contracts or agreements with any governmental agency, Federal, State, local or tribal, or with any person, partnership, corporation or Indian tribe; and to agree to any conditions attached to Federal or State financial assistance;

(c) to lease property from the Band and others for such periods and to hold and manage or to sublease the same;

(d) to borrow or lend money, to guarantee the obligations of other tribal entities of the Band, and to issue evidences of indebtedness in accordance with 12 MLBS § 210;

(e) subject to Band Assembly approval, to pledge the assets and receipts of the Authority as security for debts;

(f) subject to Band Assembly approval, to acquire, construct, sell, lease as lessor or lessee, exchange, transfer or assign real or personal property or interests therein;

(g) to purchase land or interests in land or take the same by gift, and to lease land or interests in land to the extent provided by law;

(h) to prudently invest such funds as are not required for immediate disbursement;

(i) to establish and maintain such bank accounts as may be necessary or convenient;

(j) to employ such officers and employees, permanent or temporary, as the Authority may require, and to delegate to such officers and employees such powers and duties as the Board deems proper;

(k) to adopt bylaws which shall be submitted to the Band Assembly for approval; and

(l) to take such further actions as are necessary to carry out the purposes as described in 12 MLBS § 201.

Historical and Statutory Notes

Source:

Band Statute 1234-MLC-53, § 3.
Band Ordinance 61-21, § 4.

§ 210. Borrowing.

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

(b)

(1) All obligations incurred under this Section shall be payable solely:

(i) from revenues, income, receipts and profits derived by the Authority from projects operated by it whether or not the projects were financed in whole or in part with the proceeds of such obligations;

(ii) from all or any part of the revenues of any business conducted by the Corporate Commission and allocated to the Authority by the Band Assembly;

(iii) from the proceeds of evidences of indebtedness issued and sold by the Authority which are payable solely from any of such revenues, income, receipts and profits; or

(iv) from federal or state grants or other money received by the Authority which are available therefor.

(2) The Authority may further secure these obligations with any assets of the Authority as the Authority may specifically pledge to the payment of the obligations.

(c) The Authority may pledge to the repayment of any such obligations and the interest coming due thereon any or all of the sources set forth in subsection (b), but is without power to pledge or encumber any other revenues, income or assets of the Mille Lacs Band of Chippewa Indians, or any other organization or instrumentality of the Band to the repayment of such obligations. The Band Assembly may, if it deems it to be in the best interests of the Band to do so, pledge to the payment of any such obligations, or authorize any organization or instrumentality of the Band to pledge to the payment of such obligations, any specific revenues, income or assets of the Band or any organization or instrumentality of the Band as it may deem appropriate. In any event, no such obligations shall be payable from, nor be a charge upon, any funds other than the revenues specifically pledged to the payment thereof, nor shall the Band be liable thereon other than to the extent specifically provided in accordance with this section. These limitations shall be expressly stated in each obligation issued pursuant to this section.

(d) The Authority, with the approval of the Band Assembly, may provide for the refunding of any obligation of the Authority through the issuance of other obligations of the Authority, entitled to rights and priorities similar in all respects to those held by the obligations that are refunded.

(e) In connection with the issuance of any such obligation, the Authority is authorized to waive its sovereign immunity from suit should an action be commenced to enforce the terms of the obligation, and to consent to the jurisdiction of the courts of the United States of America or the State of Minnesota in connection with any such action; provided that the Authority is without power to waive the sovereign immunity of the Mille Lacs Band of Chippewa Indians, to consent to the jurisdiction of any court over the Band, or to consent to the levy of any judgment, lien or attachment upon any property or income of the Authority, the Band or any other organization or instrumentality of the Band other than that specifically pledged pursuant to subsection (c).

Historical and Statutory Notes

Source:

Band Statute 1234-MLC-53, § 4.
Band Ordinance 61-21, § 4.

§ 211. Sovereign Immunity.

(a) As an instrumentality of the Mille Lacs Band of Chippewa Indians, the Authority shall be clothed by federal and tribal law with all the privileges and immunities of the Band, except as specifically limited by this chapter, including sovereign immunity from suit in any state, federal or tribal court. Nothing contained in this chapter shall be deemed or construed to be a waiver of sovereign immunity by the Authority from suit, which may be waived only in accordance with this chapter.

(b) Sovereign immunity of the Authority may be waived only by formal resolution of the Board of Commissioners.

(c)

(1) Waivers of sovereign immunity are disfavored and shall be granted only when necessary to secure a substantial advantage or benefit to the Authority. Any waiver of sovereign immunity shall be specific and limited as to:

(i) duration;

(ii) the grantee;

(iii) the particular transaction;

(iv) definite property or funds, if any, of the Authority;

(v) a particular court having jurisdiction pursuant thereto; and

(vi) the law that shall be applicable thereto.

(2) Any express waiver of sovereign immunity by resolution of the Board shall not be deemed a waiver of the sovereign immunity of the Mille Lacs Band of Chippewa Indians, a consent to the jurisdiction of any court over the Band, or a consent to the levy of any judgment, lien or attachment upon any property or income of the Authority, the Band or any other organization or instrumentality of the Band other than that specifically pledged or assigned.

Historical and Statutory Notes

Source:

Band Statute 1234-MLC-53, § 5.
Band Ordinance 61-21, § 4.

§ 212. Assets and Liabilities of the Authority.

(a) The Authority shall have only those assets specifically assigned to it by the Band or acquired in its name by the Band or the Authority on its own behalf. Nothing in this Chapter nor any activity of the Authority shall implicate or in any way involve the credit or assets of the Band or obligate the Band for the obligations of this Authority except for any liability or obligation specifically assumed in writing.

(b) The property of the Authority is declared to be public property used for essential public and governmental purposes and such property and the Authority are exempt from all taxes and special assessments of the Band Assembly or the Band. However, for construction projects, nothing in this section shall prevent the Band from collecting the general sales tax contained in 22 MLBS § 502, or the public service occupations tax contained in 22 MLBS § 601.

(c) All property of the Authority, including funds acquired or held by the Authority pursuant to this chapter, shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial powers shall issue against the same nor shall any judgment against the Authority be a charge or lien upon such property. The provisions of this section shall not apply to or limit the right of a secured party to pursue any remedies for the enforcement of any pledge or lien given by the Authority on its revenues or properties.

(d) Upon dissolution of the Authority, the title to all property owned by it shall vest in and become the property of the Band.

Historical and Statutory Notes

Source:
Band Statute 1234-MLC-53, § 6.
Band Ordinance 61-21, § 4.

CHAPTER 4

HOUSING DEPARTMENT

Section
301. Purpose and Findings.
302. Definitions.
303. Housing Department.
304. Executive Director.

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

§ 301. Purposes and Findings.

(a) There are currently a duplication of housing programs and services available to Band members and the Band Assembly recognizes a need to coordinate the housing programs to maximize the resources of the Band.

(b) To eliminate the duplication of housing programs, a new structure known as the "Housing Department" will be administered under the direction of the Commissioner of Community Development.

(c) To assist the Commissioner of Community Development with the scope of this task, there is a need to create a new position known as the "Executive Director of the Housing Department." The Executive Director will be responsible for the daily administration of the Housing Department's programs and services. The Executive Director shall report directly to the Commissioner of Community Development.

(d) To accommodate the new housing structure, a newly created Housing Board will work in partnership with the Commissioner of Community Development and the Executive Director to ensure that long-term housing needs are clearly identified through the implementation of Strategic Planning.

(e) The Band Assembly also recognizes that a new process must be established to continually assess and manage the housing needs as the demographics of the Band change.

Historical and Statutory Notes

Source:

Band Ordinance 18-04, §§ 101.2-6.
Band Ordinance 61-21, § 4.

§ 302. Definitions.

(a) **"Band"** means the Mille Lacs Band of Ojibwe Indians.

(b) **"Band Assembly"** means the legislative branch of the Mille Lacs Band of Ojibwe Indians.

(c) **"Band Member"** means an enrolled person of the Mille Lacs Band of Ojibwe Indians.

(d) **"Executive Director"** means the person responsible for the daily administration of the Housing Department who shall report directly to the Commissioner of Community Development.

(e) **"Commissioner of Community Development"** means an appointed official of the Executive Branch who is responsible for the administration, management, supervision and coordination activities for Community Development, Public Works, Facilities Management, Transportation and the Housing Department.

(f) **"Housing Board"** means the advisory board that works in partnership with the Commissioner of Community Development and the Executive Director of the Housing Department.

(g) **"Housing Department"** means the structure created by statute to be responsible for new construction, renovations, residential land acquisition, residential services, maintenance, the Home Loan program and transitional housing.

(h) **"Misconduct"** means a dereliction of duty, unlawful behavior, misdeed, impropriety, mismanagement, unfair treatment, or conduct that shows willful or wanton disregard of any Band member's right to housing.

(i) **"Service Area"** means the area designated to receive housing services as enacted in Band Assembly Bill 10-04-40-03 or as otherwise amended by the Band Assembly.

(j) **"Strategic Housing Plan"** means the housing plan developed by the Commissioner of Community Development including but not limited to goals and objectives and an overview of the planned activities for the period.

Historical and Statutory Notes

Source:

Band Ordinance 18-04, § 102.
Band Ordinance 61-21, § 4.

§ 303. Housing Department.

(a) A new structure known as the Housing Department is hereby established to administer the Mille Lacs Band of Ojibwe Indians housing programs and services.

(b) The Housing Department shall be under the supervision of the Commissioner of Community Development.

Historical and Statutory Notes

Source:

Band Ordinance 18-04, § 103.
Band Ordinance 61-21, § 4.

§ 304. Executive Director.

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

Historical and Statutory Notes

Source:

Band Ordinance 18-04, § 104.
Band Ordinance 61-21, § 4.

§ 305. Housing Board.

(a) No more than 90 days after passage of this Chapter, a newly formed Housing Board shall be created to act in an advisory capacity to assist the Housing Department and Commissioner of Community Development with housing matters and such Board shall have those powers as delegated in sub-section (b) of this section.

(b) Powers and Duties.

(1) To advise the Commissioner of Community Development and make recommendations on various housing matters relating to the Band's Housing vision and mission.

(2) To acknowledge Band members‟ housing needs and communicate concerns to the Executive Director of the Housing Department.

(3) To approve an annual Strategic Housing Plan with ratification by the Band Assembly.

(4) To ensure that the Housing Policies conform to the Band's Housing vision and mission and that Community Development and the Housing Department comply with the Housing Policies.

(5) To maintain a fair and equitable service level to all Band members.

(6) To approve home loans, renovation loans or other housing program loans that may be developed by the Housing Department.

(7) To approve foreclosures in circumstances where a mortgagor defaults on their housing loan for a period of more than six (6) months.

(8) To approve new Housing programs and Housing Policies developed by the Housing Department with ratification by the Band Assembly.

(9) To approve Housing Meeting Minutes from the previous meeting and forward a copy to Band Assembly within ten (10) business days.

(10) To approve any housing grants if such regulations require it.

(11) To approve the quarterly reports developed by the Commissioner of Community Development and the Housing Department.

(12) To maintain confidentiality of all housing client matters.

(13) To treat all Band members fairly and equally without regard to family relationships.

Historical and Statutory Notes

Source:

Band Ordinance 18-04, § 105.
Band Ordinance 61-21, § 4.

§ 306. Board Member Selection Process.

(a) This section establishes the rules for selection of Housing Board members, the number of Board members to be appointed and the term length of each Board member. The rules are as follows:

(1) The Housing Board is hereby organized and designated as a subdivision of the Housing Department of the Mille Lacs Band of Ojibwe Indians.

(2) The Housing Board shall be composed of seven (7) persons.

(3) Each Housing Board member must be an enrolled Band member of the Mille Lacs Band of Ojibwe Indians and at least 18 years of age.

(4) No person shall be barred from serving on the Board because he or she is a tenant or homebuyer. However, such Board member shall not participate in or be present at any portion of a meeting concerning any matter that involves her or his individual rights, obligations or status as a tenant or homebuyer.

(5) The Chief Executive shall select two (2) individuals and the Speaker of the Assembly shall nominate one (1) of the two (2) to the Band Assembly for confirmation to the Housing Board. This Housing Board member shall serve until June 30, 2007. Thereafter, this position shall be eligible for appointment to a four (4) year term beginning on June 30, 2007.

(6) The Speaker of the Assembly shall select two (2) Elders and the Chief Executive shall nominate one (1) of the two (2) to the Band Assembly for confirmation to the Housing Board. This Housing Board member shall serve until June 30, 2006. Thereafter, this position shall be eligible for appointment to a four (4) year term beginning on June 30, 2006.

(7) The District I Representative shall select two (2) individuals and the Chief Executive shall nominate one (1) of the two (2) to the Band Assembly for confirmation to the Housing Board. This Board Member shall serve until June 30, 2007. Thereafter, this position shall be eligible for appointment to a four (4) year term beginning on June 30, 2007.

(8) The District II Representative shall select two (2) individuals and the Chief Executive shall nominate one (1) of the two (2) to the Band Assembly for confirmation to the Housing Board. This Board Member shall serve until June 30, 2006. Thereafter, this position shall be eligible for appointment to a four (4) year term beginning on June 30, 2006.

(9) The District III Representative shall select two (2) individuals and the Chief Executive shall nominate one (1) of the two (2) to the Band Assembly for confirmation to the Housing Board. This Board Member shall serve until June 30, 2006. Thereafter, this position shall be eligible for appointment to a four (4) year term beginning on June 30, 2006.

(10) The Chief Executive and the Speaker of the Assembly shall each select two (2) persons from the at Large area and the Band Assembly shall confirm two (2) of the four (4) for appointment to the Housing Board. These Board members shall serve until June 30, 2005. Thereafter, these positions shall be eligible for appointment to a four (4) year term beginning on June 30, 2005.

(b) The nomination process established in this subsection shall apply to all future nominees who hold this position.

(c) If, for any reason, an elected official does not nominate a person in the manner set out hereinabove, that position shall be filled by nomination by the Chief Executive and Speaker of the Assembly. The Chief Executive and Speaker of the Assembly shall each nominate one (1) person from the pool where the vacancy occurs and the Band Assembly shall confirm one (1) person.

Historical and Statutory Notes

Source:

Band Ordinance 18-04, § 106.
Band Ordinance 27-04, § 106.
Band Ordinance 61-21, § 4.

§ 307. Process to Fill Vacant Board Positions.

(a) If, for any reason, a Board position becomes vacant, the elected official that originally nominated that person shall nominate a new person in the same manner to replace the vacant position for the remainder of that term. Thereafter, this position shall be filled in the manner set out above.

(b) If, for any reason, the elected official does not nominate a person within 30 days of the vacancy, that position shall be filled by nomination by the Chief Executive and Speaker of the Assembly. The Chief Executive and Speaker of the Assembly shall each nominate one (1) person from the pool where the vacancy occurs and the Band Assembly shall confirm one (1) person.

Historical and Statutory Notes

Source:

Band Ordinance 18-04, § 107.
Band Ordinance 61-21, § 4.

§ 308. Officers.

(a) The Housing Board shall select from its members one (1) person to serve as Chairperson of the Board, one (1) person to serve as Vice-Chairperson, and one (1) person to serve as Secretary. In the absence of the Chairperson, the Vice-Chairperson shall preside over the meeting. In the absence of the Chairperson and Vice-Chairperson, the Secretary shall preside. The Secretary shall keep a complete and accurate record of all meetings and any actions taken by the Board.

(b) These offices shall be held for a two-year period beginning on June 30, 2004.

Historical and Statutory Notes

Source:

Band Ordinance 18-04, § 108.
Band Ordinance 61-21, § 4.

§ 309. Meetings.

(a) The Housing Board shall meet at least one (1) time per month to attend to Housing Department business. If any Housing Board member is absent from three (3) consecutive meetings, they shall be removed from the Housing Board.

(b) The Housing Board members shall be paid a stipend for their services in the amount of $300.00 per meeting, but payment of such stipend shall be limited to two (2) meetings per month. If more than two (2) meetings within a month are required to handle housing business, no stipend shall be paid although mileage expenses will be allowed.

Historical and Statutory Notes

Source:

Band Ordinance 18-04, § 109.
Band Ordinance 61-21, § 4.
Band Act 63-22.

§ 310. Quorum.

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

Historical and Statutory Notes

Source:

Band Ordinance 18-04, § 110.
Band Ordinance 61-21, § 4.

§ 311. Removal of Board Members.

(a) A member of the Housing Board may be removed for misconduct of office, absence from three (3) consecutive meetings without cause, or neglect of duty, but only after notice and hearing before the Joint Session. The Commissioner of Community Development and the Executive Director shall submit in writing such reason for removal and submit the same to the Joint Session. The Joint Session shall hear the case and determine if valid reason exist to remove such Board member.

(b) The Board Member shall receive such notice of removal hearing at least ten (10) days prior to the hearing date.

(c) At any such hearing, the Board Member is entitled to be heard in person or through an attorney and to present witnesses on her or his behalf.

(d) A confidential record of any such hearing shall be kept for a period of seven (7) years.

Historical and Statutory Notes

Source:

Band Ordinance 18-04, § 111.
Band Ordinance 61-21, § 4.

§ 312. Housing Board Bylaws.

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

Historical and Statutory Notes

Source:

Band Ordinance 18-04, § 112.
Band Ordinance 61-21, § 4.

§ 313. Transfer of Ownership Interests.

(a) All units owned by the Mille Lacs Band of Ojibwe Indians "Housing Authority" shall be transferred to the Mille Lacs Band of Ojibwe Indians "Housing Department."

(b) All leases held by the Mille Lacs Band of Ojibwe Indians "Housing Authority" shall be transferred to the Mille Lacs Band of Ojibwe Indians "Housing Department."

(c) Any land acquisition performed by the Mille Lacs Band of Ojibwe Indians Department of Natural Resources ("DNR") that includes a house shall be leased to the Housing Department according to the following limitations:

(1) restricted to residential use; and

(2) follow the area zoning requirements for a residential dwelling.

Historical and Statutory Notes

Source:

Band Ordinance 18-04, § 113.
Band Ordinance 61-21, § 4.

CHAPTER 5

NATIVE AMERICAN VETERAN DIRECT LOAN PROGRAM

Section

401. Findings and Determinations.
402. Application of Chapter.
403. Purpose to Provide Additional Remedies.
404. Public Policy of Band.
405. Definitions.
406. Priority.
407. Recording System.
408. Filing.
409. Log.
410. Public Inspection and Copying.
411. Leasehold Mortgage Foreclosure Proceedings.
412. Service of Process and Procedures.
413. Cure of Default.
414. Entry of Judgment.
415. Unlawful Detainer.
416. Procedures for Service of Notice.
417. Complaint and Summons.
418. Service of Summons and Complaint.
419. Writ of Restitution.
420. Judgment.
421. Continuance in Cases Involving Secretary.
422. Enforcement.

§ 401. Findings and Determinations.

(a) The Band Assembly hereby finds and determines that there is a history of inadequate housing for Band members and that adequate housing and related services are vital to the health and well being of all members of the Band.

(b) The Band Assembly hereby finds and determines that our Armed Service veterans made great sacrifices for our country, their communities and their families and are a valuable resources to the Band and that our veterans should have adequate housing and related services made available to them.

Historical and Statutory Notes

Source:

Band Ordinance 34-94, § 1.
Band Ordinance 01-95, § 1.
Band Ordinance 61-21, § 4.

§ 402. Application of Chapter.

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

Historical and Statutory Notes

Source:

Band Ordinance 34-94, § 1.02.
Band Ordinance 01-95, § 1.02.
Band Ordinance 61-21, § 4.

§ 403. Purpose to Provide Additional Remedies.

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

Historical and Statutory Notes

Source:

Band Ordinance 34-94, § 19.
Band Ordinance 01-95, § 19.
Band Ordinance 61-21, § 4.

§ 404. Public Policy of Band.

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

Historical and Statutory Notes

Source:

Band Ordinance 34-94, § 18.
Band Ordinance 01-95, § 18.
Band Ordinance 61-21, § 4.

§ 405. Definitions.

(a) **"Band"** shall refer to the Non-Removable Mille Lacs Band of the Mille Lacs Indian Reservation as defined in the Minnesota Chippewa Tribal Constitution and the statutes of the Non-Removable Mille Lacs Band.

(b) **"Lease"** shall mean the lease of trust property for which a Leasehold Mortgage, as defined in this section, has or will be given.

(c) **"Leasehold Mortgage"** shall mean the mortgage of a lease of trust property given to secure a loan made under the VA Native American Direct Loan Program and 38 U.S.C. 3761 et seq.

(d) **"Leasehold Mortgage Foreclosure Proceeding"** shall mean a proceeding in the Court of Central Jurisdiction:

(1) To foreclose the interest of the Mortgagor(s), and each person or entity claiming through the Mortgagor(s), in a Lease for which a Mortgage has been given under the VA Native American Direct Loan Program and 38 U.S.C. 3761 et seq.; and

(2) To assign such Lease to the Secretary or the Secretary's assignee.

(e) **"Lessor"** shall mean the beneficial or equitable owner of trust or otherwise restricted property under a Lease for which a Mortgage, as defined in this section, has been given, or the heir(s), successor(s), executor(s), administrator(s), or assign(s) of such Lessor.

(f) **"Mortgagee"** shall mean the mortgagee under any Leasehold Mortgage as defined in this section or the successor(s) interest of any such mortgagee, including the Secretary as defined in this section, or the Secretary's assignee under any such mortgage.

(g) **"Mortgagor"** shall mean any Mille Lacs Band member who has executed a Leasehold Mortgage as defined in this section, or any member heir(s), successor(s), executor(s), administrator(s) or assign(s) of the Mille Lacs Band or any member.

(h) **"Nuisance"** shall mean the maintenance on real property of a condition which:

(1) Unreasonably threatens the health or safety of the public or neighboring land users; or

(2) Unreasonably and substantially interferes with the ability of neighboring property users to enjoy the reasonable use and occupancy of their property.

(i) **"Recording Clerk"** shall mean the person designated by the Mille Lacs Band to perform the recording functions required by this chapter or any deputy or designee of such person.

(j) **"Secretary"** shall mean the Secretary of the United States Department of Veterans Affairs (VA) or designee.

(k) **"Subordinate Lienholder"** shall mean the holder of any lien, including a subsequent mortgage, perfected subsequent to the recording of a Leasehold Mortgage under this chapter (except the Mille Lacs Band with respect to a claim for a tribal leasehold tax).

(l) **"Tenant"** shall mean any person who occupies real property under a lease, rental agreement or other agreement with a lessor as defined in this section.

(m) **"Tribal Court"** shall mean the Court of Central Jurisdiction as established by the laws of Mille Lacs Band of Ojibwe to exercise the powers and functions of a court of law.

(n) **"Unlawful Detainer Action"** shall be a suit brought before the Court of Central Jurisdiction to terminate a tenant's interest in real property and/or to evict any person from occupancy of real property.

(o) **"Waste"** is spoil or destruction by a tenant of land, buildings, gardens, trees or other improvements which result in substantial injury to the lessor's interest in the property.

(p) **"Writ of Restitution"** is an order of the Tribal Court:

(1) Restoring an owner or lessor or the Secretary to possession of real property and,

(2) Evicting a tenant or other occupant therefrom.

Historical and Statutory Notes

Source:

Band Ordinance 34-94, §§ 1.03-1.18.
Band Ordinance 01-95, §§ 1.03-1.18.
Band Ordinance 61-21, § 4.

§ 406. Priority.

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

Historical and Statutory Notes

Source:

Band Ordinance 34-94, § 2.
Band Ordinance 01-95, § 2.
Band Ordinance 61-21, § 4.

§ 407. Recording System.

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

Historical and Statutory Notes

Source:

Band Ordinance 34-94, § 3.
Band Ordinance 01-95, § 3.
Band Ordinance 61-21, § 4.

§ 408. Filing.

(a) The Band Recording Clerk shall endorse upon any Leasehold Mortgage or other document received for recording:

(1) The date and time of receipt of the Leasehold Mortgage or other document; and

(2) The filing number, to be assigned by the Recording Clerk, which shall be a unique number for each Leasehold Mortgage or other document received; and

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

(b)

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

MILLE LACS BAND OF OJIBWE

MILLE LACS RESERVATION: ss.

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

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

_____
Signature

_____
Title

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

Historical and Statutory Notes

Source:

Band Ordinance 34-94, §§ 3.01-3.03.
Band Ordinance 01-95, §§ 3.01-3.03.
Band Ordinance 61-21, § 4.

§ 409. Log.

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

(a) The name(s) of the Mortgagor(s) of each Leasehold Mortgage, identified as such;

(b) The name(s) of the Mortgagee(s) of each Leasehold Mortgage, identified as such;

(c) The name(s) of the grantor(s), grantee(s), or other designation of each party named in any other documents;

(d) The date and time of receipt;

(e) The filing number assigned by the Band Recording Clerk; and

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

Historical and Statutory Notes

Source:

Band Ordinance 34-94, § 3.04.
Band Ordinance 01-95, § 3.04.
Band Ordinance 61-21, § 4.

§ 410. Public Inspection and Copying.

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

Historical and Statutory Notes

Source:

Band Ordinance 34-94, § 3.05.
Band Ordinance 01-95, § 3.05.
Band Ordinance 61-21, § 4.

§ 411. Leasehold Mortgage Foreclosure Proceedings.

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

(a) A verified complaint:

(1) Naming the Mortgagor(s) and each person or entity claiming through the Mortgage(s) subsequent to the recording of the Leasehold Mortgage, including each Subordinate Lienholder (except the Band with respect to a claim for a tribal leasehold tax), as a defendant;

(2) Describing the property;

(3) Stating the facts concerning the execution of the Lease and the Leasehold Mortgage; the facts concerning the recording of the Leasehold Mortgage; the facts concerning the alleged default(s) of the Mortgagor(s); and such other facts as may be necessary to constitute a cause of action;

(4) Having appended as exhibits true and correct copies of each promissory note, Lease, Leasehold Mortgage, or assignment thereof relating to the property; and

(5) Including an allegation that all relevant requirements and conditions prescribed in (i) title 38 U.S.C. § 3761, (ii) the regulations promulgated thereunder by the Secretary, and (iii) the provisions of the Lease, have, been complied with by the Secretary.

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

Historical and Statutory Notes

Source:

Band Ordinance 34-94, § 4.
Band Ordinance 01-95, § 4.
Band Ordinance 61-21, § 4.

§ 412. Service of Process and Procedures.

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

Historical and Statutory Notes

Source:

Band Ordinance 34-94, § 5.
Band Ordinance 01-95, § 5.
Band Ordinance 61-21, § 4.

§ 413. Cure of Default.

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

Historical and Statutory Notes

Source:

Band Ordinance 34-94, § 6.
Band Ordinance 01-95, § 6.
Band Ordinance 61-21, § 4.

§ 414. Entry of Judgment.

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

(a) Foreclosing the interest in the Lease of the Mortgagor(s) and each other defendant named in the complaint upon whom proper and timely service has been made, including each such Subordinate Lienholder; and

(b) Assigning such Lease to the Secretary or the Secretary's assignee.

Historical and Statutory Notes

Source:

Band Ordinance 34-94, § 7.
Band Ordinance 01-95, § 7.
Band Ordinance 61-21, § 4.

§ 415. Unlawful Detainer.

(a) The provisions of this section shall apply to all persons and property subject to the governing authority of the Mille Lacs Band as established by the Laws of the Non-Removable Mille Lacs Band.

(b) A tenant or other occupier of land shall be guilty of unlawful detainer if such person shall continue in occupancy of real property under any of the following situations:

(1) Without the requirement of any notice:

(i) After the expiration of the term of the lease or other agreement; or

(ii) If such person has entered onto or remains on the real property of another without the permission of the owner and without having any substantial claim of a lease or title of the property; or

(iii) After the Housing Department has terminated such person's tenancy pursuant to procedures providing such person a hearing before the Housing Authority involved; or

(iv) After the interest of such person in a lease has been foreclosed in a leasehold mortgage foreclosure proceeding in the Tribal Court.

(2) After having received 30 days' notice, the tenant or occupier shall remain in possession of the property contrary to the terms of the notice as follows:

(i) When such person has received notice:

(A) That he or she is in default in the payment of rent; and

(B) Requiring her or him, to either pay the rent or surrender possession of the occupied property; and such person has remained in possession after receipt of such notice without either surrendering possession of the property or paying the rent; or

(ii) When the lease of the property is for an indefinite time, with rent to be paid monthly or by some other period, and the lessor has given notice

of termination of the tenancy at least 30 days prior to the end of such month or period; or

(iii) When such person shall continue to fail to keep or perform any condition or covenant of the lease or agreement under which the property is held after he or she has been given notice to surrender the property; or

(iv) When such person continues to commit or to permit waste upon or maintain a nuisance upon the occupied property after having been given notice, to either cease such waste or maintenance of nuisance or to surrender the property.

Historical and Statutory Notes

Source:

Band Ordinance 34-94, § 8.
Band Ordinance 01-95, § 8.
Band Ordinance 61-21, § 4.

§ 416. Procedures for Service of Notice.

(a) Notices required or authorized in 12 MLBS § 415 shall be given in writing by either:

(1) Delivering a copy personally to the tenant or occupier or to any adult members of her or his family residing on the premises; or

(2) Posting said notice in a conspicuous place near the entrance to said premises, and by sending an additional copy to the tenant or occupier by certified mail, return receipt requested, properly addressed, postage prepaid.

(b) Proof of service by either of the above methods may be made by affidavit of any adult person stating that he or she has complied fully with the requirements of either of these two (2) methods of service.

Historical and Statutory Notes

Source:

Band Ordinance 34-94, § 9.
Band Ordinance 01-95, § 9.
Band Ordinance 61-21, § 4.

§ 417. Complaint and Summons.

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

(a) A complaint, signed by the owner, lessor, the Secretary, an agent, or attorney, stating:

(1) The facts on which he or she seeks to recover,

(2) Describing the property so that it can be identified with reasonable certainty; and

(3) Any claims for damages or compensation due from the persons to be evicted;

(b) A summons, issued as in other cases, requiring the defendants to appear for trial upon the complaint on a date and time specified in the summons. The trial date specified in the summons shall not be less than 20 nor more than 30 days from the date of service of the summons and complaint. The summons must notify the defendants that judgment will be taken against them in accordance with the terms of the complaint unless they file with the court an answer and appear for trial at the time, date and place specified in the summons.

Historical and Statutory Notes

Source:

Band Ordinance 34-94, § 10.
Band Ordinance 01-95, § 10.
Band Ordinance 61-21, § 4.

§ 418. Service of Summons and Complaint.

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

Historical and Statutory Notes

Source:

Band Ordinance 34-94, § 11.
Band Ordinance 01-95, § 11.
Band Ordinance 61-21, § 4.

§ 419. Writ of Restitution.

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

(a) Notice of suit and trial is given by service of summons and complaint in accordance with the procedures provided in this document; and

(b) The Court of Central Jurisdiction shall find that the occupier of the real property is guilty of an act of unlawful detainer.

Historical and Statutory Notes

Source:

Band Ordinance 34-94, § 12.
Band Ordinance 01-95, § 12.
Band Ordinance 61-21, § 4.

§ 420. Judgment.

(a) Upon issuance of a Writ of Restitution the Court of Central Jurisdiction shall have the authority to enter against the defendants a judgment for the following:

(1) back rent,

(2) unpaid utilities,

(3) charges due the Band, Indian Housing Authority, or land owner under any lease or occupancy agreement (not including a leasehold mortgage); and

(4) damages caused by the defendants to the property other than ordinary wear and tear.

(b) The Court of Central Jurisdiction shall have the authority to award to the prevailing party her or his costs and reasonable attorney's fees in bringing suit.

Historical and Statutory Notes

Source:

Band Ordinance 34-94, § 12.021.
Band Ordinance 01-95, § 12.021.
Band Ordinance 61-21, § 4.

§ 421. Continuance in Cases Involving Secretary.

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

Historical and Statutory Notes

Source:

Band Ordinance 34-94, § 13.
Band Ordinance 01-95, § 13.
Band Ordinance 61-21, § 4.

§ 422. Enforcement.

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

Historical and Statutory Notes

Source:

Band Ordinance 34-94, § 14.
Band Ordinance 01-95, § 14.
Band Ordinance 61-21, § 4.

TITLE 13 – REPEALED

[REPEALED].

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 2.

Revisor's Note:

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

TITLE 14 – REPEALED

[REPEALED].

Historical and Statutory Notes

Source:

Band Ordinance 61-21, § 2.

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

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CHAPTER 1

GAMING REGULATORY ACT

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SUBCHAPTER 1

GENERAL PROVISIONS

Section
1. Findings.
2. Declaration of Purpose.
3. Definitions.
4. Severability.

§ 1. Findings.

The Mille Lacs Band of Ojibwe finds that:

(a) the Band has a long history of conducting different forms of gaming within our sovereign territory. Prior to entering into treaties with the United States, the Band allowed many traditional forms of gaming;

(b) gaming on Band lands is a valuable means of generating revenues needed by the Band to enhance economic development and self-sufficiency, promote and strengthen self-governance, increase Band member employment, and fund essential Band social programs and services; and

(c) Band regulation and control of gaming on Band lands is necessary in order to ensure the welfare and best interests of the Band, its members, and patrons of the Band's gaming enterprises; prevent any proliferation of organized crime and other corrupting influences on Band lands; protect the fairness of gaming conducted on Band lands; and preserve the political integrity of the Band.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 2.
Band Act 80-23.

§ 2. Declaration of Purpose.

The express purposes of this chapter are:

(a) to provide a statutory basis for the regulation of gaming on Band lands to ensure that gaming is shielded from organized crime and other corrupting influences, to ensure that the Band is the primary beneficiary of the gaming operation, and to ensure that gaming is conducted fairly and honestly by both the operator and the player;

(b) to regulate and control gaming on Band lands for the protection of gaming as a means of promoting economic development, self-sufficiency, and strong tribal government;

(c) to foster a spirit of cooperation with federal officials in the regulation of gaming;

(d) to foster a spirit of cooperation with Minnesota officials in the conduct of class III gaming pursuant to any tribal-state gaming compacts;

(e) to ensure that gaming on Band lands is conducted in conformity with Band law, the IGRA, (25 U.S.C. § 2701 et seq.) and regulations promulgated pursuant thereto, applicable state law, and any tribal-state compacts;

(f) to ensure that the construction and maintenance of gaming facilities and the operation of all gaming conducted at such facilities is conducted in a manner which adequately protects the environment, public health, and safety; and

(g) to establish an independent regulatory authority charged with oversight and enforcement of gaming regulatory matters under Band law, with the goal of becoming self-regulating under the IGRA and regulations promulgated thereto.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 3.
Band Act 80-23.

§ 3. Definitions.

For the purposes of this chapter, the following definitions shall apply:

(a) **"Authority"** means the Mille Lacs Band Gaming Regulatory Authority established by this chapter, which may also be known as the Tribal Gaming Commission.

(b) **"Authority data"** means all information, files, reports, records, correspondence, and other data collected, created, received, maintained, or disseminated by the Authority, regardless of its physical form, storage method, or conditions of use.

(c) **"Applicant"** means an individual or entity that applies for a Band gaming license or certification.

(d) **"Background investigation"** has the meaning given in 25 C.F.R. § 556.4.

(e) **"Band"** or **"Mille Lacs Band"** means the Mille Lacs Band of Ojibwe.

(f) **"Band gaming laws"** means this chapter and all subsequent amendments thereto, and all Detailed Gaming Regulations promulgated thereunder.

(g) **"Band lands"** means any land within the jurisdiction of the Band upon which gaming activities pursuant to the IGRA may be conducted.

(h) **"Board"** means the Board of Directors of the Gaming Regulatory Authority.

(i) **"Closely associated independent contractor"** means any contractor that shares common ownership, officers, or directors with any management principal or person related thereto.

(j) **"Chairperson"** means the chairperson of the Board.

(k) **"Charitable gaming"** means any gaming carried out by an Indian charitable organization on Band lands.

(l) **"Class I gaming"** means:

(1) social games played solely for prizes of minimal value; or

(2) traditional forms of Indian gaming when played by individuals in connection with tribal ceremonies or celebrations.

(m) **"Class II gaming"** means:

(1) bingo or lotto (whether or not electronic, computer, or other technologic aids are used) when players (A) play for prizes with cards bearing numbers or other designations; (B) cover numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and (C) win the game by being the first person to cover a designated pattern on such cards;

(2) pull-tabs, punch boards, tip jars, instant bingo, and other games similar to bingo, if played in the same location as bingo or lotto; or

(3) non-banking card games that (A) state law explicitly authorizes, or does not explicitly prohibit, and are played legally anywhere in the state; and (B) players play in conformity with state laws and regulations concerning hours, periods of operation, and limitations on wagers and pot sizes.

(n) **"Class III gaming"** means all forms of gaming that are not class I or class II gaming, including but not limited to:

(1) any house banking game, including but not limited to card games such as baccarat, chemin de fer, blackjack (21), and pai gow (if played as house-banking games), and casino games such as roulette, craps, and keno;

(2) any slot machines, as defined in 15 U.S.C. § 1171(a)(1), and electronic or electromechanical facsimiles of any game of chance;

(3) any sports betting and pari-mutuel wagering, including but not limited to wagering on horse racing, dog racing, or jai alai; and

(4) lotteries.

(o) **"Compliance"** means that any gaming and gaming-related activity regulated by this chapter is conducted in accordance with applicable laws.

(p) **"Compliance determination"** has the meaning given in § 309 of this chapter.

(q) **"Confidential data"** means authority data on a person that by Band statute, regulation or order, or by applicable federal law, is not made available to the public. The term includes Confidential Limited Availability Data and Confidential Restricted Availability Data.

(r) **"Confidential financial information"** means any financial accounting records, ledgers, reports, and audits; and any profit and loss statements, cash flow projections, tax returns, invoices, checks, bank records, or other data on the revenues, expenditures, or financial obligations of a person, other than a gaming enterprise or gaming operation.

(s) **"Confidential limited availability data"** means confidential data that by Band statute, regulation or order, or by applicable federal law is made accessible to the subject of the data, if any.

(t) **"Confidential restricted availability data"** means confidential data that is not available to the subject of the data.

(u) **"Corporate Ventures"** means Mille Lacs Corporate Ventures (formerly known as the Corporate Commission of the Mille Lacs Band of Ojibwe) as established by 16 MLBS § 101 et seq.

(v) **"Corporate Commissioner"** means the Mille Lacs Band Commissioner for Corporate Affairs.

(w) **"District Court"** means the District Court of the Mille Lacs Band of Ojibwe established by 5 MLBS § 2.

(x) **"Detailed Gaming Regulations"** or **"DGR"** means a full and complete set of gambling regulations promulgated by the Authority pursuant to § 306 of this chapter to:

(1) ensure effective, independent oversight and regulation of all gaming conducted on Band lands;

(2) ensure that persons who hold key positions in the Band's gaming enterprises and gaming operations are honest, trustworthy, and of good moral character;

(3) protect Band assets through implementation of strong, effective financial accounting and internal cash controls;

(4) comply with all applicable law, including Band law, federal law, and tribal-state compacts; and

(5) clearly define and distinguish the respective duties and powers of casino management and gaming regulation so that they complement one another in

such a manner as to maximize the benefits of gaming to the Band and the surrounding non-Indian community.

(y) **"Director"** means the director of the Office of Gaming Regulation and Compliance as described § 401 of this chapter.

(z) **"Exclusion list"** means a list prepared pursuant to § 313 of this chapter that contains the names of persons who shall not be permitted in any gaming enterprise and gaming operation.

(aa) **"Financial information on a gaming enterprise and gaming operation"** includes, but is not limited to, any financial accounting records, ledgers, reports, and audits; and any profit and loss statements, cash flow projections, tax returns, invoices, checks, bank records, or other data on the revenues, expenditures, or financial obligations of a gaming enterprise or gaming operation.

(bb) **"Gaming"** means an activity in which a person stakes or risks something of value on the outcome of a contest of chance or a future contingent event, not under her or his control or influence, upon an agreement or understanding that the person, or someone else, will receive something of value in the event of a certain outcome, but shall not include a bona fide business transaction.

(cc) **"Gaming activity"** or **"Gaming activities"** means any class I, class II, or class III gaming activity as defined by the IGRA and conducted by or under the jurisdiction of the Band.

(dd) **"Gaming Compliance Officer"** means the officer described in § 402(a)(4) of this chapter.

(ee) **"Gaming contractor"** means any person or entity that supplies gaming devices or other gaming equipment, personnel, or services, including gaming management or consulting services, to any gaming activity or gaming enterprise or gaming operation.

(ff) **"Gaming enterprise(s)"** means the gaming entities through which the Band conducts, regulates, and secures gaming on Indian lands within the Band's jurisdiction pursuant to the Indian Gaming Regulatory Act.

(gg) **"Gaming operation"** means the Grand Casino Mille Lacs, the Grand Casino Hinckley, and any other commercial facility or business operated, in whole or in part, for the conduct of gaming or related to gaming activities within the jurisdiction of the Band.

(hh) **"Gaming Regulatory Authority"** means the independent agency established herein and designated with responsibility for performing the Band's regulatory responsibilities and duties under the IGRA, this chapter, and any tribal-state

compacts. The Gaming Regulatory Authority is comprised of both the Board and the Office of Gaming Regulation & Compliance.

(ii) **"Gaming supplier"** means any contractor or other supplier of gaming goods, supplies, materials, equipment, or services to any gaming enterprise or gaming operation, the aggregate annual cost of which to the Band's gaming enterprises or gaming operation is at least $25,000.00. The term "gaming supplier" shall be more particularly defined in Detailed Gaming Regulations promulgated by the Authority.

(jj) **"Hearing examiner"** means an individual employed or contracted with by the Authority for the purpose of conducting a hearing pursuant to this chapter. Such person shall: (1) be independent of any claimant, Corporate Ventures, any gaming enterprise or gaming operation, and any affiliates of the foregoing; (2) be an attorney in good standing licensed by the Band and any state; and (3) have relevant legal experience.

(kk) **"Immediate family"** or **"related to"** refers to persons who are the subject individual's spouse, parents, siblings, and children, either adopted or biological.

(ll) **"Indian charitable organization"** means any non-profit association or corporation, or unincorporated community group, with a primary purpose of engaging in social, educational, cultural, religious or charitable activities, or a combination thereof within the tribal community.

(mm) **"Indian Gaming Regulatory Act"** or **"IGRA"** means the Act of October 17, 1988, Public Law 100-497, 25 U.S.C. § 2701 et seq. as amended, and all regulations promulgated pursuant thereto.

(nn) **"Information on a pending compliance recommendation"** means (1) any data gathered by the Director in connection with an ongoing investigation for which a Compliance Recommendation is required pursuant to § 402(b) of this chapter or (2) any compliance recommendation that has been completed by the Director but not yet finally acted upon by the Authority.

(oo) **"Information on a pending license application"** means any data submitted by the applicant or gathered by the Director or the Authority in connection with a pending application for a license required by this chapter.

(pp) **"Key employee"** means:

(1) any person who performs one (1) or more of the following functions for a gaming enterprise or gaming operation: (A) bingo caller; (B) counting room supervisor; (C) chief of security; (D) floor manager; (E) pit boss; (F) dealer; (G) croupier; (H) approver of credit; (I) custodian of gaming systems as defined in 25 C.F.R. § 547.2 and similar class III systems, gaming cash or

gaming cash equivalents, or gaming system records; or (J) custodian of surveillance systems or surveillance system records;

(2) any gaming operation or gaming enterprise employee authorized by the gaming operation or gaming enterprise for unescorted access to secured gaming areas designated as secured gaming areas by the Authority;

(3) if not otherwise licensed as a key employee or primary management official, the four (4) persons most highly compensated by a gaming enterprise or gaming operation; and

(4) any other employee of the gaming enterprise or gaming operation as documented by the tribe as a key employee; or

(5) any other person as defined in 25 C.F.R. Part 502.14.

(qq) **"Management principal"** means any person who is an officer or member of the Board or other person defined as a primary management official as defined in 25 C.F.R. § 502.19.

(rr) **"Member"** means a member of the Gaming Regulatory Authority Board of Directors.

(ss) **"National Indian Gaming Commission"** or **"NIGC"** means the commission established within the U.S. Department of the Interior under 25 U.S.C. § 2704.

(tt) **"Net revenues"** means gross gaming revenues of an Indian gaming operation or gaming enterprise less: (1) amounts paid out as, or paid for, prizes; and (2) total gaming-related operating expenses, including all those expenses of the gaming operation or gaming enterprise commonly known as operating expenses and non-operating expenses consistent with professional accounting pronouncements, excluding management fees.

(uu) **"Non-key employee"** means any person employed by a gaming enterprise or Corporate Ventures, who is not otherwise defined as a key employee or primary management official.

(vv) **"Office of Gaming Regulation and Compliance"** or **"OGR&C"** means the office charged with the responsibility of, inter alia, regulating gaming activity within the jurisdiction of the Band.

(ww) **"Person"** means any individual, partnership, corporation, association, business trust, joint stock company, unincorporated association or society, any other business or non-business entity, or the legal representative of such entity.

(xx) **"Personnel data"** means data on individuals collected because the individual is or was an associate of, or an applicant for employment with, the Authority or acts as an independent contractor therefor.

(yy) **"Primary management official"** means:

(1) the Corporate Commissioner;

(2) any person having management responsibility for a management contract;

(3) any person who has authority to (i) hire and fire employees of a gaming operation or gaming enterprise; or (ii) establish policy for a gaming operation or gaming enterprise;

(4) the chief financial officer or a position with duties similar to a chief financial officer;

(5) the general manager or a position with duties similar to a general manager; or

(6) any other person as defined by 25 C.F.R. Part 502.19.

(zz) **"Security information"** means authority data the disclosure of which would be likely to substantially jeopardize the security of gaming enterprise or gaming operation information, possessions, associates, guests, or property against theft, tampering, improper use, illegal disclosure, trespass, or physical injury.

(aaa) **"Trade secret information"** means Authority data, including formula, pattern, compilation, program, device, method, technique, or process that was (1) supplied by the affected person; (2) is the subject of efforts by the affected person to maintain its secrecy; and (3) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic benefit from its disclosure or use.

(bbb) **"Tribal-state compact"** means an agreement between the Band and the state of Minnesota about class III gaming under 25 U.S.C. § 2710(d).

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 4.
Band Act 80-23.

§ 4. Severability.

If any provision or application of this chapter is determined by judicial review to be invalid, such determination shall not be held to render such provision inapplicable to other persons or circumstances, nor shall such determination render invalid any other provisions of this chapter.

Historical and Statutory Notes

Source:
Band Act 80-23.

SUBCHAPTER 2

GAMING ACTIVITY

Section

101. General Prohibition on Gaming Activities; Violations Punishable.
102. Unauthorized Gaming Prohibited.
103. Permitted Gaming.
104. Tribal-State Compacts for Class III Gaming Authorized.
105. Use of Band Lands for Gaming Purposes.
106. Health, Safety, and Environmental Protections.
107. Prohibited Activities.

§ 101. General Prohibitions on Gaming Activities; Violations Punishable.

All gaming activity on Band lands shall be conducted in compliance with this chapter and any Gaming Activities not authorized by this chapter or by Detailed Gaming Regulations promulgated pursuant to this chapter by the Authority is prohibited. Any violations of this chapter shall be punishable through means adopted by this chapter, the Authority, and as otherwise provided by Band law.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 5.
Band Act 80-23.

§ 102. Unauthorized Gaming Prohibited.

All gaming activities on Band lands, whether class I, II, or III, are prohibited and unlawful, except as expressly authorized by this chapter.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 6(a).
Band Act 80-23.

§ 103. Permitted Gaming.

(a) **Class I gaming.** Class I traditional games are permitted to the extent consistent with tribal custom and practice. The Authority may prohibit and prevent any conduct which is claimed to be class I gaming if it finds that such conduct is not in accordance with tribal customs or practices or violates the IGRA or other applicable law. The Authority shall consult with a committee of Band Elders to determine which games are consistent with Band custom and practice. These games shall be listed and defined in the Detailed Gaming Regulations

(b) **Class II and class III gaming.** Class II and class III gaming on Band lands is hereby authorized. The Band has the sole proprietary interest in and responsibility for the conduct of any gaming enterprise or gaming operation.

(1) **Permitted class II games.** The following class II games are permitted:

(i) any game of chance which the Authority or the NIGC has determined to be class II in accordance with this chapter; and

(ii) any game of chance for which the Authority has promulgated rules and Detailed Gaming Regulations so that such games are conducted in accordance with this chapter.

(2) **Permitted class III games.** The following class III games are permitted:

(i) video games of chance licensed and conducted pursuant to any tribal-state compact between Corporate Ventures and the State of Minnesota;

(ii) blackjack games licensed and conducted under the terms of any tribal-state compact between Corporate Ventures and the State of Minnesota; and

(iii) any other game of chance which is licensed and conducted pursuant to any tribal-state compact and for which the Authority has promulgated rules and Detailed Gaming Regulations in accordance with this chapter.

(3) **Game classification decisions.** A gaming enterprise or gaming operation may submit to the Authority a request for a determination of whether a particular game qualifies as a class II game or class III game under the IGRA. The

Authority must issue a game classification decision with respect to the game promptly after the request.

(i) In arriving at any gaming classification decision, the Authority may employ the services of a hearing examiner to either make a recommendation for a game classification decision or issue a game classification decision on behalf of the Authority.

(ii) The gaming enterprise or gaming operation must reimburse the Authority for any costs incurred in producing the game classification decision, regardless of the outcome.

(iii) The gaming enterprise or gaming operation may appeal the Authority's game classification decision to the District Court, which may hire a special magistrate to provide assistance.

(c) **Community charitable gaming.**

(1) **Policy.** It is the policy of the Band to foster and assist Indian charitable organizations and the good works they perform for the community. To this end, the Band will allow Indian charitable organizations to use certain forms of gaming to raise money for their charitable purposes and to provide a healthy social outlet for members of such groups and their friends. The Authority shall regulate charitable gaming carried out by an Indian charitable organization in order to promote the general health and safety of the Band and to ensure that such gaming is operated honestly, with high integrity, and in accordance with the highest standards.

(2) **Allowable games.** Indian charitable organizations may operate the games of pull-tabs and bingo for the purposes set forth in paragraph (1)) above.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 6(b).
Band Act 80-23.

§ 104. Tribal-State Compacts for Class III Gaming Authorized.

(a) **Corporate Ventures authorized.** Corporate Ventures is hereby authorized to negotiate and enter into tribal-state compacts with the State of Minnesota to govern the conduct of class III gaming on Band lands. Such tribal-state compacts and amendments thereto, other than technical amendments as provided in subsection (b) below, shall not be valid until ratified by the Band Assembly pursuant to Titles 3 of Mille Lacs Band Statutes.

(b) **Technical amendments.** Corporate Ventures may enter into technical amendments pursuant to section 6.12 of the Video Game of Chance Compact or section 7 of the Blackjack Compact or similar section of any subsequent tribal-state compact and such technical amendment shall not require Band Assembly approval as provided in section subsection(a) above. Shareholders shall be delivered copies of any technical amendments at the shareholders' meetings.

(c) **Regulations to be in compliance with tribal-state compacts.** The Authority shall adopt Detailed Gaming Regulations to provide that such class III gaming is conducted in compliance with the terms and conditions of such tribal-state compact or amendments thereto.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 6(c).
Band Act 80-23.

§ 105. Use of Band Lands for Gaming Purposes.

(a) **Leases.** Leases for all Band lands for gaming activities, or related to gaming activity purposes, shall be in full compliance with all applicable laws of the United States and the Band.

(b) **Anishinaabeg celebrations.** The use of Band lands for Anishinaabeg celebrations or other social events, which includes traditional gaming as part of the celebration or other social event, shall not be subject to federal, state, or local government approval.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 7.
Band Act 80-23.

§ 106. Health, Safety, and Environmental Protection.

The construction and maintenance of any facility wherein gaming activities are conducted and the operation of gaming activities authorized by this chapter, or any other Band law, shall be conducted in a manner which adequately protects the environment and the public health and safety, and shall comply with all applicable Band and federal law.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 8.

Band Act 80-23.

§ 107. Prohibited Activities.

(a) **Minors prohibited.** It shall be unlawful for any adult to allow a person under the age of 18 years to participate in gaming activities at a gaming enterprise or gaming operation, or for such minor to participate in gaming activities at a gaming enterprise or gaming operation.

(b) **Cheating prohibited.** It shall be unlawful to conduct or participate in any gaming in a manner which results in cheating, misrepresentation, or other disreputable tactics which distract from a fair and equal chance for all participants, or otherwise affects the outcome of the game.

(c) **Sale and consumption of alcoholic beverages.** The sale of alcoholic beverages shall be permitted at any gaming enterprise or gaming operation, if properly licensed pursuant to 18 MLBS § 208 and applicable federal and state law. The sale of alcoholic beverages under this section is subject to special surcharge taxes established by 22 MLBS § 509.

(d) **Extension of credit prohibited.** Extension of credit in any form shall not be allowed at any gaming enterprise or gaming operation, unless specifically authorized by Mille Lacs Band Statutes and properly licensed pursuant to applicable Band, federal, and state law.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 16.
Band Act 80-23.

SUBCHAPTER 3

OWNERSHIP AND REVENUES

Section
201. Ownership of Gaming.
202. Ownership and Use of Class II and Class III Gaming Revenues.

§ 201. Ownership of Gaming.

The Band shall have the sole proprietary interest in and responsibility for conducting any class II and class III gaming activities authorized by this chapter, except to the extent the Band may

contract with and license a person or entity to own, operate, o\r manage a gaming enterprise or gaming operation pursuant to provisions of the IGRA, any tribal-state compacts, or as otherwise permitted by applicable law.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 9.
Band Act 80-23.

§ 202. Ownership and Use of Class II and Class III Gaming Revenues.

(a) **Band property.**

(1) All revenues generated from any class II or class III gaming activities conducted by any gaming enterprise or gaming operation are the sole property of the Band, except as provided for under the terms of any agreement made pursuant to the provisions of the IGRA, or as otherwise permitted by Band law.

(2) Any profits or net revenues from any class II or class III gaming activities conducted by any gaming enterprise or gaming operation shall be deposited into the Band's general treasury. Upon becoming part of the general treasury, such funds shall lose any identity as gaming revenues, except to the extent necessary to identify them as such in order to comply with applicable law.

(3) No individual Band member shall be deemed to have any interest in such profits or net revenues from any class II or class III gaming activities conducted by any gaming enterprise or gaming operation, provided that the Band may adopt rules for distributing gaming proceeds to Band members on a per capita basis; provided further that such plan must meet the requirements of 25 U.S.C. § 2710 (b)(3). Payments from the general treasury funds to Band members under other Band programs, including those related to health, welfare, education, elderly care, and housing, shall not be deemed "per capita" payments.

(b) **Use of net gaming revenues.** Net revenues derived from any class II or class III gaming activities conducted by any gaming enterprise or gaming operation shall be used only for the following purposes:

(1) to fund Band government operations or programs;

(2) to provide for the general welfare of the Band and its members;

(3) to promote Band economic development;

(4) to donate to charitable organizations recognized by the Band; or

(5) to help fund operations of local government agencies.

(c) **Distribution plan.** There shall be no per capita payments made from any net revenues derived from any class II or class III gaming activities conducted by any gaming enterprise or gaming operation, unless the distribution plan is approved by the U.S. Secretary of the Interior pursuant to 25 U.S.C. § 2701 et seq. and the payments are made in accordance with such approved plan.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 10.
Band Act 80-23.

SUBCHAPTER 4

GAMING REGULATORY AUTHORITY

Section

301. Establishment.
302. Board of Directors.
303. Organization.
304. General Powers and Duties of the Authority.
305. Staff and Administrative Support; Office Space; Equipment; Information Technology.
306. Detailed Gaming Regulations.
307. Monitoring and Investigation.
308. Licensing.
309. Compliance Determinations.
310. Independent Audits.
311. Enforcement.
312. Limitations on Actions.
313. Excluded Persons.
314. Regulatory Role.
315. Patron Dispute Resolution.
316. Budget.
317. Legal Counsel.

§ 301. Establishment.

There is hereby established as an agency of the Band the "Gaming Regulatory Authority,", which has the power and duty to regulate gaming matters for the Band as authorized by Band law.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 11(a).
Band Act 80-23.

§ 302. Board of Directors.

(a) The Authority shall be managed by a Board of Directors to be known as the Authority's "Board." At all times there shall be at least one (1) Board Member, to be known as "Member(s)," on the Board from each Band district. The Board shall consist of five (5) Members appointed in the manner and have the terms provided in subsection (b).

(b) **Appointments process, terms, and oath of office.** Each Member shall be appointed using the following process.

(1) The Chief Executive shall nominate two (2) individuals and submit their names to the Secretary-Treasurer. Within ten (10) calendar days after receipt of the nominations by the Secretary-Treasurer, the Secretary-Treasurer shall ratify one (1) of the two (2) nominees to be a Member of the Board. Such Member shall serve until September 1, 2024. Any subsequent appointment, other than to fill a vacancy that occurs prior to the end of a term, shall be for four (4) years.

(2) Each District Representative shall nominate two (2) individuals and submit their names to the Chief Executive. Within ten (10) calendar days after receipt of the nominations by the Chief Executive, the Chief Executive shall ratify one (1) of the two (2) nominees to be a Member of the Board. Such Members shall serve until September 1, 2026. Any subsequent appointment, other than to fill a vacancy that occurs prior to the end of a term, shall be for four (4) years.

(3) The Secretary-Treasurer shall nominate two (2) individuals and submit their names to the Chief Executive. Within ten (10) calendar days after receipt of the nominations by the Chief Executive, the Chief Executive shall ratify one (1) of the two (2) nominees to be a Member of the Board. Such Member shall serve until September 1, 2024. Any subsequent appointment, other than to fill a vacancy that occurs prior to the end of a term, shall be for four (4) years.

(4) If the Chief Executive or the Secretary-Treasurer do not ratify one (1) from any of the nominations sent to them within the time prescribed, then the Band Assembly shall select such Member by majority vote.

(5) If any elected official does not submit a nomination within 30 days after a vacancy has occurred, then the Band Assembly shall nominate two (2) individuals by majority vote and submit their names to the Chief Executive for ratification to the Board. The timing and process for such ratification are as stated in sections 11(b)(1)(A) and (D).

(6) No member shall take office until swearing to the oath of office pursuant to 2 MLBS § 8.

(c) **Qualifications.**

(1) Members shall be adults who are of high moral character and integrity; who have a reputation for being honest, fair, and objective; and who are recognized as possessing sound judgment.

(2) Members may not have been convicted of a felony or any gambling-related offense. All requisite background investigations shall be performed under the direction of the Authority's licensing office.

(3) No fewer than three (3) Members shall be enrolled members of the Band. There shall be at least one (1) Board Member from each of the Band's three (3) Districts.

(4) Members may not be employed by any gaming enterprise or gaming operation, nor may they gamble at any gaming enterprise or gaming operation.

(5) Members shall be subject to the background investigations and standards for primary management officials.

(d) **Board Officers.**

(1) **Officers.** The Board shall have a Chairperson, Vice-Chairperson, and Secretary.

(2) **Selection.**

(i) **Chairperson.** The Members shall select from among themselves, by majority vote, a Chairperson. The Chairperson shall serve for a period of no longer than two (2) years, unless re-appointed by the Board.

(ii) **Vice-Chairperson.** The Members shall select from among themselves, by majority vote, a Vice-Chairperson. The Vice-Chairperson shall

serve for a period of no longer than two (2) years, unless re-appointed by the Board.

(iii) **Secretary.** The Board may select a Member or an employee of the Authority to act as Secretary of the Board. The Secretary shall serve for a period of no longer than two (2) years, unless re-appointed by the Board. An employee acting as Secretary at the request of the Board is not a Board Member and has no powers of a Member.

(3) **Board duties.**

(i) The Chairperson shall preside over meetings of the Board and the Vice-Chairperson shall preside over meetings of the Board in the absence of the Chairperson. The Secretary shall record in writing the minutes of all Board meetings and all official actions taken by the Authority, and shall notify all persons who, under this chapter, require notification of such official actions.

(ii) In carrying out any function under the provisions of this chapter, all Members shall be governed by the laws of the Band, general policies of the Authority, and such regulatory decisions, findings, and determinations as the Authority may by law be authorized to make.

(iii) Requests or estimates for regular, supplemental, or deficiency appropriations on behalf of the Authority may be submitted to the Band Assembly by the Chairperson with the prior approval of the Board.

(iv) The Chairperson shall delegate authority and assign duties to the Director of the Office of Gaming Regulation and Compliance sufficient to aid the Authority in fulfilling its regulatory responsibilities. Such assignment and delegation shall comply with this chapter.

(v) Members shall serve part-time; however, the Board shall meet a minimum of once per month or more if necessary to fulfill its duties.

(vi) Members shall attend one (1) or more training seminars or courses related to gaming regulation per year during their terms of membership. Such seminars shall be paid by the Authority. Per diem and other travel expenses shall be paid at the rate of a Senior Executive Staff Band employee pursuant to 6 MLBS § 1001 et seq.

(4) **Vacancies in memberships.**

(i) The Chairperson shall notify the Band Assembly and the Chief Executive of any vacancy on the Board of Directors at least 30 days prior to the end of a term, or, in circumstances other than the end of a term, immediately upon the knowledge that a vacancy will occur.

(ii) If there is a vacancy on the Board, then the vacancy shall be filled in accordance with subsection (b).

(iii) Any Member, including the Chairperson, appointed to fill a vacancy shall serve for the remainder of the term left vacant; however, any Member may be re-appointed during this time period pursuant to subsection(b).

(5) **Disqualifications from Board membership.** The following persons are not eligible to serve as Board Members:

(i) Band elected officials and commissioners, while serving as such;

(ii) current employees of any Band gaming enterprise or gaming operation;

(iii) any employee of Corporate Ventures working closely with a Band gaming enterprise or gaming operation in a manner that gives rise to a conflict of interest, as determined by the Board;

(iv) gaming contractors, including any principal of a management or other contracting company;

(v) persons ineligible to be key employees or primary management officials, as determined by the Authority via regulation; and

(vi) persons who are immediate family members of, or who share a residence with, any of the above ineligible persons.

(6) **Embezzlement, theft, and money-related or honesty-related offenses.** Persons who have been previously convicted of any felony or misdemeanor offense of embezzlement, theft, or any other money-related or honesty-related misdemeanor offense, such as fraud, cannot serve as a Board member.

(7) **Removal from Board membership.** Members may be removed by a super-majority vote of four (4) out of five (5) members of the Joint Session of the Band Assembly. The determination of the Joint Session is final and unappealable to the District Court.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 11(b).
Band Act 80-23.

§ 303. Organization.

(a) **Meetings.**

(1) **Regular meetings.** Regular meetings of the Board shall be held at least monthly and upon written notice. The dates and forms of regular meetings shall be set by official action of the Board.

(2) **Special meetings.** Special meetings of the Board may be called by the Chairperson with a minimum of 48 hours written notice to the Board Members, by the Director with a minimum of 48 hours written notice to the Chairperson, or by a majority vote of the Board with 48 hours written notice to the Chairperson.

(3) **Other.** Either regular or special meetings may be called by petition of a majority of a quorum of the Board Members other than the Chairperson upon 48 hours written notice to the Chairperson.

(4) **Alternative meeting arrangements.** Regular or special meetings may be conducted by telephone, video or web conference, or similar means. The Chairperson must provide the Board Members with 48 hours written notice prior to convening any meeting under this subsection.

(5) **Consent presumed.** A Member's participation in a meeting described herein without explicit objection will constitute consent to the manner in which such a meeting is conducted.

(b) **Quorum.** Three (3) Board Members shall constitute a quorum.

(c) **Voting.**

(1) All actions of the Board shall be taken by majority vote.

(2) The Chairperson shall vote only in the following circumstances:

(i) to break a tie; or

(ii) if necessary, to constitute a quorum in the absence of other Members.

(d) **Compensation.**

(1) **Board meetings.** Members, including the Chairperson, shall be compensated with $400.00 per meeting, not to exceed $800.00 in one (1) month, except that in the case of a demonstrated emergency, the Chairperson may petition the Secretary-Treasurer for compensation for additional meetings. Mileage and other travel expenses will be compensated on the same terms and conditions as apply to Senior Executive Staff appointees as provided by Band law.

(2) **Training.** If Members are not Band government employees and are required to be absent from their employment to attend mandatory training pursuant to subsection (d)(3)(vi), then Members shall be compensated at their previously documented hourly rates of pay for each hour that they are in attendance at such training plus mileage and other travel expenses as stated in paragraph (1) above. If Members are Band government employees, then absence from employment will not be deducted from their accrued annual leave and they will be paid as if they were at work plus expenses as stated in paragraph (1) above.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 11(c).
Band Act 80-23.

§ 304. Powers and Duties of the Authority.

The Authority shall be responsible for ensuring that all gaming activities on Band lands are carried out in compliance with the IGRA, Band gaming laws, any tribal-state compacts, and other applicable law. To this end, the Authority shall exercise regulatory, not operational, authority over any gaming enterprise or gaming operation and charitable gaming. All management and operational authority over any gaming enterprise or gaming operation shall remain with Corporate Ventures separate and distinct from the Authority. The Authority may retain such consultants and enter into such contracts as it may deem necessary to carry out its duties as specified in this chapter; however, it shall not hire employees of the Office of Gaming Regulation and Compliance. In addition, as an agency of Band government, the Authority shall comply with all Band laws, including Title 7, for all contracts, including professional services contracts. The Authority may bring such actions as may be necessary to carry out its duties, including but not limited to the enforcement of this chapter and other Band gaming laws.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 11(c).
Band Act 80-23.

§ 305. Staff and Administrative Support; Office Space; Equipment; Information Technology.

The OGR&C shall provide staff and administrative support, office space, equipment, and information technology support to the Authority. Any office space, equipment, or information technology support provided by the OGR&C shall be separate and not under the authority of Corporate Ventures, except that OGR&C may enter into contractual arrangements with Corporate Ventures for the provision of any such office space, equipment, or information technology. Any contracts entered into under this section shall be nominal value and shall not frustrate the Authority's ability to carry out its regulatory functions under this chapter.

Historical and Statutory Notes

Source:
Band Act 80-23.

§ 306. Detailed Gaming Regulations.

(a) **Power and duty.** The Authority shall have the power and duty to develop, adopt, and promulgate Detailed Gaming Regulations regarding:

(1) licensing of gaming enterprises or gaming operation;

(2) licensing and background investigations of key employees and primary management officials;

(3) licensing and background investigations of gaming suppliers;

(4) conducting annual independent audits of all gaming operations or gaming enterprise of the Band;

(5) permitted games and the conduct thereof;

(6) standards and criteria for gaming machines and for testing machines;

(7) audio and video surveillance standards;

(8) minimum internal cash, playing card, chip, and token control standards, and procedures for gaming operations or gaming enterprise;

(9) procedures for compliance with the Bank Secrecy Act and applicable provisions of the Internal Revenue Code;

(10) resolving gaming-related disputes involving patrons and vendors of any gaming enterprise or gaming operation, after exhausting all remedies available at the gaming enterprise or gaming operation;

(11) charitable gaming as provided in § 103(c) of this chapter;

(12) the prevention and cure of compulsive gambling as provided in subchapter 8 of this chapter;

(13) the development and maintenance of a list of excluded persons as provided in § 313 of this chapter;

(14) related reporting, record-keeping, auditing, investigation, and enforcement procedures;

(15) dispute resolution procedures, including OGR&C employee appeals;

(16) reasonable fines and other penalties for violations of this chapter, Band gaming laws, the IGRA, any tribal-state compacts, and other applicable law; and

(17) other activities as required by law.

(b) **Rulemaking process.** The Authority shall promulgate Detailed Gaming Regulations authorized by this chapter with or without hearing according to the notice and comment process specified herein.

(1) **Notice of intent to adopt.** The Authority shall give notice of its intent to adopt a Detailed Gaming Regulation by posting a copy of the notice on the Authority's website; by posting a copy of the notice in the Band Government Center and the Community Centers in Districts I, II, and III; and by delivering a copy of the notice by U.S. mail or other appropriate means to the Chief Executive, the Speaker of the Band Assembly, the Solicitor General, the Corporate Commissioner, and the manager of any gaming enterprise or gaming operation. The notice shall include a copy of the proposed regulation and a description of the nature and effect of the proposed regulation. In addition, the notice shall include the following statements:

(i) comments may be submitted on the proposed regulation no later than 30 days from the date of the notice; and

(ii) the proposed regulation may be modified if supported by the data and views submitted.

(2) **Review; adoption; notice of adoption.** The Authority shall review all comments received during the comment period, shall make such changes to the proposed Detailed Gaming Regulation as it deems reasonable and appropriate, and shall approve the regulation by resolution. The regulation shall not become effective until after the 30-day comment period has concluded. The Authority shall, by official action, set the effective date of the regulation and publish and post copies of a notice of adoption of the

regulation in the same manner as for the notice of intent to adopt the regulation. The notice of adoption shall summarize the final regulation and the changes to the proposed regulation, state the effective date, and announce that free copies of the regulation are available from the Authority. In addition, copies of the notice and the final regulation shall be delivered by U.S. mail or other appropriate means to all persons who were sent a copy of the notice of intent.

(3) **Adoption is a compliance determination.** Approval of any Detailed Gaming Regulation by the Authority shall be considered a compliance determination for purposes of effecting an appeal pursuant to subchapter 6 of this chapter.

(4) **Detailed Gaming Regulations.** The Authority shall adopt a set of Detailed Gaming Regulations. Any such gaming regulation may be annulled by statute.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 11(d)(2).
Band Act 80-23.

§ 307. Monitoring and Investigation.

(a) **General.** The Authority shall have the power and duty

(1) to monitor and investigate all gaming enterprises or gaming operations for compliance with the IGRA, Band gaming laws, any tribal-state compacts, and other applicable law and to undertake such related investigations and enforcement actions as it deems necessary, including but not limited to investigating and evaluating the effectiveness of the Band's gaming regulatory system;

(2) to help resolve all gaming-related patron and vendor complaints that have not been resolved by agreement of a complainant and the gaming enterprise or gaming operation;

(3) to grant, deny, or suspend licenses, prior to levying fines;

(4) to assure compliance with the rules concerning charitable gaming;

(5) to assure compliance with compulsive gambling cure and prevention requirements;

(6) to develop, maintain, and enforce a list of persons to be excluded from gaming enterprises or gaming operations; and

(7) to take any and all other similar action it deems to be necessary or desirable to carry out the powers and duties granted by this section.

(b) **Scope of investigations and related activities.** Any investigations and related activities, including but not limited to electronic and non-electronic searches of credit histories, arrests, and judgements, and electronic surveillance shall be strictly limited to official Authority duties under law. All such investigations and related activities may be undertaken only after review by legal counsel that the scope and subject of any such activities complies with this chapter and other applicable law. Individuals who perform investigations and related activities outside the scope of this chapter and other applicable law are subject to immediate dismissal and reasonable fines.

(c) **Access.** The Authority shall have access to all books, files, records, reports, and other data regarding the operation of all gaming enterprises or gaming operations, whether in written or electronic form, as it deems necessary or desirable to carry out its legitimate regulatory duties as determined by the Authority.

(d) **Surveillance.** The surveillance department shall be under the control and supervision of the Authority; however, a gaming enterprise or gaming operation shall have access to electronic surveillance output as further defined in the Detailed Gaming Regulations.

(e) **Cooperation of the gaming enterprises or gaming operations with the Authority.** The Authority may:

(1) require associates of any gaming enterprise or gaming operation to compile and provide such data and to testify as to matters within their knowledge concerning the operation of the gaming enterprise or gaming operation; and

(2) require the associates of any company that is managing a gaming enterprise or gaming operation on behalf of Corporate Ventures, or any other person within the jurisdiction of the Band, to comply and provide such data and to testify as to matters within their knowledge concerning the operation of the gaming enterprise or gaming operation. The Authority may utilize licensing actions, reasonable fines, and any other enforcement powers vested to the Authority within this section to ensure cooperation.

(f) **Due process protections.** Nothing in this chapter waives or diminishes any gaming enterprise's or gaming operation's or individual's right to due process and equal protection of the laws.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 11(d)(3).
Band Act 80-23.

§ 308. Licensing.

(a) **General.** The Authority shall promulgate Detailed Gaming Regulations for granting, suspending, and revoking licenses, which are consistent with Band law, the IGRA, and any tribal-state compacts regarding matters of licensure.

(b) **Minimum licensing requirements.** It is the policy of the Band that all gaming activities and enterprises or operations be licensed and controlled so as to protect the morals, good order, and welfare of Band members and other persons on Band lands and to preserve the honesty, fairness, and integrity of such gaming activities. Accordingly, no person shall engage in any class II or class III gaming activities on Band lands without an appropriate and valid independent class II or class III license issued by the Authority. In addition, the Authority shall issue a separate license to each place, facility, or location on Band lands where the Band elects to allow class II or class III gaming. The Authority shall perform background investigations and issue licenses for key employees and management officials according to requirements that are at least as stringent as those in 25 C.F.R. §§ 556 and 558 which are hereby incorporated into this chapter, unless otherwise superseded pursuant to an agreement with the NIGC. No license shall be issued that would place the Band in violation of applicable law or any tribal-state compacts.

(c) **Mandatory licensing application provisions and procedures.**

(1) **Notices to applicants.**

(i) **Privacy notice.** The Authority shall place the following notice on the application form for a key employee or a primary management official before that form is filled out by an applicant:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. § 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Mille Lacs Band Gaming Regulatory Authority and by the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Mille Lacs Band or NIGC to appropriate federal, tribal, state, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal, or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the issuance, denial, or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation or gaming enterprise. *Failure to consent to the disclosures indicated in this notice will result*

in the Mille Lacs Band being unable to license you for a primary management official or key employee position.

The disclosure of your Social Security Number is voluntary. However, failure to provide a Social Security Number may result in errors in processing your application.

(ii) The Authority shall place the following notice on the application form for a key employee or a primary management official before that form is completed by any applicant.

A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment (18 U.S.C. § 1001).

(iii) Upon enactment of this chapter, the Authority shall notify in writing existing key employees and primary management officials that they shall either:

(A) complete a new application form that contains the notice stated in § 308(c)(ii) above; or

(B) sign a statement that contains the notice stated in § 308(c)(ii) above and consent to the routine uses described in that notice.

(iv) If there exist any key employees or primary management officials who have completed forms which did not contain the notice stated in clause (ii) above, then the Authority shall notify in writing such employees and officials that they shall either:

(A) complete a new application form that contains a notice regarding false statements; or

(B) sign a statement that contains the notice regarding false statements.

(2) **Information required from an applicant.** Each application for key employees and primary management officials shall request from each applicant the following information set forth at 25 C.F.R. § 556.4(a)(1) – (14):

(i) full name, other names used (oral or written), Social Security Number(s), birth date, place of birth, citizenship, gender, and all languages (spoken or written);

(ii) current and the previous five (5) years of business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;

(iii) the names and current addresses of at least three (3) personal references, including one (1) personal reference who was acquainted with the applicant during each period of residence listed under clause (ii) above;

(iv) current business, residence, and all mobile phone numbers;

(v) a description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;

(vi) a description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

(vii) the name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;

(viii) for each felony for which there is an ongoing prosecution or a conviction, the charge, the name, and address of the court involved, and the date and disposition, if any;

(ix) for each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within ten (10) years of the date of the application, the name and address of the court involved, and the date of disposition, if any;

(x) for each criminal charge (excluding minor traffic charges) whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed pursuant to clauses (viii) or (ix) above, the criminal charge, the name address of the court involved, and the date of disposition, if any;

(xi) the name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;

(xii) a current photograph;

(xiii) any other information the Authority deems relevant; and

(xiv) fingerprints consistent with procedures adopted by the Band according to 25 C.F.R. § 522.2(g).

(3) **Background investigations.** The Authority shall perform a background investigation for each primary management official and key employee in the gaming operation or gaming enterprise. The investigation must be sufficient to allow the Authority to make an eligibility determination under this section. The Authority is responsible for conducting the background investigations of primary management officials and key employees. The background information shall include a review of criminal history records information maintained by the Federal Bureau of Investigations.

(4) **Mandatory licensing procedures.**

(i) **Fingerprints.** Fingerprints of each applicant for the position of key employee or primary management official will be taken by the OGR&C and sent to either Minnesota Alcohol and Gambling Enforcement or the NIGC for a check of criminal history records maintained by the Federal Bureau of Investigations.

(ii) **File retention.** When the Authority licenses a primary management official or key employee, the Authority shall maintain the information listed in § 308(c)(2) of this chapter.

(iii) **Confidentiality of interviewees.** The Authority and its investigators shall keep confidential the identity of each person interviewed in the course of conducting a background investigation.

(iv) **Investigative reports.**

(A) The Authority shall create and maintain an investigative report for each background investigation of a primary management official or key employee.

(B) Investigative reports shall include all of the following information:

(I) Steps taken in conducting the background investigation;

(II) results obtained;

(III) conclusions reached; and

(IV) the bases for those conclusions.

(v) **Eligibility determinations.**

(A) Before a license is issued to a primary management official or key employee, the Authority shall make a finding concerning the eligibility of that person for receiving a gaming license by reviewing the applicant's prior activities; criminal record, if any; and reputation, habits, and associations.

(B) If the Authority, in applying the standards adopted herein, determines that licensure of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of gaming, he or she shall not license that person in a key employee or primary management official position.

(C) Copies of the eligibility determination shall be included with the notice of results that must be submitted to the NIGC before the licensing of a primary management official or key employee.

(vi) **Notice of results of background investigations.**

(A) Before issuing a license to a primary management official or key employee, the Authority shall prepare a notice of results of the applicant's background investigation to submit to the NIGC.

(B) The notice of results must be submitted to the NIGC no later than 60 days after the applicant begins working for any gaming enterprise or gaming operation.

(C) The notice of results shall include the following information:

(I) the applicant's name, date of birth, and Social Security Number;

(II) the date on which the applicant began, or will begin, working as a primary management official or key employee;

(III) a summary of the information presented in the investigative report, including licenses that have previously been denied, gaming licenses that have been revoked, even if subsequently reinstated, every known criminal charge bought against the applicant within the preceding ten (10) years of the date of the application,

and every felony offense of which the applicant has been convicted or any ongoing prosecution; and

(IV) a copy of the eligibility determination made in accordance with § 308(c)(4)(v) of this chapter.

(vii) **Granting a gaming license.**

(A) All primary management officials and key employees of the gaming operation or gaming enterprise must have a gaming license issued by the Band.

(B) The Authority is responsible for granting and issuing gaming licenses to primary management officials and key employees.

(C) The Authority may license a primary management official or key employee applicant after submitting a notice of results of the applicant's background investigation to the NIGC, as required by § 308(c)(4)(vi) of this chapter.

(D) The Authority shall notify the NIGC of the issuance of a license to a primary management official or key employee within 30 days of issuance.

(E) The Band shall not employ an individual in a primary management official or key employee position who does not have a license after 90 days of beginning work at the gaming operation or gaming enterprise.

(F) The Authority must reconsider a license application for a primary management official or key employee if it receives a statement of itemized objections to issuance of such a license from the NIGC and those objections are received within 30 calendar days of the NIGC receiving a notice of results of the applicant's background investigation.

(G) The Authority shall take the NIGC's objections into account when reconsidering a license application.

(H) The Authority will make the final decision whether to issue a license to an applicant for a primary management official or key employee position.

(I) If the Authority has issued a license to a primary management official or key employee before receiving the NIGC's

statement of objections, notice and a hearing shall be provided to the licensee, as required by § 308(c)(4)(ix) of this chapter.

(viii) **Denial of gaming licenses.**

(A) The Authority shall not license a primary management official or key employee if the Authority determines, in applying the standards in this section for making a license eligibility determination, that licensing the person:

(I) poses a threat to the public interest;

(II) poses a threat to the effective regulation of gaming; or

(III) creates or enhances the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of gaming.

(B) When the Authority does not issue a license to an applicant for a primary management official or key employee position, or revokes a previously issued license after reconsideration, it shall:

(I) notify the NIGC; and

(II) forward copies of its eligibility determination and notice of results of the applicant's background investigation to the NIGC for inclusion in the Indian Gaming Individuals Record System.

(ix) **Gaming license suspensions and revocations.**

(A) If, after a license is issued to a primary management official or a key employee, the Authority receives notice from the NIGC that the primary management official or key employee is not eligible for employment, the Authority shall do the following:

(I) immediately suspend the license;

(II) provide the licensee with written notice of the suspension and proposed revocation; and

(III) provide the licensee with notice of a time and place for a hearing on the proposed revocation of the license.

(B) Following a revocation hearing, the Authority shall decide whether to revoke or reinstate the license at issue.

(C) The Authority shall notify the NIGC of its decision to revoke or reinstate a license within 45 days of receiving notification from the NIGC that a primary management official or key employee is not eligible for employment.

(x) **Standard for license denial.** If the Authority, in applying the standards of this chapter, determines that employment of a person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, the Authority shall not employ that person as a key employee or primary management official.

(d) **Licensing a privilege.** Any gaming license, or finding of suitability or approval, which is issued by the Authority, shall be deemed a privilege subject to suspension or revocation.

(e) **Burden on applicant.** The burden of proving an applicant's qualification to receive any license hereunder is at all times on the applicant. Applicants must accept any risk of adverse public notice, embarrassment, or other action which may result from the application process and expressly waive any claim for damages as a result thereof.

(f) **Applicant claim of privilege.** An applicant may claim any privilege afforded by law in connection with a gaming license application or investigation, but a claim of privilege with respect to any testimony or evidence pertaining thereto may constitute sufficient grounds for denial, suspension, or revocation.

(g) **Release of information.** All persons applying for a license shall agree to release all information necessary in order for the Authority to achieve its goals under this chapter, and to furnish such information to the Bureau of Indian Affairs, the NIGC, or such other governmental agency as may be required by law or any tribal-state compacts.

(h) **License investigations.** The Authority may employ all reasonable means, including engaging outside services and investigators and convening hearings, to acquire the information necessary to determine whether or not a license should be issued, suspended, or revoked. Applicants and licensees shall also agree to release all information necessary in order for the Authority to achieve its goals under this section and to furnish such information to the Authority, the NIGC, or other agency as may be required by law or any tribal-state compacts. In conducting a background investigation, the Authority and its agents shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

(i) **License fees.** All gaming enterprises or gaming operations or persons applying for a license, or the gaming enterprise or gaming operation associated with the license applicant, shall be required to pay all applicable license fees and costs when due, including a reasonable deposit for costs incurred in obtaining information in connection with the license application, unless specifically waived in advance by the Authority. Estimates of licensing costs shall be provided to applicants within a reasonable period of time after a request is made. The Authority, prior to issuance of the license, must receive all fees and costs, unless otherwise provided for in advance. Such fees shall be included in the Detailed Gaming Regulations.

(j) **Appeals.** All customers, vendors, licensees, and persons who have been denied a license, or had their license suspended or revoked, may appeal pursuant to the procedures detailed in this chapter and the Detailed Gaming Regulations.

(k) **Records retention of terminations.** The Authority shall retain, for no less than three (3) years from the termination date of any employee requiring a gaming license, the following documentation:

(1) application for licensing;

(2) investigative reports;

(3) eligibility determinations; and

(4) any appeal records.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 11(d)(4).
Band Ordinance 25-13, § I.
Band Act 80-23.

§ 309. Compliance Determinations.

The Authority shall convene to consider a compliance recommendation within ten (10) days of its receipt from the Director as required by § 402(b) of this chapter, unless, only for issues of licensing, the Authority has received notice of intent to appeal directly to the District Court from the person who has received notice of an adverse licensing recommendation. In addition to the compliance recommendation, the Authority may consider any oral or written comments offered by the parties that the Authority deems to be relevant. The Authority may consider any additional information it determines to be necessary and appropriate to reach a determination. All information considered by the Authority shall become part of the official record of the proceedings. Based on substantial evidence contained in the official record, the Authority shall make a compliance determination by accepting, rejecting, or modifying the compliance recommendation. The Authority shall clearly state on the record its decision and the reasons

therefor. Compliance determinations shall be effective on the date made, unless the Authority establishes a different effective date. In arriving at any compliance determination, the Authority may employ the services of a hearing examiner to either make a recommendation for a compliance determination or to issue a compliance determination on behalf of the Authority.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 11(d)(5).
Band Act 80-23.

§ 310. Independent Audits.

(a) **General.** The Authority may cause to be conducted independent auditing by a recognized independent accounting firm of each gaming enterprise or gaming operation for compliance with Band gaming laws, the IGRA, and any tribal-state compacts. The results of the audit shall be reported to the Band Assembly, the Chief Executive, and, to the extent required by law, the NIGC or other governmental entity possessing lawful oversight.

(b) **Annual Audits.** The Authority shall cause to be conducted independent audits of gaming operations or gaming enterprises annually in a manner that conforms to generally accepted auditing standards. Copies of the annual audit of each licensed gaming operation or gaming enterprise, and each audit for supplies, services, or concessions of each gaming operation or gaming enterprise, shall be furnished to the NIGC, the Band Assembly, and the Chief Executive within 120 days after the end of each fiscal year of the gaming operation or gaming enterprise.

(c) **Contracts.** Contracts related to class II or class III gaming that result in the purchase of supplies, services, or concessions for more than $25,000.00 in any year, except contracts for professional legal and accounting services, shall be specifically included within the scope of any audit conducted under this section. The Authority may include any other contract of a lesser amount within the audit if the contract is related to class II or class III gaming.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 11(d)(6).
Band Act 80-23.

§ 311. Enforcement.

Any enforcement action taken shall be fair and reasonable under the circumstances, shall be proportionate to the violation, and shall be designed to promote the goals of correction and improvement, unless the violation is such that correction and improvement is not possible. Any enforcement action taken by the Authority must be related to its gaming regulatory function. Any such enforcement action shall be considered to be a compliance determination and, as such, is appealable pursuant to subchapter 6 of this chapter. In a manner provided by a Detailed Gaming Regulation, the Authority may hold such hearings, make such findings, and issue such orders as may be necessary to enforce Band gaming laws, the IGRA, any tribal-state compacts, and other applicable law, including but not limited to:

(a) revoking or suspending any license issued to an individual, gaming supplier, or gaming enterprise or gaming operation as allowed by this chapter;

(b) imposing civil fines reasonably proportionate to the activity being punished. Such monies shall be deposited in the Band's general fund. A fine schedule, including minimum and maximum fine amounts, shall be included in the Detailed Gaming Regulations; and

(c) adding a person to a list of persons excluded from gaming enterprises or gaming operation.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 11(d)(7).
Band Act 80-23.

§ 312. Limitations on Actions.

Any enforcement action of the Authority or order of the District Court pursuant to any appeal shall be limited as follows:

(a) The Authority is not authorized to order the cessation of operations of a gaming enterprise or gaming operation. Such an order for cessation of operations of a gaming enterprise or gaming operation may only occur upon:

(1) recommendation by majority vote of the Authority to the Joint Session of the Band Assembly that a gaming enterprise or gaming operation be closed, citing the specific cause for which closure is being recommended and the conditions under which the cause of closure shall be determined remedied, thereby allowing the reopening of the gaming enterprise or gaming operation; and

(2) a super-majority vote of four (4) out of five (5) members of the Joint Session of the Band Assembly ordering closure of a gaming enterprise or gaming operation citing the specific cause for which closure is being recommended

and the conditions under which the cause of closure shall be determined remedied, thereby allowing the reopening of the gaming enterprise or gaming operation.

(b) All claims by patrons against a gaming enterprise or gaming operation shall be limited to a maximum recovery of $10,000.00 per claim and a cumulative limit of $20,000.00 per patron per year, regardless of the number of claims.

(c) All claims by vendors or gaming suppliers against a gaming enterprise or gaming operation shall be limited to the amount of the contract between the vendor or gaming supplier and the gaming enterprise or gaming operation that is the subject matter of the claim. However, this provision is subject to the existence of an effective waiver of sovereign immunity pursuant to Mille Lacs Band Statutes. Under no circumstances shall punitive or other damages, costs, and fees be ordered.

(d) All claims involving denial, suspension, or revocation of a gaming license shall be limited to an award of specific performance of granting or reinstating such license. No monetary award shall be awarded on a license claim.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 11(d)(8).
Band Act 80-23.

§ 313. Excluded Persons.

(a) **Exclusion list; creation; effect.** Subject to the criteria and procedures of this section, the Authority shall establish and maintain an exclusion list. Individuals whose names appear on the exclusion list shall not be allowed to enter any gaming enterprise or gaming operation or participate in any class II or class III gaming operated by any gaming enterprise or gaming operation, whether on behalf of the Band or an Indian charitable organization.

(b) **Duty to exclude.** It shall be the duty of the Corporate Commissioner and the manager of each gaming enterprise or gaming operation to exclude or eject from a gaming enterprise any person whose name appears on the exclusion list. Any associate of a gaming enterprise or gaming operation who knows or has reason to know that an excluded person has entered or is attempting to enter a gaming enterprise or gaming operation shall be responsible for notifying appropriate staff and taking such other action as is within the scope of the associate's authority and responsibility to exclude or eject such person.

(c) **Distribution and availability of exclusion lists.** The Authority shall maintain a list of persons to be ejected or excluded from gaming enterprises or gaming operations. It shall be the duty of the manager of each gaming enterprise or gaming operation to

inform the Corporate Commissioner in writing of the name of each person who the manager reasonably believes meets the criteria for placement on the exclusion list as established by subsection(d) below. The Corporate Commissioner, in turn, will provide such names to the Director. The list shall be distributed to each gaming enterprise or gaming operation. The list shall be made available to law enforcement agencies if properly subpoenaed or upon request based upon a documented law enforcement need for the list. The following information, to the extent known, shall be provided for each excluded person:

(1) the full name, date of birth, and all aliases;

(2) a physical description;

(3) the effective date the person's name was placed on the list;

(4) a photograph, if available;

(5) the person's occupation and current home and business address;

(6) the specific reason for exclusion;

(7) the date, if any, exclusion will expire; and

(8) such other information as may be deemed necessary by the Director or the Authority.

(d) **Criteria for exclusion or ejection and placement on an exclusion list.** The Authority may, based upon the recommendation of the Director, or the Director by emergency enforcement order subject to the provisions of § 402(c) of this chapter, place a person on the exclusion list pending a hearing by the Authority if:

(1) such person has been convicted, in any jurisdiction, of any felony crime that brings into question the person’s honesty and integrity, including but not limited to shoplifting, theft, robbery, burglary, embezzlement, conspiracy to commit a crime, or of a gambling-related crime;

(2) such person has violated or conspired to violate any provisions of the IGRA, Band gaming laws, any tribal-state compacts, and other applicable law;

(3) such person has a notorious or unsavory reputation which would adversely affect public confidence and trust in gaming. The list of which acts constitute such reputation shall be included in the Detailed Gaming Regulations;

(4) her or his name appears on any valid and current exclusion list from another jurisdiction and the reason for exclusion from such other jurisdiction would

also be likely to cause exclusion from Band gaming enterprises or gaming operation;

(5) pursuant to § 706 of this chapter, the person requests to be excluded, by means which allows the Authority to positively identify the person, due to a demonstrable gambling problem.

(e) **Procedure for entry of names.**

(1) The Director of the Office of Gaming Regulation and Compliance shall investigate all matters concerning whether or not a person should be placed on the exclusion list. Upon a determination that a person satisfies any of the criteria listed in § 313(d) of this chapter, the person shall be deemed a candidate for exclusion and the Director shall prepare and submit a compliance recommendation as to whether the person's name should be added to the exclusion list and forwarded to the Authority for action. Such recommendation shall include the identity of the candidate and the nature and scope of the circumstances or reasons that such person should be placed on the exclusion list. Pursuant to § 402(b)(2) of this chapter, notice of the recommendation must be given to the person who is the subject of the recommendation and that person must be informed of the opportunity to offer oral or written testimony to the Authority concerning the recommendation. All testimony to the Authority shall be provided under oath or sworn affidavit and shall be subject to Band criminal prohibitions against perjury under 24 MLBS § 1204.

(2) If the Authority or subsequent review by District Court finds in favor of the candidate or excluded person, then her or his name shall be removed from the excluded list and her or his exclusion shall be terminated as of the date of the action by the Authority or the District Court. If the finding is against the candidate or excluded person, then her or his name shall be placed on the exclusion list. If no hearing is requested, then the person's name may be placed on the exclusion list. The Authority may place a person on the exclusion list either permanently or temporarily. If a person is placed on the exclusion list temporarily, then the Authority shall clearly state the period of time that the person will be on the exclusion list.

(f) **Removal from the exclusion list.** Any person who has been placed on the exclusion list may petition the Authority in writing, not more frequently than once every six (6) months, that her or his name be removed from the list.

(g) **Confidential data.** The exclusion list shall be classified as confidential limited availability data.

(h) **Immediate removal of disorderly persons.** A gaming enterprise or gaming operation may immediately remove and bar re-entry of any person who engages in, or

is reasonably believed likely to engage in, disruptive or unruly behavior, or any other behavior which presents a danger to the health, welfare, morals, or the public peace. The manager of the gaming enterprise or gaming operation may seek to have such a removed and barred individual placed on the exclusion list.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 11(d)(9).
Band Act 80-23.

§ 314. Regulatory Role.

The Authority is to serve in a regulatory role, not in an operations role, in connection with gaming activities conducted by any gaming enterprise or gaming operation. The scope of the Authority's authority is limited strictly to the powers and duties specifically enumerated in §§ 304 through 313 of this chapter.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 11(d)(10).
Band Act 80-23.

§ 315. Patron Dispute Resolution.

The Authority is authorized to promulgate Detailed Gaming Regulations governing patron dispute resolutions.

Historical and Statutory Notes

Source:
Band Act 80-23.

§ 316. Budget.

The Authority shall have budget and expenditure authority independent of gaming operations or gaming enterprise. Funding for the Authority shall be adequate to allow the Authority to perform the task of gaming regulation. Such funding for the Authority shall conform to Band appropriation laws and shall not be reliant on the discretion of any management official of a gaming enterprise or gaming operation who is subject to regulation of the Authority.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 11(e).
Band Act 80-23.

§ 317. Legal Counsel.

The Authority is permitted to hire its own legal counsel independent of the Solicitor General. Any legal counsel hired under this provision may advise both the Board and OGR&C.

Historical and Statutory Notes

Source:
Band Act 80-23.

SUBCHAPTER 5

OFFICE OF GAMING REGULATION AND COMPLIANCE; DIRECTOR OF GAMING REGULATION AND COMPLIANCE

Section
401. Establishment; Appointment; Qualifications; Removal and Suspension.
402. Powers and Duties.
403. Regulatory Role.

§ 401. Establishment; Appointment; Qualifications; Removal and Suspension.

(a) **Establishment.** There is hereby established the OGR&C, which shall be under the management and supervision of the Director, but subject to the ultimate control of the Board.

(b) **Appointment of the Director.** The Director shall be appointed by the Board by majority vote and shall report to the Board as the Board requires.

(c) **Qualifications.** The Director shall possess the following qualifications:

(1) experience and training in management and regulatory enforcement of sufficient scope, depth, and relevancy to enable her or him to direct the work of the OGR&C;

(2) high moral character with no conviction for a felony or any gambling-related offense;

(3) freedom from any conflict of interest created by outside business interest or occupation; and

(4) licensure as a primary management official.

(d) **Removal; suspension.** The Director may be removed for cause as manifest by a super-majority vote of four (4) out of five (5) of the Board Members, including the Chairperson. In addition, if the Director is charged in any competent jurisdiction with a felony or any gambling-related crime, the Chairperson shall immediately suspend the Director with or without pay until the charges have been resolved.

(e) **Vacancy.** If there is a vacancy for any reason, then the Chairperson shall immediately appoint an Interim Director, until the Board convenes to appoint a Director.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 12(a).
Band Act 80-23.

§ 402. Powers and Duties.

(a) **Director.**

(1) **Staff.** The OGR&C shall provide staff, administrative, and office support to the Authority. The Director shall appoint one (1) or more gaming compliance officers, to whom he or she may delegate certain duties of the Director, and hire such other employees or consultants as may be necessary to perform the duties as set forth herein. All employee suspensions and terminations are appealable to the Board.

(2) **Day-to-day operations.** The Director shall be responsible for the day-to-day operations of the OGR&C, subject to the authority of the Board, including:

(i) enforcement of all applicable gaming laws and regulations at all gaming enterprises or gaming operations;

(ii) investigations of any matter within the scope of authority of the Authority as described in subchapter 4 of this chapter, including but not limited to performing or causing to be performed background investigations necessary to determine if any applicant for a primary management official, key employee or gaming supplier license required by this chapter, or the Detailed Gaming Regulations adopted by the Authority, meets the applicable licensure criteria;

(iii) assisting the Authority in defending all decisions where an adversely impacted license applicant files an appeal to such adverse decision;

(iv) investigating and evaluating the effectiveness and efficiency of the Band's gaming regulatory system and recommending changes;

(v) investigating and monitoring all gaming enterprises or gaming operations for compliance with the IGRA, Band gaming laws, any tribal-state compacts, and other applicable law upon receiving any credible report of a violation of gaming statutes or regulations, or at random or periodic intervals, with or without prior notification to the management or associates of the subject gaming enterprise or gaming operation;

(vi) investigating all gaming-related patron and vendor complaints concerning a gaming enterprise or gaming operation that have not been resolved between the complainant and the gaming enterprise or gaming operation after full exhaustion of attempts to amicably settle the matter and make a compliance recommendation to the Authority concerning the matter;

(vii) investigating and monitoring all gaming enterprises or gaming operations for compliance with compulsive gambling cure and prevention requirements;

(viii) investigating and monitoring for compliance with all rules concerning charitable gaming;

(ix) investigating, monitoring, and assisting in all matters concerning the maintenance and enforcement of a list of persons to be excluded from gaming enterprises or gaming operations;

(x) at the request of the Authority, assisting the Authority in:

(A) the execution of any authorized enforcement actions;

(B) the preparation and defense of any appeal taken from any compliance determination; and

(C) the preparation of the annual budget which is to be submitted to the Band Assembly for direct appropriation for Authority activities; and

(xi) hiring and supervising the gaming compliance officers and other personnel of the OGR&C.

(3) **Access to data and files of any gaming enterprise or gaming operation.** The Director shall have access to all areas, records, files, and data of any gaming enterprise or gaming operation, and may interview any associate of any gaming enterprise or gaming operation with respect to matters relating to the operation of any gaming enterprise or gaming operation without first notifying the associate's supervisor or any other employee of any gaming enterprise or gaming operation, and shall have access to the results of background investigations carried out pursuant to subchapter 4 of this chapter or the Detailed Gaming Regulations adopted by the Authority.

(4) **Gaming compliance officers.** Gaming compliance officers shall be considered key employees for purposes of background investigations and licensing. Gaming compliance officers shall be responsible for performing investigations and otherwise assisting the Director in carrying out the duties specified herein. The Director may delegate to gaming compliance officers any of the Director's powers and duties, except the power to appoint gaming compliance officers.

(5) **Security of records and access to offices.** The OGR&C shall take all measures necessary to safeguard and track records. In addition, access to the offices of the OGR&C shall be strictly controlled to assure security and maintain adequate separation of gaming regulation and gaming operations or gaming enterprises.

(6) **Agent for service of process.** The Director shall be the designated agent for service of any official determination, order, or notice of violation.

(b) **Compliance recommendations; notice; time; content.**

(1) **Compliance recommendation.** The Director shall submit a compliance recommendation to the Board Members and the persons stated in paragraph (2) below, which shall summarize the facts and state whether or not the license should be granted, suspended, or revoked; whether or not the documented practices and procedures satisfy the relevant statutes and regulations; and recommend appropriate corrective, enforcement, or other responsive action.

(2) **Notice; time; content.** The Director shall submit the written compliance recommendation within five (5) days to each Board Member, the Corporate Commissioner, the licensee or license applicant if the compliance recommendation involves a license denial, suspension, or revocation, and any vendor or patron who is the subject of a compliance recommendation for each investigation carried out pursuant to § 308(h) of this chapter. The notice shall state that the compliance recommendation will be heard by the Board prior to issuance of a compliance determination pursuant to § 309 of this chapter and contain a copy of the Authority's procedures for issuing of a compliance

determination. In addition, the notice shall state that all parties have the right to legal counsel at the party's own expense, the right to appear before the Authority, the right to review the record upon which the initial compliance recommendation was made, and may supplement the record with additional information if deemed relevant by the Board.

(c) **Emergency enforcement orders.** If the Director finds that there is an immediate threat to Band assets, or that probable cause exists to believe that a crime has been or is about to be committed, the Director may, by emergency order, immediately impose any legitimate regulatory enforcement or corrective action within the scope of the Authority's authority which is proportional to the harm such emergency order seeks to remedy. Emergency orders shall be in writing, and the Director shall immediately forward any such order, along with a supporting compliance recommendation, to the Authority and the Corporate Commissioner in the manner provided by § 313(d) of this chapter. The Authority shall act on any such order and compliance recommendation in the same manner provided by § 313(e) of this chapter, except that it shall convene to consider the order and compliance recommendation within three (3) days of having received the emergency order and supporting compliance recommendation. In any such proceeding, the compliance determination of the Authority shall supersede the Director's emergency order.

(d) **Due process protections.** Nothing in this chapter waives or diminishes any gaming enterprise's or gaming operation's or individual's rights to due process and equal protection of the laws.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 12(b).
Band Act 80-23.

§ 403. Regulatory Role.

The OGR&C is to serve in a regulatory role, not in an operations role. As such, the scope of the Director's authority is limited strictly to the powers and duties specifically enumerated in subchapter 5 of this chapter and to those powers and duties specifically granted to the Authority in subchapter 4 of this chapter, which have been specifically delegated to the Director by the Authority, including those limitations of actions described in § 312 of this chapter.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 12(c).
Band Act 80-23.

SUBCHAPTER 6

APPEALS

Section

501. Who May Appeal.
502. Effecting an Appeal.
503. Procedure on Appeal; Standard of Review.

§ 501. Who May Appeal.

(a) A Person who has been denied reversal of an adverse compliance recommendation or denied any other relief requested from the Authority may appeal such compliance determination or final enforcement order to the District Court.

(b) A person who has received a compliance recommendation that recommends a license denial, suspension, or revocation may directly appeal to the District Court. If a person takes such action, then he or she waives any right to receive a compliance determination from the Authority.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 13(a).
Band Act 80-23.

§ 502. Effecting an Appeal.

Any appeal shall be filed with the District Court and must be filed within 20 days after the date of the issuance of a compliance determination, final order, or a compliance recommendation that denies, suspends, or revokes a license.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 13(b).
Band Act 80-23.

§ 503. Procedure on Appeal; Standard of Review.

(a) The District Court shall sit without a jury, confine its review to the Authority record, and apply an abuse of discretion standard. The filing of briefs and oral argument must be made in accordance with the Band rules governing civil cases.

(b) The District Court may affirm the compliance determination or order of the Authority, remand the case for further proceedings, or reverse the compliance determination or order if the substantial rights of the petitioner have been prejudiced because the decision is:

(1) in excess of the statutory authority or jurisdiction of the Authority;

(2) made upon unlawful procedure;

(3) unsupported by any evidence; or

(4) plainly in error.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 13(c).
Band Act 80-23.

SUBCHAPTER 7

DATA PRIVACY

Section
601. General Rule.
602. Confidential Data.
603. Temporary Classification.
604. Information Sharing.

§ 601. General Rule.

All Authority data shall be public unless classified by a Band statute, regulation, or order, or by federal law, as confidential data. The Authority shall adopt and promulgate detailed and thorough rules pursuant to data privacy in its Detailed Gaming Regulations.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 14(a).
Band Act 80-23.

§ 602. Confidential Data.

(a) C**onfidential limited availability data.** Confidential limited availability data shall consist of background investigations information, confidential financial information, compliance recommendations information, personnel data, and whether or not a person is on the exclusion list.

(1) Background investigation information shall be available only in a case where information revealed through a background investigation is, in whole or in part, the basis for an adverse decision regarding a license applicant or license renewal. The information contained in such background investigation shall be made available to the license applicant or the person seeking license renewal if so requested.

(2) Compliance recommendations information shall be available only to the extent that the Authority adopts a compliance recommendation or accepts the record developed by the Director supporting a compliance recommendation. All information accepted or relied upon in such a manner shall be public.

(3) The availability of information regarding whether a person is on the exclusion list is limited to the receipt of such information by the person who is on the exclusion list or her or his agent pursuant to 25 C.F.R. § 515.8.

(b) **Confidential restricted availability data.** Confidential restricted availability data shall consist of financial information on a gaming enterprise or gaming operation, information on a pending compliance recommendation, information on a pending license application, security information, and trade secret information.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 14(b).
Band Act 80-23.

§ 603. Temporary Classification.

(a) **Authority.** The Authority may, on its own motion or at the request of the Director, temporarily classify Authority data as confidential data if it determines that:

(1) the data for which the temporary classification is sought has been treated as private or confidential by Corporate Ventures or other agencies of the Band or by the federal government; or

(2) a compelling need exists for immediate temporary classification, which, if not granted, could adversely affect the public interest or the health, safety, or well-being of the subject of the data.

(b) **Ratification.** No later than July 1 of each year, the Authority shall submit all temporary classifications then in effect to the Corporate Commissioner for review. The Corporate Commissioner may comment on the classification and the Authority shall consider the comments of the Corporate Commissioner in reaching its decision. If the Corporate Commissioner fails to act by July 1 of the year following the submission of a temporary classification hereunder, then the classification shall thereupon expire.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 14(c).
Band Act 80-23.

§ 604. Information Sharing.

The Authority may, on its own motion or at the request of the Director, share information with any regulatory agency of another gaming jurisdiction or any law enforcement agency where it is determined that sharing such information is in the best interest of the Band, where the agency with whom the information is to be shared assures that the shared information will remain confidential, if the other gaming jurisdiction agrees to share such information with the Band, and if sharing the information is not contrary to any applicable law.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 14(d).
Band Act 80-23.

SUBCHAPTER 8

COMPULSIVE GAMBLING

Section

701. Policy.
702. Program Content and Responsibility.
703. Counseling Resources; Referrals.
704. Associate Training.
705. Patron Information and Education.
706. Exclusion.

§ 701. Policy.

Although gambling is an enjoyable form of entertainment for most people, the Band recognizes that some people may have difficulty keeping their gambling within reasonable limits. The Band is committed to helping these people to deal constructively with their actual or potential gambling problems, and in furtherance of this goal it has established the Mille Lacs Problem Gambling Prevention Program described in this section.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 15(a).
Band Act 80-23.

§ 702. Program Content and Responsibility.

(a) The Problem Gambling Prevention Program shall consist of the following elements:

(1) a referral system;

(2) associate training;

(3) patron information and education; and

(4) exclusion.

(b) The Director, in consultation with the Corporate Commissioner subject to the review and approval of the Authority, shall develop and update as necessary a Problem Gambling Prevention Program. The Corporate Commissioner, subject to the oversight of the Director, shall implement the program in all gaming enterprises or gaming operations.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 15(b).
Band Act 80-23.

§ 703. Counseling Resources; Referrals.

The referral system of the Problem Gambling Prevention Program shall be based on a current, computerized directory of organizations and individuals that have a reputation for providing effective assistance for individuals with gambling problems. The system shall include a process for referring patrons who seek help with such problems to resources listed in the directory and for encouraging them to take advantage of such resources.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 15(c).
Band Act 80-23.

§ 704. Associate Training.

Problem Gambling Prevention Training shall be provided to all casino associates who have regular contact with patrons. This training program, which shall be provided as part of the associate orientation program and require subsequent periodic in-service refreshers, shall include but not be limited to the following:

(a) a description of the Problem Gambling Prevention Program;

(b) the nature, extent, and effects of compulsive gambling;

(c) how to recognize the warning signs of potential and actual gambling problems; and

(d) techniques for intervening constructively with problem gamblers.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 15(d).
Band Act 80-23.

§ 705. Patron Information and Education.

(a) **Generally.** Patrons shall be provided information on the Problem Gambling Prevention Program by signs and in promotional materials as provided in this section.

(b) **Signs.** Signs that clearly and in plain language inform patrons about how to obtain assistance in dealing with gambling problems shall be prominently posted at the following locations in each gaming enterprise or gaming operation:

(1) at each entrance and exit;

(2) at any check cashing facility within the gaming enterprise or gaming operation;

(3) near any ATM cash machines at the gaming enterprise or gaming operation; and

(4) any other locations as determined by the Corporate Commissioner.

(c) **Promotional material.** The Problem Gambling Prevention Program shall contain guidelines and suggestions for including messages about responsible gambling, the need for assistance to address problem gambling behavior, and the sources of such assistance. The Director shall monitor the promotional materials and campaigns of each gaming enterprise or gaming operation to ensure that such messages are being included to the extent appropriate and, in cooperation with the Corporate Commissioner, take such action as may be necessary to correct any deficiencies in this regard.

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 15(e).
Band Act 80-23.

§ 706. Exclusion.

At the request of a patron who states that he or she may have a gambling problem, or at the request of an immediate family member of a patron who alleges that the patron has a gambling problem, the patron's name may be added to the exclusion list established pursuant to § 313(e).

Historical and Statutory Notes

Source:
Band Ordinance 44-03, § 15(f).
Band Act 80-23.

CHAPTER 2

DEPARTMENT OF ATHLETIC REGULATION

Subchapter	Section
1. Athletic Regulation	801

SUBCHAPTER 1

ATHLETIC REGULATION

Section

801. Professional Boxing and Mixed Martial Arts.
802. Purpose of the Department of Athletic Regulation.
803. Jurisdiction of the Department of Athletic Regulation Commission.
804. Department of Athletic Regulation Commission.
805. No Right of Action.
806. Medical Standards.

§ 801. Professional Boxing and Mixed Martial Arts.

(a) This subchapter and the Rules and Regulations shall constitute the entire professional athletic activity laws, including amateur mixed martial arts ("MMA"), and regulations of the Band. No professional boxing, sparring, amateur mixed martial arts, or other professional athletic exhibitions shall be conducted, held, or given on the Mille Lacs Band of Ojibwe Reservation, except in accordance with the provisions of this subchapter and the Department's Rules and Regulations adopted by the Department of Athletic Regulation ("DAR").

(b) The DAR, through its Executive Director and Athletic Regulation Commission, shall have the right to amend the Rules and Regulations as the need arises. The Band Assembly reserves the right to approve or revoke any changes to the DAR Rules and Regulations prior to implementation within 90 calendar days of receipt from the DAR. If no formal action is taken within the 90 calendar days, the change is automatically adopted.

Historical and Statutory Notes

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

§ 802. Purpose of the Department of Athletic Regulation.

(a) With the exception of subsection (b), below, the purpose of the Department of Athletic Regulation is to regulate, administer, and oversee the conduct of all professional athletic, including professional boxing and amateur mixed martial arts, events held on the Mille Lacs Band of Ojibwe Reservation for the purpose of promoting the health, safety, and welfare of all persons engaged in such activities, and that of Band Members and the public. The Department of Athletic Regulation shall regulate such events through its Executive Director and Athletic Commissioners.

(b) The Department of Athletic Regulation ("DAR") may, upon invitation from another tribe or tribal entity, regulate a boxing or MMA event on behalf of such tribal entity for the purpose of promoting professionalism and safety in the sport. All such

regulatory activities conducted on behalf of another tribe or tribal entity must be compensated by that tribe or tribal entity that extended the invitation to the DAR in an amount that is fair and reasonable, but no less than $2,000.00 per event. Any monies earned in this manner by the DAR shall be deposited in the Band's general fund within five (5) calendar days of the event.

(c) The DAR Executive Director and at least two (2) Commission members shall be present at each place where amateur MMA or professional boxing, MMA or other professional athletic activities are to be held pursuant to the provisions of this subchapter. If the Executive Director is unable to attend such event due to illness or for any other reason, the Athletic Regulation Commission members shall oversee the regulation of such event.

Historical and Statutory Notes

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

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

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

Historical and Statutory Notes

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

§ 804. Department of Athletic Regulation Commission.

(a) **General.** The Department of Athletic Regulation shall be managed by an Executive Director and a five-member Board, referred to as the Athletic Regulation Commission ("Commission"). At all times, there shall be at least one (1) Commissioner from each

District serving on the Athletic Regulation Commission. The Commission shall consist of five (5) members appointed in the following manner and have staggered terms as provided in subsection (b), below. The Commission shall have oversight of the Executive Director.

(b) **Appointments process, terms, oath of office.** Each Commissioner shall be appointed using the following process:

(1) The Chief Executive shall nominate two (2) individuals and submit their names to the Secretary-Treasurer. Within ten (10) calendar days after receipt of the nominations by the Secretary-Treasurer, the Secretary-Treasurer shall ratify one (1) of the two (2) nominees to be a Commissioner on the Athletic Regulation Commission. Such Commissioner shall serve until September 30, 2008. Any subsequent appointment, other than to fill a vacancy that occurs prior to the end of a term, shall be for four (4) years.

(2) The Secretary-Treasurer shall nominate two (2) individuals and submit their names to the Chief Executive. Within ten (10) calendar days after receipt of the nominations by the Chief Executive, the Chief Executive shall ratify one (1) of the two (2) nominees to be a Commissioner of the Athletic Regulation Commission. Such Commissioner shall serve until September 30, 2008. Any subsequent appointment, other than to fill a vacancy that occurs prior to the end of a term, shall be for four (4) years.

(3) Each District Representative shall nominate two (2) individuals and submit their names to the Chief Executive. Within ten (10) calendar days after receipt of the nominations by the Chief Executive, the Chief Executive shall ratify one (1) of the two (2) nominees to be a Commissioner of the Athletic Regulation Commission. Such Commissioner shall serve until September 30, 2009. Any subsequent appointment, other than to fill a vacancy that occurs prior to the end of a term, shall be for four (4) years.

(4) If the Chief Executive or Secretary-Treasurer does not ratify one (1) individual from any of the nominations sent to them within the time prescribed, then the Band Assembly shall select a Commissioner by majority vote.

(5) If any person does not submit a nomination within 30 calendar days after a vacancy has occurred, then the Band Assembly shall nominate two (2) individuals by majority vote and submit their names to the Chief Executive for ratification to the Athletic Regulation Commission. The timing and process for ratification are as stated in clauses (1) and (4) above.

(6) No person shall take office until swearing to the oath of office pursuant to 2 MLBS § 8.

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

(1) Commissioners shall be individuals who are of high moral character and integrity, who have a reputation for being honest, fair, objective, and who are recognized as possessing sound judgment.

(2) It is preferred that Commissioners be individuals with an interest in boxing or mixed martial arts or be individuals that have a background in amateur boxing, wrestling, or mixed martial arts.

(3) Commissioners may not have been convicted of a felony within ten (10) years of the date of their appointment. Any Commissioner convicted of a felony during their term shall be automatically removed for such cause.

(4) No fewer than three (3) Commissioners shall be Band members. There shall be at least one (1) Commissioner from each of the Band's three (3) districts.

(5) If the Corporate Commission or a Mille Lacs Band of Ojibwe gaming enterprise acts as a promoter in any type of amateur or professional athletic event to be regulated by the DAR, any Commissioner employed by the Corporate Commission or Band gaming enterprise, will not participate in the regulation of such event.

(6) Commissioners shall be subject to criminal background investigations. The Office of Solicitor General shall conduct the criminal background investigation for the Athletic Regulation Commission and shall return the results of an investigation to the Band Assembly within ten (10) business days of notice of ratification.

(d) **Commission officers.**

(1) The Commission shall have a Chairperson, Vice-Chairperson, and a Secretary.

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

(3) The Vice-Chairperson shall be selected by the Commission by majority vote.

(4) The Secretary shall be selected by the Commission by majority vote.

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

(1) The Chairperson shall preside over meetings of the Commission and the Vice-Chairperson shall preside over meetings of the Commission in the absence of

the Chairperson. The Secretary shall record, in writing, the minutes of all Board meetings and all official actions taken by the Commission. A copy of the minutes may be provided to the Band Assembly and Chief Executive upon request.

(2) Commissioners shall serve part-time. The Commission shall meet a minimum of once per month, but no more than twice per month.

(3) Each Commissioner is responsible for reading and reviewing the DAR Rules and Regulations, as well as this subchapter within 30 calendar days of her or his appointment to the Commission.

(4) As part of each Commissioner's training, he or she shall, on a staggered basis, assist in pre-bout and post-bout duties and responsibilities, including weigh-ins, licensing, and payouts. Commissioners shall also work to ensure that all rules and regulations are followed during each athletic event.

(5) As part of each Commissioner's training, he or she shall attend boxing inspection training at their earliest opportunity after appointment. Commissioners are also expected to take advantage of other types of trainings that may be offered locally to enhance their knowledge of the unarmed combat that they are appointed to regulate.

(f) **Vacancies.**

(1) The DAR or Chairperson shall notify the Band Assembly and Chief Executive of any vacancy on the Commission at least 30 days prior to the end of term or, in circumstances other than the end of a term, immediately upon the knowledge that a vacancy will occur.

(2) If there is a vacancy on the Commission, then the vacancy shall be filled in the same manner as the vacating Commissioner who was originally appointed.

(3) Any Commissioner, including the Chairperson, appointed to fill a vacancy shall serve for the remainder of the vacant term. Any Commissioner may be re-appointed during this time period pursuant to subsection (c).

(g) **Elected official.** No elected official shall serve as a Commissioner during her or his term of office.

(h) **Removal.** A Commissioner may be removed by a super-majority vote of four (4) out of five (5) members of the elected officials. The determination of the elected officials is final and unappealable to the Court of Central Jurisdiction.

(i) **Compensation.** Commissioners shall be paid $250.00 per attendance at official Department of Athletic Regulation meetings or events, not to exceed $1,000.00 in one

(1) month. Mileage and other travel expenses will be compensated on the same terms and conditions as applicable to Senior Executive Staff appointees as provided by Band law. Commissioner stipends are restricted to her or his attendance at official Department of Athletic Regulation meetings or events. For this subsection, "events" shall mean a pre-planned professional or amateur combative sport match including, but not limited to, boxing, mixed martial arts, and wrestling matches regulated by the Department of Athletic Regulation within the jurisdiction of the Non-Removable Mille Lacs Band of Ojibwe or as contracted with another federally recognized tribe.

(j) **Training.**

(1) Commissioners may attend one (1) or more training seminars per year during their terms of membership. These seminars shall be sanctioned by the Association of Boxing Commissioners ("ABC) or other professional boxing or martial arts organization.

(2) Commissioners attending mandatory training seminars, who are also employees of the Band government, shall be compensated at their documented rate of pay for each hour they are in attendance at such training, plus mileage, and other travel expenses as stated in subsection (i) above. Commissioners, who are also employees of the Band government, shall not be required to use her or his accrued annual leave, but will be paid as if they were at work.

(3) Commissioners who are not Band government employees and are required to be absent from their employment to attend training pursuant to subsection (j)(1) above, shall be compensated at their previously documented hourly rate of pay, but not to exceed $15.00 per hour, for each hour that they are in attendance at such training, plus mileage, and other travel expenses as stated in paragraph (2) above.

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

(1) From ticket sales of unarmed combat events, there shall be a 10/90 split between the DAR and the appropriate Grand Casino budget. Ten percent (10%) shall be assigned to the DAR budget through the Office of Management and Budget.

(2) The remaining budget requirements will be funded from Taxation Revenue to be appropriated each and every year by Band government budget process.

(3) If an unarmed combat promoter chooses to negotiate a "4-wall" deal with Grand Casino, he or she shall be responsible for marketing and sale of tickets for such unarmed combat event. The promoter shall negotiate with Grand Casino as to all other matters except regulation. For regulation of a "4-wall" event, the promoter shall pay 10% of the gross ticket sales to the DAR, but not

to exceed $2,500.00. If any comp has the potential to impact the regulation fee, the promoter shall be restricted to "comp" no more than 10% of the gross ticket sales. Within ten (10) calendar days of the event, the promoter shall file a written report with the DAR listing all ticket sales and comps of the "4-wall" event.

(4) The minimum payment to the DAR from a promoter for the regulation of any unarmed combat "4-wall" event shall be $1,000.00. Such amount shall be paid according to the timeline established under the DAR Rules and Regulations.

Historical and Statutory Notes

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

§ 805. No Right of Action.

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

Historical and Statutory Notes

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

§ 806. Medical Standards.

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

Historical and Statutory Notes

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

CHAPTER 3

BAND MEMBER LEGAL SERVICES

Section

901. Definitions.
902. Band Member Legal Services.
903. Number and Appointment of Directors.
904. Removal of Directors.
905. Qualifications of Directors.
906. Term of Office.
907. Duties of the Board.
908. Managing Attorney of Band Member Legal Services.
909. Duties of the Managing Attorney of Band Member Legal Services.
910. Service Area of Band Member Legal Services.
911. Limitations on Representation by Band Member Legal Services.
912. Declination and Termination of Representation.

§ 901. Definitions.

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

(a) **"Board"** means the board of directors of Band Member Legal Services.

(b) **"Director"** means a member of the board.

(c) **"Drug crime"** means any federal crime involving the possession or sale of illicit drugs, a state first or second-degree controlled substance crime, or any other crime for the sale of an illicit drug.

(d) **"Good cause"** means any reason set forth in the personnel policy manual established under 6 MLBS § 1 or any reason recognized under the common law.

(e) **"Indigent defense services"** means legal representation provided to those individuals who qualify to receive legal representation, whether free or otherwise, under the standards promulgated by the board.

(f) **"Tribal public defender"** means an attorney employed by or contracted with Band Member Legal Services for the purpose of providing indigent defense services.

Historical and Statutory Notes

Source:
Band Ordinance 41-22.

§ 902. Band Member Legal Services.

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

Historical and Statutory Notes

Source:
Band Ordinance 41-22.

§ 903. Number and Appointment of Directors.

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

(a) one (1) director appointed by the District I Representative;

(b) one (1) director appointed by the District II Representative;

(c) one (1) director appointed by the District III Representative;

(d) one (1) director appointed by the Chief Executive; and

(e) one (1) director appointed by the Chief Justice.

Historical and Statutory Notes

Source:
Band Ordinance 41-22.

§ 904. Removal of Directors.

Directors may be removed for good cause by the individual by whom the director was appointed to the board. A vacancy caused by removal or for any other reason shall be filled in a timely manner by the relevant appointing individual as identified under § 903.

Historical and Statutory Notes

Source:
Band Ordinance 41-22.

§ 905. Qualifications of Directors.

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

Historical and Statutory Notes

Source:
Band Ordinance 41-22.

§ 906. Term of Office.

(a) Initially, the directors appointed under § 903(a) and (b) shall expire on December 31 of 2021 and on this date every three (3) years hence, the term of the directors appointed under § 903(c) and (d) shall expire on December 31 of 2022 and on this date every three (3) years hence, and the term of the director appointed under § 903(e) shall expire on December 31 of 2023 and on this date every three (3) years hence.

(b) All directors after the initial directors shall serve three (3) year terms. The term of office for directors shall begin on January 1 of the calendar year in which the appointment was due to be made and shall end on December 31 of the final year of the director's three (3) year term.

(c) Any director appointed to fill a vacancy in the board shall serve until December 31 of the year in which that position on the board would normally be filled. At that time, the term will be completed and the appointing individual shall make an appointment for a full three (3) year term in that position.

Historical and Statutory Notes

Source:
Band Ordinance 41-22.

§ 907. Duties of the Board.

The board shall have the following duties:

(a) to develop standards governing the delivery of indigent defense services, including:

(1) standards governing eligibility for indigent defense services;

(2) standards for maintaining and operating regional tribal public defender officers, if any regional tribal public defender offices are established;

(3) standards prescribing minimum experience, training, and other qualifications for tribal public defenders;

(4) standards for tribal public defender caseloads;

(5) standards for the evaluation of tribal public defenders;

(6) standards for independent, competent, and efficient representation of clients whose cases present conflicts of interest; and

(7) such other standards as are necessary and appropriate to ensure the delivery of adequate indigent defense services;

(b) to establish regional tribal public defender offices, if determined to be necessary and appropriate;

(c) to adopt bylaws; and

(d) to approve and submit to the Band Assembly a biennial budget request.

Historical and Statutory Notes

Source:
Band Ordinance 41-22.

§ 908. Managing Attorney of Band Member Legal Services.

The board shall appoint a managing attorney who must be chosen on the basis of relevant training, experience, and such other qualifications considered appropriate. The managing attorney must be an attorney licensed and eligible to practice law in the State of Minnesota or under the laws of the Band. The managing attorney shall serve a two-year term from her or his date of appointment and may be removed prior to completion of her or his term for good cause by a majority vote of the board.

Historical and Statutory Notes

Source:
Band Ordinance 41-22.

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

The managing attorney shall have the following duties:

(a) to attend all meetings of the board as a non-voting member;

(b) to assist the board in developing standards for the delivery of adequate indigent defense services;

(c) to administer and coordinate delivery of indigent defense services and supervise compliance with board standards;

(d) to recommend the establishment of regional tribal public defender offices, if determined to be necessary and appropriate;

(e) to conduct regular training programs for tribal public defenders;

(f) to hire, subject to policies and procedures established by the board, professional, technical, and support personnel, including attorneys to serve as tribal public defenders, considered reasonably necessary for the efficient delivery of indigent defense services;

(g) to prepare and submit to the board a proposed annual budget for the provision of indigent defense services;

(h) to prepare and submit to the board an annual report containing pertinent data on the operations, needs, and costs of Band Member Legal Services and any other information that the board may require;

(i) to adopt a personnel policy for human resources purposes, which must be approved by the board; and

(j) to perform other duties as assigned by the board.

Historical and Statutory Notes

Source:
Band Ordinance 41-22.

§ 910. Service Area of Band Member Legal Services.

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

(b) **Child custody proceedings.** Band Member Legal Services shall have a service area including all counties in Minnesota for child custody proceedings as defined by 25 U.S.C. §1903 and child protection matters as state in Title 8, Chapter 13 – Child Protection.

Historical and Statutory Notes

Source:
Band Ordinance 41-22.
Band Act 23-23.

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

(a) Band Member Legal Services may represent Band members in all civil matters in administrative hearings, tribal court, state court, and federal court.

(b) Band Member Legal Services may represent Band members in criminal matters in tribal court, state court, and federal court, provided that:

(1) the charge or charges do not implicate an act against another Band member;

(2) the representation is in accordance with any standards promulgated by the board; and

(3) the representation is not for a charge that constitutes a drug crime, unless it is a first-time possession offense that is a charge of second or lesser degree.

Historical and Statutory Notes

Source:
Band Ordinance 41-22.

§ 912. Declination and Termination of Representation.

(a) Band Member Legal Services may decline or terminate representation of a client to the extent permissible under:

(1) § 911 of this Chapter; or

(2) the Minnesota Rules of Professional Conduct.

(b) If Band Member Legal Services declines or terminates representation pursuant to paragraph (2) of subsection (a) of this section, the director shall, in a manner consistent with the Minnesota Rules of Professional Conduct, assign another attorney to provide representation.

Historical and Statutory Notes

Source:
Band Act 23-23.

CHAPTER 4

TRIBAL EMPLOYMENT RIGHTS OFFICE

Subchapter	Section
1. General Provisions	1001
2. Admiration; Mille Lacs Band of Ojibwe Tribal Employment Rights Office	1011
3. Indian Preference in Employment and Contracting	1021
4. Fees	1031
5. Compliance Plan, Notice, and Contract	1041
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SUBCHAPTER 1

GENERAL PROVISIONS

Section

1001. Policy.
1002. Purpose.
1003. Severability.
1004. Definitions.

§ 1001. Policy and Findings.

(a) It is the policy of the Band to provide a preference in employment and contracting to members of the Band and other federally recognized Indian tribes.

(1) This policy applies to employment and contracting by the Band's government, including all branches, departments and agencies thereof, by all Band-owned entities while they are engaged in commercial or economic activities on behalf of the Band within the Band's Reservation and by all persons and entities doing business with the Band, including subcontractors of persons or entities contracting with the Band, within the Band's Reservation.

(2) This policy: (A) is intended to further the Band's overriding interests in self-government, self-sufficiency, and economic development; (B) is directed to the participation of the governed in the Band's governing bodies and in its commercial and economic activities; (C) is intended to make the Band's government and its commercial and economic activities more responsive to the needs of its constituents; and (D) is intended to provide for the economic security and employment of members of the Band and of other federally recognized Indian tribes and to overcome the effects of past discrimination against such persons.

(3) Economic insecurity and unemployment are serious impediments to the health, morale, and welfare of the Band. Employment and contracting opportunities with the Band's government and with Band-owned entities and other persons and entities doing business with the Band within the Band's Reservation are important resources for members of the Band and of other federally recognized Indian tribes, who have historically suffered from discrimination in employment and contracting opportunities. As a result, Indian people living on or near the Band's Reservation have unique and special employment rights under federal law, and the Band is obligated to implement those rights.

(b) Subject to the policy described in subsection (a) of this section, all employees subject to the Band's jurisdiction are entitled to a workplace environment that prohibits

employment discrimination, protects employees' wages, and promotes health and safety.

(c) The provisions of this chapter are critically important to the health and welfare of members of the Band and of other federally recognized Indian tribes, especially those residing on or near the Band's Reservation. Unemployment and underemployment within the boundaries of the Band's Reservation are consistently many times higher than the national and state average. This pervasive unemployment and underemployment has directly contributed to serious social problems and a lower quality of life for members of the Band and of other federally recognized Indian tribes residing on or near the Band's Reservation and impeded the self-governance objectives of the Band.

(d) The Band declares that the public good and the welfare of the Band require the enactment of this chapter, which is enacted pursuant to the Band's inherent sovereign and political powers, in order to increase employment of and the number of businesses owned by members of the Band and of other federally recognized Indian tribes, especially within the Band's Reservation, and to protect the workforce rights of Indian and non-Indian employees within the jurisdiction of the Band.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 401.
Band Ordinance 41-22.

§ 1002. Purpose.

This chapter is adopted by the Mille Lacs Band of Ojibwe (the Band), under its inherent sovereign and political powers, for the following purposes:

(a) to promulgate Band laws and rules governing employment relations and contracting preference within the Band's jurisdiction;

(b) to establish the Band's Tribal Employment Rights Office (TERO) in order to enforce the Band's laws governing employment and contracting preference, and to protect the rights of all members of the Band, members of other federally recognized Indian tribes, and all other employees within the Band's jurisdiction;

(c) to increase the employment of members of the Band and of other federally recognized Indian tribes;

(d) to eradicate employment discrimination, protect employees' wages, and protect employees' health and safety within the Band's jurisdiction;

(e) to provide a fair, enforceable, and effective system of preferences in contracting and sub-contracting as it relates to the provision of supplies, services, labor, and materials to the Band's government and to Band-owned entities and other persons or entities doing business with the Band, including subcontractors of persons or entities contracting with the Band, within the Band's Reservation; and

(f) to supersede all other provisions of Band law that are inconsistent with the provisions of this chapter.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 402.
Band Ordinance 41-22.

§ 1003. Severability.

If any provision of this chapter, or the application thereof to any person, business, corporation, government, including any agency or political subdivision thereof, or circumstance, is held invalid, the invalidity shall not affect any other provision or application of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared severable.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 403.
Band Ordinance 41-22.

§ 1004. Definitions.

(a) **"Adverse action"** means an action taken to try to keep an individual from opposing a discriminatory practice or from participating in an employment discrimination proceeding. Adverse actions include termination, refusal to hire, denial of promotion, threats, unjustified negative evaluations, unjustified negative references, increased surveillance, or any other action, such as assault or unfounded civil or criminal charge, that are likely to deter reasonable people from pursuing their rights.

(b) **"Band"** means the Mille Lacs Band of Ojibwe, a federally recognized Indian tribe, and includes the Band's government, including all branches, departments and agencies thereof, and all Band-owned entities while they are engaged in commercial or economic activities on behalf of the Band within the Band's Reservation.

(c) **"Commission"** or **"TERO Commission"** means the Commissioner of the Tribal Employee Rights Office.

(d) A **"Conflict of Interest"** occurs when a TERO Commission member is in a position to influence a decision that may result in a personal gain for that member or for a member of her or his immediate family.

(e) **"Core crew"** means regular, permanent employees in supervisory or other key positions where an employer would face serious financial loss if the positions were filled by persons who had not previously worked for that employer.

(f) **"Covered employer"** means the Band and any entity, company, contractor, sub-contractor, corporation, or other business doing business with the Band, including subcontractors of persons or entities contracting with the Band, within the Band's Reservation that employs for wages or other remuneration two (2) or more employees.

(g) **"Days"** means calendar days, including holidays and weekends, unless otherwise indicated.

(h) **"Director"** means the director of the Band's Tribal Employment Rights Office.

(i) **"Disability"** means, with respect to an individual:

(1) a physical or mental impairment that substantially limits one (1) or more major life activities of such individual;

(2) a record of such an impairment; or

(3) being regarded as having such an impairment.

An impairment does not have to be permanent to rise to the level of a disability. Temporary impairments that take significantly longer than normal to heal, long-term impairments, or potentially long-term impairments of indefinite duration may be disabilities if they are severe.

(j) **"EEOC"** means the federal Equal Employment Opportunity Commission.

(k) **"Elected Officials"** means the Mille Lacs Band Chief Executive, Secretary-Treasurer, and District Representatives.

(l) **"Immediate Family"** includes a person's spouse, a person's biological or adopted child, a member of a person's household, and a person's mother, father, and sister, and brother.

(m) **"Indian"** means a member of a federally recognized Indian tribe.

(n) **"Indian Certified Entity"** means an entity, certified by the TERO Commission, in which 51% or more of the ownership interests are held by one (1) or more Indians and in which daily management and control is provided by one (1) or more Indians.

(o) **"Reservation"** means all lands within the exterior boundaries of the Mille Lacs Indian Reservation as established by the Treaty of 1855, 10 Stat. 1165, all lands held in trust by the United States for the benefit of the Minnesota Chippewa Tribe, the Band or individual members of the Band, which are subject to the jurisdiction of the Band, and all lands owned by the Band which are located within one (1) of the districts designated in 2 MLBS § 11.

(p) **"TERO"** means the Band's Tribal Employment Rights Office established by this chapter.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 404.
Band Ordinance 07-17, § 4.
Band Ordinance 41-22.

SUBCHAPTER 2

ADMINISTRATION; MILLE LACS BAND OF OJIBWE TRIBAL EMPLOYMENT RIGHTS OFFICE

Section

1011. TERO Commission and Recusal of Commission Members.
1012. Powers and Duties of the TERO Commission, and Compensation.
1013. Tribal Employment Rights Office; Director.
1014. Powers and Duties of TERO Director.
1015. Intergovernmental Relationships.

§ 1011. TERO Commission and Recusal of Commission Members.

(a) **TERO Commission Members.** The TERO shall be managed by the TERO Commission. At all times there shall be at least one (1) commission member on the Commission from each district. The Commission shall consist of seven (7) commission members as appointed under paragraph (1) below.

(1) **Appointment Process; Terms.** Each member shall be appointed using the following process: The elected officials shall each nominate two (2)

individuals and submit their names to the Mille Lacs Band Parliamentarian. The Chief Executive and Secretary-Treasurer of the Band shall each nominate two (2) additional individuals and submit their names to the Mille Lacs Band Parliamentarian. Within ten (10) calendar days after receipt of the nominations, the elected officials shall convene and vote on one (1) of the two (2) nominees submitted from each elected official to be a member of the Commission. Members appointed by the Chief Executive and District I Representative shall serve until December 31, 2018, and Members appointed by the Secretary-Treasurer, District II Representative, and District III Representative shall serve until December 31, 2020. Any subsequent appointment, other than to fill a vacancy that occurs prior to the end of a term, shall be for four (4) years.

(2) **Qualifications.** Commissioners shall be public officials subject to the Mille Lacs Band Ethics Code in 6 MLBS §§ 1151-1163. At least three (3) of the Commissioners shall have education or experience in one (1) or more of the following areas:

(i) human resources;

(ii) tribal employment rights;

(iii) construction management;

(iv) regulatory enforcement; or

(v) auditing or investigations.

(3) **Officers.** The TERO Commission Members shall select a Chair, Vice-Chair, and Secretary at the first meeting of the Commission, and annually thereafter. The Chair shall preside at all meetings of the Commission and shall be authorized to sign required documents in accordance with the powers of the Commission.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 405.
Band Ordinance 07-17, § 5.
Band Ordinance 41-22.

§ 1012. Powers and Duties of the TERO Commission, and Compensation.

(a) The TERO Commission has the full power, jurisdiction, and authority:

(1) to take all actions necessary and appropriate to implement the provisions of this chapter;

(2) to approve or reject any and all rules, regulations, and guidelines formulated by the director to carry out the provisions of this chapter and to approve or reject the amendment or rescission of any such rules, regulations, or guidelines, provided that, except when an emergency exists, the TERO Commission shall provide the public an opportunity to comment at a meeting of the TERO Commission before approving any such rules, regulations, or guidelines or amendments or recessions thereof;

(3) to conduct hearings in accordance with such rules of practice and procedure as may be adopted by the TERO Commission after providing the public an opportunity to comment on them at a meeting of the TERO Commission;

(4) to order any relief or sanctions authorized by this chapter, and to petition the Mille Lacs Band Court of Central Jurisdiction for such orders to enforce the decisions of the TERO Commission and any sanctions imposed by the TERO Commission, if necessary;

(5) to make recommendations to the Band Assembly on amendments to this chapter;

(6) to establish a system for certifying firms as Indian Owned Businesses or Mille Lacs Band Owned businesses;

(7) to maintain a list of Certified Businesses;

(8) to assist Band Members in obtaining certification;

(9) to coordinate training and mentorship programs for Band Members and Indians;

(10) to monitor all contracting activities on Band Lands in consultation with the elected officials;

(11) to inform the Band Government, Band Entities, Employers, and Contractors and assist in presentations to the public on the requirements of this chapter with respect to Indian employment and contact preference requirements;

(12) to oversee the Certified Businesses receiving invitations to bid on contracts;

(13) to establish a Band labor surplus pool and refer Band Members and other Indians to an Employer or Contractor for employment considerations;

(14) to assist procurement officers or delegated agents in the designation of contracts appropriate for the set aside program;

(15) to develop and maintain an audit and reporting system which measures the effectiveness of the Indian Preference Policy in meeting its goals and objectives;

(16) to establish procedures for TERO's regulatory proceedings;

(17) to establish procedures, forms, and policies necessary to carry out the purposes of the chapter; and

(18) to enforce any employment and procurement laws, policies, and procedures in accordance with this chapter.

(b) **Compensation.** Commission members may receive a stipend for their services at a rate established by the Band Assembly. Commissioners shall be reimbursed for actual expenses incurred on Commission business, including necessary travel expenses in a manner consistent with applicable Band policies and procedures.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 406.
Band Ordinance 07-17, § 6.
Band Ordinance 41-22.

§ 1013. Tribal Employment Rights Office; Director.

There is hereby established as an agency of the Mille Lacs Band of Ojibwe government the Tribal Employment Rights Office (also known as "TERO"). The Director of the TERO shall be an employee of the TERO under the direct supervision of the TERO Commission and shall have the powers and duties prescribed in § 1014 of this subchapter.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 407.
Band Ordinance 07-17, § 7
Band Ordinance 41-22.

§ 1014. Powers and Duties of TERO Director.

The Director shall have the following powers and duties:

(a) to formulate, amend and rescind regulations, rules and guidelines necessary to carry out the provisions of this chapter, subject to the approval of the Board;

(b) to implement and enforce the provisions of this chapter, as well as any properly adopted regulations, rules, guidelines, and orders;

(c) to hire staff, expend designated funds from an approved budget, and obtain and expend funding from federal, state, and other sources;

(d) to maintain a list of current Covered Employers, current employer permits and work permits issued, and current Indian Certified Entities;

(e) to maintain a record of all contracting projects subject to this chapter and the TERO fees assessed for each project;

(f) to process applications for certification of Indian Certified Entities by the Board;

(g) to grant TERO permits and collect TERO fees as authorized by this chapter;

(h) to establish training and workforce development programs, in conjunction with the Mille Lacs Band Department of Labor, for Band members and other Indians to assist them in obtaining and retaining employment;

(i) to process applications for and maintain a list of Band members and other Indians living on or near the Reservation who are available for employment and to assist such persons with job placement; and

(j) to contract with federal and state entities for the provision of additional job procurement services and funding consistent with the purposes of this chapter.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 408.
Band Ordinance 41-22.

§ 1015. Intergovernmental Relationships.

The TERO, acting through the Director, is authorized, with the written concurrence of the Commissioner of Administration, to enter into cooperative relationships with federal employment rights agencies, such as the EEOC and the Office of Federal Contract Compliance Programs (OFCCP), and with state employment rights agencies, such as the Human Rights Commission, in order to eliminate discrimination against Indians on and off the Reservation, as well as to develop training programs for Indians. The Director may also, with the written concurrence of the Commissioner of Administration, enter into cooperative relationships with

federal agencies, including but not limited to the Bureau of Indian Affairs, the Department of Labor, the Federal Highway Administration, and the Internal Revenue Service, in order to implement any federal employment or other workforce rights, authorities, or requirements as such agency may lawfully delegate to the Band.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 409.
Band Ordinance 41-22.

SUBCHAPTER 3

INDIAN PREFERENCE IN EMPLOYMENT AND CONTRACTING

Section

1021. Indian Preference in Employment.
1022. Covered Employer's Responsibilities.
1023. Core Crew.
1024. Indian Preference in Contracting.
1025. Indian Certified Entities.
1026. Applicability of Indian Preference in Contracting.
1027. Other Preferences to be Consistent.

§ 1021. Indian Preference in Employment.

(a) All covered employers shall give preference to Indians living on or near the Reservation in the hiring, promotion, training, and all other aspects of employment within the boundaries of the Reservation, provided that these individuals have the necessary qualifications. The priority for Indian preference is as follows:

(1) Mille Lacs Band Member;

(2) member of another federally recognized Indian Tribe; and

(3) all others.

(b) Every covered employer shall encourage Indians to seek promotional opportunities. For every opening in a supervisory position, the employer shall inform Indian workers about the position and encourage them to apply.

(c) No covered employer 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 covered employer shall develop a goal statement which is subject to advance approval by the TERO director prior to the commencement of any work. Additionally, no goal statement shall be approved which contains less than 50% for each construction operation in Indian employment opportunities pursuant to any contract.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 410.
Band Ordinance 30-14, Title I, § 1.
Band Ordinance 41-22.

§ 1022. Covered Employer's Responsibilities.

(a) Covered employers shall notify the TERO of openings in employment positions subject to this chapter and provide job descriptions for such openings at or before the time at which they advertise the openings. Job descriptions shall not be written in a way to unnecessarily exclude Band members or other Indians from employment.

(b) All covered employers shall define in writing the necessary qualifications for each employment position in their work force that is subject to this chapter, which shall be provided to the director and applicants upon request.

(c) All covered employers shall comply with this chapter, all rules and regulations relating to it, and all guidelines and orders of the director.

(d) The requirements in this chapter shall not apply to any direct employment by the Federal or a state government or their agencies or subdivisions. However, such requirements shall apply to all contractors or grantees of such governments and to all commercial enterprises operated by such governments when they are doing business with the Band within the reservation.

(e) Covered employers shall include and specify an Indian employment preference policy statement in all job announcements and advertisements and all employer policies that are subject to this chapter.

(f) Covered employers shall post in a conspicuous place on their premises for their employees and applicants an Indian preference policy notice prepared or approved by the TERO.

(g) Covered employers, except for construction contractors, shall advertise and announce all openings in employment positions subject to this chapter on the Mille Lacs Band website. Construction contractors, prior to starting work within the Reservation, shall provide a TERO Compliance Plan for the project to the TERO director.

(h) Covered employers shall use non-discriminatory job qualifications and selection criteria in filling employment positions subject to the requirements of this chapter. No covered employer shall use any job qualification criteria that serve as barriers to Indian preference in employment, unless the covered employer can demonstrate that such criteria or requirements are required by business necessity.

(i) Regardless of the qualifications of any non-Indian applicant, any Indian who demonstrates the necessary qualifications for an employment position subject to this chapter:

(1) shall be selected by covered employers in the case of hiring, promotion, transfer, upgrading, recall, and other employment opportunities with respect to such position; and

(2) shall be retained by covered employers in the case of a reduction in force affecting a certain class of positions until all non-Indians employed in that class of positions are laid-off.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 411.
Band Ordinance 41-22.

§ 1023. Core Crew.

(a) Covered employers, may, if necessary, designate a core crew, which is exempt from the Indian preference requirements of this chapter.

(b) If a core crew is necessary, such core crew shall not exceed 25% of the total employees of the project/jobsite except as otherwise provided in subsection (c) of this section.

(c) The director may, at her or his discretion, grant a covered employer a larger core crew designation upon a satisfactory demonstration by the covered employer that a larger core crew is necessary due to unique or specialized positions that are essential for the operation of the business. A covered employer may appeal the decision of the director to the Board.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 412.

Band Ordinance 41-22.

§ 1024. Indian Preference in Contracting.

(a) To the extent provided in § 1026 of this chapter, all covered employers shall give preference in contracting and subcontracting to Indian certified entities.

(b) If one (1) or more qualified Indian certified entities submit a bid that is within 10% of the lowest competitive bid, the covered employer shall give one (1) of the qualified Indian certified entities submitting such a bid the opportunity to negotiate an acceptable bid.

(c) In accordance with §§ 1012 and 1014 of this chapter, the director shall formulate and the Board shall approve regulations providing guidance on implementing the requirements of this section and for implementing Indian contracting preference when the awarding entity uses a method other than competition to select a contractor.

(d) Whenever feasible, the covered employer shall submit to the director, at least 30 days in advance of the deadline for the submission of bids for a contract or subcontract, a list of all related contracts and subcontracts contemplated by the covered employer in order to enable the director to give Indian Certified Entities the opportunity to prepare bids for such related contracts and subcontracts.

(e) Any covered employer or Indian certified entity entering into a contract under the Indian preference provisions of this chapter consents to the jurisdiction of the Band's Court of Central Jurisdiction for purposes of resolving any dispute arising under such contract, provided that nothing in this subsection shall waive the sovereign immunity of the Band.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 413.
Band Ordinance 41-22.

§ 1025. Indian Certified Entities.

The Board shall establish a system for certifying firms as Indian certified entities. This system shall include detailed provisions to ensure that entities that are not truly 51% or more owned by Indians, or in which daily management and control is not provided by Indians, are not granted Indian preference certification.

Historical and Statutory Notes

Source:

Band Ordinance 15-14, Title III, Exhibit A, § 414.
Band Ordinance 41-22.

§ 1026. Applicability of Indian Preference in Contracting.

(a) Except as otherwise provided in this section, the Indian preference in contracting required under § 1024 of this chapter shall apply only to contracts and subcontracts to be performed on the Reservation and shall not apply to the delivery of goods from a location outside the Reservation.

(b) Notwithstanding any other provision in this chapter, the Indian preference in contracting required under § 1024 of this chapter shall not apply to any contracts or subcontracts where the Board determines that application of that preference is specifically prohibited by federal law.

(c) The Indian preference in contracting required under § 1024 of this chapter shall not apply to contracts awarded by the federal or a state government or their agencies or subdivisions. However, the Indian preference in contracting required under § 1024 of this chapter shall apply to all subcontracts awarded by a federal or state contractor or grantee that is a covered entity, whether or not the prime contract was subject to that preference, except when the Board determines that application of that preference to that entity is specifically prohibited by federal law.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 415.
Band Ordinance 41-22.

§ 1027. Other Preferences to be Consistent.

Any provision for Indian preference in employment or contracting contained in any Band policy, including any policy of the Corporate Commission, must be consistent with the Indian preference in §§ 1021 and 1024, which provide first priority to Mille Lacs Band members, second priority to members of another federally recognized Indian tribe, and third priority to all others.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title IV, § 2.
Band Ordinance 41-22.

SUBCHAPTER 4

FEES

Section

1031. Fees.
1032. Exempt Employers and Entities.
1033. Fee Collection and Expenditure.

§ 1031. Fees.

Except as otherwise provided in § 1032 of this chapter, and except as prohibited by federal law, the following fees are assessed on covered employers, other than the Band, for the privilege of doing business with the Band within the reservation and to raise revenue for the operation of the TERO office and the enforcement of this chapter.

(a) Every covered employer, other than the Band, that enters into a contract with the Band totaling $25,000.00 or more shall pay a one-time project fee of 0.5% of the total amount of the contract. The covered employer shall pay the full amount of the fee before commencing work on the Reservation under the contract, provided that the director may, for good cause shown by the covered employer, authorize the fee to be paid in installments over the life of the contract, and provided further that if the total amount of the contract is subsequently increased, the covered employer shall pay the additional amount due (0.5% of the increased amount of the contract) at the time of the increase. In all cases, the full amount shall be paid by the contractor upon the last pay application. A covered employer other than the Band that enters into a contract with the Band for less than $25,000.00 shall pay the 0.5% fee on the total amount of the contract if the contract is amended or enlarged to $25,000.00 or more within one (1) year after it was entered into. The fee imposed by this paragraph does not apply to a covered employer that enters into a subcontract made under a contract with the Band where the fee has been paid on the total amount of such contract.

(b) All covered employers other than the Band shall, as a condition of doing business on the Reservation under a contract with the Band, consent to the Band entity awarding the contract paying the fee imposed under subsection (a) of this section directly to the TERO prior to the commencement of work under the contract and subtracting the amount of the fee from the payments due to the covered employer under the contract. Prior to making the payment, the Band entity awarding the contract shall provide the contractor with a form prepared by the TERO, in which the contractor grants its consent to the payment of the TERO fee based on the amount it is entitled to receive from the Band entity. A contractor shall not be permitted to commence work on the reservation until it has executed this form, provided that this provision shall not apply if the imposition of the fee with respect to the contractor is prohibited by federal law.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 416.
Band Ordinance 41-22.

§ 1032. Exempt Employers and Entities.

The fees imposed in § 1031 of this chapter shall not be collected where applicable provisions of a federal contract or grant prohibit the collection of such fees.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 417.
Band Ordinance 41-22.

§ 1033. Fee Collection and Expenditure.

(a) The TERO fees shall be collected by the director pursuant to TERO regulations. The fees shall be paid over to the Band's Office of Management and Budget (OMB) and shall be credited to the TERO account. These funds shall be expended solely by the TERO, pursuant to a duly approved budget in order to carry out the purposes of this chapter.

(b) The TERO Office, in conjunction with the Band's Department of Labor, shall prepare a quarterly report as to all employment and training expenditures. The report shall be made available to the legislative branch and executive branch each calendar quarter.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 418.
Band Ordinance 41-22.

SUBCHAPTER 5

COMPLIANCE PLAN, NOTICE, AND CONTRACTS

Section

1041. Compliance Plan.
1042. Notice to Proposed Contractors and Subcontractors.
1043. Contract Language Imposing TERO Requirements.
1044. Model Language.
1045. TERO Approval of Notices of Contracts and Awarded by Covered Entities.

§ 1041. Compliance Plan.

(a) All covered employers, other than the Band, shall, no less than ten (10) business days prior to commencing business on the reservation, prepare and submit to the director for her or his approval a plan setting out how the employer will comply with the requirements of this chapter and its implementing regulations regarding Indian employment and Indian contracting preference. A Band-owned entity shall, no less than ten (10) business days prior to entering into a contract with a non-Band contractor to be performed on the reservation, prepare and submit to the director for her or his approval a plan setting out how the Band-owned entity will comply with the requirements of this chapter and its implementing regulations regarding Indian employment and Indian contracting preference in connection with such contract. A covered employer already doing business on the reservation on the effective date of this chapter that has not prepared a compliance plan that has been approved by the director under this section shall come into compliance with the requirements of this section within 30 business days of the effective date of this chapter.

(b) The payroll records of all covered employers other than the Band shall be submitted to the director within 30 days of her or his request. Any covered employer required to submit a certified payroll pursuant to federal law under the Davis-Bacon Act shall submit a copy of this certified payroll record to the director.

(c) All covered employers other than the Band are required to report relevant changes regarding their employees and employment positions to the director when they submit the payroll records to the director under subsection (b) of this section, including but not limited to new positions, terminations, layoffs, promotions, and retirements.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 420.
Band Ordinance 41-22.

§ 1042. Notice to Proposed Contractors and Subcontractors.

(a) Any covered employer, when issuing a notice of a proposed contract to be awarded by it, shall include provisions in the notice that inform a prospective contractor about the requirements established by this chapter.

(b) Any covered employer, when issuing a notice of a proposed subcontract to be awarded by it, shall include provisions in the notice that inform any prospective subcontractor about the requirements established by this chapter.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 421.
Band Ordinance 41-22.

§ 1043. Contract Language Imposing TERO Requirements.

Any covered employer, when awarding a contract or subcontract, shall include provisions that impose the requirements of this chapter on the contractor or subcontractor, such that the legal document will fully bind the party to comply with the requirements of this chapter.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 422.
Band Ordinance 41-22.

§ 1044. Model Language.

In order to implement the requirements of §§ 1042 and 1043 of this chapter, the director shall provide to the covered employer:

(a) model language that shall be included in the notice to prospective contractors and subcontractors, informing them of the requirements established by this chapter; and

(b) model language to be included in each contract and subcontract, imposing the requirements set out in this chapter as terms of the contract.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 423.
Band Ordinance 41-22.

§ 1045. TERO Approval of Notices of Contracts and Contracts Awarded by Covered Employers.

Each covered employer, prior to issuing notice of a contract to prospective contractors or subcontractors and prior to awarding a contract or subcontract, shall submit the proposed notice, contract or subcontract to the director for approval.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 424.
Band Ordinance 41-22.

SUBCHAPTER 6

PROHIBITION OF EMPLOYMENT DISCRIMINATION

Section

1051. Prohibited Discrimination.
1052. Religious Accommodation.
1053. Discrimination based on Disability.
1054. Discrimination based on Pregnancy.
1055. Harassment.
1056. Retaliation.

§ 1051. Prohibited Discrimination.

Except as necessary to comply with the Indian employment preferences in subchapter 3 of this chapter, it shall be unlawful for a covered employer to do any of the following acts wholly or partially based on the actual or perceived race, color, religion, national origin, sex, age, sexual orientation, or political affiliation of any individual, unless such characteristic is a bona fide occupational qualification:

(a) fail or refuse to hire, or discharge, any individual, or otherwise discriminate against any individual, with respect to her or his compensation, terms and conditions, or privileges of employment, including promotion;

(b) discriminate in recruiting individuals for employment, or

(c) limit, segregate, or classify employees in any way that would tend to deprive them of employment opportunities.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 425.

Band Ordinance 41-22.

§ 1052. Religious Accommodation.

It shall be an unlawful discriminatory practice for a covered employer to refuse to make a reasonable accommodation for an employee's religious or spiritual observance, unless doing so would cause undue hardship to the employer. A reasonable religious accommodation is any adjustment to the work environment that will allow the employee to practice her or his religion, such as flexible scheduling, voluntary substitutions or swaps, job reassignments and lateral transfers if approved by the authorized supervisor in accordance with the Band's Personnel Policy Manual. An accommodation would cause an employer undue hardship when it would require more than ordinary administrative costs, diminish efficiency in other jobs, infringe on other employees' job rights or benefits, impair workplace safety, cause co-workers to carry the accommodated employee's share of potentially hazardous or burdensome work, or conflict with another applicable law or regulation.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 426.
Band Ordinance 41-22.

§ 1053. Discrimination based on Disability.

(a) It shall be unlawful for a covered employer to discriminate in any aspect of employment against a qualified individual with a disability because of that disability. However, it is not unlawful for a covered employer to use employment qualification standards, tests, or selection criteria that are job related and consistent with business necessity that make an individual with a disability ineligible for an employment position where the individual could not perform the job even with reasonable accommodation. Nothing in this section shall prohibit a covered employer from refusing to hire an individual with a disability for or from discharging such an individual from an employment position if the individual, because of the disability, is unable to perform the duties of the position, would perform the duties in a manner that would endanger the health and safety of the individual or others, or is unable to be at or go to or from the place at which the position is located.

(b) Subject to the provisions of subsection (c) of this section, a reasonable accommodation for an individual's disability may include but is not limited to making facilities readily accessible to and usable by disabled persons, job restructuring, modifying work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, and the provision of aides on a temporary or periodic basis.

(c) An accommodation is not required if it would impose an undue hardship on the employer's operation. In determining whether an undue hardship exists, employers may consider:

(1) the overall size of the business or organization with respect to the number of employees and the number and type of facilities;

(2) the type of the operation, including the composition and structure of the work force, and the number of employees at the location where the employment would occur;

(3) the nature and cost of the accommodation;

(4) the reasonable ability to finance the accommodation at each site of business; and

(5) documented good faith efforts to explore less restrictive or less expensive alternatives, including consultation with the disabled person or with knowledgeable disabled persons or organizations.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 427.
Band Ordinance 41-22.

§ 1054. Discrimination based on Pregnancy.

A covered employer shall treat women affected by pregnancy, childbirth, or related medical conditions the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected, but similar in their ability or inability to work. This requirement shall include, but is not limited to, the requirement that a covered employer must treat an employee temporarily unable to perform the functions of her job because of a pregnancy-related condition in the same manner as it treats other temporarily disabled employees.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 428.
Band Ordinance 41-22.

§ 1055. Harassment.

(a) It shall be unlawful employment discrimination for a covered employer to subject an employee or applicant to unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, as well as unwelcome comments, jokes, acts, and other verbal or physical conduct related to race, color, national origin, religion, sex, age, sexual orientation, or disability when:

(1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

(2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

(3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

(b) A covered employer is responsible for acts of workplace harassment by its employees when the employer, its agents, or its supervisory employees knew of the conduct. A covered employer may rebut apparent liability for such acts by showing that it took immediate and appropriate corrective action upon learning of the harassment.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 429.
Band Ordinance 41-22.

§ 1056. Retaliation.

A covered employer may not retaliate against an individual for bringing a good-faith claim against the employer for a violation of this chapter or because the individual opposed a practice he or she believed to violate this chapter or participated in an enforcement proceeding pursuant to subchapter 9 of this chapter. The firing, demoting, harassing, or taking of any other adverse action against an individual shall constitute retaliation within the meaning of this section. Any retaliation in violation of this section is itself a violation of this chapter and is subject to enforcement proceedings pursuant to subchapter 9 of this chapter.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 430.
Band Ordinance 41-22.

SUBCHAPTER 7

EMPLOYEE WAGE AND HOUR

Section

1061. Minimum Wage.
1062. Prevailing Wage.
1063. Maximum Hours.
1064. Exemptions.
1065. Private Right of Action.
1066. Statute of Limitations.
1067. Guidance.
1068. Fringe Benefits.

§ 1061. Minimum Wage.

Any employee who is employed by a covered employer shall be paid an hourly wage of not less than $7.50 per hour or the current United States Federal Government's minimum wage requirement, whichever is higher.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 431.
Band Ordinance 41-22.

§ 1062. Prevailing Wage.

All covered employers are required to compensate construction laborers according to the prevailing wage set by the U.S. Department of Labor according to the Davis-Bacon Act for the county in which the work shall commence, unless the Board implements Band prevailing wage rates by rule, regulation, or guideline, in which case the Band prevailing wage determination shall apply.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 432.
Band Ordinance 41-22.

§ 1063. Maximum Hours.

No covered employer shall employ any of its employees for a work week longer than 40 hours unless such employee receives compensation for the additional hours at a rate not less than one and one-half times the regular rate at which the employee is compensated.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 433.
Band Ordinance 41-22.

§ 1064. Exemptions.

The provisions of this subchapter shall not apply with respect to any employee employed in a bona fide executive, administrative, or professional capacity, or any other exemption category in the Federal Fair Labor Standards Act (FLSA) of 1938, 29 U.S.C., § 213, including all future amendments thereto, or in regulations implementing that Act as promulgated by the U.S. Department of Labor.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 434.
Band Ordinance 41-22.

§ 1065. Private Right of Action.

Any individual aggrieved under this subchapter may seek retroactive payment of unpaid minimum wages or unpaid overtime compensation against a covered employer pursuant to the enforcement provisions set out in subchapter 9 of this chapter.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 435.
Band Ordinance 41-22.

§ 1066. Statute of Limitations.

Any action to secure unpaid wages or unpaid overtime compensation must be commenced within one (1) year after the date on which such wages or overtime compensation should have been included in an employee's paycheck, regardless of the date of actual discovery.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 436.
Band Ordinance 41-22.

§ 1067. Guidance.

For the purposes of interpreting this subchapter only, the Board and the Band's Court of Central Jurisdiction may look to the Federal Fair Labor Standards Act (FLSA) of 1938, 29 U.S.C., §§ 201-219, its implementing regulations, and related case law for persuasive guidance, provided that nothing in this section shall be construed as an adoption by the Band of that Act or its implementing regulations.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 437.
Band Ordinance 41-22.

§ 1068. Fringe Benefits.

A covered employee must give an employee engaged in construction the option of electing to receive any amount to which he or she is entitled as prevailing wage fringe benefits as a part of her or his hourly pay unless it is determined that the application of this provision is specifically prohibited by Federal law. The prevailing wage fringe benefits to which the employee is entitled shall include, but not be limited to, the fringe benefit determination made by the U.S. Secretary of Labor pursuant to the Federal Davis Bacon Act or by the Board pursuant to this chapter. Every covered employer engaged in projects subject to the Federal Davis-Bacon Act shall offer this option to each employee at the time he or she is first employed.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 438.
Band Ordinance 41-22.

SUBCHAPTER 8

OCCUPATIONAL SAFETY AND HEALTH OF EMPLOYEES

Section

1071. Duties of Employers and Employees.
1072. Adoption of Rules of Federal Occupational Safety and Health Administration.
1073. Enforcement.

§ 1071. Duties of Employers and Employees.

(a) Each covered employer shall:

(1) furnish employees with a place and condition of employment that is free from recognized hazards that may cause or are likely to cause death or serious physical harm to the employees; and

(2) comply with all occupational safety and health rules promulgated or adopted by the Band pursuant to this subchapter.

(b) Each employee of a covered employer shall comply with all occupational safety and health rules promulgated or adopted pursuant to this subchapter that are applicable to the actions and conduct of the employee.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 439.
Band Ordinance 41-22.

§ 1072. Adoption of Rules of Federal Occupational Safety and Health Administration.

The rules and regulations of the Federal Occupational Safety and Health Administration ("OSHA") of the U.S. Department of Labor, including all future rules or amendments to existing rules, promulgated pursuant to the authority granted to OSHA by the Occupational Safety and Health Act of 1975, (29 U.S.C., §§ 651-678) are hereby adopted by the Band and apply to all covered employers.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 440.
Band Ordinance 41-22.

§ 1073. Enforcement.

(a) The director is authorized to enforce the rules adopted in § 1072 of this chapter pursuant to the enforcement provisions set out in subchapter 9 of this chapter, to the extent her or his authority has not been preempted by Federal law.

(b) For any employer over whom the director's authority to enforce the requirements of this subchapter has been preempted by Federal law and for employers within the reservation who are not subject to the jurisdiction of the Band, the director shall work cooperatively with federal and state officials responsible for enforcing occupational safety and health requirements applicable to such employers to ensure maximum enforcement.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 441.
Band Ordinance 41-22.

SUBCHAPTER 9

ENFORCEMENT

Section

1081. Applicability.
1082. Investigations.
1083. Complaints.
1084. Complaints Against the Band.
1085. Resolution of Violations.
1086. Hearing Procedures.
1087. Sanctions.
1088. Appeals.
1089. Monitoring and Coordination with other Tribal, State and Federal Laws.

§ 1081. Applicability.

The provisions set out in this subchapter shall be used to enforce the requirements set out in this chapter, unless a specific enforcement provision is contained in a particular subchapter, in which case the latter provision shall take priority.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 442.
Band Ordinance 41-22.

§ 1082. Investigations.

(a) On her or his own initiative or on the basis of a complaint filed pursuant to § 1083 or any other provision of this chapter, the director or any field compliance officer designated by the director may make such public or private investigations within the reservation as the director deems necessary:

(1) to ensure compliance with a provision in this chapter;

(2) to determine whether any covered employer has violated any provision of this chapter or its implementing regulations; or

(3) to aid in prescribing rules, regulations, or policies hereunder.

(b) Separate from acting on any complaint filed, the director shall conduct regular compliance reviews to ensure that all covered employers are complying with the requirements of this chapter.

(c) The director or any field compliance officer designated by the director may enter the place of business or employment of any covered employer for the purpose of an investigation or compliance review, at said place of business or employment, in a manner consistent with good safety practices and with the orderly operation of the business activity. The director or officer may:

(1) interview any employee or agent of the covered employer;

(2) review and copy any documents; and

(3) carry out any other activity the TERO director or officer deems necessary to accomplish the investigation or compliance review, provided that, the director or officer shall comply with the requirements of subsection (e) of this section when reviewing or copying any confidential documents.

(d) For the purpose of investigations, compliance reviews, or hearings, which, in the opinion of the director or the TERO Commission, are necessary and proper for the enforcement of this chapter, the director or the chairperson of the TERO Commission may administer oaths or affirmations, subpoena witnesses, take evidence, and require the production of books, papers, contracts, agreements, or other documents, records or information that the director or the TERO Commission deems relevant to the inquiry.

(e) Any state or federal tax records, trade secrets, or privileged or confidential commercial, financial, or employment information subpoenaed or otherwise obtained pursuant to the provisions of this chapter or used at a compliance hearing or subsequent appeal to the Band's Court of Central Jurisdiction:

(1) shall be regarded as confidential records of the TERO Commission or the Court;

(2) shall not be opened to public inspection;

(3) shall be used only by the director, the TERO Commission, or parties to a compliance hearing or subsequent appeal to the court; and

(4) shall be used in a manner that, to the maximum extent possible consistent with the requirement of fairness to the parties, protects the confidentiality of the documents.

Any person, including but not limited to any employee or official of the Band, who willfully discloses such confidential records, except as expressly authorized by this chapter or Court order, may be subject to a civil fine not to exceed $500.00.

(f) Documents obtained from a covered employer under this section shall be returned to the employer at the conclusion of any investigation, compliance review, or hearing, including the end of any available appeal period.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 443.
Band Ordinance 41-22.

§ 1083. Complaints.

Any individual, group of individuals, business, or organization that believes any covered employer other than the Band, or the director or other TERO staff, has violated any requirement imposed by this chapter or any regulation issued pursuant to it, may file a complaint with the director or, if the complaint is against the director or other TERO staff, with the chairperson of the TERO Commission. The complaint shall be in writing and shall provide such information as is necessary to enable the director or an independent party appointed by the TERO Commission to carry out an investigation. Within 15 days after receipt of the complaint, and on a regular basis thereafter, the director or the independent party appointed by the TERO Commission shall provide the complaining party with a written report on the status of the complaint. The director or the independent party appointed by the TERO Commission shall, within 30 days of the date on which a complaint is filed, complete an investigation of the complaint. Upon request, the

TERO Commission may grant the Director or the independent party appointed by the TERO Commission an extension of no more than 30 days to complete the investigation. If upon investigation the director or the independent party appointed by the TERO Commission has reason to believe a violation has occurred, he or she shall proceed pursuant to the provisions of this chapter.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 444.
Band Ordinance 41-22.

§ 1084. Complaints Against the Band.

Any individual who believes the Band, including any office, division, branch, subsidiary entity, or commercial enterprise of the Band, other than the director or other TERO staff, has violated any requirement imposed by this chapter or any regulation issued pursuant to it may file a complaint with the director, but only after the individual has either:

(a) filed a complaint with and exhausted the administrative remedies provided by the involved office, division, branch, subsidiary entity, or commercial enterprise of the Band; or

(b) filed a complaint with the involved office, division, branch, subsidiary entity, or commercial enterprise of the Band and 60 days have passed since filing and no meaningful action has been taken on the complaint by that office, division, subsidiary entity, or commercial enterprise.

Upon receiving a complaint that meets the requirements of this section, the director shall proceed in the same manner as he or she would on a complaint filed pursuant to § 1083 of this chapter, except that the director and the TERO Commission shall take into consideration any written decision concerning the complaint issued by the office, division, branch, subsidiary, entity, or commercial enterprise of the Band that is the subject of the complaint.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 445.
Band Ordinance 41-22.

§ 1085. Resolution of Violations.

(a) If, after conducting an investigation or compliance review, the director has reasonable cause to believe a violation of this chapter or any regulation issued pursuant to it has occurred, including a failure by a party to comply with a subpoena

or other request during an investigation, the director shall notify the covered employer or covered entity in writing, delivered by registered mail, specifying the alleged violations.

(b) The director shall make a good faith effort to achieve an informal settlement of the alleged violation by meeting with the covered employer and taking other appropriate action.

(c) If the director is unable to achieve an informal settlement, he or she shall issue a formal notice of non-compliance, which shall advise the covered employer of its right to request a hearing. The formal notice shall set out the nature of the alleged violation and the steps that must be taken to come into compliance. It shall provide the covered employer with a reasonable time, which shall not be less than ten (10) days from the date of service of such notice, to comply. If the director has reason to believe that irreparable harm will occur during that period, the Director may require that compliance occur in less than ten (10) days.

(d) If the covered employer disputes the violation, as provided for in the formal notice, the covered employer may request a hearing before the TERO Commission, which shall be held no sooner than five (5) days and no later than 30 days after the date for compliance set forth in the formal notice. The director or the covered employer may ask the TERO Commission to hold the hearing sooner. The TERO Commission shall grant such a request only upon a showing that an expedited hearing is necessary to avoid irreparable harm.

(e) If a covered employer fails or refuses to comply and does not request a hearing, the director shall request the chairperson of the TERO Commission to convene a session of the TERO Commission for the purpose of imposing sanctions on the covered employer. This session shall take place as soon as necessary to avoid irreparable harm.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 446.
Band Ordinance 41-22.

§ 1086. Hearing Procedures.

(a) Any hearing held pursuant to this chapter shall be conducted by the TERO Commission. The hearing shall be governed by rules of practice and procedure that are adopted by the TERO Commission. The director and the covered employer shall have the right to call and cross examine witnesses, as well as present physical evidence. The TERO Commission may consider any evidence that it deems relevant to the hearing. The TERO Commission shall not be bound by technical rules of evidence in the conduct of hearings under this chapter, and the presence of

informality in any proceeding, as in the manner of taking testimony, shall not invalidate any order, decision, rule, or regulation made, approved, or confirmed by the TERO Commission. The director shall have the burden of proving that the covered employer violated this chapter by a preponderance of the evidence. An audio recording shall be made of each hearing. No stenographic record of the proceedings and testimony shall be required except upon arrangement by, and at the cost of, the covered employer.

(b) The director shall prosecute the alleged violation on behalf of the TERO. During the hearing and at all stages of the enforcement process provided for in this chapter, the director may be represented by the Band Solicitor General's Office. If the covered employer is an office or subsidiary of the Band Government and the Band Solicitor General's Office determines it would create a conflict to represent the director, the Solicitor General may obtain outside legal counsel for the director.

(c) The TERO Commission shall sit as an impartial judicial body. The TERO Commission shall establish procedures and safeguards to ensure that the rights of all parties are protected and that there is no improper contact or communication between the TERO Commission and the director during the hearing phase of the enforcement process.

(d) If the TERO Commission requires legal assistance during the hearing process, or at any other phase of the enforcement process, and it would be a conflict of interest for the Band Solicitor General's Office to provide such representation, the Solicitor General shall attempt to retain outside legal counsel.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 447.
Band Ordinance 41-22.

§ 1087. Sanctions.

(a) If, after a hearing, the TERO Commission determines that the alleged violation of this chapter or a regulation issued pursuant to it has occurred, and that the party charged has no adequate defense in law or fact, or if a party was issued a formal notice of noncompliance and failed to request a hearing, the TERO Commission may:

(1) deny such party the ability to commence business on lands owned by or for the benefit of the Band or its members on the reservation, provided that the party is not an office, division, branch, subsidiary, entity, or commercial enterprise of the Band;

(2) suspend such party's business activity on lands owned by or for the benefit of the Band or its members on the reservation, provided that the party is not an office, division, branch, subsidiary, entity, or commercial enterprise of the Band;

(3) terminate such party's business activity on lands owned by or for the benefit of the Band or its members on the reservation, provided that the party is not an office, division, branch, subsidiary, entity, or commercial enterprise of the Band;

(4) deny the ability of such party to conduct any further business with the Band or on lands owned by or on behalf of the Band or its members on the reservation, provided that the party is not an office, division, branch, subsidiary, entity or commercial enterprise of the Band;

(5) impose a civil fine of up to $500.00 per violation per day following the date for compliance;

(6) order such party to make payment of back pay or other damages to any aggrieved party;

(7) order such party to dismiss any employees hired in violation of the Band's employment rights requirements;

(8) reimburse any party who improperly paid a TERO fee or overpaid said fee, but no interest shall be paid in such cases; or

(9) order the party to take such other action as is necessary to ensure compliance with this chapter or to remedy any harm caused by a violation of this chapter, consistent with the requirements of the laws of the Band and the Indian Civil Rights Act, 25 U.S.C., § 1301, *et seq.*

(b) The TERO Commission's decision shall be in writing and shall be served on the charged party by registered mail or in person by an employee of the TERO no later than 30 days after the close of the hearing. The decision shall contain findings of fact sufficient to support the TERO Commission's ordered relief, or lack thereof. Upon a showing by the Director or the charged party that further delay will cause irreparable harm, the TERO Commission shall issue its decision within ten (10) days after the close of the hearing. If the party fails to comply with the TERO Commission's decision within ten (10) days, the Director may file for an injunction in the Band's Court of Central Jurisdiction. The Court shall grant such injunctive relief as is necessary to prevent irreparable harm pending an appeal or expiration of the time for the party to file an appeal.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 448.
Band Ordinance 41-22.

§ 1088. Appeals.

(a) An appeal to the Band's Court of Central Jurisdiction may be taken from any formal order of the TERO Commission by any party adversely affected thereby, including a complainant. To take such an appeal, a party must file a notice of appeal in the Band's Court of Central Jurisdiction and serve a copy of the notice of appeal on the director and any other party to the proceeding no later than 20 days after the party receives a copy of the TERO Commission's decision.

(b) The notice of appeal shall:

(1) set forth the order from which the appeal is taken;

(2) specify the grounds upon which reversal or modification of the order is sought;

(3) be signed by the appellant or her or his legal representative; and

(4) comply with any other requirements for actions filed in the Band's Court of Central Jurisdiction, as established by that court.

(c) Except as provided elsewhere in this chapter, the order of the TERO Commission shall be stayed pending the determination of the Court. The director may petition and, for good cause shown, the Court may order the party filing the appeal to post a bond sufficient to cover the monetary damages that the TERO Commission assessed against the party or to assure the party's compliance with other sanctions or remedial actions imposed by the TERO Commission's order in the event that order is upheld by the Court.

(d) The Court shall review the decision of the TERO Commission de novo.

(e) If a party has failed to come into compliance with a decision of the TERO Commission from which no appeal has been taken or a decision of the Court, within 20 days after receipt of notice of such decision, the Director shall petition the Court and the Court shall grant such orders as are necessary and appropriate to enforce the orders of the TERO Commission or Court.

(f) If the order of the TERO Commission is reversed or modified, the Court shall specifically direct the TERO Commission as to further action the TERO Commission shall take in the matter, including making and entering any order or orders in connection therewith, and the limitations, or conditions to be contained therein.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 449.
Band Ordinance 41-22.

§ 1089. Monitoring.

If, when carrying out inspections at work sites or otherwise carrying out their responsibilities under this chapter, the director or TERO compliance officers have reason to believe that a requirement of a Tribal, Federal, state, or local law, act, or regulation, other than the ones included in this chapter, may have been violated by a party, the director and TERO compliance officers are authorized to document such possible violations, to report said violations to the appropriate enforcement agency, and, to the extent that resources permit and the director determines it to be appropriate, assist that agency in its attempt to investigate and cure the possible violation.

Historical and Statutory Notes

Source:
Band Ordinance 15-14, Title III, Exhibit A, § 550.
Band Ordinance 41-22.

CHAPTER 5

DEPARTMENT OF CANNABIS REGULATION

Section
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§ 1201. Purpose.

The purposes of this statute are:

(a) to promote the health, safety, and security of the Mille Lacs Band of Ojibwe and its members, protect public health and safety, and to promote safe and responsible cannabis business activities in the Band's sovereign territory.

(b) to foster Band economic development in the cannabis industry by:

(1) meeting the legitimate market demand for cannabis and cannabis products;

(2) promoting a local industry for cannabis and cannabis products;

(3) supporting and prioritizing the growth of the Band's communities; and

(4) eliminating the illicit market for cannabis and cannabis products.

(c) to provide regulation of cannabis business activities by creating a Tribal regulatory agency that will regulate, license, monitor and tax the cultivation, manufacturing, testing, distribution, and sale of cannabis and cannabis products in the Band's sovereign territory, and enforce all applicable regulations.

(d) to promote and protect Band sovereignty.

(e) to ensure continued compliance with Band-awarded federal and state grants.

Historical and Statutory Notes

Source:
Band Act 13-24.

§ 1202. Definitions.

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

(a) **"Administrative order"** means a directive issued by the Department of Cannabis Regulation.

(b) **"Adult-use cannabinoid product**" means a cannabinoid product that is approved for sale by the Department or is substantially similar to a product approved by the Department. Adult-use cannabinoid product includes edible cannabinoid products but does not include medical cannabinoid products.

(c) **"Adult-use cannabinoid concentrate"** means cannabis concentrate that is approved for sale by the Department or is substantially similar to a product approved by the Department. Adult-use cannabis concentrate does not include artificially derived cannabinoids.

(d) **"Adult-use cannabis flower"** means a cannabis flower that is approved for sale by the Department or is substantially similar to a product approved by the Department. Adult-use cannabis flower does not include medical cannabis flower, hemp plant parts, or hemp-derived consumer products.

(e) **"Advertisement"** means any written or oral statement, illustration, or depiction that is intended to promote sales of cannabis flower, cannabinoid products, lower potency edible products, hemp-derived consumer products, or sales at a specific cannabis business and includes any newspaper, radio, internet and electronic media, or television promotion; the distribution of fliers and circulars; and the display of window and interior signs in a cannabis business.

(f) **"Artificially derived cannabinoid"** means a cannabinoid extracted from a cannabis plant, cannabis flower, hemp plant, or hemp plant parts with a chemical makeup that is changed after extraction to create a different cannabinoid or other chemical compound by applying a catalyst other than heat or light. Artificially derived cannabinoid includes but is not limited to any tetrahydrocannabinol created from cannabidiol but does not include cannabis concentrate, cannabinoid products, or hemp-derived consumer products.

(g) **"Band Assembly"** means the Band's Legislative Branch, established pursuant to 3 MLBS § 2, and comprised of the duly elected Speaker of the Assembly and three (3) District Representatives.

(h) **"Batch"** means

(1) a specific quantity of cannabis plants that are cultivated from the same seed or plant stock, are cultivated together, are intended to be harvested together, and receive an identical propagation and cultivation treatment;

(2) a specific quantity of cannabis flower that is harvested together; is uniform and intended to meet specifications for identity, strength, purity, and

composition; and receives identical sorting, drying, curing, and storage treatment; or

(3) a specific quantity of a specific cannabinoid product, edible cannabinoid product, artificially derived cannabinoid, or hemp-derived consumer product that is manufactured at the same time and using the same methods, equipment, and ingredients that is uniform and intended to meet specifications for identity, strength, purity, and composition, and that is manufactured, packaged, and labeled according to a single batch production record executed and documented during the same cycle of manufacture and produced by a continuous process.

(i) **"Batch number"** means a unique numeric or alphanumeric identifier assigned to a batch of cannabis flower or a batch of cannabinoid product, edible cannabinoid product, artificially derived cannabinoid, or hemp-derived consumer product.

(j) **"Board"** means the Department of Cannabis Regulation Board pursuant to this chapter.

(k) **"Cannabinoid"** means any of the chemical constituents of hemp plants or cannabis plants that are naturally occurring, biologically active, and act on the cannabinoid receptors of the brain. Cannabinoid includes but is not limited to tetrahydrocannabinol and cannabidiol.

(l) **"Cannabinoid extraction"** means the process of extracting cannabis concentrate from cannabis plants or cannabis flower using water, lipids, gases, solvents, or other chemicals or chemical processes, but does not include the process of extracting concentrate from hemp plants or hemp plant parts or the process of creating artificially derived cannabinoids.

(m) **"Cannabinoid product"** means cannabis product, a hemp-derived consumer product, or lower-potency hemp edible.

(n) **"Cannabinoid profile"** means the amounts of each cannabinoid that the Department requires to be identified in testing and labeling, including but not limited to delta-9 tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and cannabidiolic acid in cannabis flower, a cannabinoid product, a batch of artificially derived cannabinoid, or a hemp-derived consumer product, expressed as percentages measured by weight and, in the case of cannabinoid products and hemp-derived consumer products, expressed as milligrams in each serving and package.

(o) **"Cannabis business"** means

(1) cannabis cultivator;

(2) cannabis manufacturer;

(3) cannabis retailer;

(4) cannabis wholesaler; or

(5) cannabis testing facility.

(p) **"Cannabis concentrate"**

(1) means:

(i) the extracts and resins of a cannabis plant or cannabis flower;

(ii) the extracts or resins of a cannabis plant or cannabis flower that are refined to increase the presence of targeted cannabinoids; or

(iii) a product that is produced by refining extracts or resins of a cannabis plant or cannabis flower and is intended to be consumed by combustion or vaporization of the product and inhalation of smoke, aerosol, or vapor from the product; and

(2) does not mean:

(i) industrial hemp, artificially derived cannabinoids, or hemp-derived consumer products.

(q) **"Cannabis flower"** means the harvested flower, bud, leaves, and stems of a cannabis plant. Cannabis flower includes adult-use cannabis flower and medical cannabis flower. Cannabis flower does not include cannabis seed, industrial hemp, or hemp-derived consumer products.

(r) **"Cannabis license"** means a license, as listed in § 1210(a)(2), issued by the Department of Cannabis Regulation.

(s) **"Cannabis plant"** means all parts of the plant of the genus Cannabis that is growing or has not been harvested and has a delta-9 tetrahydrocannabinol concentration of more than 0.3% on a dry weight basis.

(t) **"Cannabis product"**

(1) means any of the following:

(i) cannabis concentrate;

(ii) a product infused with cannabinoids, including but not limited to tetrahydrocannabinol, extracted or derived from cannabis plants or cannabis flower; or

(iii) any other product that contains cannabis concentrate; or

(iv) a product infused with artificially derived cannabinoids; and

(2) includes adult-use cannabis products, including but not limited to edible cannabis products and medical cannabinoid products; and

(3) does not include cannabis flower, artificially derived cannabinoid, lower-potency hemp edibles, hemp-derived consumer products, or hemp-derived topical products.

(u) **"Cannabis seed"** means the viable seed of the plant of the genus Cannabis that is reasonably expected to grow into a cannabis plant. Cannabis seed does not include hemp seed.

(v) **"Cannabis worker"** means any individual employed by a cannabis business and any individual who is a contractor of a cannabis business whose scope of work involves the handling of cannabis plants, cannabis flower, artificially derived cannabinoids, or cannabinoid products.

(w) **"Cultivation"** means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis plants, cannabis flower, hemp plants, or hemp plant parts.

(x) **"Edible cannabinoid product"** means any product that is intended to be eaten or consumed as a beverage by humans; contains a cannabinoid, including an artificially derived cannabinoid, in combination with food ingredients; is not a drug; and is a type of product approved for sale by the Department, or is substantially similar to a product approved by the Department including but not limited to products that resemble nonalcoholic beverages, candy, and baked goods. Edible cannabinoid product includes lower potency edible products.

(y) **"Hemp-derived consumer products"**

(1) means a product intended for human or animal consumption, does not contain cannabis flower or cannabis concentrate, and:

(i) contains or consists of hemp plant parts; or

(ii) contains hemp concentrate or artificially derived cannabinoids in combination with other ingredients.

(2) does not include artificially derived cannabinoids, lower-potency hemp edibles, hemp-derived topical products, hemp fiber products, or hemp grain.

(z) **"Hemp plant"** means all parts of the plant of the genus Cannabis that is growing or has not been harvested and has a delta-9 tetrahydrocannabinol concentration of no more than 0.3% on a dry weight basis.

(aa) **"Hemp plant parts"** means any part of the harvested hemp plant, including the flower, bud, leaves, stems, and stalk, but does not include derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers that are separated from the plant. Hemp plant parts does not include hemp fiber products, hemp grain, or hemp seed.

(bb) **"Hemp seed"** means the viable seed of the plant of the genus Cannabis that is intended to be planted and is reasonably expected to grow into a hemp plant. Hemp seed does not include cannabis seed or hemp grain.

(cc) **"Industrial hemp"** means the plant Cannabis sativa L. and any part of the plant, whether growing or not, including the plant's seeds, and all the plant's derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis.

(dd) **"Intoxicating cannabinoid"** means a cannabinoid, including an artificially derived cannabinoid, that when introduced into the human body impairs the central nervous system or impairs the human audio, visual, or mental processes. Intoxicating cannabinoid includes but is not limited to any tetrahydrocannabinol.

(ee) "**License**" means permission to operate a specific cannabis business or to be employed as a cannabis worker, issued by the Department of Cannabis Regulation pursuant to this Code and the Department's regulations.

(ff) **"Mille Lacs Band of Ojibwe Department of Cannabis Regulation"** or **"Department"** means the Department created by this Code, as described in §1203.

(gg) **"Nonintoxicating cannabinoid"** means a cannabinoid that when introduced into the human body does not impair the central nervous system and does not impair the human audio, visual, or mental processes. Nonintoxicating cannabinoid includes but is not limited to cannabidiol but does not include any artificially derived cannabinoid.

(hh) **"Outdoor advertisement"** means an advertisement that is located outdoors or can be seen or heard by an individual who is outdoors and includes billboard; advertisements on benches; advertisements at transit stations or transit shelters; advertisements on the exterior or interior of buses, taxis, light rail transit, or business vehicles; and print signs that are placed or located on the exterior property of a cannabis business.

(ii) **"Seed-to-sale electronic tracking system"** means the system for integrated cannabis tracking, inventory, and verification established or adopted by the Department.

(jj) **"Sovereign territory"** means the Band's Indian country as defined in 18 U.S.C. § 1151. It includes "Tribally regulated land" as defined in Minn. Stat. § 3.9228 subd.1(i).

(kk) **"Tetrahydrocannabinol"** or **"THC"** means delta-9-tetrahydrocannabinol, the main psychoactive ingredient in cannabis.

(ll) **"Volatile solvent"** means any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. Volatile solvent includes but is not limited to butane, hexane, and propane.

Historical and Statutory Notes

Source:
Band Act 13-24.

§ 1203. Department of Cannabis Regulation.

(a) **General.** The Department of Cannabis Regulation shall be an independent entity, Tribal regulatory agency under the administrative control of its Board.

(b) **Powers and duties.** The Department shall be responsible for:

(1) exercising regulatory authority over cannabis businesses within the Band's sovereign territory to ensure compliance with applicable law, including this Code and any future policies and regulations adopted by the Department;

(2) developing, maintaining and enforcing an organized system of cannabis regulation within the Band's sovereign territory, including

(i) promulgating regulations to implement this Code;

(ii) issuing and administering licenses to cannabis businesses;

(iii) monitoring cannabis business licensees' employees, employee names, addresses, dates of birth, and photo-copies of driver's license or other government-issued identification demonstrating each individual is over 21 years of age shall be shared with the Department and recorded;

(iv) monitoring, inspecting, and investigating cannabis businesses for compliance with all applicable laws and license terms; and

(v) issuing administrative orders for noncompliance and violations and overseeing corrective and remedial action; and

(3) performing functions necessary to carry out this Code.

(c) **Operational authority.** The Department shall not exercise operational authority over any cannabis business. Management and operational authority of any Band-owned cannabis business shall be vested in Mille Lacs Corporate Ventures or a separately chartered corporation under 16 MLBS § 106(d).

(e) **Regulations**. The Department shall have the power and duty to develop, adopt and promulgate regulations implementing this Code, which shall:

(1) establish a cannabis regulatory system to protect, maintain, and improve the health and safety of the community, including cannabis workers;

(2) establish rules for preventing unauthorized access to cannabis and cannabis products by individuals under 21 years of age;

(3) establish standards for product testing, packaging and labeling, including testing protocols, information and marks to be included on labels and any other information or notices required of licensees;

(4) establish an online process for submitting cannabis business license applications;

(5) establish a process for accepting and adjudicating cannabis licenses, including criminal background check requirements if deemed necessary by the Department and whether any criminal offense disqualifies a person or entity from holding a license, and an administrative reconsideration or appeal process;

(6) establish categories of monitoring and reporting data required to be collected from Band license holders and submitted via a seed-to-sale tracking system or other method;

(7) establish a process for inspecting and approving types of cannabis flower and cannabinoid products eligible for retail sale within the Band's sovereign territory;

(8) establish agricultural and food safety practices as required by this Code;

(9) establish requirements for odor control by licensees as required by this Code;

(10) establish acceptable disposal methods for cannabis that cannot be sold under § 1212(g) of this Code;

(11) establish a process for approving the use of certain pesticides fertilizers, soil amendments, plant amendments, and other inputs and methods to cultivate cannabis;

(12) establish standards and a review process for outdoor advertisements, non-cannabis merchandise sales, and other marketing activities;

(13) establish allowable methods of extraction, concentration, and conversion, and volatile chemicals and catalysts, that cannabis manufacturers may use;

(14) establish standards for chemicals or compounds that cannabis manufactures may add to cannabis concentrate or artificially derived cannabinoids; and

(15) establish procedures for ensuring license holders' compliance with Band law and regulations, license terms, any compacts with the State of Minnesota and other applicable laws and policies; and

(16) any other matter within the scope of this Code.

(f) **Rulemaking process**.

(1) The Department shall promulgate the regulations authorized by § 1203(e) with or without a hearing according to the notice and comment process specified herein.

(i) **Notice of intent to adopt.** The Department shall give notice of its intent to adopt a regulation related to this Code by posting a copy of the notice in the Band Government Center and on the Band's website, and by electronically delivering a copy of the notice to the Chief Executive, the Speaker of the Band Assembly, the District Representatives, the Solicitor General, the Commissioner of Administration, the Commissioner of Corporate Affairs, and the manager of any cannabis business licensed by the Band. The notice shall include a copy of the proposed regulation and a description of the nature and effect of the proposed regulation. In addition, the notice shall include the following statements:

(A) comments may be submitted on the proposed regulation no later than 30 calendar days from the date of the notice; and

(B) the proposed regulation may be modified if supported by the data and views submitted.

(ii) **Review.** The Department shall review all comments received during the comment period, shall make such changes to the proposed

regulation as it deems reasonable and appropriate, and shall approve the regulation by resolution of the Board. Proposed regulations shall be posted on the Band's website during the comment period.

(iii) **Adoption; notice of adoption.**

(A) The Department shall, by official action, set the effective date of the regulation and publish and post copies of a notice of adoption of the regulation in the same manner as for the notice of intent to adopt the regulation.

(B) The notice of adoption shall summarize the final regulation and the changes to the proposed regulation, state the effective date, and announce that free copies of the regulation are available from the Department.

(C) Copies of the notice and the final regulation shall be electronically delivered to all persons who were sent a copy of the notice of intent to adopt.

(D) All final regulations shall be available on the Band's website.

(2) **Initial cannabis regulations**. The Department shall adopt a set of Initial Cannabis Regulations meeting the requirements of § 1203(e) and this Code within 180 calendar days after the first meeting of all the members of the first Board.

(3) **Annulment**. Any cannabis regulation may be annulled by statute.

(g) **Monitoring and investigation.** The Department shall have the power and duty to monitor and investigate all cannabis businesses with the Band's sovereign territory or licensed by the Band for compliance with Band law and regulations, license terms, any compacts with the State of Minnesota and other applicable laws and policies.

(h) **Access.** The Department shall have access to all books, files, records, reports, and other data regarding the operation of all cannabis businesses, whether in written or electronic form, as it deems necessary or desirable to carry out its regulatory duties.

Historical and Statutory Notes

Source:
Band Act 13-24.

§ 1204. Department of Cannabis Regulation Board.

(a) **Appointment process.** Each member shall be appointed using the following process.

(1) The Chief Executive shall nominate two (2) individuals and submit their names to the Secretary-Treasurer. Within ten (10) calendar days after receipt of the nominations and documents as listed in paragraph (7) by the Secretary-Treasurer, the Secretary-Treasurer shall ratify one (1) out of the two (2) nominees to be a member of the Board. Such member shall serve until September 1, 2024. Any subsequent appointment, other than to fill a vacancy that occurs prior to the end of the term, shall be for four (4) years.

(2) Each District Representative shall nominate two (2) individuals and submit their names to the Chief Executive. Within ten (10) calendar days after receipt of the nominations and documents as listed in paragraph (7) by the Chief Executive, the Chief Executive shall ratify one (1) of the two (2) nominees to be a member of the Board. Such members shall serve until September 1, 2026. Any subsequent appointment, other than to fill a vacancy that occurs prior to the end of a term, shall be for four (4) years.

(3) The Secretary-Treasurer shall nominate two (2) individuals and submit their names to the Chief Executive. Within ten (10) calendar days after receipt of the nominations and documents as listed in paragraph (7) by the Chief Executive, the Chief Executive shall ratify one (1) of the two (2) nominees to be a member of the Board. Such member shall serve until September 1, 2024. Any subsequent appointment, other than to fill a vacancy that occurs prior to the end of a term, shall be for four (4) years.

(4) If the Chief Executive or the Secretary-Treasurer do not ratify one (1) from any of the nominations sent to them within the time prescribed, then the Band Assembly shall select such member by majority vote.

(5) If any elected official does not submit a nomination within 30 calendar days after a vacancy has occurred, then the Band Assembly shall nominate two (2) individuals by majority vote and submit their names and documents as listed in paragraph (7) to the Chief Executive for ratification to the Board.

(6) No member shall take office until swearing to the oath of office pursuant to Title 2.

(7) The ratifying elected official shall only consider a nominee upon receipt of a complete criminal background investigation, a nomination letter signed by the elected official nominating, a copy of the nominee's resume, and the nominee's contact information.

(b) **Board officers.**

(1) **Officers.** The Board shall have a chairperson, vice-chairperson, and secretary.

(2) **Selection.**

(i) **Chairperson, vice-chairperson.** The members of the Board shall select from among themselves, by majority vote, a chairperson and a vice-chairperson. The chairperson and vice-chairperson shall serve for a period of no longer than two (2) years, unless re-appointed by the Board.

(ii) **Secretary.** The Board may select a member or an employee of the Department to act as secretary of the Board. The secretary shall serve for a period of no longer than two (2) years, unless re-appointed by the Board. An employee acting as secretary at the request of the Board is not a Board member and has no powers of a member.

(3) **Removal of members.** Members may be removed for any reason by a super-majority vote of four (4) out of five (5) members of the Joint Session of the Band Assembly. The determination of the Joint Session is final and un-appealable. A vacancy caused by removal or for any other reason shall be filled in a timely manner pursuant to § 1204(a) of this Chapter.

(c) **Vacancies.**

(1) The chairperson of the Board shall notify the Band Assembly and the Chief Executive of any vacancy on the Board at least 30 calendar days prior to the end of a term, or, in circumstances other than the end of a term, immediately upon the knowledge that a vacancy will occur.

(2) If there is a vacancy on the Board, then the vacancy shall be filled pursuant to § 1204(a) of this Chapter.

(3) Any member, including the chairperson, appointed to fill a vacancy shall serve for the remainder of the term left vacant; however, any member may be re-appointed during this time period pursuant § 1204(a) of this Chapter.

(d) **Qualifications of members.** Board members must be chosen on the basis of relevant training, experience, and such other qualifications considered appropriate.

(1) At minimum, all members must be:

(i) 21 years of age or older;

(2) members must not:

(i) be a Band elected official or commissioner;

(ii) be employed by, or hold any office in, have any ownership or financial stake in, or have any business relation with, any cannabis business within the State of Minnesota;

(iii) be closely related to any owner or manager of a cannabis business licensed by the Department or seeking licensure from the Department;

(iv) be employed by the Mille Lacs Corporate Ventures;

(v) have been convicted of a felony, non-driving related gross misdemeanor, or driving related gross misdemeanor that includes death, careless driving, or bodily harm, within seven (7) years of the date of the final disposition;

(vi) have been convicted of a felony or gross misdemeanor involving the following offenses:

(A) criminal sexual conduct convictions, 1st – 5th degree, including but not limited to rape, attempted rape, and criminal sexual conduct with a juvenile;

(B) fraud;

(C) embezzlement;

(D) theft; or

(E) misrepresentation; or

(vii) have a felony, non-driving related gross misdemeanor, or driving related gross misdemeanor that includes death, careless driving, or bodily harm charge pending. Active stays of adjudication for felonies and gross misdemeanors constitute pending charges.

(3) **Criminal background investigation.** Any nomination for the Board shall be subject to a criminal background investigation to be conducted by the Office of the Solicitor General. All criminal background investigations shall be performed upon the request of the elected official nominating. The

Office of the Solicitor General shall provide the Chief Executive, Secretary-Treasurer, and District Representatives with the results of the criminal background investigation within 14 calendar days. The nomination shall be considered fully received when the elected officials receive the complete and unabridged results of the criminal background investigation from the Solicitor General.

(4) **Current Board members.**

(i) A Board member shall be terminated from the Board if charged with a felony, non-driving related gross misdemeanor, or driving related gross misdemeanor that includes death, careless driving, or bodily harm, regardless of the outcome of the criminal proceedings.

(ii) All Board members shall be subject to an annual criminal background investigation. All criminal background investigations shall be performed upon the request of the Executive Director to the Office of the Solicitor General. The Office of the Solicitor General shall provide the Executive Director with the complete and unabridged results of the criminal background investigation, which shall include any pending charges, within 14 calendar days.

(5) **Duty to report.** Board members shall have a duty to report, in writing, to the Executive Director any pending charge of a felony or gross misdemeanor within five (5) calendar days of becoming aware of the charge. Failure to report the charge constitutes grounds for termination from the Board.

(6) **Conflict of interest.** If a Board member has a potential conflict of interest, the Board member shall announce during the meeting the nature of the potential conflict prior to voting on the issue giving rise to the potential conflict. A Board member shall abstain from a vote when he or she is in a position to influence a decision that may result in a personal gain for her or himself or her or his immediate family. A conflict of interest shall be recorded in the meeting minutes.

(e) **Duties of the board.** The Board shall have the following duties:

(1) to oversee the Department's cannabis licensing activities and hear appeals of Department licensing and enforcement/compliance actions;

(2) examining effectiveness of the Band's cannabis laws and regulations and making recommendations to the Department regarding regulatory changes and to Band Assembly regarding statutory changes;

(3) reviewing developments in the cannabis industry, hemp consumer industry, and medical cannabis industry;

(4) reviewing developments in the study of cannabis flower, cannabis products, cannabinoid products, artificially derived cannabinoids, edibles cannabinoid products, and hemp-derived consumer products;

(5) to approve the Department's regulations, policies, and budget;

(6) to enter into contracts to provide necessary services and supplies to the Department;

(7) to follow compacts or other agreements entered into with the state or federal government in furtherance of this Code; and

(8) to adopt bylaws governing the conduct of the Board, Board meetings and the exercise of Board duties.

(f) **Compensation.** Members, including the chairperson, shall be compensated with $400.00 per meeting, not to exceed $800.00 in one (1) month, except that in the case of a demonstrated emergency, the chairperson may petition the Secretary-Treasurer for compensation for additional meetings. Mileage and other travel expenses will be compensated on the same terms and conditions as apply to Senior Executive Staff appointees as provided by Band law.

(g) **Meetings.**

(1) **Regular meetings.** Regular meetings of the Board shall be held at least monthly and upon written notice. The dates and forms of regular meetings shall be set by official action of the Board.

(2) **Special meetings.** Special meetings of the Board may be called by the chairperson with a minimum of 48 hours written notice to the Board members, by the executive director with a minimum of 48 hours written notice to the chairperson, or by a majority vote of the Board with 48 hours written notice to the chairperson.

(3) **Other.** Either regular or special meetings may be called by petition of a majority of a quorum of the Board members other than the chairperson upon 48 hours written notice to the chairperson.

(4) **Alternative meeting arrangements.** Regular or special meetings may be conducted by telephone, video or web conference, or similar means. The chairperson must provide the Board members with 48 hours written notice prior to convening any meeting under this subsection.

(5) **Consent presumed.** A member's participation in a meeting described herein without explicit objection will constitute consent to the manner in which such a meeting is conducted.

(h) **Quorum.** Three (3) Board members shall constitute a quorum.

(i) **Voting.** All actions of the Board shall be taken by majority vote.

(1) The chairperson shall vote only in the following circumstances:

(i) to break a tie; or

(ii) if necessary, to constitute a quorum in the absence of other members.

(j) **Training.** Training for Board members is highly encouraged. If members are not Band government employees and are required to be absent from their employment to attend mandatory training as determined by the Board, then members shall be compensated at their previously documented hourly rates of pay for each hour that they are in attendance at such training plus mileage and other travel expenses as stated in subsection (f) above. If members are Band government employees, then absence from employment will not be deducted from their accrued annual leave and they will be paid as if they were at work plus expenses as stated in subsection (f) above.

Historical and Statutory Notes

Source:
Band Act 13-24.

§ 1205. Executive Director of the Department.

(a) **Executive director.**

(1) The Board shall hire an executive director who has:

(i) relevant experience and training in management and regulatory enforcement of sufficient scope, depth, and relevancy to enable her or him to direct the work of the Department;

(ii) high moral character; and

(iii) the minimum qualifications for Board members as listed in § 1204(d)(1), (2).

(2) The Band's Mille Lacs Band of Ojibwe Personnel Policy and Procedures shall apply to the executive director.

(b) **Duties of the executive director.** The executive director shall have the following duties:

(1) to administer day-to-day functions of the Department;

(2) to obtain office space and supplies, and hire administrative staff, compliance staff, and legal counsel, independent of the Solicitor General, necessary to carry out the Department's official functions, policies, activities, and objectives;

(3) to prepare and submit to the Band Assembly a proposed budget for the Department, which must be approved by the Board;

(4) to request the Office of the Solicitor General perform annual background investigations of the Board members;

(5) to develop regulations, subject to approval and promulgation by the Board, exercising the Department's powers and duties under this Code;

(6) to review environmental protection enforcement actions and nuisance complaints;

(7) to recommend changes to the Board regarding Department policies and regulations;

(8) to attend all meetings of the Board as a non-voting member;

(9) to provide administrative support to the Board;

(10) at the direction of the Board, the executive director may enter into interagency agreements with the Band's Department of Education, Department of Health and Human Services, or any other agency of the Mille Lacs Band to obtain material and personnel support necessary to carry out the Board's mandates, policies, activities and objectives;

(11) to perform other duties assigned by the Board;

(12) to give an annual report to the Band Assembly by September 30, 2025, and each year by September 30 thereafter, which shall include:

(i) how many cannabis business licenses have been approved, revoked, suspended, or denied and how many appeals have been filed with Board;

(ii) a coordinated education program to address and raise public awareness about the top three (3) adverse health effects, as determined by the Band's Commissioner of Health and Human Services, associated with the use of cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products by individuals under 21 years of age;

(iii) a coordinated education program to educate pregnant individuals, breastfeeding individuals, and individuals who may become pregnant on the adverse health effects of cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumer products;

(iv) training, technical assistance, and educational materials for home visiting programs and child welfare workers regarding safe and unsafe use of cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumer products in homes with infants and young children;

(v) a coordinated education program to educate middle school and high school students on the health effects on children and adolescents of the use of cannabis flower, cannabis products, lower-potency hemp edibles, hemp-derived consumer products, and other intoxicating or controlled substances;

(vi) any environmental protection violations or nuisance allegations made against licensed cannabis businesses during the preceding year and whether current Band environmental standards for water and air quality and solid waste disposal are adequate to protect human and environmental health, as determined by the Commissioner of Natural Resources;

(vii) proposed legislative changes, including but not limited to recommendations to streamline licensing systems and related administrative processes, as recommended by the Board; and

(viii) any other pertinent information as determined by the Board or requested by the Band Assembly.

(c) **Removal; suspension.** The executive director may be removed for good cause by a super-majority vote of four (4) out of five (5) of the Board members. In addition, if the executive director is charged with a felony in any jurisdiction, the Board shall immediately suspend the executive director with or without pay until the charges have been resolved.

(d) **Vacancy.** If there is an executive director vacancy for any reason, then the Board shall immediately appoint an interim director.

(e) **Initial Executive Director.** The Chief Executive and Band Assembly shall by majority vote hire a qualified individual, as determined in § 1205(a), to serve as the initial executive director for the Department of Cannabis Regulation.

Historical and Statutory Notes

Source:
Band Act 13-24.
Band Act 52-24.

§ 1206. Seed-to-Sale Electronic Tracking System.

(a) Each cannabis business or worker who has been issued a Band license shall utilize the Band's online seed-to-sale electronic tracking system utilized for plant tags, product identification, and chain of custody in order to track cannabis and cannabis products through cultivation, manufacturing, distribution and sale.

(b) The Department shall contract with an outside vendor to establish an online seed-to-sale electronic tracking system for integrated cannabis tracking, inventory management, and verification from seed to disposal or sale to eligible customers.

(c) The online seed-to-sale electronic tracking system must allow licensed cannabis businesses to submit monitoring data to the department for reporting purposes as required by regulation.

Historical and Statutory Notes

Source:
Band Act 13-24.

§ 1207. Approval of Cannabis Flower and Products.

(a) **General.** The Department shall inspect and approve types of cannabis flower and cannabinoid products eligible for retail sale.

(b) **Tetrahydrocannabinol limits.** Unless specified within a compact with the State of Minnesota, the Department shall determine reasonable limits on the amount of tetrahydrocannabinol that products contain.

(c) **Products out of compliance.** The Department shall deem any cannabinoid products out of compliance, and thus prohibited from retail sale, that:

(1) appear to be a lollipop or ice cream;

(2) appear to be the likeness, or contains characteristics of, a real or fictional person or fruit;

(3) contains a synthetic cannabinoid;

(4) if the product is an edible product, contains an ingredient other than a cannabinoid that is not approved by the United States Food and Drug Administration for use of food; or

(5) is designed to appeal to individuals under 21 years of age.

(d) **Products in compliance.** The following product formats may be made available for retail sale:

(1) raw cannabis flower;

(2) cannabis pre-rolls;

(3) cannabis concentrates, including products intended for combustion or vaporization;

(4) cannabis topicals;

(5) cannabis tinctures and/or oral products;

(6) cannabis edibles; and

(7) any another format as approved by the Department by regulation.

Historical and Statutory Notes

Source:
Band Act 13-24.
Band Act 52-24.

§ 1208. Agricultural and Food Safety Practices.

(a) **Plant propagation standards.** The Department shall establish testing and labeling requirements for the methods used to grow new cannabis plants, including but not limited to growth from seed, clone, cutting, or tissue culture. The requirements must prohibit the cultivation of cannabis plants derived from genetic engineering.

(b) **Agricultural best practices.**

(1) The department shall establish best practices for:

(i) the cultivation and preparation of cannabis plants; and

(ii) the use of pesticides, fertilizers, soil amendments, and plant amendments in relation to growing cannabis plants.

(c) **Edible cannabinoid product handling.**

(1) The department shall establish:

(i) best practices for safe food handling procedures to ensure the health and safety of the public; and

(ii) finished product packaging and storage standards to guarantee the integrity of the product.

(2) An edible cannabinoid product must not be considered adulterated solely because the product contains tetrahydrocannabinol, cannabis concentrate, or any other materials extracted or derived from a cannabis plant or flower.

(3) All edible cannabinoid product handling and manufacturing must be conducted in a safe, sanitary environment that is separate from a premises where food is manufactured.

(4) Licensed manufacturers must establish and maintain standard operating procedures that demonstrate policies and employee training on clean room standards in locations where cannabinoid products are being produced.

Historical and Statutory Notes

Source:
Band Act 13-24.

§ 1209. Applicable Environmental Standards.

(a) **General.** Cannabis businesses within the Band's sovereign territory shall be subject to the environmental protection standards and permitting requirements established by the Band's Department of Natural Resources, including Title 11 and all applicable Band laws, policies, and regulations.

(b) **Reporting.** Each licensed cannabis business is required to report any and all environmental protection enforcement actions or nuisance complaints made against the business to the Department's executive director.

(c) **Necessity of new standards**. The Department may, in consultation with the Commissioner of Natural Resources, suggest to Band Assembly whether amendments to Title 11 are necessary to:

(1) establish appropriate water standards for cannabis businesses that promote and protect the integrity of its sovereign land, water, and surrounding communities.

(2) establish appropriate energy standards that minimizes a cannabis business' carbon footprint and environmental impact.

(3) establish appropriate solid waste standards for the disposal of:

(i) cannabis flower and cannabinoid products;

(ii) packaging;

(iii) recyclable materials, including minimum requirements for the use of recyclable materials; and

(iv) other solid waste.

(d) **Pesticide use.** All cannabis cultivators shall only apply pesticides deemed to be "Minimum Risk Pesticides" as defined by the United States Environmental Protection Agency.

Historical and Statutory Notes

Source:
Band Act 13-24.

§ 1210. License Issuance; Transfers; Adjustments; Appeals.

(a) **Cannabis license availability.**

(1) The Department shall issue a separate, non-transferable cannabis license for each cannabis activity authorized under this Code.

(i) Each license shall be assigned a unique identification number that shall appear anywhere a "Department-issued license number" is required by this Code or applicable law.

(ii) Vertical integration is allowed such that a single applicant may be issued licenses for each different activity listed in § 1210(a)(2), except where it would violate other provisions of this Code or applicable law.

(2) When the Department approves a cannabis license, a separate cannabis license shall be issued for:

(i) cannabis cultivator;

(ii) cannabis manufacturer;

(iii) cannabis wholesale;

(iv) cannabis retail (without on-site consumption);

(v) cannabis retail (with on-site consumption);

(vi) cannabis testing;

(vii) cannabis event organizer;

(viii) lower-potency hemp edible manufacturer; and

(ix) lower-potency hemp edible retailer.

(b) **Issuance of license.**

(1) The Department shall only issue cannabis licenses to enrolled Mille Lacs Band members, Mille Lacs Corporate Ventures or any Band-owned subsidiary.

(2) A cannabis license shall only be issued by the Department to a cannabis business after the following materials have been provided to and reviewed by the Department:

(i) the name, address, date of birth, and, if applicable, tribal identification number of the applicant;

(ii) the disclosure of the ownership and control under paragraph (4);

(iii) the specific cannabis activity proposed for licensure;

(iv) the mailing and physical address of the cannabis business premises where cannabis activities are intended to take place;

(v) standard operating procedures outlining that the intended methods for operation are compliant with this Code and the Department's regulations;

(vi) a list of proposed employees, including their names, addresses, dates of birth, and photo-copy of their driver's license or other government-issued identification demonstrating each individual is over 21 years of age;

(vii) criminal background checks if deemed necessary by the Department and conducted in a manner determined by the Department via regulation;

(viii) a safety and security plan that guarantees the health and safety of the cannabis business, its employees, and the surrounding community compliant with § 1212(i) of this Chapter;

(ix) a floor plan identifying the square footage available and descriptions of each functional area of the cannabis business facility and premises; and

(x) a copy of the applicant's business plan showing the expected size of the business; anticipated growth; the methods of record keeping; the knowledge and experience of the applicant and any officer, director, manager, and general partner of the business; the environmental plan; and other relevant financial and operational components;

(xi) an explanation detailing the funding sources used to finance the business;

(xii) certification that the applicant will comply with the requirements of this Code relating to the ownership and operation of a cannabis business;

(xiii) a description of the training and education that will be provided, or has already been provided, to any employee regarding responsible cannabis use;

(xiv) any other information the Department deems relevant.

(3) No license shall be issued that would:

(i) place the Band in violation of applicable Band law, grant or funding conditions, or inter-governmental compacts;

(ii) pose a threat to the public interest or health and welfare of the Band and its communities; or

(iii) pose a threat to the effective regulation of cannabis within the Band's sovereign territory; or

(iv) sell cannabis in a casino or in an establishment physically attached to a casino.

(4) An applicant must file and update as necessary a disclosure of ownership and control. Such ownership and control shall be 51% or more owned by an enrolled Mille Lacs Band member or 100% owned by Mille Lacs Corporate Ventures or any Band-owned subsidiary. The Department shall create the disclosure form. Such disclosure shall, at a minimum, include the following:

(i) the name, address, date of birth, and, if applicable, tribal identification number of the applicant or license holder;

(ii) the management structure;

(iii) copies of any promissory notes, security instruments, or other similar agreements; and

(iv) an explanation detailing the funding sources used to finance the business.

(5) License decisions will be made by the Department within 30 calendar days. Failure of the applicant to submit all required and Department-requested information in a timely manner will result in the application being denied.

(6) Cannabis licenses must be renewed annually with the Department in order to identify any operational changes that have been made.

(c) **License fees.** The Department shall require the payment of application fees and renewal fees for cannabis licenses. The renewal fee shall be charged at the time of the second renewal and each subsequent annual renewal thereafter. Application fees and renewal licensing fees are nonrefundable. A fee schedule shall be created and approved by the Board with the Initial Cannabis Regulations. All fees received shall be deposited in the Band's general fund and budgeted for drug abuse prevention efforts through education, prevention, and treatment for the community.

(d) **Transfers and adjustments.**

(1) Cannabis licenses are non-transferrable unless the Department determines grounds for license transfer are permissible. Permissible transfers may include, but are not limited to:

(i) change in legal business structure;

(ii) change in ownership, as long as ownership remains with an enrolled Mille Lacs Band member, Mille Lacs Corporate Ventures or any Band-owned subsidiary; or

(iii) change in location.

(A) The Department may permit relocation of a licensed cannabis business through an application that requires:

(I) new address;

(II) updated floor and site plans for new location; and

(III) changes to safety and security plan.

(e) **Compliance checks.**

(1) The Department shall conduct compliance checks of every cannabis license issued by the Band at least once a year. The checks shall assess compliance with age verification requirements, the applicable operation requirements, and the applicable limits on the types of cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumer products being sold. Such compliance checks shall be performed by an employee of the Department. The employee of the Department may request assistance from a Tribal law enforcement officer, if the employee deems it necessary for her or his safety.

(2) The Department shall conduct unannounced age verification compliance checks at least once each calendar year. Age verification compliance checks must involve persons at least 17 years of age, but under the age of 21, who, with the prior written consent of a parent or guardian if the person is under the age of 18, attempt to purchase adult-use cannabis flower, adult-use cannabis products, lower-potency hemp edibles, or hemp-derived consumer products under the direct supervision of a Tribal law enforcement officer or an employee of the Department.

(f) **License denial, suspension and revocation.**

(1) The Department shall deny any license application for a cannabis business that does not meet any requirement of Band law, Band regulation, or any compacts with the State of Minnesota. Denials shall be made in writing and mailed or electronically sent to the applicant within 15 calendar days of denial.

(2) **License violations.**

(i) **Cease order**. If the Department finds probable cause to believe that a license holder is distributing any cannabis or cannabis product in violation of Band law, Band regulation, its license terms, or any compacts with the State of Minnesota, the Department must take action requiring the license holder to immediately cease distribution of products, and may tag and withdraw the cannabis or cannabis products from distribution.

(ii) **Corrective action**. The Department may issue an administrative order to any license holder that the Department determines has committed a violation of Band law, Band regulation, its license terms, or any compacts with the State of Minnesota Such orders may require the license holder to correct the violation or to cease and desist from committing the violation, or any other remedy available to the Department, including monetary penalties set by regulation or statute. The order must clearly state the deficiencies that constitute the violation and the time by which the violation must be corrected.

(iii) **Suspension**. The Department may issue an administrative order suspending a cannabis license for violation of Band law, Band regulation, its license terms, or any compacts with the State of Minnesota.

(iv) **Revocation**. The Department may issue an administrative order revoking a cannabis license for violation of Band law, Band regulation, its license terms, or any compacts with the State of Minnesota. The Department must provide the license holder with written notice of intent to revoke the cannabis license and an opportunity for the license holder to respond.

(v) **Reconsideration.** A license holder may submit within 15 calendar days, in writing, a request for reconsideration of an administrative order if the license holder believes the administrative order is in error. The Department shall respond to the request within 15 calendar days from when the request was received.

(vi) The Department is not required to proceed first to corrective action or suspension before issuing notice of intent to revoke a license.

(g) **Appeals.** All licensees whose license has been revoked or suspended and persons who have been denied a license, may appeal to the Board pursuant to processes set forth in the Department's regulations.

(1) Appeals shall be filed with the Board within 30 calendar days after the date of receipt of notice of revocation, suspension, or denial of a license. The Board shall hold a hearing within 30 calendar days of receipt of an appeal. The Board may issue a final decision at the conclusion of the hearing or may take the matter under advisement. A final decision in the form of an order shall be made within 15 calendar days of the appeal hearing concluding. All final decisions shall be made in writing and served to all parties within two (2) calendar days of the final decision being made.

(2) All Board decisions on license actions are final and unappealable to any court.

Historical and Statutory Notes

Source:
Band Act 13-24.
Band Act 52-24.

§ 1211. Inspection and License Violation.

(a) **Authority to inspect.**

(1) The Department has the authority to, upon presenting appropriate credentials to the owner, operator, or agent in charge at a licensed cannabis business and for any reason:

(i) enter any cannabis business without delay at a reasonable time;

(ii) inspect and investigate a cannabis business during regular working hours and at other reasonable times in order to review the business' conditions, equipment, records, and materials; and

(iii) question the owner, operator, or agent in charge at the cannabis business.

(b) An owner, operator, or agent in charge at a cannabis business may not refuse the entry of a Department representative for any reason. Such refusal constitutes grounds for a license violation per § 1210(f)(2).

Historical and Statutory Notes

Source:
Band Act 13-24.

§ 1212. Cannabis Business; General Operational Requirements and Prohibitions.

(a) **Age verification.**

(1) A cannabis business may not employ an individual under 21 years of age and may not contract with an individual under 21 years of age if the individual's scope of work involves the handling of cannabis plants, cannabis flower, artificially derived cannabinoids, or cannabinoid products.

(2) A cannabis business may not permit an individual under 21 years of age to enter the business premises.

(3) A cannabis business may not sell cannabis or cannabis products to an individual under 21 years of age.

(b) **Use of cannabis and cannabis products within a licensed cannabis business.**

(1) A cannabis business may not permit an employee of the licensed business to consume cannabis or cannabis products within its licensed premises or during working hours.

(2) A cannabis business may permit a qualifying consumer to consume products within its licensed premises if the cannabis business holds a retail license that permits on-site consumption.

(i) Consumption of cannabis onsite must be conducted in a designated area on the licensed premises, dedicated to consumption and located in a limited-access area of the facility.

(c) **Restricted access.**

(1) A cannabis business may not permit any individual to enter a restricted access area unless the cannabis business records the individual's name, time of entry, time of exit, authorization to enter the restricted area through use of an electronic or manual entry log, and the individual:

(i) is a cannabis worker employed by or contracted with a cannabis business;

(ii) is an employee or representative of the Department or another enforcement agency;

(iii) is a contractor of the cannabis business, including but not limited to an electrician, a plumber, an engineer, or an alarm technician, whose scope of work will not involve the handling of cannabis flower or cannabinoid products and, if the individual is working in an area with immediate access to cannabis flower and cannabinoid products, the

individual is supervised at all times by a cannabis worker employed by the cannabis business; or

(iv) has explicit authorization from the Department to enter a restricted access area and, if the individual is in an area with immediate access to cannabis flower or cannabinoid products, the individual is supervised at all times by a cannabis worker employed by the cannabis business.

(2) A cannabis business shall ensure that all areas of entry to restricted areas within its licensed premises are conspicuously marked and cannot be entered without recording or logging the information outlined in § 1212(c)(1) of this Chapter.

(3) All other visitors to a cannabis business shall be accompanied by an escort employed by the cannabis business and shall not permitted entry to restricted-access areas. The cannabis business must log the visitor's name, time of entry, time of exit, reason for visit, and the escorting employee prior to allowing access into the facility.

(d) **Ventilation and filtration.** A cannabis business must maintain a ventilation and filtration system sufficient to meet the requirements for odor control established by the Department.

(e) **Records.**

(1) A cannabis business must retain financial records for the current and previous calendar year at the primary business location and must make those records readily available for inspection by the Department at any time during regular business hours.

(2) All other business records must be maintained by a cannabis business for a period of at least five (5) years and be made readily available for inspection by the Department upon request.

(f) **Use of seed-to sale tracking system.**

(1) A cannabis business must utilize the seed-to-sale electronic tracking system established by the Department for integrated cannabis tracking, inventory, and verification to monitor all cannabis plants, cannabis flower and cannabinoid products the cannabis business has in its possession to the point of disposal, transfer, or sale.

(2) A cannabis business shall conduct an initial comprehensive inventory of all cannabis and cannabis products in its possession including seeds or immature plants used for cultivation, manufactured goods, and finished, usable cannabis or cannabis products for retail sale. Such inventory shall include damaged,

defective, expired or adulterated cannabis or cannabis products awaiting disposal.

(3) Sale and transfer of cannabis and cannabis products must be recorded in the seed-to-sale electronic tracking system within a reasonable time.

(4) Inventory audits shall document the name, quantity, and unique product identifier and shall be reported in the seed-to-sale electronic tracking system. Inventory audits must be maintained, accurate, and up to date in the seed-to-sale electronic tracking system for reporting purposes by the Department.

(5) Any lost or stolen products must be reported to law enforcement and the Department and must be logged in the electronic tracking system as soon as the loss is discovered.

(g) **Disposal and waste management.**

(1) A cannabis business must dispose of cannabis plants, cannabis flower, and cannabinoid products that are damaged, have a broken seal, have been contaminated, or have not been sold by the expiration date on the label, if applicable.

(2) Disposal must be conducted in a manner approved by the Department which may include rendering the cannabis unusable and unrecognizable through methods such as grinding or mixing the cannabis with a greater quantity of non-cannabis material such as paper or soil. Cannabis waste is unusable and unrecognizable if all components of the waste are indistinguishable and incapable of being ingested, inhaled, injected, swallowed or otherwise consumed.

(3) Disposed cannabis and cannabis products must be documented in the seed-to-sale electronic tracking system.

(h) **Sale of approved products.**

(1) A cannabis business may only sell cannabis and cannabis products that have been approved by the Department as outlined in § 1207 of this Chapter.

(2) A cannabis business may not sell cannabis or cannabis products that do not meet the standards for testing, packaging, and labeling adopted in this Code.

(i) **Security.**

(1) A cannabis business must maintain and follow a security plan to deter and prevent the theft or diversion of cannabis and cannabis products, unauthorized entry into the cannabis business, and the theft of currency.

(2) A cannabis business must establish policies and procedures surrounding alarm monitoring and 24-hour video surveillance for the safety and security of the cannabis business, its employees, and the surrounding community.

Historical and Statutory Notes

Source:
Band Act 13-24.

§ 1213. Cultivation.

(a) **Authorized actions.**

(1) Issuance of a cannabis cultivator license entitles the license holder:

(i) to grow cannabis plants within its licensed premises from seed or immature plant to mature plant;

(ii) to harvest cannabis flower from a mature plant;

(iii) to package and label the cannabis flower for sale to another licensed cannabis business;

(iv) to safely and securely transport the cannabis flower to another licensed cannabis business within or outside the Mille Lacs Band's sovereign territory as authorized in a compact with the State of Minnesota or in Minn. Stat. 3.9228(4) regarding transportation and § 1216(b) of this Chapter; and

(v) any other actions approved by the Department.

(b) **Cultivation records.**

(1) A cannabis cultivator must prepare a cultivation record for each batch of cannabis plants and cannabis flower that is maintained electronically or in hard-copy format. Cultivation records must be maintained for a period of at least five (5) years and be made readily available to the Department upon request.

(2) In addition to the name, weight, quantity, and unique identifier, cultivation records must include the quantity and timing, where applicable, of each pesticide, fertilizer, soil amendment, or plant amendment used to cultivate the batch.

(c) **Cultivation plan.** A cannabis cultivator must prepare, maintain, and execute an operating plan and a cultivation plan which must include, but is not limited to:

(1) water usage;

(2) recycling;

(3) solid waste disposal; and

(4) a pest management protocol that incorporates integrated pest management principles to control or prevent the introduction of pests to the cultivation site.

(d) **Agricultural chemicals and pesticides.**

(1) A cannabis cultivator must request approval from the Department for any pesticides used in the cultivation of cannabis flower.

(2) A cannabis cultivator may not apply pesticides when pollinators are present or allow pesticides to drift to flowering plants that are attractive to pollinators.

(3) A cannabis cultivator is subject to the discretion of the Department regarding the use of pesticides, fertilizers, soil amendments, plant amendments, and other inputs to cultivate cannabis.

(e) **Adulteration.** A cannabis cultivator must not treat or otherwise adulterate cannabis plants or cannabis flower with any substance or compound that has the effect or intent of altering the color, appearance, weight, or smell of the cannabis.

Historical and Statutory Notes

Source:
Band Act 13-24.

§ 1214. Manufacturing.

(a) **Authorized actions.** Issuance of a cannabis manufacturer license entitles the license holder:

(1) to purchase cannabis flower from licensed cannabis cultivators;

(2) to purchase cannabinoid products from other cannabis manufacturers;

(3) to make cannabis concentrate;

(4) to manufacture artificially derived cannabinoids;

(5) to manufacture cannabinoid products for public consumption;

(6) to package and label cannabinoid products for sale to other licensed cannabis businesses;

(7) to sell cannabis concentrate, artificially-derived cannabinoids, and cannabinoid products to other licensed cannabis businesses;

(8) to safely and securely transport cannabis concentrate, artificially derived cannabinoids, and cannabinoid products to other licensed cannabis businesses within or outside the Mille Lacs Band's sovereign territory as authorized in a compact with the State of Minnesota or in Minn. Stat. 3.9228(4) regarding transportation and § 1214(b) of this Chapter; and

(9) any other actions approved by the Department.

(b) **Manufacturer operations.**

(1) Cannabis manufacturing must take place in an enclosed, locked facility that is exclusively used for the manufacturing of cannabinoid products or creation of artificially derived cannabinoids except in the case that the cannabis manufacturing licensee is co-located with a cannabis cultivation licensee.

(2) A facility may be co-located with another licensed cannabis business in a manner that shares general office space, bathrooms, entryways, and walkways.

(3) Cannabis manufacturing must take place on equipment that is used exclusively for the manufacturing of cannabinoid products or creation of artificially derived cannabinoids.

(4) A cannabis manufacturer must comply with all testing, packaging, labeling, and health and safety requirements adopted in this Code or via Department regulations.

(c) **Extraction and concentration.**

(1) A cannabis manufacturer must inform the Department of all methods of extraction and concentration that the manufacturer intends to use as well as identify the volatile chemicals, if any, that will be involved in the creation of cannabis concentrate. A cannabis manufacturer may not use a method of extraction and concentration or a volatile chemical without approval by the Department.

(2) A cannabis manufacturer must inform the Department of all methods of conversion that the manufacturer will use, including any specific catalysts that the manufacturer will employ in order to create artificially derived cannabinoids and the molecular nomenclature of all cannabinoids or other chemical compounds that the manufacturer will create. A cannabis manufacturer may not use a method of conversion or a catalyst without approval by the Department.

(3) A cannabis manufacturer must obtain a written statement by a professional engineer approving:

(i) all electrical, gas, fire suppression, and exhaust systems; and

(ii) the plan for safe storage and disposal of hazardous substances, including but not limited to any volatile chemicals.

(d) **Production of consumer products.**

(1) All areas within the licensed premises of a cannabis manufacturer producing cannabinoid products must be maintained in a clean and sanitary manner. A cannabis manufacturer must establish standard operating procedures that outline the business' policy for clean room standards.

(2) A cannabis manufacturer may only add chemicals or compounds to cannabis concentrate or artificially derived cannabinoids upon approval by the Department.

(3) Upon the sale of any cannabinoid product to a cannabis business, a cannabis manufacturer must provide a statement to the buyer that discloses the product's ingredients, including but not limited to any chemicals or compounds and any major food allergens declared by name.

(4) Upon the sale of any cannabinoid product to a cannabis business, a cannabis manufacturer must provide a certificate of analysis demonstrating the product has undergone and passed laboratory testing by a licensed testing facility.

(5) A cannabis manufacturer shall not add any cannabis flower, cannabis concentrate, or artificially derived cannabinoid to a product where the manufacturer of the product holds a trademark to the product's name. A cannabis manufacturer may use a trademarked food product if the manufacturer uses the product as a component or as part of a recipe and where the cannabis manufacturer does not state or advertise to the customer that the final retail cannabinoid product contains a trademarked food product.

Historical and Statutory Notes

Source:
Band Act 13-24.

§ 1215. Retail.

(a) **Authorized actions.** Issuance of a cannabis retail license entitles the license holder:

(1) to purchase immature cannabis plants and seedlings and cannabis flower from a licensed cannabis cultivator;

(2) to purchase cannabinoid products from cannabis manufacturers;

(3) to sell immature cannabis plants and seedlings, adult-use cannabis flower, adult-use cannabinoid products, and other products authorized by the Department to eligible customers;

(4) to sell and deliver adult-use cannabis flower and cannabinoid products to qualifying customers in accordance with § 1216(b) of this Chapter; and

(5) any other actions approved by the Department.

(b) **Sale of cannabis and cannabinoid products.**

(1) A cannabis retailer may only sell immature cannabis plants or seedlings, adult-use cannabis flower, and adult-use cannabinoid products to individuals who are at least 21 years of age.

(2) A cannabis retailer may sell immature cannabis plants and seedlings, adult-use cannabis flower, and adult-use cannabinoid products that:

(i) are obtained by a licensed cannabis cultivator, cannabis manufacturer, or cannabis wholesaler; and

(ii) meet all applicable packaging and labeling requirements as outlined in § 1218 of this Chapter.

(3) A cannabis retailer may sell up to two (2) ounces of adult-use cannabis flower, eight (8) grams of adult-use cannabis concentrate, and edible cannabinoid products infused with 800 milligrams of tetrahydrocannabinol during a single transaction to a customer.

(i) Edible cannabinoid products may not include more than ten (10) milligrams per serving and a single package may not include more than a total of 100 milligrams of tetrahydrocannabinol.

(A) A package may contain multiple servings of ten (10) milligrams of tetrahydrocannabinol provided that each serving is indicated by scoring, wrapping or other indicators designating the individual serving size.

(c) **Sale of non-cannabis products.** A cannabis retailer may sell cannabis paraphernalia, including but not limited to:

(1) childproof packaging containers and other devices designed to ensure the safe storage and monitoring of cannabis flower and cannabinoid products in the consumer's home to prevent access by individuals under 21 years of age;

(2) drinks that do not contain alcohol or cannabis and are packaged in sealed containers labeled for retail sale;

(3) books and videos on the cultivation and use of cannabis flower and cannabinoid products;

(4) magazines and other publications published primarily for information and education on cannabis plants, cannabis flower, and cannabinoid products;

(5) multiple-use bags designed to carry purchased items;

(6) clothing or other Department-approved merchandise marked with the specific name, brand, or identifying logo of the cannabis retailer; and

(7) paraphernalia designed for consumption of cannabis products sold at the retail store.

(d) **Age verification.**

(1) Prior to entering the licensed retail premises and initiating a sale, an employee of a licensed cannabis retailer must verify that the customer is at least 21 years of age. Proof must be established by at least one (1) of the following:

(i) A valid driver's license or identification card issued by a state or province of Canada including the photograph and date of birth of the licensed person;

(ii) a valid Tribal identification card;

(iii) a valid instructional permit issued to a person of legal age to purchase adult-use cannabis or adult-use cannabinoid products, which includes a photograph and the date of birth of the person issued the permit; or

(iv) a valid passport.

(2) A cannabis retailer may seize a form of identification listed under § 1215(d)(1) if the cannabis retailer has reasonable grounds to believe that the form of identification has been altered or falsified or is being used to violate any law. A cannabis retailer that seizes a form of identification as authorized under this section must retain a copy of the photo identification for its business records and deliver the confiscated identification to law enforcement within 48 hours of seizing it.

(e) **Display of cannabis flower and cannabinoid products.**

(1) A cannabis retailer must designate a retail area where customers are permitted to purchase cannabis and cannabis products.

(2) The retail area shall include a portion of the premises where samples of cannabis flower and cannabinoid products that are available for sale are displayed. All other cannabis flower and cannabinoid products must be securely stored in a limited-access area located behind the point-of sale or in a designated storage area inaccessible by customers.

(3) A cannabis retailer may display one (1) sample of each type of cannabis flower or cannabinoid product that is available for sale.

(i) Samples of cannabis flower and cannabinoid products must be stored in a sample jar or display case and be accompanied by a label or notice containing the information required to be affixed on the packaging or container containing cannabis flower and cannabinoid products sold to customers.

(ii) Samples may not consist of more than eight (8) grams of adult-use cannabis flower or adult-use cannabis concentrate or an edible cannabinoid product infused with more than 100 milligrams of tetrahydrocannabinol.

(4) A cannabis retailer may allow customers to smell the cannabis flower or cannabinoid product before purchase.

(5) Samples of cannabis flower or cannabinoid products may not be readily accessible to customers. All sampling must be conducted under the supervision of an employee of the licensed retail store.

(6) A cannabis retailer may not sell cannabis flower or cannabinoid products used as a sample for display.

(f) **Posting of notices.** Cannabis retailers must post all notices as required by the Department, including but not limited to:

(1) information about any product recall;

(2) a statement that operating a motor vehicle under the influence of intoxicating cannabinoids is illegal; and

(3) a statement that cannabis flower and cannabinoid products are only intended for consumption by individuals who are least 21 years of age.

(g) **On-site consumption.**

(1) Cannabis retailers may request as part of their license, approval by the Department for an on-site consumption area.

(2) In any approved on-site consumption area, the following restrictions must apply:

(i) cannabis retailers shall designate an enclosed, limited access area dedicated to on-site consumption.

(ii) a cannabis retailer shall control and restrict ingress and egress to the on-site consumption area with placement of an employee of the licensed cannabis retail store at the entrance to the on-site consumption area.

(iii) a cannabis retailer shall be subject to inspection by the Department or other authorized individuals while the consumption area is open for business.

(iv) a cannabis retailer must establish standard operating procedures for the purpose of training employees to identifying intoxication and substance abuse in customers.

(h) **Building conditions.**

(1) A licensed cannabis retailer must ensure that the licensed premises is maintained in a clean and sanitary condition, free from infestation by insects, rodents, and other pests.

(2) A cannabis retailer must maintain a separate, secure premises designated for retail sales.

(i) **Security.**

(1) A cannabis retailer must establish and maintain a safety and security plan in compliance with § 1212(i) of this Chapter.

(i) The safety and security plan must include, but is not limited to, requirements for:

(A) maintaining video surveillance records;

(B) use of specific locking mechanisms;

(C) establishment of secure entries; and

(D) the number of employees working at all times.

(2) All deliveries to the cannabis retail store from licensed cannabis businesses must be accepted into a limited access area.

(j) **Lighting.** A cannabis retailer must keep all lighting outside and inside the retail store in good working order with wattage sufficient for security cameras.

(k) **Prohibitions.** A cannabis retailer shall not:

(1) knowingly sell more cannabis flower or cannabinoid products than a customer is legally permitted to possess;

(2) give away immature cannabis plants or seedlings, cannabis flower, or cannabinoid products for free;

(3) allow for the dispensing of cannabis plants, cannabis flower, or cannabinoid products in vending machines; or

(4) sell cannabis plants, cannabis flower, or cannabinoid products if the cannabis retailers know that any required security or electronic tracking systems are not operational.

Historical and Statutory Notes

Source:
Band Act 13-24.

§ 1216. Wholesale; Transportation; Delivery.

(a) **Wholesale.**

(1) **Authorized actions.**

(i) A cannabis wholesale license entitles the license holder to:

(A) purchase immature cannabis plants and seedlings, cannabis flower, and cannabinoid products from cannabis cultivators, and cannabis manufacturers within Mille Lacs Band sovereign territory or across the State of Minnesota; and

(B) sell immature cannabis plants and seedlings, cannabis flower, and cannabinoid products to cannabis manufacturers and cannabis retailers within Mille Lacs Band sovereign territory, or across the State of Minnesota if permitted by State law.

(ii) A cannabis wholesaler may purchase and sell other products or items for which the cannabis wholesaler has a license or authorization or that do not require a license or authorization. Products for which no license or authorization is required include but are not limited to cannabis paraphernalia such as childproof packaging containers and other devices designed to ensure the safe storage and monitoring of cannabis flower and cannabinoid products in a home to prevent access by individuals under 21 years of age.

(iii) Cannabis activity that is conducted outside of the Band's sovereign territory within the State of Minnesota must be conducted in compliance with the State of Minnesota's cannabis laws.

(2) **Separation of products.** A cannabis wholesaler must ensure the cannabis products, cannabis flower, and cannabinoid products are physically separated from all other products in a manner that prevents any cross-contamination.

(3) **Records and labels.** A cannabis wholesaler must maintain accurate records and ensure that appropriate labels remain affixed to cannabis plants, cannabis flower, and cannabinoid products as outlined in § 1218 of this Chapter.

(4) **Building conditions.**

(i) A cannabis wholesaler must ensure that the licensed premises are maintained in a clean and sanitary condition, free from infestation from insects, rodents, and other pests.

(ii) A cannabis wholesaler must maintain compliance with applicable building, fire, and zoning requirements or regulations.

(b) **Transportation and delivery.**

(1) **Authorized actions.**

(i) Licensed cannabis cultivators, manufacturers, retailers, and wholesalers are authorized to transport or deliver immature cannabis plants and seedlings, cannabis flower, and cannabinoid products as permitted by the licensee's authorized actions in compliance with this section, except that transportation and delivery outside of the Band's sovereign territory must comply with the State of Minnesota's cannabis laws.

(2) **Transportation operations.**

(i) Before transporting cannabis plants and seedlings, cannabis flower, and cannabinoid products, a licensee must obtain a shipping manifest through the established seed-to-sale tracking system determined by the Department. The manifest must be kept with the products at all times and the licensee must maintain a copy of the manifest in its records.

(ii) Records of transportation must be kept for a minimum of three (3) years at the licensee's place of business and are subject to inspection upon request by the Department.

(A) Records of transportation include the following:

(I) copies of transportation manifests for all deliveries;

(II) a transportation log documenting the chain of custody for each delivery, including every employee and vehicle used during transportation; and

(III) financial records showing payment for transportation services.

(iii) Cannabis plants and seedlings, cannabis flower, and cannabinoid products must be transported in a locked, safe, and secure storage compartment that is part of the motor vehicle or in a locked storage container that has a separate key or combination pad.

(iv) Cannabis plants and seedlings, cannabis flower, and cannabinoid products may not be visible from outside the motor vehicle.

(v) No vehicle or trailer may contain an image depicting the types of items being transported, including but not limited to an image depicting a cannabis leaf or a name suggesting that the vehicle is used in transporting cannabis products.

(vi) A licensee must ensure that all delivery times and routes are randomized.

(vii) All transportation vehicles transporting cannabis plants and seedlings, cannabis flower, and cannabinoid products must be staffed with a minimum of two (2) employees. At least one (1) delivery team member must remain with the motor vehicle at all times that the motor vehicle contains cannabis products.

(A) Only a cannabis worker employed by or contracted with the licensee who is at least 21 years of age may transport cannabis plants and seedlings, cannabis flower, and cannabinoid products.

(B) All passengers in a vehicle must be a cannabis worker employed by or contracted with the licensee.

(C) All drivers must carry a valid driver's license with the proper endorsement when operating a vehicle transporting cannabis plants and seedlings, cannabis flower, or cannabinoid products.

(viii) Any vehicle assigned for the purpose of transporting cannabis plants and seedlings is subject to inspection and may be stopped or inspected at any licensed cannabis business or while en route during transportation.

(3) **Delivery operations**.

(i) Prior to completing a delivery, a licensee must verify that the customer is at least 21 years of age prior to completing the delivery.

(ii) Receipt of cannabis flower and cannabinoid products by the licensee and delivery to a customer must be recorded in the established seed-to-sale tracking system.

(iii) Licensees must maintain records for delivery services conducted including but not limited to, proof of delivery to individuals who are at least 21 years of age.

(iv) The Department shall establish limits on the amount of cannabis flower and cannabis products that a licensee may deliver.

(v) Cannabis flower and cannabinoid products must be transported in a locked, safe, and secure storage compartment that is part of the cannabis delivery vehicle or in a locked storage container that has a separate key or combination pad.

(A) Cannabis flower and cannabinoid products may not be visible from outside of the cannabis delivery vehicle.

(B) No cannabis delivery vehicle or trailer may contain an image depicting the types of items being transported, including but not limited to an image depicting cannabis or a name suggesting that the cannabis delivery vehicle is used for transporting cannabis flower or cannabinoid products.

(vi) Only a cannabis worker employed by or contracted with the licensee and who is at least 21 years of age may transport cannabis flower or cannabinoid products.

(A) All passengers in the cannabis delivery vehicle must be cannabis workers employed by or contracted with the cannabis delivery service.

(vii) Any cannabis delivery vehicle is subject to inspection or may be stopped or inspected at any licensed cannabis business or while en route during transportation.

Historical and Statutory Notes

Source:
Band Act 13-24.

§ 1217. Testing.

(a) **Authorized actions.** A cannabis testing facility license entitles the license holder to obtain and test immature cannabis plants and seedlings, cannabis flower, and cannabinoid products from licensed cannabis cultivators, cannabis manufacturers, and cannabis wholesalers.

(b) **Testing facility operations.**

(1) A cannabis testing facility must provide some or all of the testing services outlined in § 1217(c) of this Chapter.

(2) A cannabis testing facility shall follow all testing protocols, standards, and criteria adopted in this Code for the testing of different forms of:

(i) cannabis flower and cannabinoid products;

(ii) determining batch size;

(iii) sampling;

(iv) testing validity; and

(v) approval or disapproval of tested cannabis plants and seedlings, cannabis flower, and cannabinoid products.

(3) Records of all business transactions and testing results, records required to be maintained pursuant to any applicable standards of accreditation, and records relevant to testing protocols, standards, and criteria adopted by the Department and this Code must be kept for a minimum of at least three (3) years at the cannabis testing facility's place of business and are subject to inspection by the Department upon request.

(4) A testing facility shall dispose of or destroy used, unused, and waste cannabis plants and seedlings, cannabis flower, or cannabis in a manner determined by the Department in accordance with § 1211(g) of this Chapter.

(c) **Testing standards and requirements.**

(1) A cannabis business shall not sell or offer for sale cannabis flower or cannabinoid products to another cannabis business or to a customer, or otherwise transfer cannabis flower or cannabinoid products to another cannabis business unless:

(i) a representative sample of the batch of cannabis flower or cannabinoid product has been tested according to this section and regulations adopted under this Code;

(ii) the testing was completed by a cannabis testing facility that has been issued a laboratory testing facility license within or outside the Mille Lacs Band's sovereign territory, including facilities licensed by the State of Minnesota; or

(iii) the tested sample of cannabis flower or cannabinoid product was found to meet the testing standards established in this section.

(2) The Mille Lacs Band requires all licensed cannabis testing facilities located within its sovereign territory to abide by the standards and procedures set by State of Minnesota regulation under Minn. Stat. 342.61.

(i) This includes but is not limited to, procedures governing the sampling, handling, testing, storage, and transportation of cannabis flower or cannabinoid products tested including:

(A) the contaminants for which cannabis flower or cannabinoid products must be tested;

(B) standards for potency and homogeneity testing; and

(C) procedures applicable to cannabis businesses and cannabis testing facilities regarding cannabis flower and cannabinoid products that fail to meet the standards for allowable levels of contaminants established by the terms in this Code, that fail to meet the potency limits established under this Code, or that do not conform with the content of the cannabinoid profile listed on the product's label.

(3) All testing required under this section must be performed in a manner that is consistent with generally-accepted requirements for testing and calibration activities.

Historical and Statutory Notes

Source:
Band Act 13-24.

§ 1218. Packaging and Labeling.

(a) **General.** All cannabis flower and cannabinoid products sold to customers must be packaged and labeled in accordance with this section.

(b) **Packaging requirements.**

(1) All cannabis flower and cannabinoid products sold to customers must be:

(i) pre-packaged in packaging or a container that is plain, child-resistant, tamper-evident, and opaque; or

(ii) placed in a packaging or a container that is plain, child-resistant, tamper-evident, and opaque at the final point of sale to a customer.

(2) An edible cannabinoid product containing more than a single serving must be pre-packaged or placed at the final point of sale in packaging or a container that is resealable.

(c) **Packaging prohibitions.**

(1) Cannabis flower and cannabinoid products sold to customers must not be packaged in a manner that:

(i) bears a reasonable resemblance to any commercially available product that does not contain cannabinoids, whether the manufacturer of the product holds a registered trademark or has registered the trade dress; or

(ii) is designated to appeal to a person under 21 years of age.

(2) Packaging for cannabis flower and cannabinoid products must not contain or be coated with any perfluoroalkyl substance.

(3) Edible cannabinoid products must not be packaged in a material that is not approved by the United States Food and Drug Administration for use in packaging food.

(d) **Content of label: cannabis flower.** All cannabis flower sold to customers must have affixed on the packaging or container of the cannabis flower, a label that contains at least the following information:

(1) the name and Department-issued license number of the cannabis cultivator where the cannabis flower was cultivated;

(2) the net weight or volume of cannabis flower in the package or container;

(3) the batch number;

(4) the cannabinoid profile;

(5) a universal symbol established by the Department indicating that the package or container contains cannabis flower;

(6) verification that the cannabis flower was tested according to § 1217 of this Chapter and that the cannabis flower complies with the applicable standards;

(7) the maximum dose, quantity, or consumption that may be considered safe within a 24-hour period;

(8) the following statement: “Keep this product out of reach of children”; and

(9) any other statements or information required by the Department.

(e) **Content of label: cannabinoid products.** All cannabinoid products sold to customers must have, affixed to the packaging or container of the cannabis product, a label that contains at least the following information:

(1) the name and Department-issued license number of the cannabis cultivator that cultivated the cannabis flower used in the cannabinoid product;

(2) the name and Department-issued license number of the cannabis manufacturer that manufactured the cannabis concentrate;

(3) the net weight or volume of the cannabinoid product in the package or container;

(4) the type of cannabinoid product;

(5) the batch number;

(6) the serving size (if applicable);

(7) the cannabinoid profile per serving and in total;

(8) a list of ingredients;

(9) a universal symbol established by the Department indicating that the package or container contains a cannabinoid product;

(10) verification that the cannabinoid product was tested according to § 1217 of this Chapter and that the cannabinoid product complies with the applicable standards;

(11) the maximum dose, quantity, or consumption that may be considered safe within a 24-hour period;

(12) the following statement: "Keep this product out of reach of children"; and

(13) any other statements or information required by the Department.

(f) **Additional information.**

(1) A cannabis retailer may provide customers with the additional information by:

(i) including the information on the label affixed to the packaging or container of cannabis flower or cannabinoid product;

(ii) posting the information in the premises of the cannabis retailer; or

(iii) providing the information on a separate document or pamphlet provided to customers when a customer purchases cannabis flower or a cannabinoid product.

(2) Additional information may include:

(i) factual information about impairment effects and the expected timing of impairment effects, side effects, adverse effects, and health risks of cannabis flower and cannabinoid products;

(ii) a statement that customers must not operate a motor vehicle or heavy machinery while under the influence of cannabis flower or a cannabinoid product;

(iii) resources customers may consult to answer questions about cannabis flower, cannabinoid products, and any side effects and adverse effects;

(iv) contact information for the poison control center and a safety hotline or website for customers to report and obtain advice about side effects or adverse effects of cannabis flower and cannabinoid products; and

(v) any other information specified by the Department.

Historical and Statutory Notes

Source:
Band Act 13-24.

§ 1219. Advertising.

(a) **Limitations applicable to advertisements.**

(1) No cannabis business shall publish, or cause to be published, an advertisement for cannabis flower, a cannabinoid product, or a cannabis business in a manner that:

(i) contains false or misleading statements;

(ii) contains unverified claims about the health or therapeutic benefits or effects of consuming cannabis flower or a cannabis product;

(iii) promotes the overconsumption of cannabis flower or cannabis products; or

(iv) depicts a person under 21 years of age consuming cannabis flower or a cannabis product.

(2) A cannabis business may publish an advertisement for cannabis flower, a cannabinoid product, or a cannabis business in a manner that reasonably appeals to individuals who are over 21 years of age.

(3) Advertising activity that is conducted outside of the Band's sovereign territory within the State of Minnesota must be conducted in compliance with the State of Minnesota's cannabis laws.

(b) **Outdoor advertisements.**

(1) A cannabis business may advertise its business on an outdoor sign with approval from the Department and in compliance with § 1219(a) of this Chapter.

(2) A cannabis business may erect up to two (2) fixed outdoor signs on the exterior of the building or property of the cannabis business.

(i) A fixed outdoor sign:

(A) may contain the name of the cannabis business and the address and nature of the cannabis business; and

(B) may include the cannabis business' logo.

(c) **Audience under 21 years of age.** A cannabis business shall not publish an advertisement of cannabis flower, a cannabinoid product, or a cannabis business in any print publication or on radio, television, or any other medium if 70% or more of the audience of that medium is reasonably expected to be individuals who are under 21 years of age, as determined by reliable, current audience composition data.

Historical and Statutory Notes

Source:
Band Act 13-24.

§ 1220. Limitation on Consumption; Locations of Consumption.

(a) Nothing in this Code permits any person to engage in, and does not prevent the imposition of any civil, criminal, or other penalties for:

(1) undertaking a task under the influence of cannabis that would constitute negligence or professional malpractice;

(2) possessing or consuming cannabis:

(i) on a school bus or van;

(ii) in a correctional facility; or

(iii) on the grounds of a child care facility or family or group day care program;

(3) consuming cannabis on Band-owned casino property;

(4) vaporizing or smoking cannabis:

(i) on any form of public transportation;

(ii) where the vapor or smoke would be inhaled by a minor; or

(iii) in any public place, including any indoor or outdoor area used by, or open to, the general public or a place of employment, except as permitted by licensed retailers with approval for on-site consumption;

(5) operating, navigating, or being in actual, physical control of a motor vehicle, aircraft, train, or motorboat;

(6) working on transportation property, equipment or facilities or in other safety-sensitive jobs or industries while under the influence of cannabis; or

(7) operating cannabis consumption lounges located on Band-owned casino property.

Historical and Statutory Notes

Source:
Band Act 13-24.

§ 1221. Ownership and Use of Mille Lacs Corporate Ventures' Revenues.

(a) **Mille Lacs Band property.** All revenues generated from a Mille Lacs Corporate Ventures cannabis license shall be the sole property of the Band. All profits and net revenues shall be deposited into the Band's general treasury. Once deposited into the general treasury, such funds shall not be identified as cannabis funds. No individual Band member shall be deemed to have any interest in such profits or net revenues generated from a Mille Lacs Corporate Ventures cannabis license.

(b) **Use of net revenues.** Net revenues derived from a Mille Lacs Corporate Ventures cannabis license shall follow the Net Revenue Allocation Schedule pursuant to 16 MLBS § 108.

Historical and Statutory Notes

Source:

§ 1222. Personal Adult Use of Cannabis.

(a) **Personal adult use, possession, and transportation of cannabis flower and cannabinoid products.**

(1) Except as provided in § 1220, an individual 21 years of age or older may:

(i) use, possess, or transport cannabis paraphernalia;

(ii) possess or transport two (2) ounces or less of adult-use cannabis flower in a public place;

(iii) possess two (2) pounds or less of adult-use cannabis flower in the individual's private residence;

(iv) possess or transport eight (8) grams or less of adult-use cannabis concentrate;

(v) possess or transport edible cannabis products or lower-potency hemp edibles infused with a combined total of 800 milligrams or less of tetrahydrocannabinol;

(vi) give, for no remuneration to an individual who is at least 21 years of age:

(A) two (2) ounces or less of adult-use cannabis flower;

(B) eight (8) grams or less of adult-use cannabis concentrate;

(C) an edible cannabis product or lower-potency hemp edible infused with 800 milligrams or less of tetrahydrocannabinol; and

(vii) use adult-use cannabis flower and adult-use cannabis products in the following locations:

(A) in a private residence, including the individual's curtilage or yard;

(B) on private property, not generally accessible by the public, unless the individual is explicitly prohibited from consuming cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products on the property by the owner, manager or lessee of the property; or

(C) on the premises of an establishment or event licensed to permit on-site consumption.

(2) Except as provided in paragraph (3), an individual may not:

(i) use, possess, or transport cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products if the individual is under 21 years of age;

(ii) use cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a motor vehicle as defined in Title 23;

(iii) use cannabis flower, cannabis products, or hemp-derived consumer products in a manner that involves the inhalation of smoke, aerosol, or vapor at any location where smoking is prohibited;

(iv) use or possess cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a public place, which shall include any Band-owned government-operated building, a Band school as defined in Title 9, ceremonial building, community centers, Band-owned treatment facilities, health clinics, halfway houses, or any Band-owned building that has a posted sign; this list does not include Mille Lacs Corporate Ventures or any Band-owned subsidiary;

(v) operate a motor vehicle while under the influence of cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products;

(vi) give, for no remuneration, cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products to an individual under 21 years of age;

(vii) give for no remuneration cannabis flower or cannabis products as a sample or promotional gift if the giver is in the business of selling goods or services; or

(viii) vaporize or smoke cannabis flower, cannabis products, artificially derived cannabinoids, or hemp-derived consumer products in any location where the smoke, aerosol, or vapor would be inhaled by a minor.

(3) The prohibitions under paragraph (2), clauses (i) to (iv), do not apply to use other than by smoking or by a vaporized delivery method, possession, or

transportation of medical cannabis flower or medical cannabinoid products by a patient; a registered designated caregiver; or a parent, legal guardian, or spouse of a patient.

(b) **Home cultivation of cannabis for personal adult use.** Up to eight (8) cannabis plants, with no more than four (4) being mature, flowering plants may be grown at a single, private residence, including the curtilage or yard, without a license to cultivate cannabis issued under this chapter provided that cultivation takes place at the primary residence of an individual 21 years of age or older and in an enclosed, locked space that is not open to public view.

(c) **Prohibition of home cultivation of cannabis for personal adult use.** Landlords owning or managing rental property on Band-owned land may prohibit cannabis cultivation for personal adult use as described in § 1222(b).

(d) **Prohibition of cannabis in HUD homes.** Individuals living in a Band-owned HUD (Housing and Urban Development) home shall be prohibited from cultivating cannabis as described in § 1222(b) of this chapter, selling, using, or possessing cannabis while on the premises of any HUD home. Any penalty to this subsection shall be addressed in a Housing policy.

(e) **Home extraction of cannabis concentrate by use of volatile solvent prohibited.** No person may use a volatile solvent to separate or extract cannabis concentrate without a license issued under this Code.

(f) **Sale of cannabis flower and products prohibited.** No person may sell cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products without a license issued under this Code that authorizes the sale.

(g) **Penalties.**

(1) The Department may assess a civil penalty of up to $250.00 per offense against a person who sells cannabis flower, cannabis products, cannabis concentrate, lower-potency hemp edibles, or hemp-derived consumer products without a license issued under this chapter that authorizes the sale.

(2) The Department may assess a civil penalty of up to $250.00 per offense against a person who violates § 1222(a)(2).

(3) The Department may assess a civil penalty of up to $100.00 for each plant grown in excess of the limit against a person who grows more than eight (8) cannabis plants or more than four (4) mature, flowering plants, without a license to cultivate cannabis issued under this Code.

Historical and Statutory Notes

Source:
Band Act 13-24.

§ 1223. Violations.

In addition to penalties listed in this subsection, a person who violates the provisions of this Code is subject to any applicable criminal penalty.

Historical and Statutory Notes

Source:
Band Act 13-24.

§ 1224. Provisional License for Mille Lacs Corporate Ventures.

Mille Lacs Corporate Ventures, or a subsidiary thereof, shall obtain a provisional, non-transferable cannabis license for each license as listed in § 1210(a)(2). All provisional licenses may be granted by a Resolution of the Band Assembly starting on the effective date of this Code and shall expire on June 31, 2025. After expiration of all provisional cannabis licenses, Mille Lacs Corporate Ventures shall obtain any and all cannabis licenses through the Department's processes as listed above.

(a) A provisional license shall only be issued by the Band Assembly once the following materials have been provided and reviewed by the Band Assembly:

(1) A letter from Mille Lacs Corporate Ventures, or a subsidiary thereof, stating their request for a provisional license for each license they are requesting.

(2) All documents as listed in § 1210(b)(2)(i)-(xiv). If Mille Lacs Corporate Ventures, or its subsidiary, is unable to provide any document, they shall provide a description as to why they are unable to provide said document.

Historical and Statutory Notes

Source:
Band Act 13-24.
Band Act 52-24.

§ 1225. Medical Marijuana.

The Minnesota Cannabis Registry for medical marijuana patients and their caregivers, and in particular, Minnesota registry verification cards, shall be recognized by the Band and by the Mille Lacs Band of Ojibwe Personnel Policies pursuant to 6 MLBS § 1.

Historical and Statutory Notes

Source:
Band Act 13-24.

TITLE 16 – CORPORATIONS

Chapter	Section
1. General Provisions	1
2. Business Corporations	1001
3. Nonprofit Corporations	2001

Historical and Statutory Notes

The Preamble to Band Statute 1202-MLC-16 It is enacted by the Band Assembly of the Mille Lacs Band of Chippewa Indians a statue to establish the position of the Commissioner for Corporate Affairs

"The District III Representative introduced the following bill on the seventh day of March 1991

"It is enacted by the Band Assembly of the Mille Lacs Band of Chippewa Indians a statute to establish the position of the Commissioner for Corporate Affairs; to set forth the ministerial duties of the Commissioner for Corporate Affairs; to establish and empower the Corporate Commission; and to set forth the corporate duties of the Commissioner for Corporate Affairs; to provide for the Incorporation of Business Corporations, Corporate Body Politic Business Corporations, Non-Profit Corporations, and Nonprofit Corporate Body Politic Corporations.

"Whereas, in 1981, the Non-Removable Mille Lacs Band of Chippewa Indians, in a historic step, adopted a form of government based on the principle of division of powers; and

"Whereas, that form of government has proven to be highly satisfactory, but experience with a large body of law which was necessary to establish the system has revealed a number of flaws and ambiguities; and

"Whereas, as times change, Band statutes must necessarily be modified to adopt to those changing times; and

"Whereas, the Band Assembly has determined to improve Band government by adopting an entire Corporate Code, revising and replacing the former Code, NOW THEREFORE BE IT ENACTED BY THE BAND ASSEMBLY:"

Band Statute 1202-MLC-16, § § 1 and 2 provide.

"Section 1. Purpose: the purpose of this Act is to promote the general welfare of the Non-Removable Mille Lacs Band of Chippewa Indians and its members by establishing a more effective form of commerce, to control the economic affairs of the Band, and to establish, operate, and incorporate such commercial enterprises as is may deem to be for the benefit of the Mille Lacs Band of Chippewa Indians.

"Section 2: Scope of the Amending Provisions. The previously enacted chapter 16 (1077-MLC-16) is hereby repealed. This Act shall become effective the day after its passage.

The Title of Band Ordinance 23-06 is "An ordinance to amend Title 16 (Corporations) of the Mille Lacs Band of Ojibwe statutes to delete or change sections that are in direct conflict with the intent and scope of Title 15 (Gaming Regulatory Act) which was adopted on August 19, 2003."

The Preamble of Band Ordinance 23-06 provides: "It is enacted by the Band Assembly for the purpose of correcting Title 16(Corporations) so as to delete or change sections that are in direct conflict with the intent and scope of Title 15 (Gaming Regulatory Act)."

The Title of Band Ordinance 04-15 is "An Ordinance to amend Mille Lacs Band Statute, §101 of Title 16 – Corporations, pursuant to legislative process articulated in 3 MLBS §16."

The Preamble of Band Ordinance 04-15 provides: "Be it enacted by the Band Assembly of the Mille Lacs Band of Ojibwe for the purpose of formally renaming the Corporate Commission of the Mille Lacs Band of Chippewa Indians to Mille Lacs Corporate Ventures."

Cross References

Gasoline excise tax, imposition, *see* 22 MLBS § 303.

General powers and duties of Commissioner of Finance, *see* 22 MLBS § 104.

Public service contracts, award to businesses organized under this title, *see* 7 MLBS § 1.

Sales and use taxes, *see* 22 MLBS § 501 et seq.

CHAPTER 1

GENERAL PROVISIONS

Subchapter	Section
1. Commissioner for Corporate Affairs	1
2. Corporate Commission	101

SUBCHAPTER 1

COMMISSIONER FOR CORPORATE AFFAIRS

Section

1. **Establishment.**
2. **Appointment.**
3. **Removal.**
4. **Powers and Duties.**
5. **Ministerial Powers and Duties of Commissioner for Corporate Affairs.**
6. **Commissioner's Orders.**

§ 1. Establishment.

The position of Commissioner for Corporate Affairs is established.

Historical and Statutory Notes

Source:

Band Statute 1202-MLC-16, § 3.

§ 2. Appointment.

The Commissioner for Corporate Affairs shall be appointed to a four-year term by the Chief Executive with the ratification of the Band Assembly.

Historical and Statutory Notes

Source:

Band Statute 1202-MLC-16, § 3.01.

§ 3. Removal.

The Commissioner for Corporate Affairs may be removed from office pursuant to 3 MLBS § 28.

Historical and Statutory Notes

Source:

Band Statute 1202-MLC-16, § 3.02.

§ 4. Powers and Duties.

The Commissioner for Corporate Affairs shall have the powers and duties which are set forth in this title.

Historical and Statutory Notes

Source:

Band Statute 1202-MLC-16, § 3.03.

§ 5. Ministerial powers and Duties of Commissioner for Corporate Affairs.

The Commissioner for Corporate Affairs shall have the following ministerial duties:

(a) To provide an effective and efficient system of administration for the Mille Lacs Band Business Corporation Act (16 MLBS § 1001 et seq.);

(b) To provide an effective and efficient system of administration for the Mille Lacs Band Nonprofit Corporation Act (16 MLBS § 2001 et seq.);

(c) To provide reporting and accounting for a Net Revenue Allocation Schedule in a form prescribed by the Band Assembly pursuant to 16 MLBS § 108.

(d) To provide an effective and efficient administrative system to license and certify Foreign Corporations under the Band's Commercial Licensing Statute (18 MLBS § 1 et seq.).

Historical and Statutory Notes

Source:

Band Statute 1202-MLC-16, § 4.
Band Ordinance 23-06, § 1.

Cross References

Corporate powers and duties of Corporate Commissioner, *see* 16 MLBS § 111.

§ 6. Commissioner's Orders.

(a) The Commissioner of Corporate Affairs shall issue regulations to accomplish the duties under 16 MLBS § 5, in the form of Commissioner's Orders.

(b) Such Commissioner's Orders shall be subject to annulment by the Band Assembly pursuant to 3 MLBS § 17.

Historical and Statutory Notes

Source:

Band Statute 1202-MLC-16, § 4.06.

Cross References

Corporate Orders, *see* 16 MLBS § 111.

SUBCHAPTER 2

CORPORATE COMMISSION

Section

101. Establishment.
102. Purposes.
103. Board Composition.
104. Corporate Body Politic.
105. Limited Liability and Indemnification.
106. Enumerated Powers.
107. Corporate Charter.
108. Net Revenue Allocation Schedule.
109. Sovereign Immunity.
110. Assets and Liabilities of the Band.
111. Corporate Powers and Duties of Corporate Commissioner.

Cross References

Gaming activity regulation, *see* 15 MLBS 101.

§ 101. Establishment.

(a) The Corporate Commission of the Mille Lacs Band of Chippewa Indians is established as a Corporate Body Politic. As a Corporate Body Politic, the Corporate Commission is both a political subdivision, clothed by federal and tribal law with all the privileges and immunities of the Band, except as expressly limited; and a separately chartered corporation under 16 MLBS § 1101(1)).

(b) Effective October 28, 2014, the name under which the Corporate Commission conducts business shall now be "Mille Lacs Corporate Ventures", and all powers, duties, privileges, and immunities of the Corporate Commission provided for in Band statutes and laws shall inure to such entity; and all references in Band laws, resolutions, or policy to the Corporate Commission shall include such entity.

Historical and Statutory Notes

Source:

Band Statute 1202-MLC-16, § 5, § 8.
Band Ordinance 04-15.

§ 102. Purposes.

The Corporate Commission of the Mille Lacs Band of Chippewa Indians is established:

(a) to exercise a more effective form of commerce;

(b) to control and manage the economic affairs of the Mille Lacs Band of Chippewa Indians;

(c) to establish and operate commercial enterprises as it may deem to be for the benefit of the Mille Lacs Band of Chippewa Indians;

(d) to make sound business and economic development decisions in a way that is insulated from day to day political considerations faced by Band elected leaders;

(e) to avail the Band of the benefits of engaging in business and economic development without subjecting the Band government, qua government, to erosion of Band sovereignty.

(f) to insulate Band assets from liability assumed in the conduct of business operations of the Corporate Commission or as wholly owned subsidiary thereof.

(g) for any other purposes set forth in the Charter or bylaws of the Corporate Commission that are not inconsistent with this title.

Historical and Statutory Notes

Source:

Band Statute 1202-MLC-16, § 5.01.

§ 103. Board Composition.

The Corporate Commission shall be comprised of 5 board members and the Commissioner of Corporate Affairs. The 5 Board members shall be nominated by the Chief Executive and ratified by the Band Assembly. The term of the Commissioner of Corporate Affairs serving at the time of the passage of Band Statute 1202-MLC-16 shall continue until January 1, 1993. The Commissioners serving at the time of the passage of Band Statute 1202-MLC-16 shall remain as Commissioners. Any vacancies existing on the Corporate Board shall be filled in a manner prescribed in this title. The Corporate Board shall select one (1) among its members who shall serve a four-year term, one (1) who shall serve a three-year term, two (2) who shall serve a two-year term, and one (1) who shall serve a one-year term; subsequent appointments after these terms expire shall run for four (4) years. At least one (1) member of the Board shall be a Band member residing in District 1; At least one (1) member of the Board shall be a Band member residing in District 2; At least one (1) member of the Board shall be a Band member residing in District 3. The Commissioner of Corporate Affairs shall serve as Chairman and Chief Operating Office of the Corporation. The Board shall elect from its membership an individual to serve as the Chief Financial Officer of the Corporation.

Historical and Statutory Notes

Source:
Band Statute 1202-MLC-16, § 5.02.

Cross References

Designation of Band Districts, *see* 2 MLBS § 11.

§ 104. Corporate Body Politic.

The Corporate Commission shall be incorporated as a Corporate Body Politic under 16 MLBS § 1101(1)). As a Corporate Body Politic the Corporate Commission shall have membership who will consist of the Chief Executive, the Speaker of the Band Assembly, and the District Representative instead of shareholders.

Historical and Statutory Notes

Source:
Band Statute 1202-MLC-1 6, § 8.01.

§ 105 Limited Liability and Indemnification.

The corporation shall indemnify any person who was or is a party or threatened to be made a party to any threatened, pending or completed action, suit or proceeding either civil, criminal, administrative or investigative by reason of the fact that he or she is or was a director, officer, agent or employee acting on behalf of the corporation, or is or was serving at the request of the corporation as a director or officer of another enterprise or corporation, against expenses, including attorneys' fees and costs, judgments, fines and amounts paid in settlement actually and reasonably incurred by her or him in connection with such action, suit or proceeding, to the extent that such person is not otherwise indemnified. The corporation shall not be required to indemnify such director, officer, agent or employee if independent counsel shall determine pursuant to a judicial decision in any such action, suit or proceeding or independently, in case of settlement, that the director, officer, agent or employee has failed to act in good faith and with that degree of diligence, care and skill which ordinary prudent people would exercise under similar circumstances in like positions.

Historical and Statutory Notes

Source:
Band Statute 1202-MLC-16, § 5.03.

§ 106. Enumerated Powers.

The Corporate Commission shall have the following specifically enumerated powers:

(a) To engage in business and economic development endeavors;

(b) To enter any contracts or agreements necessary for business or economic development endeavors;

(c) To enter into compacts or other agreements with the state or federal government in furtherance of engaging in business or economic development endeavors;

(d) To form and incorporate wholly owned subsidiary business corporations and non-profit corporations with separate articles, bylaws, board of directors, and separate employer ID numbers to conduct the affairs of individual business endeavors and to insulate the Corporate Commission from liability of those endeavors.

(1) The Corporate Commission shall name the Board of Directors of any such corporations and shall approve the articles and bylaws of any such corporation before the same shall become effective.

(2) The Corporate Commission may assign any duties and/or privileges of any agreement or contract the commission has entered into to a wholly owned subsidiary whose specific business purpose is relevant to such agreement or contract.

(e) [Repealed]

(f) Any additional powers necessary to carry out the purposes as described in 16 MLBS § 102. Such additional powers will be specifically enumerated in a set of articles and bylaws to be approved by the Corporate Commission. Such articles and bylaws and any additional specifically enumerated powers contained therein must be approved by the Band Assembly resolution before they shall become effective.

Historical and Statutory Notes

Source:

Band Statute 1 202-MLC-16, § 5.04.
Band Ordinance 23-06, § 2.

Cross References

Tobacco products, Corporate Commission as sole licensed distributor, *see* 22 MLBS § 201 et seq.

§ 107. Corporate Charter.

The Corporate Commission shall draft and approve a charter and bylaws to be submitted to the Band Assembly for ratification. Such a charter and bylaws shall not become effective until ratified by the Band Assembly.

Historical and Statutory Notes

Source:
Band Statute 1202-MLC-16, § 6.

§ 108. Net Revenue Allocation Schedule.

The Band Assembly shall by resolution adopt a Net Revenue Allocation Schedule to provide for the allocation of net revenue from any business conducted by the corporation or any wholly owned subsidiary of the Corporate Commission.

Historical and Statutory Notes

Source:
Band Statute 1202-MLC-16, § 7.

Cross References

Reporting and accounting, *see* 16 MLBS § 5.

§ 109. Sovereign Immunity.

(a) The Corporate Commission shall be clothed by federal and tribal law with all the privileges and immunities of the Band, except as specifically limited by this title, including sovereign immunity from suit in any state, federal or tribal court. Nothing contained in this title shall be deemed or construed to be a waiver of sovereign immunity by the Corporate Commission from suit which may be waived only in accordance with this title, the Corporate Commission Charter and Bylaws. Nothing in this chapter shall be deemed or construed to be a consent of the Corporate Commission to the jurisdiction of the United States or of any State or of any tribe or band other than the Band with regard to the business or affairs of the corporation.

(b)

(1) Sovereign immunity of the Corporate Commission may be waived only by formal resolution of the corporation's Board of Directors. Waivers of sovereign immunity are disfavored and shall be granted only when necessary to secure a substantial advantage or benefit to the corporation.

(2) Any waiver of sovereign immunity shall be specific and limited as to:

(i) duration,

(ii) the grantee,

(iii) the particular transaction,

(iv) definite property or funds, if any, of the corporation,

(v) a particular court having jurisdiction pursuant thereto and

(vi) the law that shall be applicable thereto.

(3) Any express waiver of sovereign immunity by resolution of the Board, shall not be deemed a consent to the levy of any judgment, lien or attachment upon property of the corporation other than property specifically pledged or assigned, or a consent to suit in respect of any land within the Reservation or a consent to the alienation, attachment or encumbrance of any such land.

Historical and Statutory Notes

Source:

Band Statute 1202-MLC-16, § 9.

§ 110. Assets and Liabilities of the Band.

The corporation shall have only those assets specifically assigned to it by the Band or acquired in its name by the Band or the Corporate Commission or on its own behalf. Nothing in this chapter nor any activity of the corporation shall implicate or in any way involve the credit or assets of the Band or obligate the Band for the obligations of this corporation except for any liability or obligation specifically assumed in writing.

Historical and Statutory Notes

Source:

Band Statute 1202-MLC-16, § 10.

§ 111. Corporate Powers and Duties of Corporate Commissioner.

(a) The Corporate Commissioner shall have the following corporate duties and responsibilities:

(1) The Commissioner of Corporate Affairs shall serve as the Chief Operating Officer of the Corporate Commission.

(2) The Corporate Commissioner or the Corporate Commissioners Designee shall serve as the Chief Operating Officer, or, if at the discretion of the Corporate Commissioner, as a Board Member other than the CEO of any wholly owned subsidiary.

(3) Any additional powers necessary to carry out the purposes as described in this chapter.

(b)

(1) The Commissioner of Corporate Affairs shall issue regulations and other directives to accomplish the above duties in the form of Corporate Orders.

(2) Such Corporate Order shall be subject to voidance by a majority of the Board members of the Corporate Commission provide that such rejection of the Corporate Order on made in writing by a majority of board members within 3 days of the board members receiving constructive notice of the corporate order.

Historical and Statutory Notes

Source:

Band Statute 1202-MLC-16, § Ii.

Cross References

Commercial practices, Investigations, *see* 18 MLBS § 11 [Digitizer's note: Section not in digital copy].
Rules and regulations, *see* 18 MLBS § 4.
Commissioner's Orders, *see* 16 MLBS § 6.
Ministerial powers and duties of Commissioner for Corporate Affairs, *see* 16 MLBS § 5.
Power to license commercial entities, *see* 18 MLBS § 101.
Prohibition of introduction of goods, *see* 18 MLBS § 208.
Use of information, commercial practices, *see* 18 MLBS § 9.

CHAPTER 2

BUSINESS CORPORATIONS

Subchapter	Section
1. General Provisions	1001
2. Incorporation and Article	1101

SUBCHAPTER 1

GENERAL PROVISIONS

Section

1001. Citation.
1002. Definitions.
1003. Regulations.
1004. Foreign Corporations.

§ 1001. Citation.

This chapter may be cited as the "Mille Lacs Band of Chippewa Indians business corporation act."

Historical and Statutory Notes

Source:
Band Statute 1202-MLC-16A, § 1.

§ 1002. Definitions.

For the purposes of this chapter, and any regulations issued pursuant to this chapter, unless the language or context clearly indicates that a different meaning is intended, the words, terms, and phrases defined in this section have the meanings given them.

(a) **"Address"** means mailing address, including a zip code. In the case of a registered office or principal executive office, the term means the mailing address and the actual office location which shall not be a post office box.

(b) **"Affiliate"** means a person that directly or indirectly controls, is controlled by, or is under common control with, a specified person.

(c) **"Band"** means the Mille Lacs Band of Chippewa Indians.

(d) **"Board of Directors"** or **"Board"** means the group of persons vested with the general management of the internal affairs of the corporation, regardless of how designated.

(e) **"Bylaws"** means the code adopted for the regulation or management of the internal affairs of the corporation, regardless of how designated.

(f) **"Class"**, when used with reference to shares, means a category of shares that differs in designation or one (1) or more rights or preferences from another category of shares of the corporation.

(g) **"Closely held corporation"** means a corporation which does not have more than 35 shareholders.

(h) **"Commissioner"** means the Commissioner of Corporate Affairs.

(i)

(1) **"Corporation"** means a corporation, other than a foreign corporation, organized for profit and incorporated under or governed by this chapter.

(2) **"Corporation"** means a corporation that is governed by this chapter.

(j) **"Director"** means a member of the board.

(k) **"Foreign corporation"** means a corporation organized for profit that is incorporated under laws other than the laws of this state for a purpose or purposes for which a corporation may be incorporated under this chapter.

(l) **"Good faith"** means honesty in fact in the conduct of the act or transaction concerned.

(m) **"Intentionally"** means that the person referred to either has a purpose to do or fail to do the act or cause the result specified or believes that the act or failure to act, if successful, will cause that result. A person "intentionally" violates a statute if the person intentionally does the act or causes the result prohibited by the statute, or if the person intentionally fails to do the act or cause the result required by the statute, even though the person may not know of the existence or constitutionality of the statute or the scope or meaning of the terms used in the statute.

(n) A person **"knows"** or has **"knowledge"** of a fact when the person has actual knowledge of it. A person does not "know" or have "knowledge" of a fact merely because the person has reason to know of the fact.

(o) **"Officer"** means a person elected, appointed, or otherwise designated as an officer by the board, and any other person deemed elected as an officer pursuant to this chapter.

(p) **"Organization"** means a domestic or foreign corporation, partnership, limited partnership, joint venture, association, business trust, estate, trust, enterprise, and any other legal or commercial entity.

(q) **"Person"** includes a natural person and an organization.

(r) **"Principal executive office"** means an office where the elected or appointed chief executive officer of a corporation has an office. If the corporation has no elected or appointed chief executive officer, "principal executive office" means the registered office of the corporation.

(s) **"Publicly held corporation"** means a corporation that has a class of equity securities registered pursuant to section 12 (15 U.S.C.A. § 78l), or is subject to section 15(d) (15 U.S.C.A. § 78o(d)), of the Securities Exchange Act of 1934.

(t) **"Registered office"** means the place within the jurisdiction of the Band designated in the articles of a corporation as the registered office of the corporation.

(u) **"Related corporation"** of a specified corporation means a parent or subsidiary of the specified corporation or another subsidiary of a parent of the specified corporation.

(v) **"Share"** means one (1) of the units, however designated, into which the shareholders' proprietary interests in a corporation are divided.

(w) **"Shareholder"** means a person registered on the books or records of a corporation or its transfer agent or registrar as the owner of whole or fractional shares of the corporation.

(x) **"Subsidiary"** of a specified corporation means a corporation having more than 50% of the voting power of its shares entitled to vote for directors owned directly, or indirectly through related corporations, by the specified corporation.

Historical and Statutory Notes

Source:

Band Statute 1202-MLC-16A, § 2.

§ 1003. Regulations.

(a) The Commissioner of Corporate Affairs shall promulgate regulations with regard to Business Corporations governing:

(1) powers (not inconsistent with other applicable law);

(2) board of directors;

(3) officers;

(4) shares, shareholders;

(5) loans, obligations, distribution;

(6) merger, exchange, transfer;

(7) dissolution;

(8) extension;

(9) corporate registration; and

(10) actions against corporations.

(b) Such regulations shall closely parallel the Minnesota Business Corporation Act (MINN. STAT. § 302A.001 et seq.).

Historical and Statutory Notes

Source:

Band Statute 1202-MLC-16A, § 14.

§ 1004 Foreign Corporations.

Foreign corporations conducting business within the jurisdiction of the Band need not file with the Commissioner as a foreign corporation. A foreign corporation shall be required to acquire a license to conduct business within the jurisdiction of the Band as is provided by 18 MLBS § 1 et seq.

Historical and Statutory Notes

Source:

Band Statute 1202-MLC-16A, § 15.

SUBCHAPTER 2

INCORPORATION AND ARTICLES

Section

1101. Purposes.
1102. Incorporators.
1103. Articles.
1104. Corporate Name.
1105. Reserved Name.
1106. Registered Office; Registered Agent.
1107. Change of Registered Office or Registered Agent; Change of Name of Registered Agent.
1108. Amendment of Articles.
1109. Filing Articles.
1110. Effective Date of Articles.
1111. Presumption; Certificate of Incorporation.

§ 1101. Purposes.

(a) A corporation may be incorporated under this chapter for any business purpose or purposes, unless some other statute of Band requires incorporation for any of those

purposes under a different law. Unless otherwise provided in its articles, a corporation has general business purposes.

(b) A corporation may also be incorporated under this chapter as a Corporate Body Politic. A Corporate Body Politic shall be the same in all respects as any other corporation incorporated under this chapter except that:

(1) Such Corporate Body Politic shall also be a political subdivision of the Band conferred with all privileges and immunities contained as such; and

(2) Such Corporate Body Politic will have members instead of shareholders. The members shall consist of the Chief Executive, the Speaker of the Band Assembly, and the District Representatives of Districts 1, 2 and 3. These individuals shall serve as members in their official capacity as elected leaders of the Mille Lacs Band of Chippewa Indians.

(3) There shall be no voting rights for the members. The members shall have the power to appoint or delegate the appointment of the board of director of such Corporate Body Politic in accord with applicable Band Statutes.

(4) Incorporators shall not be required for the Corporate Body Politic. The Corporate Body Politic shall be established in accord with Band Statute, or as delegated by Band Statute.

(5) Any revenues from such a Corporate Body Politic shall inure to the Mille Lacs Band of Chippewa Indians to be allocated for governmental purposes and the general welfare of the Mille Lacs Band people, according to a net revenue allocation schedule to be enacted by the Band.

(6) Such Corporate Body Politic shall not be required to pay any fees listed in this chapter.

Historical and Statutory Notes

Source:

Band Statute 1202-MLC-16A, § 3.

Cross References

Corporate Commission as Corporate Body Politic, *see* 16 MLBS §§ 101, 108.

§ 1102. Incorporators.

One or more natural persons of full age may act as incorporators of a corporation by filing with the Commissioner articles of incorporation for the corporation.

Historical and Statutory Notes

Source:

Band Statute 1202-MLC-16A, § 4.

§ 1103. Articles.

(a) **Required provisions**. The articles of incorporation shall contain:

(1) The name of the corporation;

(2) The address of the registered office of the corporation and the name of its registered agent, if any, at that address;

(3) The aggregate number of shares that the corporation has authority to issue; and

(4) The name and address of each incorporator.

(b) **Statutory provisions that may be modified only in articles**. The following provisions govern a corporation unless modified in the articles:

(1) A corporation has general business purposes;

(2) A corporation has perpetual existence and certain powers;

(3) The power to adopt, amend, or repeal the bylaws is vested in the board;

(4) A corporation must not allow cumulative voting for directors;

(5) The affirmative vote of a majority of directors present is required for an action of the board;

(6) A written action by the board taken without a meeting must be signed by all directors;

(7) The board may authorize the issuance of securities and rights to purchase securities;

(8) All shares are common shares entitled to vote and are of one (1) class and one (1) series;

(9) All shares have equal rights and preferences in all matters not otherwise provided for by the board;

(10) The par value of shares is fixed at one (1) cent per share for certain purposes and may be fixed by the board for certain other purposes;

(11) The board or the shareholders may issue shares for any consideration or for no consideration to effectuate share dividends or splits, and determine the value of nonmonetary consideration;

(12) Shares of a class or series must not be issued to holders of shares of another class or series to effectuate share dividends or splits, unless authorized by a majority of the voting power of the shares of the same class or series as the shares to be issued;

(13) A corporation may issue rights to purchase securities whose terms, provisions, and conditions are fixed by the board;

(14) A shareholder has certain preemptive rights, unless otherwise provided by the board;

(15) The affirmative vote of the holders of a majority of the voting power of the shares present and entitled to vote at a duly held meeting is required for an action of the shareholders, except where this chapter requires the affirmative vote of a majority of the voting power of all shares entitled to vote;

(16) Shares of a corporation acquired by the corporation may be reissued;

(17) Each share has one (1) vote unless otherwise provided in the terms of the share; and

(18) A corporation may issue shares for a consideration less than the par value, if any, of the shares.

(c) **Statutory provisions that may be modified either in articles or in bylaws.** The following provisions govern a corporation unless modified either in the articles or in the bylaws:

(1) Directors serve for an indefinite term that expires at the next regular meeting of shareholders;

(2) The compensation of directors is fixed by the board;

(3) A certain method must be used for removal of directors;

(4) A certain method must be used for filling board vacancies;

(5) If the board fails to select a place for a board meeting, it must be held at the principal executive office;

(6) A director may call a board meeting, and the notice of the meeting need not state the purpose of the meeting;

(7) A majority of the board is a quorum for a board meeting;

(8) A committee shall consist of one (1) or more persons, who need not be directors, appointed by affirmative vote of a majority of the directors present;

(9) The board may establish a special litigation committee;

(10) The chief executive officer and chief financial officer have specified duties, until the board determines otherwise;

(11) Officers may delegate some or all of their duties and powers, if not prohibited by the board from doing so;

(12) The board may establish uncertificated shares;

(13) Regular meetings of shareholders need not be held, unless demanded by a shareholder under certain conditions;

(14) In all instances where a specific minimum notice period has not otherwise been fixed by law, not less than ten-days' notice is required for a meeting of shareholders;

(15) The number of shares required for a quorum at a shareholders' meeting is a majority of the voting power of the shares entitled to vote at the meeting;

(16) The board may fix a date up to 60 days before the date of a shareholders' meeting as the date for the determination of the holders of shares entitled to notice of and entitled to vote at the meeting;

(17) Indemnification of certain persons is required; and

(18) The board may authorize, and the corporation may make, distributions not prohibited, limited, or restricted by an agreement.

(d) **Optional provisions; specific subjects**. The following provisions relating to the management of the business or the regulation of the affairs of a corporation may be included either in the articles or, except for naming members of the first board, fixing a greater than majority director or shareholder vote, or giving or prescribing the manner of giving voting rights to persons other than shareholders otherwise than pursuant to the articles, or eliminating or limiting a director's personal liability, in the bylaws:

(1) The members of the first board may be named in the articles;

(2) A manner for increasing or decreasing the number of directors may be provided;

(3) Additional qualifications for directors may be imposed;

(4) Directors may be classified;

(5) The day or date, time, and place of board meetings may be fixed;

(6) Absent directors may be permitted to give written consent or opposition to a proposal;

(7) A larger than majority vote may be required for board action;

(8) Authority to sign and deliver certain documents may be delegated to an officer or agent of the corporation other than the chief executive officer;

(9) Additional officers may be designated;

(10) Additional powers, rights, duties, and responsibilities may be given to officers;

(11) A method for filling vacant offices may be specified;

(12) A certain officer or agent may be authorized to sign share certificates;

(13) The transfer or registration of transfer of securities may be restricted;

(14) The day or date, time, and place of regular shareholder meetings may be fixed;

(15) Certain persons may be authorized to call special meetings of shareholders;

(16) Notices of shareholder meetings may be required to contain certain information;

(17) A larger than majority vote may be required for shareholder action;

(18) Voting rights may be granted in or pursuant to the articles to persons who are not shareholders;

(19) Corporate actions giving rise to dissenter rights may be designated;

(20) The rights and priorities of persons to receive distributions may be established; and

(21) A director's personal liability to the corporation or its shareholders for monetary damages for breach of fiduciary duty as a director may be eliminated or limited in the articles.

(e) **Optional provisions: generally**. The articles may contain other provisions not inconsistent with law relating to the management of the business or the regulation of the affairs of the corporation.

(f) **Powers need not be stated**. It is not necessary to set forth in the articles any of the corporate powers granted by this chapter.

Historical and Statutory Notes

Source:

Band Statute 1202-MLC-1 6A, § 5.

§ 1104. Corporate Name.

(a) **Requirements; prohibitions**. The corporate name:

(1) Shall be in the English language, the Ojibwe language, or in any other language expressed in English letters or characters;

(2) Shall contain the word "corporation, incorporated," or "limited," or shall contain an abbreviation of one (1) or more of these words, or the word company" or the abbreviation "Co." if that word or abbreviation is not immediately preceded by the word "and" or the character "&";

(3) Shall not contain a word or phrase that indicates or implies that it is incorporated for a purpose other than a legal business purpose;

(4) Shall be distinguishable upon the records in the office of the Commissioner from the name of a domestic corporation or limited partnership whether profit or nonprofit, or a foreign corporation or limited partnership authorized or registered to do business within the jurisdiction of the Band, whether profit or nonprofit, or a name the right to which is, at the time of incorporation, reserved or provided for in Band Statute or regulations promulgated pursuant to this chapter unless exempted by the Commissioner.

(b) **Determination**. The Commissioner shall determine whether a name is "distinguishable" from another name for purposes of this chapter.

Historical and Statutory Notes

Source:

Band Statute 1202-MLC-16A, § 6.

§ 1105. Reserved Name.

(a) **Who may reserve**. The exclusive right to the use of a corporate name otherwise permitted by this chapter may be reserved by:

(1) a person doing business within the jurisdiction of the Band under that name;

(2) a person intending to incorporate under this chapter;

(3) a domestic corporation intending to change its name;

(b) **Method of reservation**. The reservation shall be made by filing with the Commissioner a request that the name be reserved. If the name is available for use by the applicant, the Commissioner shall reserve the name for the exclusive use of the applicant for a period of 12 months. The reservation may be renewed for successive 12-month periods.

(c) **Transfer of reservation**. The right to the exclusive use of a corporate name reserved pursuant to this section may be transferred to another person by or on behalf of the applicant for whom the name was reserved by filing with the Commissioner a notice of the transfer and specifying the name and address of the transferee.

Historical and Statutory Notes

Source:

Band Statute 1202-MLC-1 6A, § 7.

§ 1106. Registered Office; Registered Agent.

(a) **Registered office**. A corporation shall continuously maintain a registered office within the jurisdiction of the Band. A registered office need not be the same as the principal place of business or the principal executive office of the corporation.

(b) **Registered agent**. A corporation may designate in its articles a registered agent. The registered agent may be a natural person residing within the jurisdiction of the Band, a domestic corporation, or a foreign corporation authorized to transact business within the jurisdiction of the Band. The registered agent must maintain a business office that is identical with the registered office.

Historical and Statutory Notes

Source:

Band Statute 1202-MLC-16A, § 8.

§ 1107. Change of Registered Office or Registered Agent; Change of Name of Registered Agent.

(a) **Statement**. A corporation may change its registered office, designate or change its registered agent, or state a change in the name of its registered agent, by filing with the Commissioner a statement containing:

(1) The name of the corporation;

(2) If the address of its registered office is to be changed, the new address of its registered office;

(3) If its registered agent is to be designated or changed, the name of its new registered agent;

(4) If the name of its registered agent is to be changed, the name of its registered agent as changed;

(5) A statement that the address of its registered office and the address of the business office of its registered agent, as changed, will be identical; and

(6) A statement that the change of registered office or registered agent was authorized by resolution approved by the affirmative vote of a majority of the directors present.

(b) **Resignation of agent**. A registered agent of a corporation may resign by filing with the Commissioner a signed written notice of resignation, including a statement that a signed copy of the notice has been given to the corporation at its principal executive office or to a legal representative of the corporation. The appointment of the agent terminates 30 days after the notice is filed with the Commissioner.

(c) **Change of business address or name of agent**. If the business address or name of a registered agent changes, the agent shall change the address of the registered office or the name of the registered agent, as the case may be, of each corporation represented by that agent by filing with the Commissioner a statement as required in subsection (a), except that it need be signed only by the registered agent, need not be responsive to paragraph (3) or (6) of subsection (a), and must state that a copy of the statement has been mailed to each of those corporations or to the legal representative of each of those corporations.

Historical and Statutory Notes

Source:

Band Statute 1202-MLC-16A, § 9.

§ 1108. Amendment of Articles.

The articles of a corporation organized under this chapter may be amended in a manner prescribed by the Commissioner.

Historical and Statutory Notes

Source:
Band Statute 1202-MLC-16A, § 10.

§ 1109 Filing Articles.

Articles of incorporation and articles of amendment shall be filed with the Commissioner.

Historical and Statutory Notes

Source:
Band Statute 1202-MLC-16A, § 11.

§ 1110. Effective Date of Articles.

Articles of incorporation are effective and corporate existence begins when the articles of incorporation are filed with the Commissioner accompanied by a payment of $75.00, which includes a $45.00 incorporation fee in addition to the $30.00 filing fee.

Historical and Statutory Notes

Source:
Band Statute 1202-MLC-16A, § 12.

§ 1111. Presumption; Certificate of Incorporation.

When the articles of incorporation have been filed with the Commissioner and the required fee has been paid to the Commissioner, it is presumed that all conditions precedent required to be performed by the incorporators have been complied with and that the corporation has been incorporated, and the Commissioner shall issue a certificate of incorporation to the corporation, but this presumption does not apply against Band in a proceeding to cancel or revoke the certificate of incorporation or to compel the involuntary dissolution of the corporation.

Historical and Statutory Notes

Source:
Band Statute 1202-MLC-16A, § 13.

CHAPTER 3

NONPROFIT CORPORATIONS

Subchapter	Section
1. General Provisions	2001
2. Incorporation and Articles	2101

SUBCHAPTER 1

GENERAL PROVISIONS

Section
2001. Citation.
2002. Definitions.
2003. Scope of Chapter.
2004. Regulations.
2005. Foreign Corporations.

§ 2001. Citation.

This chapter may be cited as the Mule Lacs Band of Chippewa Indians nonprofit corporation act.

Historical and Statutory Notes

Source:
Band Statute 1077-MLC-16B, § I.

§ 2002. Definitions.

For purposes of this chapter, the terms in this section have the meanings given them, unless the language or context clearly shows that a different meaning is intended.

(a) **"Address"** means mailing address, including a zip code, except that in the case of a registered office, address means the mailing address and the actual office location, which may not be a post office box.

(b) **"Band"** means the Mille Lacs Band of Chippewa Indians.

(c) **"Board of Directors"** or **"Board"** means the group of persons vested with the general management of the internal affairs of a corporation, regardless of how they are identified.

(d) **"Bylaws"** means the code adopted for the regulation or management of the internal affairs of a corporation, regardless of how designated.

(e) **"Commissioner"** means the Commissioner of Corporate Affairs.

(f) **"Corporation"** means a corporation that is governed by this chapter. A corporation may not:

(1) be formed for a purpose involving pecuniary gain to its members, other than to members that are nonprofit organizations or subdivisions, units, or agencies of the United States or a tribal government or subdivision thereof; and

(2) pay dividends or other pecuniary remuneration, directly or indirectly, to its members, other than to members that are nonprofit organizations or subdivisions, units, or agencies of the United States or a tribal government or a subdivision thereof.

(g) **"Director"** means a member of the board.

(h) **"Foreign corporation"** means a corporation that is formed under laws other than the laws of this state.

(i) **"Good faith"** means honesty in fact in the conduct of an act or transaction

(j) **"Member"** means a person with membership rights in a corporation under its articles or bylaws, regardless of how the person is identified.

(k) **"Members with voting rights"** or **"voting members"** means members or a class of members that has voting rights with respect to the purpose or matter involved.

(l) **"Officer"** means a person elected, appointed, or otherwise designated as an officer by the board or the members, and a person considered elected an officer under this chapter.

(m) **"Organization"** means a domestic or foreign business or nonprofit corporation, partnership, limited partnership, joint venture, association, trust, estate, enterprise, or other legal or commercial entity.

(n) **"Registered office"** means the place within the jurisdiction of the Band designated in the articles of a corporation as the registered office of the corporation.

(o) **"Written action"** means a written document signed by all of the persons required to take the action. The term also means the counterparts of a written document signed by any of the persons taking the action. A counterpart is the action of the persons signing

it, and all the counterparts are one (1) written action by all of the persons signing them.

Historical and Statutory Notes

Source:

Band Statute 1077-MLC-16B, § 2.

§ 2003. Scope of Chapter.

(a) **General**. This chapter does not apply to cooperative associations, public cemetery corporations and associations, and private cemeteries.

(b) **Religious corporations**. This chapter does not apply to a religious corporation unless it is formed under this chapter or elects to be governed by this chapter.

Historical and Statutory Notes

Source:

Band Statute 1077-MLC-16B, § 3.

§ 2004 Regulations.

(a) The Commissioner of Corporate Affairs shall issue regulations with regard to Nonprofit Corporations governing the:

(1) powers (not inconsistent with other applicable law);

(2) organization, bylaws;

(3) board of directors;

(4) officers;

(5) members;

(6) loans, obligations;

(7) merger, consolidation, transfer;

(8) dissolution; extension; corporate registration;

(9) actions against corporations; and

(10) special provisions.

(b) These regulations shall closely parallel the Nonprofit Corporations Act' enacted by the State of Minnesota. MINN. STAT. § 317A.001 et seq.

Historical and Statutory Notes

Source:

Band Statute 1077-MLC-16B, § 15.

§ 2005. Foreign Corporations.

Foreign corporations conducting business within the jurisdiction of the Band need not file with the Commissioner as a foreign corporation. A foreign corporation shall be required to acquire a license to conduct business within the jurisdiction of the Band as is provided by 18 MLBS § 1 et seq.

Historical and Statutory Notes

Source:

Band Statute 1077-MLC-16B, § 2005.

SUBCHAPTER 2

INCORPORATION AND ARTICLES

Section

2101. Purposes.
2102. Incorporators.
2103. Articles.
2104. Private Foundations; Provisions Considered Contained in Articles.
2105. Corporate Name.
2106. Reserved Name.
2107. Registered Office; Registered Agent.
2108. Change of Registered Office or Registered Agent; Change of Name of Registered Agent.
2109. Amendment of Articles.
2110. Filing; Effective Date of Articles.
2111. Presumption; Certificate of Incorporation.

§ 2101. Purposes.

(a) A corporation may be incorporated under this chapter for any lawful purpose, unless another statute requires incorporation for a purpose under a different law. Unless otherwise limited in its articles, a corporation has a general purpose of engaging in

any lawful activity. A corporation engaging in conduct that is regulated by another statute is subject to the limitations of the other statute.

(b) A corporation may also be incorporated under this chapter as a Nonprofit Corporate Body Politic. A Nonprofit Corporate Body Politic shall be the same in all respects as any other corporation incorporated under this chapter except that:

(1) Such Nonprofit Corporate Body Politic shall also be a political subdivision of the Band conferred with all privileges and immunities contained as such; and

(2) Such Nonprofit Corporate Body Politic will have members instead of shareholders. The members shall consist of the Chief Executive, the Speaker of the Band Assembly, and the District Representatives of Districts 1, 2 and 3. These individuals shall serve as members in their official capacity as elected leaders of the Mille Lacs Band of Chippewa Indians.

(3) There shall be no voting rights for the members. The members shall have the power to appoint or delegate the appointment of the board of directors of such Nonprofit Corporate Body Politic in accord with applicable Band Statutes.

(4) Incorporators shall not be required for the Nonprofit Corporate Body Politic. The Corporate Body Politic shall be established in accord with Band Statute, or as delegated by Band Statute.

(5) Any revenues from such a Nonprofit Corporate Body Politic shall inure to the Mille Lacs Band of Chippewa Indians to be allocated for governmental purposes and the general welfare of the Mille Lacs Band people, according to a net revenue allocation schedule to be enacted by the Band.

(6) Such Nonprofit Corporate Body Politic shall not be required to pay any fees listed in this chapter.

Historical and Statutory Notes

Source:

Band Statute 1077-MLC-16B, § 4.

§ 2102. Incorporators.

One or more adult natural persons may act as incorporators of a corporation by filing articles of incorporation for the corporation with the Commissioner.

Historical and Statutory Notes

Source:

Band Statute 1077-MLC-16B, § 5.

§ 2103. Articles.

(a) **Required provisions**. The articles of incorporation must contain:

(1) the name of the corporation;

(2) the address of the registered office of the corporation and the name of its registered agent, if any, at that address;

(3) the name and address of each incorporator; and

(4) a statement that the corporation is organized under this chapter.

(b) **Statutory provisions that may be modified only in articles**. The following provisions govern a corporation unless modified in the articles:

(1) a corporation has a general purpose of engaging in any lawful activity;

(2) the power to initially adopt, amend, or repeal the bylaws is vested in the board;

(3) cumulative voting for directors is prohibited;

(4) a written action by the board taken without a meeting must be signed by all directors; and

(5) members are of one (1) class.

(c) **Statutory provisions that may be modified in articles or bylaws**. The following provisions govern a corporation unless modified in the articles or bylaws:

(1) a certain method must be used for amending the articles;

(2) a corporation has perpetual duration and certain powers;

(3) certain procedures apply to the adoption, amendment, or repeal of bylaws by the members;

(4) a director holds office until expiration of the director's term and election of a successor;

(5) the term of a director filling a vacancy expires at the end of the term the director is filling;

(6) the compensation of directors is fixed by the board;

(7) a certain method must be used for removal of directors;

(8) a certain method must be used for filling board vacancies;

(9) board meetings must be held at least once per Year and if the board fails to select a place for a board meeting, it must be held at the registered office;

(10) a director may call a board meeting, and the notice of the meeting need not state the purpose of the meeting;

(11) a majority of the board is a quorum;

(12) the affirmative vote of the majority of directors present is required for board action;

(13) a committee consists of one (1) or more persons, who need not be directors, appointed by the board;

(14) the president and treasurer have certain duties, until the board determines otherwise;

(15) officers may delegate some or all of their duties and powers, if not prohibited by the board from doing so;

(16) a corporation does not have members;

(17) the board may determine the consideration required to admit members;

(18) all members are entitled to vote and have equal rights and preferences in matters not otherwise provided for by the board or members;

(19) memberships may not be transferred;

(20) a corporation with voting members must hold a regular meeting of voting members annually;

(21) if a specific minimum notice period has not been fixed by law, at least five (5) days' notice is required for a meeting of members;

(22) the board may fix a date up to 60 days before the date of a members meeting as the date for determination of the members entitled to notice of and entitled to vote at the meeting;

(23) each member has one (1) vote;

(24) the affirmative vote of the majority of members with voting rights present and entitled to vote is required for action of the members, unless this chapter or the articles or bylaws require a greater vote or voting by class;

(25) members may take action at a meeting by voice or ballot, by unanimous action without a meeting, by mailed ballot, or by electronic communication;

(26) the number of members required for a quorum is 10% of the members entitled to vote;

(27) certain procedures govern acceptance of member acts; and

(28) indemnification of certain persons is required.

(d) **Optional provisions; specific subjects**. The following provisions relating to the management or regulation of the affairs of a corporation may be included in the articles or, except for naming members of the first board, in the bylaws:

(1) the first board of directors may be named in the articles;

(2) additional qualifications for directors may be imposed;

(3) terms of directors may be staggered;

(4) the day or date, time, and place of board meetings may be fixed;

(5) in addition to the president; authority to sign and deliver certain documents may be delegated to an officer or agent of the corporation;

(6) additional officers may be designated;

(7) additional powers, rights, duties, and responsibilities may be given to officers;

(8) a method for filling vacant offices may be specified;

(9) membership criteria and procedures for admission may be established;

(10) membership terms may be fixed;

(11) a corporation may levy dues, assessments, or fees on members;

(12) a corporation may buy memberships;

(13) a corporation may have delegates with some or all the authority of members;

(14) the day or date, time, and place of regular member meetings or the place of special meetings may be fixed;

(15) certain persons may be authorized to call special meetings of members;

(16) notices of special member meetings may be required to contain certain information,

(17) a larger than majority vote may be required for member action;

(18) members may vote by proxy; and

(19) members may enter into voting agreements.

(e) **Optional provisions; generally**. The articles may contain other provisions consistent with law relating to the management or regulation of the affairs of the corporation.

(f) **Powers need not be stated**. It is not necessary to state the corporate powers granted by this chapter in the articles.

Historical and Statutory Notes

Source:

Band Statute 1077-MLC-16B, § 6.

§ 2104. Private Foundations; Provisions Considered Contained in Articles.

(a) **Provisions required**. The articles of incorporation of a corporation that is a private foundation as defined in section 509(a) of the Internal Revenue Code of 1986 and an instrument governing the use, retention, or disposition by the corporation of its income or property must contain the provisions contained in this section. If the articles and instrument do not contain these provisions they are considered to have incorporated the language in paragraphs graphs (1) to (5) with the same effect as though the language was set forth verbatim. Except as provided in subsection (b), these provisions govern the corporation as to the use, retention, and disposition of its income and property regardless of provisions of the articles or instrument or other law of this state to the contrary:

(1) the corporation shall distribute for each of its taxable years amounts at least sufficient to avoid liability for the tax imposed by section 4942(a) of the Internal Revenue Code of 1986;2

(2) the corporation may not engage in an act of "self-dealing" as defined in section 4941(d) of the Internal Revenue Code of 1986 that would give rise to liability for the tax imposed by section 494 1 (a) of the Internal Revenue Code of 1986;

(3) the corporation may not retain "excess business holdings" as defined in section 4943(c) of the Internal Revenue Code of 1986 that would give rise to liability for the tax imposed by section 4943(a) of the Internal Revenue Code of 1986;

(4) the corporation may not make investments that would jeopardize the carrying out of the exempt purposes of the corporation, within the meaning of section 4944 of the Internal Revenue Code of 1986, so as to give rise to liability for the tax imposed by section 4944(a) of the Internal Revenue Code of 1986; and

(5) the corporation may not make a "taxable expenditure" as defined in section 4945(d) of the Internal Revenue Code of 1986 that would give rise to liability for the tax imposed by section 4945(a) of the Internal Revenue Code of 1986.

(b) **Exception**. Subsection (a) does not apply to a corporation if a court of competent jurisdiction determines that the application would be contrary to the terms of an instrument described in subsection (a) and that the instrument may not properly be changed to conform to subsection (a). Subsection (a) does not apply to nonprofit Corporate Body Politic organizations described in 16 MLBS § 2101).

(c) **Future references**. A reference in subsection (a) to a particular section of the Internal Revenue Code of 1986 includes the corresponding provision of a future United States Internal Revenue law.

(d) **Rights reserved**. This section does not impair the rights and powers of the Solicitor General or the Court of Central Jurisdiction with respect to a corporation.

(1) 26 U.S.C.A. § 509(a).

(2) 26 U.S.C.A. § 4942(a).

(3) 26 U.S.C.A. § 4941(d).

(4) 26 U.S.C.A. § 4941(a).

(5) 26 U.S.C.A. § 4943(c).

(6) 26 U.S.C.A. § 4943(a).

(7) 26 U.S.C.A. § 4944.

(8) 26 U.S.C.A. § 4945(d).

(9) 26 U.S.C.A. § 4945(a).

Historical and Statutory Notes

Source:
Band Statute 1077-MLC-1 6B, § 7.

§ 2105 Corporate Name.

(a) **Requirements**.

(1) The corporate name must be in the English language, the Ojibwe language, or in another language expressed in English letters or characters.

(2) A corporate name may not contain a word or phrase that shows or implies that it may not be incorporated under this chapter.

(3) A corporate name need not contain the word "corporation," "incorporated" "company" or an abbreviation of one (1) of these words.

(b) **Name must be distinguishable**. A corporate name must be distinguishable upon the records in the office of Commissioner from the name of a domestic corporation or limited partnership, a foreign corporation or limited partnership authorized or registered to do business within the jurisdiction of the Band, whether profit or nonprofit, or a name the right to which is, at the time of incorporation, reserved, registered, or provided for in Band Statute or regulations promulgated pursuant thereto unless exempted by the Commissioner.

Historical and Statutory Notes

Source:
Band Statute 1077-MLC-16B, § 8.

§ 2106. Reserved Name.

(a) **Who may reserve**. A corporate name permitted by this chapter may be reserved in the records of the Commissioner by:

(1) a person doing business within the jurisdiction of the Band under that name;

(2) a person intending to incorporate under this chapter;

(3) a domestic corporation intending to change its name.

(b) **Method of reservation**. The reservation must be made by filing with the Commissioner a request that the name be reserved. If the name is available for reservation by the applicant, the Commissioner shall reserve the name for the applicant for 12 months. The reservation may be renewed for successive 12-month periods.

(c) **Transfer of reservation**. The right to a corporate name reserved under this section may be transferred to another person by or on behalf of the applicant for whom the name was reserved by filing with the Commissioner a notice of the transfer and specifying the name and address of the transferee.

Historical and Statutory Notes

Source:

Band Statute 1077-MLC-16B, § 9.

§ 2107. Registered Office; Registered Agent.

(a) **Registered office.** A corporation shall continuously maintain a registered office within the jurisdiction of the Band. A registered office need not be the same as the principal place of business of the corporation.

(b) **Registered agent.** A corporation may designate in its articles a registered agent. The registered agent may be a natural person residing within the jurisdiction of the Band, a domestic corporation, or a foreign corporation authorized to transact business within the jurisdiction of the Band. The registered agent must maintain an office that is identical with the registered office.

Historical and Statutory Notes

Source:

Band Statute 1077-MLC-16B. § 10.

§ 2108. Change of Registered Office or Registered Agent; Change of Name of Registered Agent.

(a) **Statement**. A corporation may change its registered office, designate or change its registered agent, or state a change in the name of its registered agent, by filing with the Commissioner a statement containing:

(1) the name of the corporation;

(2) if the address of its registered office is to be changed, the new address of its registered office;

(3) if its registered agent is to be designated or changed, the name of its new registered agent;

(4) if the name of its registered agent is to be changed, the name of its registered agent as changed;

(5) a statement that the address of its registered office and the address of the office of its registered agent, as changed, will be identical; and

(6) a statement that the change of registered office or registered agent was authorized by resolution approved by the board.

(b) **Resignation of agent**. A registered agent of a corporation may resign by filing with the Commissioner a signed written notice of resignation, including a statement that a signed copy of the notice has been given to the corporation at its registered office. The appointment of the agent ends 30 days after the notice is filed with the Commissioner.

(c) **Change of address or name of agent**. If the address or name of a registered agent changes, the agent shall change the address of the registered office or the name of the registered agent of a corporation represented by that agent by filing with the Commissioner the statement required in subsection (a), except that it need be signed only by the registered agent, need not be responsive to paragraph (3) or (6) of subsection (a), and must state that a copy of the statement has been mailed to the corporation.

Historical and Statutory Notes

Source:

Band Statute 1077-MLC-16B, § 11.

§ 2109. Amendment of Articles.

The Articles of a Corporation organized under this chapter may be amended in a manner prescribed by the Commissioner.

Historical and Statutory Notes

Source:

Band Statute 1077-MLC-16B, § 12.

§ 2110. Filing; Effective Date of Articles.

(a) **Filing required**. Articles of incorporation and articles of amendment must be filed with the Commissioner.

(b) **Effective date**. Articles of incorporation are effective and corporate existence begins when the articles of incorporation are filed with the Commissioner accompanied by a payment of which includes a $ incorporation fee in addition to the $ ___ filing fee.

Historical and Statutory Notes

Source:

Band Statute 1077-MLC-16B, § 13.

§ 2111. Presumption; Certificate of Incorporation.

When the articles of incorporation have been filed with the Commissioner and the required fee has been paid to the Commissioner, it is presumed that conditions precedent required to be performed by the incorporators have been complied with and that the corporation has been incorporated, and the Commissioner shall issue a certificate of incorporation to the corporation. This presumption does not apply against the Band in a proceeding to cancel or revoke the certificate of incorporation or to compel the involuntary dissolution of the corporation.

Historical and Statutory Notes

Source:

Band Statute 1077-MLC-16B, § 14.

TITLE 17 – BANKS AND BANKING

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CHAPTER 1

REVOLVING LOAN FUND

Section

1. Reservation of Right of Amendment.
2. Retrospective Law – [REPEALED].
3. Loan Committee Establishment and Purpose – [REPEALED].
4. Committee Membership, Terms of Office and Salary – [REPEALED].
5. Officers – [REPEALED].
6. Loan Committee Meetings – [REPEALED].
7. Policies.
8. Powers and Duties of the Board – [REPEALED].
9. Powers and Duties of the Office of Management and Budget.
10. Powers and Duties of the Commissioner of Finance.
11. Reports and Audits.
12. Suspension and Operation.
13. Sovereign Immunity.
14. Solicitor General Obligation.
15. Fund Authorization.

Historical and Statutory Notes

The Preamble of Band Ordinance 41-98 provides: "Preamble. It is enacted by the Band Assembly of the Mille Lacs Band of Ojibwe for the purpose of creating a Revolving Loan fund for members of the Mille Lacs Band of Ojibwe. The Band Assembly determines that it is in the Band's best interest to provide and create a Revolving Loan Fund governed by a Loan Committee to protect the assets of the Band. This Act repeals and replaces Title 17 of the Mille Lacs Statutes Annotated in its entirety."

§ 1. 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.

Historical and Statutory Notes

Source:
Band Ordinance 41-98, § 1.

§ 2. Retrospective Law.

[REPEALED].

Historical and Statutory Notes

Source:
Band Ordinance 41-98, § 2.
Band Act 43-24.

§ 3. Loan Committee Establishment and Purpose.

[REPEALED].

Historical and Statutory Notes

Source:
Band Ordinance 41-98, § 3.
Band Act 43-24.

§ 4. Committee Membership, Terms of Office and Salary.

[REPEALED].

Historical and Statutory Notes

Source:
Band Ordinance 41-98, § 4.
Band Ordinance 01-99, Title II.
Band Act 43-24.

§ 5. Officers.

[REPEALED].

Historical and Statutory Notes

Source:

Band Ordinance 41-98, § 5.
Band Act 43-24.

§ 6. Loan Committee Meetings.

[REPEALED].

Historical and Statutory Notes

Source:
Band Ordinance 41-98, § 6.
Band Act 43-24.

§ 7. Policies.

Band Assembly shall ratify the policies for the Revolving Loan Fund.

Historical and Statutory Notes

Source:
Band Ordinance 41-98, § 7.
Band Act 43-24.

§ 8. Powers and Duties of Board.

[REPEALED].

Historical and Statutory Notes

Source:
Band Ordinance 41-98, § 8.
Band Act 43-24.

§ 9. Powers and Duties of the Office of Management and Budget.

(a) The Office of Management and Budget shall have the responsibility to administer the Revolving Loan Fund for the Mille Lacs Band of Ojibwe.

(b) The Office of Management and Budget shall have the responsibility to consult with, advise, and make recommendations to the Secretary-Treasurer and Band Assembly in all matters pertaining to the loan policy.

(c) The Office of Management and Budget shall have the responsibility to report to the Secretary-Treasurer and Band Assembly on problems concerning loans to Band members and to foster the interest and cooperation of all concerned parties on improving their methods of operations.

(d) The Office of Management and Budget may contract with lending institutions for the purpose of loan servicing.

(e) The Office of Management and Budget shall be responsible for initiating all delinquent loan proceedings.

(f) The Office of Management and Budget shall make the Revolving Loan Fund policies available to all loan applicants as part of the application documents.

Historical and Statutory Notes

Source:
Band Ordinance 41-98, § 9.
Band Act 43-24.

§ 10. Powers and Duties of the Commissioner of Finance.

(a) To designate a loan specialist within the Office of Budget and Management who shall:

(1) approve or deny the loan applications in accordance with this Chapter and Revolving Loan Fund policy, or

(2) seek additional information from the loan applicant required to approve or deny the application, and then, once the information is acquired, approve or deny the application in accordance with this Chapter and Revolving Loan Fund policy.

(b) In furtherance 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 limitation of specific powers contained herein, 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 purposes of the Revolving Loan Fund.

(c) To approve loan applications of the loan specialist and Commissioner of Finance subject to the concurrence of the Secretary-Treasurer.

(d) To consider appeals from loans denied by a loan specialist in accordance with this Chapter and Revolving Loan Fund policy; appeals decisions by the Commissioner of

Finance are final; the Court of Central Jurisdiction lacks jurisdiction to consider such appeals.

Historical and Statutory Notes

Source:
Band Act 43-24.

§ 11. Reports and Audits.

The Office of Management and Budget shall annually file a report to the Chief Executive and Band Assembly for the purpose of giving such relevant information as may be required concerning the Office of Management and Budget during the preceding year, although from time to time additional reports may be required. The Revolving Loan Fund shall be reviewed as part of the annual audit of the Mille Lacs Band of Ojibwe. A copy of the audit shall be forwarded to the Chief Executive and Band Assembly within 60 days after the completion of the audit.

Historical and Statutory Notes

Source:
Band Ordinance 41-98, § 10.
Band Act 43-24.

§ 12. Suspension of Operation.

(a) If the Band Assembly or Secretary-Treasurer finds that the Office of Management and Budget is engaged in unsafe or unsound practices in overseeing the Revolving Loan Fund or has knowingly or negligently permitted violations of any material provision of any law or policy to which the Loan Fund is subject, the Band Assembly or Secretary-Treasurer may:

(1) order the immediate suspension of Revolving Loan Fund operations by giving written notice to the Office of Management and Budget in accordance with this section, or

(2) submit a written notice with respect to practices or violations for the purpose of investigation and review so that the Office of Management and Budget may have a reasonable time within which to correct any deficiencies. If corrections are not made within the time stated in the notice, the Band Assembly or Secretary-Treasurer, by written notice to the Office of Management and Budget, may suspend the operation of the Revolving Loan Fund in accordance with this section.

(b) A notice of suspension to the Office of Management and Budget shall include a list of reasons for said suspension and a list of any specific violations of law or policy, and shall specify which operations, if any, may be continued during the period of suspension. The notice shall also fix a time and place for a hearing before the Band Assembly.

(c) The hearing shall be held within 30 calendar days of the notice of suspension. Evidence may be produced at such hearing by any party thereto. The decision as to the continued suspension of operations of the Loan Fund shall be based upon the evidence presented and shall be made by the Band Assembly. If the Band Assembly, by formal action, decides to continue suspension after a hearing, it shall give written notice to the Office of Management and Budget.

Historical and Statutory Notes

Source:
Band Ordinance 41-98, § 11.
Band Act 43-24.

§ 13. Sovereign Immunity.

The Court of Central Jurisdiction is hereby granted exclusive original jurisdiction for any cause of action which arises from this Chapter or operations of the loan fund. Nothing in this Chapter shall be construed as a waiver of sovereign immunity of the Mille Lacs Band of Ojibwe in any court of competent jurisdiction or other forum.

Historical and Statutory Notes

Source:
Band Ordinance 41-98, § 12.
Band Act 43-24.

§ 14. Solicitor General Obligation.

The Solicitor General shall represent the interest of the Office of Management and Budget in any matter before the Court of Central Jurisdiction.

Historical and Statutory Notes

Source:
Band Ordinance 41-98, § 13.
Band Act 43-24.

§ 15. Fund Authorization.

The Band Assembly hereby authorizes a maximum of $650,000.00 for the Revolving Loan Fund. These funds shall remain reserved in the general fund to provide for the operations of the Revolving Loan Fund. Monies generated from loan repayments shall be paid over to the Office of Management and Budget and shall be credited to the Revolving Loan Fund account. Interest generated from loans shall be credited to the Revolving Loan Fund account. These funds shall be expended solely for additional Revolving Loan Fund loans pursuant to this Chapter and the Revolving Loan Fund policy. Revolving Loan Fund monies shall carry forward without re-appropriation. The Revolving Loan Fund account shall not be dissolved without amendment of this Chapter. In the event the fund is dissolved by official action, all remaining funds in the account shall be deposited into the Band's long-term savings.

Historical and Statutory Notes

Source:
Band Ordinance 41-98, § 14.
Band Act 43-24.

CHAPTER 2

MILLE LACS BAND OF OJIBWE FOUNDATION

Section

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

§ 101. Definitions.

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

(a) **"Distribution"** means a disbursement of monies or other assets from the Fund in accordance with this chapter and Advisory Committee bylaws.

(b) **"Fund"** means the Mille Lacs Band of Ojibwe Foundation.

(c) **"St. Paul and Minnesota Foundation"** means the St. Paul and Minnesota Foundation or its successor organization.

Historical and Statutory Notes

Source:
Band Ordinance 25-21.

§ 102. Establishment of the Advisory Committee.

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

Historical and Statutory Notes

Source:
Band Ordinance 25-21.

§ 103. Composition of the Advisory Committee.

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

Historical and Statutory Notes

Source:
Band Ordinance 25-21.

§ 104. Chairperson of the Advisory Committee.

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

(a) to preside over the meetings of the Advisory Committee,

(b) to communicate to the St. Paul and Minnesota Foundation, in writing, the name and address of the Chairperson,

(c) to communicate to the St. Paul and Minnesota Foundation, in writing, all recommendations for distributions from the Fund passed by a majority vote of the Advisory Committee,

(d) to communicate to the St. Paul and Minnesota Foundation, in writing, the name and address of the incoming Chairperson at least two (2) weeks prior to the seating of an incoming Chairperson,

(e) to be solely responsible for all other communications to and from the St. Paul and Minnesota Foundation; and

(f) to perform any other duties laid out in the bylaws of the Advisory Committee.

Historical and Statutory Notes

Source:
Band Ordinance 25-21.

§ 105. Vice-Chairperson of the Advisory Committee.

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

(a) to preside over meetings of the Advisory Committee in the absence of the Chairperson, and

(b) to perform any other duties laid out in the bylaws of the Advisory Committee.

Historical and Statutory Notes

Source:
Band Ordinance 25-21.

§ 106. Powers and Duties of the Advisory Committee.

(a) The Advisory Committee shall:

(1) adopt bylaws by majority vote that are consistent with the provisions of this chapter,

(2) consult with the Commissioner of Finance prior to recommending any distribution from the Fund,

(3) communicate in writing, through the Chairperson, recommendations for distributions from the Fund to the St. Paul and Minnesota Foundation,

(4) announce or otherwise publish the name of each recipient organization and the purposes for which each approved distribution will be used,

(5) evaluate all applications that meet the standards established by the Advisory Committee, provided that the Advisory Committee has elected to solicit applications for distributions; and

(6) determine, by majority vote, which complete applications shall be recommended for distributions from the Fund, and in what dollar amount and priority, provided that the Advisory Committee has elected to solicit applications for distributions.

(b) The Advisory Committee may:

(1) solicit applications for distributions from the Fund, and

(2) establish procedures for solicitation of applications for distributions from the Fund, which, if created, shall specify:

(i) the information that applicants shall provide to the Advisory Committee before the application shall be considered complete,

(ii) the deadline for the receipt of the applications,

(iii) the timeframes in which the Advisory Committee shall consider applications,

(iv) the eligibility requirements to apply for distributions from the Fund established by the Advisory Committee or by rule of law; and

(v) the purposes for which distributions may be made from the Fund, including educational, cultural, environmental, or any other permissible, charitable purpose under law.

Historical and Statutory Notes

Source:
Band Ordinance 25-21.

§ 107. Limits on Distributions.

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

Historical and Statutory Notes

Source:
Band Ordinance 25-21.

§ 108. Null and Void Recommendations.

(a) Recommendations for distributions from the Fund shall be null and void if the recommendation meets any of the following criteria:

(1) a recommendation the recipient of which is an organization that does not meet the eligibility requirements for distributions from the Fund set by the Advisory Committee or by rule of law,

(2) a recommendation that is communicated to the St. Paul and Minnesota Foundation by any person other than the Chairperson of the Advisory Committee; or

(3) a recommendation that was approved in violation of the procedures established in this chapter, the bylaws of the Advisory Committee, or the policies of the St. Paul and Minnesota Foundation.

(b) The Chairperson may not knowingly communicate to the St. Paul and Minnesota Foundation any recommendation that is null and void. If the Chairperson does communicate to the St. Paul and Minnesota Foundation a recommendation that is null and void, the Chairperson shall, immediately after learning that the recommendation is null and void, communicate to the St. Paul and Minnesota Foundation that such recommendation is null and void.

Historical and Statutory Notes

Source:

Band Ordinance 25-21.

§ 109. Advisor to the Advisory Committee.

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

Historical and Statutory Notes

Source:
Band Ordinance 25-21.

§ 110. Sovereign Immunity.

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

Historical and Statutory Notes

Source:
Band Ordinance 25-21.

CHAPTER 3

INSTITUTIONAL INVESTMENT COMMITTEE

Section

201. Investment Principles.
202. Establishment and Purpose.
203. Definitions.
204. Composition.
205. Duties; Resources and Authority.
206. Chief Investment Officer.
207. Investment Budget.
208. Meetings.

209. Ethical Responsibilities.
210. Limitation of Liability; Indemnification; Insurance.
211. Compensation; Expenses.

§ 201. Investment Principles.

The Band hereby establishes the following principles to guide its investment responsibilities:

(a) The Band is a long-term investor whose primary mission is to provide for the well-being of current and future generations of enrolled Band members and their descendants;

(b) The Band's Investment Policy Statement is the primary determinant of the investment portfolio's risk and long-term returns;

(c) Although the Band can sacrifice some short-term liquidity to pursue a greater long-term return, the investment portfolio's net cash flows, ability to provide for the health and well-being of enrolled Band members, and the ability to fund the Band's government are key risk considerations;

(d) Diversification improves the risk-adjusted return of the Band's investment portfolio;

(e) There are long-term benefits to the Band managing investment costs;

(f) Despite variations over time, the equity risk premium is significantly positive over a long-term investment horizon and overall exposure should therefore be managed accordingly;

(g) The Band benefits significantly when roles and levels of authority between the Institutional Investment Committee and Chief Investment Officer are clearly defined and followed;

(h) The Institutional Investment Committee delegates implementation of the Investment Policy Statement to the Chief Investment Officer and exercises oversight with respect to the Chief Investment Officer's implementation activities;

(i) The Institutional Investment Committee ensures that adequate resources are available to the investment staff to perform their statutorily prescribed duties;

(j) The Chief Investment Officer's key role is implementing the Investment Policy Statement and setting the portfolio's active risk level in a prudent manner to meet or surpass policy benchmarks; and

(k) Utilizing engagement initiatives to address environmental, social, and governance-related issues can lead to positive portfolio and governance outcomes.

Historical and Statutory Notes

Source:
Band Ordinance 15-22, § 1.

§ 202. Establishment and Purpose.

The Institutional Investment Committee shall be established to:

(a) Assist the Secretary-Treasurer in fulfilling her or his oversight responsibilities of all investment-related matters in accordance with Title 3 of Mille Lacs Band Statutes, to include monitoring the performance of the Band's investment assets;

(b) Adopt bylaws in accordance with § 205(a)(2) of this chapter no later than September 30, 2022;

(c) Review, discuss, and assess potential transactions proposed by the Chief Investment Officer, ensuring compliance with the Band's Investment Policy Statement;

(d) Review the Band's Investment Policy Statement at least annually and revise as needed; and

(e) Review and evaluate the performance of individual investment managers and recommend actions regarding their retention or termination as deemed necessary and appropriate.

Historical and Statutory Notes

Source:
Band Ordinance 15-22, § 1.

§ 203. Definitions.

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

(a) **"Agenda packet"** means the agenda and all pertinent materials prepared by the Committee Secretary to be discussed during the Committee meeting.

(b) **"Annual Report"** means a document that the Secretary-Treasurer, or a designee thereof, presents to the Band Assembly in executive session once per year, typically in February, detailing the performance of the Band's investment portfolio during the previous calendar year. The Annual Report is presented on behalf of the Committee.

(c) **"Band"** means the Non-Removable Mille Lacs Band of Ojibwe.

(d) **"Band Member Representative"** means the adult Band member serving a four-year term on the Committee pursuant to § 204(b)(3) of this chapter.

(e) **"Benchmark"** means a standard generally accepted within the investment management industry against which the performance of a security or investment manager can be measured.

(f) **"Capital"** means financial assets, such as funds held in deposit accounts or funds obtained from special financing sources.

(g) **"Cash flow"** means the net amount of cash and cash-equivalents being transferred into and out of a company.

(h) **"Chairperson"** means the Secretary-Treasurer in her or his role as presiding officer of the Committee.

(i) **"Chief Investment Officer"** means the executive, or other appropriate fiduciary entity, charged under this chapter to manage the Band's investment portfolio and oversee a team of professionals who have the responsibility of monitoring and managing the Band's investment activities.

(j) **"Committee"** means the Institutional Investment Committee established under this chapter.

(k) **"Committee Secretary"** means the individual appointed in accordance with this chapter to perform secretarial functions for the Committee.

(l) **"Comprehensive Performance Report"** means a document that the Secretary-Treasurer, or a designee thereof, presents to the Band Assembly in executive session twice per year, typically in February and August, detailing the performance of the Band's investment portfolio during the preceding six (6) months. The Comprehensive Performance Report is presented on behalf of the Committee.

(m) **"Conflict of interest"** means, notwithstanding any other definition provided by Band law, a vested interest of a Committee member, which may include money, status, knowledge, relationships, or reputation, which puts into question whether the Committee member's actions, judgment, or decision-making can be unbiased. The mere ownership by a Committee member of the same publicly traded security or type of security that is owned or proposed for ownership by the Band shall not by itself be considered a conflict of interest.

(n) **"Directors and Officers Insurance"** means a type of liability insurance that protects the personal assets of Committee members and officers, and their spouses, in the

event they are personally sued by employees, vendors, investors, customers, or other parties, for actual or alleged wrongful acts in the execution of duties under this chapter.

(o) **"Diversification"** means a risk-management strategy that integrates a wide variety of distinct asset types and investment vehicles in an attempt at limiting exposure to any single asset or risk.

(p) **"Duty of confidentiality"** means the duty of any individual who obtains information about the Band's investments under this chapter to refrain from sharing that information with others, except with the express consent of the Committee.

(q) **"Environmental, Social, and Governance Standards"** means a set of standards that the Band, as a socially conscious investor, uses to screen potential investments, taking into account how companies perform as a steward of nature; how companies approach issues of health and safety; how companies manage relationships with employees, suppliers, customers, and communities where the companies operate; and how companies are structured with regard to leadership, executive pay, audits, internal controls, and shareholder rights.

(r) **"Equity risk premium"** means an excess return that investing in the stock market provides over a comparatively risk-free rate.

(s) **"Executive session"** means a meeting of the Band Assembly that is conducted in private for the purpose of protecting sensitive information.

(t) **"Exposure"** means the amount of financial value the Band stands to lose in an investment should the investment fail.

(u) **"General ledger"** means the Band's main accounting record for governmental operations.

(v) **"Investment agreement"** means a contract between the Band and a separate entity which states the rights and responsibilities of each party and sets forth the parameters of a proposed investment, to include required services and fees.

(w) **"Investment budget"** means the annual operating budget of the Chief Investment Officer and investment staff, including salaries, manager fees, custodial fees, trading costs, and other expenses necessary to carry out their duties.

(x) **"Investment manager"** means a person or organization that makes investments in security portfolios on behalf of the Band.

(y) **"Investment Policy Statement"** means a document drafted and approved by the Committee that outlines general rules for the Chief Investment Officer to follow, including specific information on matters such as asset allocation, risk tolerance, and liquidity.

(z) **"Investment principles"** mean a set of standards established under this chapter that guide the Committee's investment decision-making process and the development of the Investment Policy Statement.

(aa) **"Investment professional"** means an adult with an extensive background in the financial industry serving on the Committee pursuant to § 204(b)(4) of this chapter.

(bb) **"Investment staff"** means qualified professionals hired and supervised by the Chief Investment Officer to implement the Band's Investment Policy Statement.

(cc) **"Joint Session of the Band Assembly"** means a meeting with the four (4) members of the Band Assembly and the Chief Executive, convened pursuant to 3 MLBS § 25.

(dd) **"Liquidity"** means the ease with which an asset or security can be converted into ready cash without affecting its market price.

(ee) **"Minutes"** means notes that are recorded during Committee meetings, which shall serve as an official record of the proceedings and as evidence of a prudent decision-making process.

(ff) **"Non-voting member"** means a member of the Committee pursuant to § 204(c) of this chapter who is *not* entitled to vote.

(gg) **"Other appropriate fiduciary entity"** means any organization specializing in institutional investment management that the Band has appointed to act as Chief Investment Officer in accordance with this chapter.

(hh) **"Security"** means a fungible, negotiable financial instrument that holds some type of monetary value and represents either an ownership position in a publicly traded company via stock, a creditor relationship with a governmental body or corporation represented by owning that entity's bond, or rights to ownership as represented by an option.

(ii) **"Speculation"** means the act of investing funds in such a manner that seeks unusually high returns while accepting a substantial risk of loss or failure.

(jj) **"Voting member"** means a member of the Committee who is entitled to vote pursuant to § 204(b) of this chapter.

Historical and Statutory Notes

Source:
Band Ordinance 15-22, § 1.
Band Ordinance 58-22.

§ 204. Composition.

(a) **Membership.** The Committee shall be composed of a maximum of eight (8) voting members and one (1) non-voting member.

(b) **Voting members.** The voting members shall consist of:

(1) The Secretary-Treasurer, who shall not serve on the Committee beyond the length of her or his elected term as Secretary-Treasurer;

(2) The Commissioner of Finance, who shall not serve on the Committee beyond the length of her or his term as Commissioner of Finance;

(3) One (1) adult Band member who possesses a Master of Finance or Master of Business Administration degree, or has other appropriate investment or financial background; and

(4) A minimum of three (3) and a maximum of five (5) investment professionals possessing diverse financial backgrounds.

(c) **Non-voting member.** The Chief Executive shall serve on the Committee as a non-voting member.

(d) **Chairperson.** The Secretary-Treasurer shall serve as Chairperson of the Committee and shall also retain a vote in all matters coming before the Committee. The Chairperson shall:

(1) Preside over Committee meetings;

(2) Ensure that agenda packets have been distributed; and

(3) Encourage input and discussion from Committee members during meetings.

(e) **Vice-Chairperson.** The Secretary-Treasurer may designate a Committee member as Vice-Chairperson who, in the absence of the Secretary-Treasurer, shall act as Chairperson and perform all duties thereto. Whether the Vice-Chairperson may vote depends on her or his status as either a voting member or non-voting member of the Committee.

(f) **Band Member Representative.** The Band Member Representative shall serve a four-year term on the Committee, beginning on January 1, 2022. Each successive Band Member Representative shall also serve a four-year term, with the term always beginning on January 1 and ending on December 31.

(1) The Band Member Representative must:

(i) Be nominated by the Secretary-Treasurer;

(ii) Possess a Master of Finance or Master of Business Administration degree, or have other appropriate investment or financial background; and

(iii) Be confirmed by a majority vote of the Band Assembly.

(2) The Band Member Representative can only be removed for cause by a majority vote of the Joint Session of the Band Assembly.

(g) **Investment professionals.** The investment professionals shall serve staggered terms on the Committee. Each investment professional must possess financial and investment backgrounds that are diverse from one another, be nominated by the Secretary-Treasurer, and be approved by a majority vote of the Band Assembly. Although lawful to have only three (3) investment professionals serving, the Committee should strive to fill all five (5) investment professional positions. An investment professional can only be removed for cause by a majority vote of the Joint Session of the Band Assembly.

(1) One (1) investment professional shall serve a one-year term, beginning on January 1, 2022. Each successive investment professional serving in this position shall serve a four-year term, with the term always beginning on January 1 and ending on December 31.

(2) The second investment professional shall serve a two-year term, beginning on January 1, 2022. Each successive investment professional serving in this position shall serve a four-year term, with the term always beginning on January 1 and ending on December 31.

(3) The third investment professional shall serve a three-year term, beginning on January 1, 2022. Each successive investment professional serving in this position shall serve a four-year term, with the term always beginning on January 1 and ending on December 31.

(4) The fourth and fifth investment professionals shall serve four-year terms, beginning on January 1, 2022. Each successive investment professional serving in either of these positions shall serve a four-year term, with the terms always beginning on January 1 and ending on December 31.

(h) **Committee Secretary.** The Committee members shall appoint a Committee Secretary, whether from its members or otherwise. The Chief Investment Officer is permitted to serve as the Committee Secretary, in whole or in part, if appointed by the Committee.

(1) The Committee Secretary shall not vote on the Committee's decisions if he or she is not already a voting member of the Committee.

(2) The Committee Secretary shall be responsible for meeting organization, administrative and logistical support, preparation of the agenda packet, and the drafting of agendas, resolutions, and meeting minutes. Final agendas must be approved by the Committee.

(3) The Committee Secretary shall communicate with Committee members as needed to address issues that may arise, legal or otherwise, in the course of the Committee's business.

(i) **Resignation.** The Secretary-Treasurer, Chief Executive, and Commissioner of Finance may not resign from their positions on the Committee except in connection with resignation from their respective offices. Any other Committee member may resign at any time by providing written notice to the Committee. The resignation is effective when the Committee receives the notice, unless a later date is specified in the notice. Acceptance of the resignation is not necessary to make it effective.

(j) **Removals and Vacancies.** The Secretary-Treasurer, Chief Executive, and Commissioner of Finance may not be removed from their positions on the Committee except in connection with removal from their respective offices. In the event that one (1) or more of the Secretary-Treasurer, Chief Executive, or Commissioner of Finance positions are vacant, the vacant position or positions may be filled on a temporary basis in accordance with Band law. If the Secretary-Treasurer position is left vacant, the Vice-Chairperson shall be elevated to Chairperson until a new Secretary-Treasurer is elected. If any other position is left vacant, the position shall be filled in accordance with this chapter.

Historical and Statutory Notes

Source:
Band Ordinance 15-22, § 1.
Band Ordinance 58-22.

§ 205. Duties; Resources and Authority.

(a) **Duties.** The Committee shall:

(1) Review the Band's Investment Policy Statement no later than December 31 of each year, provided that any revisions shall not conflict with the Band's investment principles established in § 201 of this chapter;

(2) Establish bylaws consistent with this chapter that determine the rules of procedure and operation of the Committee;

(3) Authorize the Chief Investment Officer to take prudent actions through the issuance of resolutions;

(4) Review the quality, performance, and risk characteristics of the Band's investment portfolios;

(5) Review market trends and implications for investment risk and portfolio management;

(6) Review significant new investment asset classes and strategies;

(7) Retain and terminate the Chief Investment Officer as the Committee deems appropriate;

(8) Monitor the performance of the Chief Investment Officer, providing input on investment strategy and philosophy;

(9) Develop a thoughtful rebalancing policy, under which the Chief Investment Officer will have specific rebalancing duties;

(10) Review and approve the investment budget or contract, as appropriate, with ratification by the Band Assembly;

(11) Establish a payment procedure whereby the investment budget is paid in accordance with § 207;

(12) Select the Band's external managers, consultants, custodians, and investment advisors, with ratification by the Band Assembly;

(13) Monitor the performance of any external managers, consultants, custodians, and investment advisors and terminate their services when appropriate;

(14) Identify a hierarchy of individuals who can sign investment agreements, provided that the initiator of a transaction shall never be the same person approving the transaction on behalf of the Committee;

(15) Review and discuss with the Chief Investment Officer any investment issues or considerations relating to Environmental, Social, and Governance Standards;

(16) Participate in periodic discussions with the Chief Investment Officer, as appropriate, in connection with human resource and succession planning matters;

(17) Prepare an Annual Report for presentation to the Band Assembly in executive session;

(18) Prepare semi-annual Comprehensive Performance Reports for presentation to the Band Assembly in executive session; and

(19) Take other actions within the general scope of its responsibilities under this chapter.

(b) **Resources and authority.** The Committee:

(1) Shall have the resources and authority appropriate to discharge its duties and responsibilities, including the authority to retain legal counsel and other experts or consultants;

(2) May conduct or authorize investigations into, or studies of matters within, the scope of the Committee's duties and responsibilities;

(3) May form and delegate authority, consistent with this chapter, to subcommittees or to one (1) or more designated members of the Committee; and

(4) May approve a limited waiver of the Band's sovereign immunity in carrying out its statutorily prescribed duties.

Historical and Statutory Notes

Source:
Band Ordinance 15-22, § 1.

§ 206. Chief Investment Officer.

(a) The Committee shall hire, and have the authority to terminate at will, a Chief Investment Officer to implement the Band's Investment Policy Statement.

(b) The Chief Investment Officer shall:

(1) hire, supervise, and manage investment staff to assist in the carrying out of her or his duties;

(2) report to and make investment management recommendations to the Committee;

(3) provide all supporting documentation to the Committee Secretary for preparation of the the Committee's agenda packets; and

(4) execute the Committee's decisions and update the Committee about overall progress of the Band's investment function in each meeting.

Historical and Statutory Notes

Source:
Band Ordinance 15-22, § 1.
Band Ordinance 58-22.

§ 207. Investment Budget.

(a) The investment budget consists of certain expenses that may be paid from the Band's general ledger and certain expenses which may be paid directly from investment assets at the direction of the Chief Investment Officer.

(b) Expenses which may be paid directly from investment assets include underlying manager fees, custodial fees, and trading expenses.

(c) Expenses which may be paid from the Band's general ledger include any costs that were pre-approved as part of an annual budgeting process, including compensation for the Chief Investment Officer and investment staff.

(d) Any expense not authorized under this section must be approved by the Committee.

Historical and Statutory Notes

Source:
Band Ordinance 15-22, § 1.

§ 208. Meetings.

(a) **Frequency.** The Committee must meet at least once per year, but shall strive to meet four (4) times per year. The Chairperson may call special meetings of the Committee as he or she deems necessary or appropriate.

(b) **Quorum.**

(1) A quorum of the Committee exists when at least four (4) voting members are present in person or by means of a conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other.

(2) The Committee may only act by a majority vote of its members present at the meeting where a quorum exists, except that the Committee may also conduct

business via electronic mail without a meeting. A tie vote is insufficient to constitute a majority.

(3) When the Committee is conducting business via electronic mail, the vote of a majority of the Committee's voting members by such medium shall constitute the action of the Committee.

(4) In the absence of a quorum, a lesser number of Committee members may adjourn the meeting.

(c) **Agenda packets.** Members of the Committee will be provided an agenda and all pertinent materials to be discussed during the meeting at least three (3) business days in advance.

(d) **Bylaws.** The Committee shall have the power to adopt bylaws consistent with this chapter for the conduct of its business.

(e) **Minutes.**

(1) The Committee Secretary shall draft and maintain minutes of Committee meetings, recording the time and date of the meeting, the names of present and absent Committee members, vote tallies, and the names of Committee members voting for or against each agenda item.

(2) The minutes shall be circulated amongst all Committee members within five (5) business days after the meeting date and approved within 15 business days.

(f) **Attendees.** The Committee, in its discretion, may invite the following individuals to the Committee's meetings to provide pertinent information:

(1) Staff members working in support of the Chief Investment Officer;

(2) Legal counsel;

(3) Outside investment advisors; and

(4) Band officials or administrative support personnel.

(g) **Subcommittees.** The Committee may form subcommittees of no fewer than two (2) members for any purpose that the Committee deems appropriate and may delegate to such subcommittees such power and authority, consistent with this chapter, as the Committee deems appropriate. The Committee shall not delegate to the subcommittee any power or authority required by law to be exercised by the Committee as a whole.

Historical and Statutory Notes

Source:
Band Ordinance 15-22, § 1.

§ 209. Ethical Responsibilities.

(a) **Prudent person.** When making decisions, the Committee members, Chief Investment Officer, and the investment staff must act in good faith and must exercise that degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived therefrom.

(b) **Conflicts of interest.** All members of the Committee shall be free of any conflict of interest with respect to the matters before the Committee. Committee members shall recuse themselves from any deliberations or votes when a conflict of interest exists.

(c) **Punctuality.** Committee members must strive to be present at and on time for all meetings.

(d) **Duty of Confidentiality.** Any individual who obtains information about the Band's investments under this chapter shall not disclose that information to unauthorized personnel, except with the express consent of the Committee.

Historical and Statutory Notes

Source:
Band Ordinance 15-22, § 1.

§ 210. Limitation of Liability; Indemnification; Insurance.

(a) **Limitation of liability.** Each member of the Committee shall, in the performance of such member's duties, be fully protected in relying on information, opinions, reports, or statements prepared or presented by any person as to matters the member reasonably believes are within such other person's professional or expert competence, to the extent permitted under Band law.

(b) **Indemnification.** The Committee members may be indemnified for any and all liabilities and reasonable expenses incurred in connection with any claim, action, suit, or proceeding arising from present or past service on the Committee, in accordance with this chapter and resolutions adopted by the Committee.

(c) **Directors and Officers Insurance.** This section shall not be construed as obviating the need for Committee members, the Chief Investment Officer, or any other director

or officer working under this chapter to obtain Directors and Officers Insurance, which may be purchased by the Band.

Historical and Statutory Notes

Source:
Band Ordinance 15-22, § 1.

§ 211. Compensation; Expenses.

(a) **Compensation.** Committee members may not be compensated for their service on the Committee. If the Committee Secretary is employed by the Band but not a Committee member, the Committee may address in its bylaws whether the Committee Secretary should receive additional compensation from her or his regular employment with the Band.

(b) **Expenses.** The Committee may address in its bylaws the reimbursement of any expenses incurred by Committee members in carrying out their duties, provided that any expenses claimed must be appropriate and reasonable.

Historical and Statutory Notes

Source:
Band Ordinance 15-22, § 1.

TITLE 18 – COMMERCIAL PRACTICES

Chapter	Section
1. General Provisions	1
2. Licensing of Commercial Entities	101
3. Regulation of Trade	201
4. Uniform Commercial Code	301
5. Tribal Employment Rights - REPEALED	
6. Minimum Wage	501
7. Right to Work	601

Historical and Statutory Notes

The Preamble of Band Statute 1090-MLC-7 provides: "It is enacted by the Band Assembly of the Mille Lacs Band of Chippewa Indians a code to license all persons, companies, corporations, associations, partnerships cooperatives. Utilities and any other public or private commercial

entity who engages in the sale of any goods and/or services with any Band member, mdi an(s) or other person(s) who reside on lands subject to the jurisdiction of the Mille Lacs Band of Chippewa Indians and with any constituent Band of the Non-Removable Mille Lacs Band of Chippewa Indians, any political sub-division(s) thereof, and/or any entity under the jurisdiction of the Mille Lacs Band of Chippewa Indians on lands subject to the jurisdiction of the Mille Lacs Band of Chippewa Indians and for other related purposes, such as persons who solicit business or literature upon those persons who reside on lands under the jurisdiction of the Band and those who peddle merchandise of any type of goods or services upon those persons who reside on lands under the jurisdiction of the Band."

Band Statute 1090-MLC-7, § 27 provides: "Section 27. Severability. If any provisions of this chapter, or the application thereof, to any person, business, corporation or state government or any political subdivision or circumstance is held invalid, the invalidity shall not affect 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."

CHAPTER 1

GENERAL PROVISIONS

Section

1. **Findings and Determinations.**
2. **Definitions.**
3. **Reservation of Right.**
4. **Rules and Regulations.**
5. **Jurisdiction of the Court of Central Jurisdiction; Damages.**
6. **Waiver of Sovereign Immunity.**
7. **Solicitor General Obligation.**
8. **Investigations Proceedings.**
9. **Equality and Consistency in the Exercise of Powers and Duties.**
10. **Violations.**

Historical and Statutory Notes

The title of Ordinance 15-14 is: “An ordinance amending Section 3(a) in Title 6 of the Mille Lacs Band Statutes Annotated; amending Sections 2, 4, 6 and 10 in Title 18 of the Mille Lacs Band Statutes Annotated; amending Chapter 5 of Title 18 in the Mille Lacs Band Statutes Annotated; and repealing any inconsistent Indian Preference language in any other Band law or policy, including any Corporate Commission policy, in order to create consistency in Band law and policy.”

The preamble of Ordinance 15-14 provides: “It is enacted by the Band Assembly of the Mille Lacs Band of Ojibwe for the purpose of amending Section 3(a) in Title 6 of the Mille Lacs Band Statutes Annotated; Sections 2, 4, 6 and 10 in Title in the Mille Lacs Band Statutes Annotated; amending Chapter 5 of Title 18 of the Mille Lacs Band Statutes Annotated (the Band’s Indian Employment Rights Ordinance or ‘TERO’); and repealing any inconsistent Indian Preference

language in Band law or policy, including any Corporate Commission policy, in order to create consistency in Band law and policy."

§ 1. Findings and Determinations.

(a) The Band Assembly hereby finds and determines that pursuant to Article VI, Section 1, Sub-section 3, of the Constitution of the Minnesota Chippewa Tribe, that it may authorize, regulate and license all persons, companies, corporations, associations, partnerships, cooperatives, utilities, and any other public or private commercial entity who engages in the sale of any goods and/or services with any constituent Band of the Non-Removable Mille Lacs Band of Ojibwe.

(b) The Band Assembly hereby finds and determines that the regulation and licensure of all persons, companies, corporations, associations, partnerships, cooperatives, utilities and any other public or private commercial entity who engage in the sale of any goods and/or services with any constituent Band of the Non-Removable Mille Lacs Band of Ojibwe is an effective way to regulate commercial activity on lands under the jurisdiction of the Band and that such regulation is vital to the economic security, political integrity and general welfare of the members of any constituent Band of the Non-Removable Mille Lacs Band of Ojibwe.

(c) The Band Assembly hereby finds and determines that members of the Mille Lacs Band of Ojibwe have entered into grossly unfavorably contracts with other persons, companies, corporations, associations, partnerships, cooperatives, utilities and any other public or private commercial entity who engage in the sale of any goods and/or services under the jurisdiction of the Non-Removable Mille Lacs Band of Ojibwe with said contracts not being clearly understood by said Band members.

(d) The Band Assembly hereby finds and determines that many members of the Mille Lacs Band of Ojibwe have been imposed upon by persons who solicit and/or peddle literature, insurance policies, merchandise of poor quality and other like-type goods or services and that said persons utilize unprofessional sales tactics in order to coerce Band members and others to accept said products which Band members under ordinary circumstances would not accept.

(e) The Band Assembly hereby finds and determines that through the imposition of a license regulations governing such transactions upon all persons, companies, corporations, associations, partnerships, cooperatives, utilities and any other public or private commercial entity who engage in the sale of any goods and/or services with Band members and others under the jurisdiction of the Non-Removable Mille Lacs Band of Ojibwe is an effective way to regulate such 'transactions and to protect basic civil rights to due process of those persons subject to the jurisdiction of the Non-

Removable Mille Lacs Band of Ojibwe, pursuant to 1 MLBS § 1 et seq. and Article XIII of the Constitution of the Minnesota Chippewa Tribe.

(f) The Band Assembly hereby finds and determines that any person(s), companies, corporations, associations, partnerships, cooperatives, utilities and any other public or private commercial entity who desires to engage in such commercial activity, be permitted to do so under such rules and regulations as the Band Assembly may enact or the Chief Executive pursuant to lawful Executive Order may prescribe, so that the best interest of Band members and others under the jurisdiction of the Non-Removable Mille Lacs Band of Ojibwe shall be protected.

(g) The Band Assembly hereby finds and determines that pursuant to Article VI, Section 1 , Subsection D and Article XV, Section 1 , 2 and 3 of the Constitution of the Minnesota Chippewa Tribe requires that any ordinance which imposes a license or fee upon non-members of the Minnesota Chippewa Tribe-Non-Removable Mille Lacs Band of Ojibwe shall be subject to review by the Secretary of Interior, and the regulatory provisions of Chapters 1 to 5 of this Title clearly fall within the provisions of the aforementioned constitutional declaration.

(h) The Band Assembly hereby finds and determines that in the best interests of Indian Self-Determination that the Secretary of Interior shall exercise her or his fiduciary obligation by reviewing any proposed Band Statute that levies a licensing fee on nonmembers of the Non-Removable Mille Lacs Band of Ojibwe and making recommendations to the Band Assembly so that it may become a Band Statute for regulatory and revenue generating purposes and be codified into the laws of the Non-Removable Mille Lacs Band of Ojibwe without undue delay.

(i) The Band Assembly hereby finds and determines that persons, companies, corporations, associations, partnerships, cooperatives, utilities and any other public or private commercial entity who engage in the sale of any goods and/or services of any material value with any person subject to the jurisdiction, on lands subject to the jurisdiction of the Non-Removable Mille Lacs Band of Ojibwe or with the Non-Removable Mille Lacs Band of Ojibwe or any entity or any political subdivision thereof; have conducted such business transactions without regard to the law, policies or judicial determinations of the Non-Removable Mille Lacs Band of Ojibwe and that such a condition violates the general welfare, economic security and political integrity of the Band members and others under the jurisdiction of the Non-Removable Mille Lacs Band of Ojibwe and that due to this condition , it is necessary to promulgate rules and regulations which govern the conduct of these transactions on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Ojibwe.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-47, § 1.

§ 2. Definitions.

As used in Chapters 1 to 4 of this Title, the words, terms, and phrases, defined in this section have the meanings given them. Unless the language or context of any undefined word, term or phrase, clearly indicates that a different meaning is intended, the meaning of sub-joined to any said work, term or phrase shall be subject to definitions found in Minnesota Statutes.

(a) **Association:** The act of a number of persons in uniting together for some special purpose or business.

(b) **Commercial Entity:** Any person(s), company(ies), corporation(s), association(s), partnership(s), cooperative(s), utility(ies) and any other public or private commercial entity who engage in trading in any goods and/or services of any material value with any person subject to the jurisdiction on lands, subject to the jurisdiction of the Non-Removable Mille Lacs Band of Ojibwe or with the Non-Removable Mille Lacs Band of Ojibwe or any entity or any political subdivision thereof.

(c) **Company:** Union or association of persons for carrying on a commercial or industrial enterprise.

(d) **Cooperative:** A corporation or association organized for purpose of rendering economic services, without gain to itself, to shareholders or members who own and control it.

(e) **Corporation:** An artificial person or legal entity created by or under the authority of the laws of the Non-Removable Mille Lacs Band of Ojibwe, any state or nation, composed in some rare instances of a single person and her or his successors, being the incumbents of a particular office, but ordinarily consisting of an association of numerous individuals, including those entities defined in Band Statutes 1077-MLC-16, § 26.0126.03.

(f) **Court:** The Court of Central Jurisdiction as created pursuant to 5 MLBS § 1 et seq.

(g) **Partnership:** A voluntary contract between two (2) or more competent persons to place their money, effects, labor and skill, or some or all of them, in lawful commerce or business, with the understanding that there shall be a proportional sharing of the profits and losses between them.

(h) **Person:** A natural person, corporation, company, association, cooperative, unincorporated association, trust or joint stock association, church, religious sect,

religious denomination, or league and includes any trustee, receiver, assignee, agent or other similar representative thereof.

(i) **Process:** 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 proceedings in the Court of Central Jurisdiction.

(j) **Solicit:** The request, directly or indirectly, for any contribution, regardless of which party initiates communication, on the plea or representation that such contribution will or may be used for any charitable purpose, and the term shall be all inclusive.

(k) **Solicitation:** Asking, enticing, requesting; or to appeal for something.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-7, § 32.
Band Ordinance 15-14, Title II, § 1.

§ 3. Reservation of Right.

The Band Assembly hereby fully reserves the right to alter, amend or repeal the provisions of this Title with the required review and approval of the Secretary of Interior. All rights and privileges granted or extended hereunder, shall be subject to such reserved right, however said reservation of right shall not be applicable to existing licenses issued prior to any statutory amendment.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-7, § 26.

§ 4. Rules and Regulations.

The Corporate Commission is authorized to issue all rules and regulations necessary for the implementation of Chapters 1 to 4 of this Title.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-7, § 3.01.
Band Ordinance 15-14, Title II, § 2.

Cross References

Powers and duties of Corporate Commissioner, *see* 16 MLBS § 111.

§ 5. Jurisdiction of the Court of Central Jurisdiction; Damages.

(a) The Court of Central Jurisdiction is hereby conferred exclusive subject matter jurisdiction to resolve any and all disputes which may arise pursuant to any provisions of Chapters 1 to 4 of this Title. The provisions of 5 MLBS §113, shall apply to any non-Indian who initiates any action in the Court of Central Jurisdiction pursuant to any provision of Chapters 1 to 4 of this Title. All non-Indian persons who apply for and receive a license to engage in the sale of goods and/or services pursuant to provisions of Chapters 1 to 4 of this Title shall be deemed to have voluntarily consented to the civil jurisdiction of the Court of Central Jurisdiction for all civil causes of action which arise herewith.

(b) Any cause of action which arises pursuant to any provision of Chapters 1 to 4 of this Title in which the Non-Removable Mille Lacs Band of Ojibwe or any of its political entities is named as a defendant 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.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-47, § 25.

Cross References

Damages, generally, *see* 24 MLBS § 651 et seq.
Subject matter jurisdiction, Court of Central Jurisdiction, *see* 5 MLBS § 111.

§ 6. Waiver of Sovereign Immunity.

Nothing in this Title shall be construed as a waiver of sovereign immunity of the Mille Lacs Band of Ojibwe in any state or federal court.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-47, § 30.
Band Ordinance 15-14, Title II, § 3.

§ 7. Solicitor General Obligation.

The Solicitor General shall represent the interest of the Non-Removable Mille Lacs Band of Ojibwe and the Corporate Commission in any matter arising from any provision of Chapters 1 to 4 of this Title before the Court of Central Jurisdiction.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-47, § 31.

Cross References

Duties of Solicitor General, *see* 4 MLBS § 18.

§ 8. Investigations Proceedings.

The Commissioner of Corporate Affairs in her or his discretion may make investigations as he or she deems necessary to determine whether any person has violated or is about to violate any provisions of Chapters 1 to 4 of this Title or any Commission Order issued pursuant thereto and to submit the results of this investigation to the Solicitor General for appropriate court action.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-47, § 11.

§ 9. Equality and Consistency in the Exercise of Powers and Duties.

Notwithstanding the provisions of any other Title of the Mille Lacs Band Statutes Annotated, the Corporate Commission and the Solicitor General may use any information in their possession, or to which they have access, to insure equal and consistent application and enforcement of the provision of this law which is administered by the Commission. This section shall not be construed as granting the Corporate Commission or Solicitor General any power to release information under their direct control to any exterior person, entity or government absent a due process hearing. All information collected shall be deemed highly classified and confidential.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-7, § 29.

§ 10. **Violations.**

Any person who shall fail to comply with the licensing provisions of Chapters 1 to 4 of this Title or any lawful Commission Order, or order of the Court of Central Jurisdiction shall be deemed guilty of the offense of obstruction of the lawful process, and upon conviction thereof, shall be sentenced to a suspension or revocation of the privilege to conduct commercial enterprise on lands subject to the jurisdiction of the Band for a period not to exceed 180 days or exclusion from said lands pursuant to provisions of 2 MLBS § 201 et seq [Digitizer's note: Section not in digital copy].

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-47, § 24.
Band Ordinance 15-14, Title II, § 4.

Cross References

Licensing of commercial entities, *see* 18 MLBS § 101 et seq.

CHAPTER 2

LICENSING OF COMMERCIAL ENTITIES

Section

101. Power to License.
102. Application for License.
103. Classes of Licenses.
104. Fees for Issuance of License.
105. License Fee Revenue Distribution.
106. Licenses Issued to Principal of Commercial Entity.
107. License Period.
108. License Renewal.
109. Denial, Suspension, Revocation of License.
110. Service of Process.
111. Forfeiture of Goods.
112. Power to Close Unlicensed Stores.

§ 101. Power to License.

The Corporate Commission shall have the sole power and authority to license commercial entities who sell or offer for sale any goods and/or services to person(s) on lands subject to the jurisdiction of the Non-Removable Mille Lacs Band of Ojibwe. Any persons(s), company(ies), corporation(s), association(s), partnership(s), cooperative(s), utility(ies) and any other public or private commercial entity who desires to sell or offer for sale any goods and/or services of any material value or to sell or offer for sale the exchange of property, real or personal, as defined in 24 MLBS § 3302, with any Band member or Indian or any person subject to the jurisdiction of the Mille Lacs Band of Ojibwe; or with the Non-Removable Mille Lacs Band of Ojibwe; or any political subdivision or entity thereof, shall upon establishing the fact to the satisfaction of the Corporate Commission that he or she is a proper person or entity to engage in such activity, be permitted to do so under such rules and regulations as the Corporate Commission may prescribe through the issuance of lawful Orders of the Commission. Any such Commission Order shall not be applicable to any commercial entity during the term of any existing license but shall become effective upon the issuance of a new license or upon renewal of an existing license.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-47, § 2.52

§ 102. Application for License.

(a) Application for licenses must be made in writing on a form prescribed by the Corporate Commission, setting forth the full name and residence of the applicant; if a firm, the firm name and the name of each member thereof, the place where it is proposed to carry on the sale of goods and services; the capital to be invested, the names of the clerks to be employed; the person responsible for the general books of account of the firm and the name of one (1) other person exclusive of the owner who shall both be designated to receive service of process; and the business experience of the applicant. The application must be forwarded through the Commissioner of Corporate Affairs. Licensed entities will be held responsible for the conduct of their employees.

(b) When an application for a license or permit is filed with the Commissioner of Corporate Affairs, the application shall be accompanied by a nonrefundable fee of $10.00. The Corporate Commission shall be 90 days from the date of filing to approve or deny any application. Notwithstanding, the Commissioner of Corporate Affairs shall issue a temporary license valid for 90 days upon receipt and filing of said application.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-7, § 5.

§ 103. Classes of Licenses.

The Non-Removable Mille Lacs Band of Ojibwe hereby designates the following classes of licenses which shall be available for any commercial entity who desires to engage in the sale of any goods and/or services on lands subject to the jurisdiction of the Band. The following classes of licenses shall be made available to any person, company, corporation, association, partnership, cooperative, utility, or financial institution, be it public or private who seeks to engage in the sale of such goods or services on lands subject to the jurisdiction of the Non-Removable Mille Lacs Band of Ojibwe. The class of license sought shall be issued according to the classification of the goods and/or services sold on said lands.

(a) **Retail Sales License.** This license is available to a person who sells any goods and commodities at retail on lands under the jurisdiction of the Band.

(b) **Entertainers License.** This license is available to a person who provides entertainment to the public. For example: a band, theater or dance troupe, etc.

(c) **Professional Services License.** This license is available to a person who provides services in the practice of medicine and surgery, chiropractic, nursing, optometry, psychology, dentistry, pharmacy, podiatry, veterinary medicine, architecture, engineering, surveying, landscape architecture, accountancy and law.

(d) **Utilities License.** This license is available to a person providing telephone, electrical, water, sewer, gas to the public.

(e) **Public Accommodations License.** This license is available to a person providing lodging, prepared foods or beverages, and equipment rental to the public.

(f) **Hawkers, Peddlers, Transient Merchants License.** This license is available to a person who transacts any temporary and transient business on lands under the jurisdiction of the Band including selling goods, wares, merchandise and distributing literature of any type.

(g) **General Service License.** This license is available to a person who provides commercial services to the public, such as refuse disposal, plumbing, auto or equipment repair, electrical, carpentry, cleaning and maintenance services, personal care and other like general services.

(h) **Special Events License.** This license is available to a person who conducts commercial activity usually on a one-time per annum basis, but not exceeding three (3) times per annum. Said activity does not occur on a regular or consistent basis.

(i) **Miscellaneous License.** This license is available to a person who sells goods or services that do not fall into another category in subsections (a) to (h).

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-7, § 6.

§ 104. Fees for Issuance of License.

The following fee schedule based on annual gross sales of the licensed entity is hereby enacted for various classes of licenses offered in 18 MLBS § 103.

(a) License fee for Commercial Services License is hereby established at:

$0.00 to $50,000.00	= $75.00
$ 50,001.00 to $100,000.00	= $100.00
$100,001.00 and over	= $150.00

(b) License fee for Entertainers License is hereby established at $50.00.

(c) License fee for Professional Services License is hereby established at:

$0.00 to $50,000.00	= $75.00
$ 50,001.00 to $100,000.00	= $100.00
$100,001.00 and over	= $150.00

(d) License fee for Public Utilities License is hereby established at:

$0.00 to $50,000.00	= $75.00
$ 50,001.00 to $100,000.00	= $100.00
$100,001.00 and over	= $150.00

(e) License fee for Public Accommodations License is hereby established at:

$0.00 to $50,000.00	= $75.00
$ 50,001.00 to $100,000.00	= $100.00

$100,001.00 and over = $150.00

(f) License fee for Hawkers, Peddlers, Transient Merchants License is hereby established at:

$0.00 to $50,000.00 = $25.00

$ 50,001.00 to $100,000.00 = $40.00

$100,001.00 and over = $50.00

(g) License fee for General Commercial Services License is hereby established at:

$0.00 to $50,000.00 = $75.00

$ 50,001.00 to $100,000.00 = $100.00

$100,001.00 and over = $150.00

(h) License fee for One-Time Special Events is hereby established at $50.00.

(i) License fee for Miscellaneous License is hereby established at:

$0.00 to $50,000.00 = $75.00

$ 50,001.00 to $100,000.00 = $100.00

$100,001.00 and over = $150.00

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-47, § 7.

§ 105. License Fee Revenue Distribution.

All revenue derived from license fees from this Title shall be forwarded on the first day of each month to the Commissioner of Finance who shall superintend and manage said funds until lawfully disbursed pursuant to formal Revenue Resolution of the Band Assembly.

Historical and Statutory Notes

Source:

Band Statute 1090-MLC-47, § 23.

§ 106. Licenses Issued to Principal of Commercial Entity.

The Corporate Commission shall issue licenses only in the name of the principal owner of any commercial entity who transacts business pursuant to provisions of this Title. Any said license issued pursuant to provisions of this Title is nontransferable.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-47, § 13.

§ 107. License Period.

License to sell or offer for sale any goods and/or services to any person subject to the jurisdiction of the Band shall be valid throughout the calendar year in which it is issued.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-47, § 8.

§ 108. License Renewal.

Application for renewal of license shall be made to the Commissioner of Corporate Affairs on an appropriate form at least 30 days prior to the expiration of the existing license and the Commissioner must report to the Corporate Commission as to the record the applicant has made and her or his fitness to continue as a commercial entity under a new license.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-47, § 9.

§ 109. Denial, Suspension, Revocation of License.

(a)

(1) The Corporate Commission may by order deny any application or suspend or revoke any license or registration if it finds that the applicant, registrant or licensee:

(i) has filed an application for a license or registration which is incomplete in any material respect or contains any statement which, in light of the circumstances under which it is made, is false or misleading with respect to any material fact;

(ii) has engaged in a fraudulent, deceptive or dishonest practice;

(iii) is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of conducting commercial activity;

(iv) has violated or failed to comply with any provision of this chapter or any Commission Order issued pursuant thereto.

(2) Any applicant for a license or licensee or registrant shall be accorded due process rights to a hearing pursuant to provisions of subsection (c)(1), prior to revocation, suspension or denial action.

(b) The Corporate Commission may promulgate rules and regulations further specifying and defining those actions and omissions which constitute fraudulent, deceptive or dishonest practices, and establishing standards of conduct for commercial activity.

(c)

(1) The Court of Central Jurisdiction may issue an order requiring a licensee, registrant or applicant for a license or registration to show cause why the license or registration should not be revoked or suspended. In the case of the denial of an application, the Corporate Commission may issue such a show cause order. All orders shall be calculated to give reasonable notice of time and place for hearing thereon, and shall state the reasons for the entry of the order. All hearings shall be conducted in accordance with 24 MLBS § 2001 et seq. After the hearing, the court shall enter an order making such disposition of the matter as the facts require. In the case of hearings before the Corporate Commission, the Commission shall enter an order making such disposition of the matter as the facts require. Any such order may be appealed to the Court of Central Jurisdiction.

(2) If the licensee, registrant or applicant fails to appear at a hearing of which he or she has been duly notified, such person shall be deemed in default, and the proceeding may be determined against her or him upon consideration of the order to show cause, the allegations of which may be deemed to be true.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-47, § 10.

§ 110. Service of Process.

All commercial entities that sell or offer for sale any goods and/or services on lands subject to the jurisdiction of the Band, but do not maintain an office on lands subject to the jurisdiction of the Band shall be subject to service of process as follows: by service thereof on its registered agent within the Band or if there be no such registered agent, then upon the person who has been designated in the registration statement as having custody of books and records or upon the person who is an agent of the commercial entity or by placing a copy of said process in registered and regular United States mail at the last known address.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-47, § 14.

§ 111. Forfeiture of Goods.

Any person who shall attempt to conduct commerce on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Ojibwe as a commercial entity, or to introduce goods, offer for sale any services or to conduct commercial activity therein without a license, shall forfeit all merchandise offered for sale to any person or the Band which is found in her or his possession to the Non-Removable Mille Lacs Band of Ojibwe.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-47, § 4.

§ 112. Power to Close Unlicensed Stores.

If persons carry on commercial activities within the jurisdiction of the Non-Removable Mille Lacs Band of Ojibwe with any person under the jurisdiction of the Band or the Band or entity of the Band without a license, or continue to conduct commerce after expiration of the license without applying for renewal, the Commissioner of Corporate Affairs will immediately report the facts to the Solicitor General who may, if necessary, direct the Law Enforcement officials to close the store of such commercial entities. The Solicitor General shall within 48 hours file a

proper complaint in the Court of Central Jurisdiction and seek permanent or temporary injunctive relief from the court whichever is appropriate.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-47, § I 2.

CHAPTER 3

REGULATION OF TRADE

Section

201. Inspection of Prices.
202. Credit at Seller's Risk.
203. Cash Payment Only to Any Band Member.
204. Government Checks Paid in Cash.
205. Premises Kept in Sanitary Condition.
206. Tobacco Sales to Minors.
207. Imitation Indian-Made Goods and Commercially Grown Wild Rice Prohibited.
208. Corporate Commission Authorizations.
209. Pawnbrokers and Junk Dealers.

§ 201. Inspection of Prices.

(a) It is the duty of the Commissioner of Corporate Affairs, to see that the prices charged by commercial entities are fair and reasonable. To this end the commercial entities shall on request submit to the Commissioner or inspecting officials the original invoice, showing cost, together with a statement of transportation charges, retail price of articles sold by them, the amount of Indian accounts carried on their books, the total annual sales, the value of buildings, the number of employees, and any other business information such officials may desire. The quality of all articles kept on sale must be good merchandise. The Commissioner shall conduct any such inspection upon receipt of any complaint from any person.

(b) The Corporate Commission shall promulgate standards for fair and reasonable inspection of any commercial entity located on lands subject to the jurisdiction of the Band, so as to prevent bias. No inspections shall occur until said standards have been promulgated.

Historical and Statutory Notes

Source:

Band Statute 1090-MLC-47, § 16.

§ 202. Credit at Seller's Risk.

Credit given to any Band members, will be at the seller's own risk, as no assistance will be given by Government officials in the collection of debts against any Band members other than that specified in 24 MLBS § 3001 et seq. Commercial entities shall not accept pawns or pledges of personal property by any Band members to obtain credit or loans. Receipts must be given to all articles they have sold to commercial entities and on which they have requested book credit. These receipts must show the following information: The date the transaction was made, the amount paid the Band member and a description of the article or articles sold. All receipts issued by the commercial entity for Band members products must be recorded in the commercial entity's book in such manner that all information contained in the receipt is duplicated. Receipts may be transferred upon order of the initial recipient if it is to her or his convenience that such a procedure be followed.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-47, § 17.

§ 203. Cash Payment Only to Any Band Member.

Commercial entities must not pay Band members in tokens, tickets, store orders or anything else of that character. Payment must be made in money, or in credit if the Band member is indebted to the commercial entity.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-47, § I 8.

§ 204. Government Checks Paid in Cash.

Commercial entities must pay all government checks accepted in cash, merchandise or credit to the full value of the check presented. The acceptance of cash, merchandise, or credit for government checks shall be at the option of the Band member in all cases.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-47, § I 9.

§ 205. Premises Kept in Sanitary Condition.

The commercial entities shall keep both their premises and place of business in a clean, sanitary and presentable condition at all times and shall avoid exposure of foodstuff to infection from the air, dust, insects or handling. It shall be the duty of the Commissioner of Human Services of the Band and her or his assistants to make periodical inspections, recommend improvements and report thereon to the Commissioner of Corporate Affairs or her or his duly authorized representative.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-47, § 20.

§ 206. Tobacco Sales to Minors.

No commercial entity shall sell tobacco, cigars, or cigarettes to any Band member under 18 years of age.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-47, § 15.

§ 207. Imitation Indian-Made Goods and Commercially Grown Wild Rice Prohibited.

(a) No person shall introduce or have in her or his possession for disposition or sale to Band members or others, within the exterior boundaries of lands under the jurisdiction of the Non-Removable Mille Lacs Band of Ojibwe, any goods, wares, and merchandise known as moccasins, bead work, birchbark baskets, deerskin work, grass rugs, sweet grass baskets, and other goods which are manufactured or produced in imitation of genuine American Indian-made goods, wares, or merchandise without first clearly branding, labeling or marking said goods, wares or merchandise as imitation of genuine American Indian-made goods, wares or merchandise. For purposes of this section, Indian-made goods are those made exclusively by persons who are at least one-quarter Indian blood or who are listed on the rolls of any federally recognized Indian tribe, Band or community.

(b) The brand, label or mark required by subsection (a) shall be the words "not Indian-made" and shall be placed or attached outside of and on a conspicuous part of the finished article so as to be plainly visible to the purchasing public, and shall be the size and style known as great primer Roman capitals. Such brand or mark, if the

article will permit, shall be placed upon it, but when such branding or marking is impossible, a label shall be used and attached thereto.

(c) Any person injured by violation of subsection (a) may bring a civil action and recover damages, together with costs and disbursements, including reasonable attorney's fees, and receive other equitable relief as determined by the Court of Central Jurisdiction.

(d) No person shall sell, offer for sale, or have in her or his possession for the purpose of sale any commercially grown wild rice.

(e) All such imitation Indian-made goods which are mislabeled, in violation of subsection (a) and commercially grown wild rice introduced in violation of subsection (d) shall be subject to seizure by any law enforcement officer of the Band in the event that any person shall introduce or intend to introduce for purposes of sale to the general public such goods and/or commercially grown wild rice.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-47, § 22.

§ 208. Corporate Commission Authorizations.

(a) The sale of alcohol at any Mille Lacs Band of Ojibwe Gaming enterprise is hereby specifically authorized.

(b) The Corporate Commission is authorized, whenever in its opinion the public interest may require, to prohibit the introduction of goods, or of any particular articles, into the country belonging to the Non-Removable Mille Lacs Band of Ojibwe and direct that all licenses to sell or offer for sale any goods and/or services with persons or the Band be revoked, and all applications therefore rejected. No commercial entity shall, so long as such prohibition exists, sell or offer for sale any goods and/or services with any entity of the Band and for said Band, or to any person subject to the jurisdiction of the Non-Removable Mille Lacs Band of Ojibwe.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-47, § 3.
Band Ordinance 23-19.

§ 209. Pawnbrokers and Junk Dealers.

(a) Every pawnbroker or junk dealer subject to the jurisdiction of the Court must keep a detailed register in which must be entered the description of every article pawned by her or him or purchased by her or him with the date of pawning or purchasing date when the article must be redeemed, with the name of the person by whom the article was pawned, or by whom purchased and the amount loaned thereon or paid thereof, and in case of the sale of any article pawned or pledged, the pawnbroker or junk dealer must enter upon said register the name of the purchaser, the time of the sale and the price paid therefore and the register must always be open to inspection and examination of any law enforcement officer.

(b) Furthermore, no person may carry on the business of pawnbroker or junk dealer by receiving goods pawned, or in pledge for loans, at any rate of interest higher than is allowed pawnbrokers of junk dealers under Federal regulation. There must be no other or greater amount received by and pawnbroker or junk dealer, her or his employee or agents, for interest, commission, discount, storage or caring for property pledged than the rate allowed under Federal regulations.

(c) Failure to comply with the terms and conditions of this section shall constitute an offense, punishable upon conviction of a sentence to labor for a period not to exceed 180 days, and/or by a fine not to exceed $500.00, and the violator may be subject to other related charges under provisions of the Mille Lacs Band Statutes Annotated such as 24 MLBS § 1154. The Court may order the violator to cease and desist from any further business as pawnbroker or junk dealer until full compliance with this section is to the satisfaction of the Court.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 28.

CHAPTER 4

UNIFORM COMMERCIAL CODE

Section
301. Enactment.
302. Amendments.

§ 301. Enactment.

The Band Assembly hereby enacts the Uniform Commercial Code of the State of Minnesota-Minnesota Statutes, Chapter 336 as the Uniform Commercial Code for the Non-Removable Mille Lacs Band of Ojibwe. The Justices of the Court of Central Jurisdiction shall be bound by the provisions of Minnesota Statutes, Chapter 336 in all causes of action which

arise pursuant thereto. Exclusive subject matter jurisdiction is hereby conferred to the Court of Central Jurisdiction.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-7, § 28.

Cross References

Applicability to motor vehicle lien holders, *see* 19 MLBS § 17
Applicability to watercraft, *see* 20 MLBS § 11.
Subject matter jurisdiction, Court of Central Jurisdiction, *see* 5 MLBS § 111.

§ 302. Amendments.

Band Statute 1090-MLC-47 (*see*, now, 18 MLBS § 301) adopted the Uniform Commercial Code as adopted by the State of Minnesota. Should the State of Minnesota amend or change its Uniform Commercial Code after the enactment of the above mentioned Statute, the Commissioner of Corporate affairs may, in her or his discretion, adopt those amendments or changes into Band law via a Commissioner's Order.

Historical and Statutory Notes

Source:
Band Statute 1202-MLC-16A, § 16.

Cross References

Commissioner's Orders, *see* 4 MLBS § 7.

CHAPTER 5

TRIBAL EMPLOYMENT RIGHTS - REPEALED

Historical and Statutory Notes

Source:
Band Ordinance 41-22 (Tribal Employments Rights has been moved to Title 15).

CHAPTER 6

MINIMUM WAGE

Section

501. Payment of Minimum Wages.
502. Gratuities Not Applies.
503. Sharing of Gratuities.
504. Unreimbursed Expenses Deducted.
505. Expense Reimbursement.
506. Overtime.
507. Work Breaks.
508. Meal Breaks.
509. Authorized Leave.
510. Application.

Historical and Statutory Notes

The Preamble and § 11 of Band Ordinance 30-98 (this Chapter) provides: "Preamble. It is enacted by the band Assembly of the Mille Lacs Band of Ojibwe for the purpose of establishing minimum wage standards for workers within the territorial jurisdiction of the Mille Lacs Band."

"Section 11. Effective Date. This Act shall become effective October 1, 1998."

The title of Band Ordinance 19-08 is: "An ordinance amending the minimum wage standard for workers within the territorial jurisdiction of the Mille Lacs Band of Ojibwe in order to comply with the federal guidelines."

The Preamble and § 11 of Band Ordinance 19-08 provides: "Preamble. It is enacted by the Band Assembly of the Mille Lacs Band of Ojibwe for the purpose of amending the minimum wage standards for workers within the territorial jurisdiction of the Mille Lacs Band of Ojibwe."

"Section 11. Effective Date. This Act shall become effective July 24, 2008."

§ 501. Payment of Minimum Wages.

(a) For purposes of this Chapter, the terms defined in this paragraph have the following meaning:

(1) **"Large Employer"** means an enterprise whose annual gross volume of sales made or business done is not less than $500,000.00, exclusive of excise and sales taxes that are collected at the retail level.

(2) **"Mille Lacs Band"** or **"Band"** means the Mille Lacs Band of Ojibwe or any political subdivision thereof.

(3) **"Salary"** means wages paid periodically in contrast to wages based on an hourly rate.

(b) Except as may otherwise be provided for in this Chapter, the Band and every Large Employer must pay wages to each employee in the minimum amount of $8.50 per hour unless a higher amount is required under applicable law.

(c) Except as may otherwise be provided for in this Chapter, every "Small Employer" must pay each wages to each employee in the minimum amount of $6.55 per hour unless a higher amount is required under applicable law.

(d) A "Large Employer" must pay each employee at a rate of at least the minimum wage set by this section without the reduction for training wage or full-time student status allowed by federal law.

(e) Any governmentally funded program, whether Band, federal or state, that employs students enrolled in educational classes is expressly exempt from the provisions of this section.

Historical and Statutory Notes

Source:
Band Ordinance 30-98, § 1.
Band Ordinance 19-08, § 1.
Band Ordinance 45-14.

§ 502. Gratuities Not Applied.

(a) An employer may not directly or indirectly credit, apply or otherwise utilize gratuities towards payment of the minimum wage set by this section or any other applicable law.

(b) Notwithstanding any provision of this Chapter to the contrary, an employer shall not be required to pay an employee receiving 30% or more of their earnings from tips or gratuities, the amount of the Band's minimum wage rate prescribed in § 501 of this Chapter. Instead such an employee shall be entitled to receive a minimum wage at the federal rate for employees of this type.

Historical and Statutory Notes

Source:
Band Ordinance 30-98, § 2.
Band Ordinance 19-08, § 2.

§ 503. Sharing of Gratuities.

(a) All tips or gratuities may be retained by employees receiving such tips or gratuities.

(b) Notwithstanding the provisions of paragraph (a) of this section, any tip or gratuity received by an employee and deposited in a fund or pool operated for the benefit of such type of employees to be to be shared equally shall be permissible.

Historical and Statutory Notes

Source:
Band Ordinance 30-98, § 3.
Band Ordinance 19-08, § 3.

§ 504. Expenses that are Not Reimbursed that May Be Deducted.

Deductions, direct or indirect, from wages or gratuities not authorized under this section may only be taken as otherwise authorized by law. Deductions, direct or indirect, up to the full cost of an individual's uniform or individual's piece of work equipment as listed below, may not exceed $50.00. No deductions, direct or indirect may be made for the items listed below which when subtracted from wages would reduce the wage below the allowable minimum:

(a) Purchased or rented uniforms or specifically designed clothes required by the employer, due to the nature of the employment or by law as a condition of the employment, which are not generally appropriate for use except in that employment;

(b) Purchased or rented equipment used in employment, except as tools of trade, motor vehicle or any other equipment which may be used outside the employment;

(c) Travel expenses in the course of employment except those incurred in traveling to and from the employee's residence and place of employment.

Historical and Statutory Notes

Source:
Band Ordinance 30-98, § 4.

Band Ordinance 19-08, § 4.

§ 505. Expense Reimbursement.

An employer, at the termination of an employee's employment, must reimburse the full amount deducted, directly or indirectly, for any of the items listed in § 504 of this Chapter. When reimbursement is made, the employer may require the employee to surrender any existing items for which the employer provided reimbursement.

Historical and Statutory Notes

Source:
Band Ordinance 30-98, § 5.
Band Ordinance 19-08, § 5.

§ 506. Overtime.

(a) An employer may not employ an employee for a workweek longer than (40) hours, unless the employee receives compensation for employment in excess of (40) hours at a rate of at least 1½ times the employee's wage. An employer may also grant compensatory time off at the rate of 1½ hours for each hour worked in excess of (40) hours in lieu of monetary compensation.

(b) An employer does not violate this § 506 if the employer and employee agree before the performance of a work week, to accept to work period of (14) conservative days in lieu of a work week of seven (7) consecutive days. In such an arrangement, overtime compensation for the employment in excess of eight (8) hours in any workday and in excess of 80 hours in the 14 day period, the employee shall receive pay or compensatory time off at a rate not less than one and a half times the regular rate at which the employee is employed.

(c) This section shall not apply to employees receiving a Salary.

Historical and Statutory Notes

Source:
Band Ordinance 30-98, § 6.
Band Ordinance 19-08, § 6.

§ 507. Work Breaks.

An employer must allow each employee a 15-minute break from work within each four (4) consecutive hours of work.

Historical and Statutory Notes

Source:
Band Ordinance 30-98, § 7.
Band Ordinance 19-08, § 7.

§ 508. Meal Breaks.

(a) An employer must permit each employee who is working for eight (8) or more hours at least 30 minutes to eat a meal.

(b) Nothing in this section requires the employer to pay the employee during the meal break.

Historical and Statutory Notes

Source:
Band Ordinance 30-98, § 8.
Band Ordinance 19-08, § 8.

§ 509. Authorized Leave.

Any employee may not unreasonably be denied time-off from work to attend Midewin or Drum Society Ceremonies.

Historical and Statutory Notes

Source:
Band Ordinance 30-98, § 9.
Band Ordinance 19-08, § 9.

§ 510. Application.

The provisions of this Chapter shall apply within the territorial jurisdiction of the Mille Lacs Band of Ojibwe.

Historical and Statutory Notes

Source:
Band Ordinance 30-98, § 10.
Band Ordinance 19-08, § 10.

CHAPTER 7

RIGHT TO WORK

Section

601. Findings and Determinations.
602. Definitions.
603. Right to Work.
604. Prohibition of Strikes.
605. Jurisdiction.
606. Civil Remedies.
607. Complaint Process.
608. Enforcement.

Historical and Statutory Notes

The Title of Band Ordinance 55-08 (this Chapter) is: "An Ordinance amending Title 18 of Mille Lacs Band Statutes Annotated (Commercial Practices) to add Chapter 7 – Right to Work.

The preamble of Band Ordinance 55-08 provides: "It is enacted by the Band Assembly of the Mille Lacs Band of Ojibwe for the purpose of amending Title 18 of the Mille Lacs Band Statutes Annotated (Commercial Practices) to add Chapter 7 to be entitled 'Right to Work.'"

§ 601. Findings and Determinations.

The Band Assembly hereby finds and determines:

(a) The Mille Lacs Band of Ojibwe has the inherent power to maintain a Band government which may enact laws to preserve the sovereignty of the Band and to promote and maintain individual rights and promote the general welfare of the people of the Band.

(b) With the recent expansion of economic development, employment within the jurisdiction of the Band has grown substantially, and the Band has exercised its sovereignty in enacting laws to govern employment relationships.

(c) The right to work on land within the jurisdiction of the Band is a fundamental right that should not be abridged.

(d) No person should be forced to join or be penalized for not joining a union or other collective bargaining organization and should be able to make that choice freely and voluntarily.

(e) The Mille Lacs Band of Ojibwe enacts this law governing employment and labor pursuant to the Band's inherent sovereign authority to govern activities on lands within the jurisdiction of the Band, whether the activities are of Band members, nonmembers, Indians, or non-Indians, and whether based on consensual relationships with the Band or conduct which impacts and affects the health, safety, political and economic integrity of the Band and the community including Band members, employees, vendors, patrons and others.

Historical and Statutory Notes

Source:
Band Ordinance 55-08, § 1.

§ 602. Definitions.

(a) **"Employer"** means any person, firm, association, corporation, government or any subdivision thereof and other entity operating within the jurisdiction of the Band and directly or indirectly employing one (1) or more persons to perform work, except for any such person, firm, association, or corporation which has a principal place of business located outside the jurisdiction of the Band and operates pursuant to an Agreement with the Band or Band entity to perform construction related activities.

(b) **"Labor organization"** means any organization or agency or group of employees or employee committee or plan in which employees participate that is organized or exists for the purpose of dealing with an employer or employers concerning hours of employment, wages, rates of pay, working conditions or grievances of any kind relating to employment.

(c) **"Labor dispute"** includes any controversy concerning terms or conditions of employment or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment whether or not the disputants stand in the proximate relationship of employer and employee.

(d) **"Person"** means any individual, labor organization, corporation, partnership, company, association or other legal entity, including the Mille Lacs Band of Ojibwe and any subdivision thereof and the Corporate Commission of the Mille Lacs Band of Ojibwe.

(e) **"Strike"** means any temporary stoppage, reduction, disruption or slowdown of work by the concerted action of two (2) or more employees as a result of a labor dispute.

(f) **"Union dues"** means dues, fees, assessments or other charges of any kind or amount or their equivalents paid or payable, directly or indirectly, to a labor organization or

its agents and includes payments to any charity or other third-party in lieu of such payments to a labor organization.

Historical and Statutory Notes

Source:
Band Ordinance 55-08, § 2.

§ 603. Right to Work.

(a) No person shall be required, as a condition of employment, or continuation of employment, within the jurisdiction of the Band, to do any of the following:

(1) Resign or refrain from voluntary membership in, voluntary affiliation with, or voluntary financial support of a labor organization;

(2) Become or remain a member of a labor organization; or

(3) Pay union dues as defined in this chapter.

(b) Any agreement between any labor organization and any employer that violates subsection (a) or otherwise violates the rights of persons defined by this chapter is of no legal effect. This chapter does not bar any person from voluntarily obtaining or maintaining membership in any labor organization or from voluntarily paying union dues as defined in this chapter.

Historical and Statutory Notes

Source:
Band Ordinance 55-08, § 3.

§ 604. Prohibition of Strikes.

(a) No person shall engage in a strike and no person shall cause, instigate, encourage, or condone a strike.

(b) For purposes of this section, if a person is absent from work, or abstains wholly or in part from the full performance of her or his normal duties, on the date or dates when a strike occurs, it shall create a rebuttable presumption to have engaged in such strike on such date or dates.

Historical and Statutory Notes

Source:

Band Ordinance 55-08, § 4.

§ 605. Jurisdiction.

The Court of Central Jurisdiction shall have jurisdiction over all causes of action alleging violations of this chapter. Nothing provided in this chapter shall be deemed to be a waiver of the sovereign immunity of the Mille Lacs Band of Ojibwe from suit. Nothing provided in this chapter shall diminish the immunity protections of 2 MLBS § 5 and 16 MLBS § 109.

Historical and Statutory Notes

Source:
Band Ordinance 55-08, § 5.

§ 606. Civil Remedies.

Any person injured as a result of any violation or threatened violation of the provisions of this chapter shall be entitled to petition the Court of Central Jurisdiction for injunctive relief from or against any person who violated or threatens any violation of this chapter, and may, in addition thereto, file a claim to recover actual damages resulting from the violation or threatened violation. The remedy shall be independent of, and in addition to, any other penalties and remedies prescribed by applicable law.

Historical and Statutory Notes

Source:
Band Ordinance 55-08, § 6.

§ 607. Complaint Process.

(a) **Petition.** Any person injured as a result of any violation or threatened violation of the provisions of this chapter shall first petition the Court of Central Jurisdiction for a show cause hearing. The Petition shall include a statement of the facts constituting the violation or threatened violation of the provisions of this chapter and the specific relief requested. The Petition shall also be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought.

(b) **Notice of Hearing.** The Clerk of Court shall schedule a hearing within 30 days after receipt of the Petition. The Clerk shall submit a Notice of Hearing to the person against whom the action is being instituted. The Notice shall state that the person has a right to appear at this hearing on her or his own behalf or with an attorney. The person shall have a right to present defenses to the claim and to state the reasons why the Petition should be denied. The Petition shall clearly state a claim to the violation

of this chapter and the damages sought. Finally, the notice shall clearly state that if the person fails to appear at the hearing the Court has the authority to enter a default judgment on behalf of the Petitioner and direct that the requested relief be immediately granted.

(c) **Emergency Procedure.**

(1) Where an application under this chapter alleges an immediate and present violation or threatened violation of § 4 of this chapter, the court may grant an ex-parte temporary order enjoining the violation or threatened violation.

(2) An ex-parte temporary order shall be effective for a fixed period not to exceed 14 days. A full hearing as provided by this chapter shall be set for not later than seven (7) 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 affidavit and notice of the date set for the hearing.

(3) Service of Order. Any order issued under this chapter shall be personally served upon the respondent.

Historical and Statutory Notes

Source:
Band Ordinance 55-08, § 7.

§ 608. Enforcement.

(a) The Court of Central Jurisdiction shall have the judicial authority to provide an equitable remedy in the execution its judgments and determinations to promote the general welfare, preserve and maintain justice, and to protect the rights of all persons under the jurisdiction of the Mille Lacs Band of Ojibwe.

(b) The Court of Central Jurisdiction shall have the power to issue orders to prevent an injustice or injury, require action or conduct, and issue any other orders as are necessary in the furtherance of justice.

Historical and Statutory Notes

Source:
Band Ordinance 55-08, § 8.

TITLE 19 – MOTOR VEHICLES

Chapter	Section
1. General Provisions	1
2. Registration	101
3. Certificates of Title	201
4. Fraudulent Practices	301
5. Traffic Violations	401
6. Police Powers	501
7. Parking Privileges for Physically Handicapped Persons	601

Historical and Statutory Notes

The Preamble of Band Statute 1097-MLC-52 provides: "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."

Band Statute 1097-MLC-52, §§ 39 and 48 provide: "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 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 1141-MLC-2, Section 17 [now 3 MLBS § 16] and proper notification to the State of Minnesota."

CHAPTER 1

GENERAL PROVISIONS

Section

1. **Findings and Determinations.**
2. **Definitions.**
3. **Reservation of Right.**
4. **Administrative Expenses.**

5. **Revenue Distribution.**
6. **American Association of Motor Vehicle Administrators: Policy Positions.**
7. **Powers and Duties of Secretary.**
8. **Cancellation of Title or Registration.**
9. **Deputy Registrar of Motor Vehicles.**
10. **Removal of Deputy Registrar of Motor Vehicles.**
11. **Court of Central Jurisdiction.**
12. **Limited Waiver of Sovereign Immunity.**
13. **Solicitor General Obligations.**
14. **State and Territorial Motor Vehicle Statutes and Judicial Proceedings; Full Faith and Credit.**
15. **State and Territorial Non-Judicial Motor Vehicle Records; Full Faith and Credit.**
16. **Motor Vehicle Registration Forms.**
17. **Applicability of 24 MLBS § 3301 et seq., Remedies for Creditors, and 18 MLBS § 301, Uniform Commercial Code.**

Historical and Statutory Notes

The Title of Band Ordinance 34-12 is "An Ordinance amending Title 19 of the Mille Lacs Band Statutes Annotated entitled Motor Vehicles to amend Section 9 (Deputy Registrar of Motor Vehicles) in order to create a regular full-time Legislative employee position."

The Preamble of Band Ordinance 34-12 provides: "It is enacted by the Band Assembly of the Mille Lacs Band of Ojibwe for purposes of converting the position of Deputy Registrar of Motor Vehicles from an independent contractor to a regular full-time Legislative employee position."

§ 1. Findings and Determinations.

(a) 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 U.S. 134 (1980).

(b) 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.

(c) The Band Assembly hereby declares that the intent and purpose of Title 19 of the Mille Lacs Band Statutes Annotated 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.

(d) 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 US 373 (1976).

(e) The Band Assembly hereby finds and determines that the development and implementation of this motor vehicle licensing statute is sufficient to preempt 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.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 1.

§ 2. Definitions.

In this title the following words and phrases have the designated meanings unless a different meaning is expressly provided or the context clearly indicates a different meaning:

(a) **Court -** means the Court of Central Jurisdiction for the Mille Lacs Band of Chippewa Indians.

(b) **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.

(c) **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.

(d) **Mille Lacs Band -** means the Non-Removable Mille Lacs Band of Chippewa Indians.

(e) **Mille Lacs Reservation -** means all lands under the jurisdiction of the Mille Lacs Band of Chippewa Indians.

(f) **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.

(g) **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.

(h) **Recreational Trailer** – means a cabin trailer, collapsible cabin trailer, tent trailer, camping trailer; a trailer used to transport recreational equipment such as a snowmobile, watercraft, fishing and hunting equipment, off-road motorcycle or a bicycle, designed or intended to be drawn on the highway by an automobile or light truck that has a gross towing vehicle weight of less than 10,000 pounds.

(i) **Secretary -** means the Secretary of Treasury of the Mille Lacs Band of Chippewa Indians.

(j) **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.

(k) **Vehicle -** means every device in, upon or by which any person or property is or may be transported or drawn upon a highway.

(l) For the purposes of effectuating the terms of this title, 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.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 2.
Band Act 62-24.

§ 3. 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 title, and all rights and privileges granted or extended hereunder shall be subject to such reserved right.

Historical and Statutory Notes

Source:
Band Statute 1097-MLC-52, § 41.

§ 4. Administrative Expenses.

In no event shall the expenses of administration of the provisions of this title exceed 35% of the gross receipts of the taxes imposed herein.

Historical and Statutory Notes

Source:
Band Statute 1097-MLC-52, § 38.02.

§ 5. Revenue Distribution.

All revenue derived from fees imposed by this title 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.

Historical and Statutory Notes

Source:
Band Statute 1097-MLC-52, § 42.

§ 6. American Association of Motor Vehicle Administrators: Policy Positions.

The Band Assembly hereby declares that the implementation of the provisions of this title shall be accomplished, as much as feasible, according to the policies promulgated by the American Association of Motor Vehicle Administrators, which are hereby incorporated by reference into this title.

Historical and Statutory Notes

Source:
Band Statute 1097-MLC-52, § 45.

§ 7. Powers and Duties of Secretary.

The Secretary of Treasury shall enforce all provisions of this title. He or she may prescribe all rules and regulations consistent with the provisions of this title through the issuance of Secretarial Orders. He or she may call upon the Solicitor General or any Band law enforcement officer to aid her or him in the performance of her or his duties. He or she may appoint such employees of the Non-Removable Mille Lacs Band of Chippewa Indians as may be required to administer the provisions of this title.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 38.01.

§ 8. 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.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 34.

§ 9. Deputy Registrar of Motor Vehicles.

(a) The position of Deputy Registrar of Motor Vehicles shall be a regular, full-time Legislative employment position funded with Band Revenue. The Secretary-Treasurer shall hire and supervise the Deputy Registrar of Motor Vehicles after posting the position in accordance with the Band's normal hiring policy. Except as otherwise provided in 19 MLBS § 10, the Band's Personnel Policy and Procedures Manual adopted in accordance with 6 MLBS § 1 shall be applicable to the Deputy Registrar of Motor Vehicles.

(b) The Deputy Registrar of Motor Vehicles shall collect fees of $10.00 per vehicle registration and $10.00 per issuance of certificate of title. These fees shall be in addition to the fees imposed by 19 MLBS § 109.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 46.
Band Ordinance 34-12, § 1.
Band Act 62-24.

§ 10. Removal of Deputy Registrar of Motor Vehicles.

Any Deputy Registrar who shall act in a manner not consistent with the exercise of authority conferred in this title 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. Under no circumstances shall any suspension exceed two (2) 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.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 47.

Cross References

Due process, *see* 1 MLBS § 8.

§ 11. Court of Central Jurisdiction.

The Court of Central Jurisdiction is hereby granted subject matter jurisdiction for any cause of action which arises from this title. Nothing in this title 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 title. A Criminal Division is hereby created in the Court of Central Jurisdiction to hear causes of actions arising from this title. 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.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 38.

Cross References

Subject matter jurisdiction, court of central Jurisdiction, *see* 5 MLBS § 111.

§ 12. 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 title. However, any such action shall only be directed against the Secretary of Treasury, in her or his official capacity in order to challenge any seizure action. Any and all seizure causes of action which arise pursuant to this title shall be limited to actions against the Secretary of Treasury in her or his official capacity for an order returning any seized goods. All other causes of action which arise pursuant to this title 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.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 40.

Cross References

Seizure and confiscation of certain substances and vehicles containing them, *see* 19 MLBS § 503.
Unregistered or improperly registered vehicles, seizure and impoundment, *see* 19 MLBS § 105.

§ 13. 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 title before the Court of Central Jurisdiction.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 43.

§ 14. State and Territorial Motor Vehicle Statutes and Judicial Proceedings; Full Faith and Credit.

(a) The Acts of the Legislature of any state, territory or possession of the United States or any federally recognized Indian Tribe, relating to any matter of motor vehicle titling or registration or the operation of motor vehicles on any public highway, road or street or copies thereof, shall be authenticated by affixing the seal of such state, territory or possession of the United States or any federally recognized Indian Tribe thereto

(b) The Motor Vehicle records and any judicial motor vehicle proceedings of any court of any such state, territory or possession of the US or any recognized Indian Tribe, or copies thereof, shall be proved or admitted in the Court of Central Jurisdiction by the attestation of the Clerk and seal of the court annexed, if a seal exists, together with a certificate of a judge of the court that the said attestation is in proper form.

(c) Such Acts, records and judicial proceedings or copies thereof, so authenticated shall have the same full faith and credit in the Court of Central Jurisdiction as they have by law or usage in the courts of such state, territory or possession of the United States or any federally recognized Indian Tribe from which they are taken provided that any such state, territory or possession of the United States or any federally recognized Indian Tribe has executed a motor vehicle reciprocity agreement with the Non-Removable Mille Lacs Band of Chippewa Indians.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 50.

§ 15. State and Territorial Nonjudicial Motor Vehicle Records; Full Faith and Credit.

(a) All non-judicial motor vehicle records or books kept in any public office of any state, territory or possession of the United States or any federally recognized Indian Tribe, or copies thereof, shall be proved or admitted in the Court of Central Jurisdiction or any office of the Non-Removable Mille Lacs Band of Chippewa Indians by the attestation of the custodian of such records or books and the seal of her or his office annexed, if there be a seal, together with a certificate of a judge of a court of record of the county, parish, or district in which such office may be kept, or of the Governor, any duly appointed officer of the Governor or Secretary of State, the chancellor or keeper of the great seal of the state, territory or possession of the United States or any federally recognized Indian Tribe that the said attestation is in due form and by the proper offices.

(b) If the certificate is given by a judge, it shall be further authenticated by the Clerk of Court, who shall certify, under her or his hand and the seal of her or his office that such judge is duly commissioned and qualified; or, if given by the Governor, executive appointee, secretary, chancellor or keeper of the great seal, it shall be under the great seal of the state, territory of possession of the United States or any federally recognized Indian Tribe in which it is made.

(c) Such records or books or copies thereof, so authenticated shall have the same full faith and credit in the Court of Central Jurisdiction and every public office of the Non-Removable Mille Lacs Band of Chippewa Indians, as they have by law or usage in the courts or offices of the state, territory or possession of the United States or any federally recognized Indian Tribe from which they are taken provided that any such state, territory or possession of the United States or any federally recognized Indian Tribe has executed a motor vehicle reciprocity agreement with the Non-Removable Mille Lacs Band of Chippewa Indians.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 51.

§ 16. Motor Vehicle Registration Forms.

The Deputy Registrar is hereby authorized and empowered to utilize any form presently in use by the Minnesota Department of Public Safety for any matter related to fulfilling the mandates of this Band Statute as an official form of the Mille Lacs Band of Chippewa Indians. Any such form so utilized, shall be modified by the Deputy Registrar wherever necessary to comply with

applicable provisions of this title. All such forms bearing the name of the Minnesota Department of Public Safety or the logo of the said Department shall be treated as the official form of the Mille Lacs Band of Chippewa Indians for the purpose so designated in the title of the form.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 49.

§ 17. Applicability of 24 MLBS §3301 et seq., Remedies for Creditors, and 18 MLBS §301, Uniform Commercial Code.

The provisions of 24 MLBS § 3301, Remedies for Creditors, and 18 MLBS § 301, Uniform Commercial Code of the State of Minnesota, 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 resides on land subject to the jurisdiction of the Band. Provisions for due process in the Court of Central Jurisdiction pursuant to 24 MLBS § 3301 are mandatory prior to any repossession action by any lien holder.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 44.

Cross References

Security interests, certificates of title, see 19 MLBS § 271.

CHAPTER 2

REGISTRATION

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SUBCHAPTER 1

GENERAL PROVISIONS

Section

101. Operating Unregistered or Improperly Registered Vehicle.

102. When Vehicles Exempt from Registration.
103. Exemption of Nonresidents.
104. Penalties.
105. Seizure and Impoundment of Vehicles.
106. Application for Registration.
107. Grounds for Refusing Registration.
108. Contents, Issuance and Display of Certificates of Registration; Issuance of Duplicate Certificate.
109. Annual Registration Fees.
110. When Fees Refundable.
111. When Registration to be Suspended.

§ 101. Operating Unregistered or Improperly Registered Vehicle.

(a) 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.

(b) 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.

(c) All vehicles subject to renewal of registration may be operated provided that application for reregistration has been made.

Historical and Statutory Notes

Source:
Band Statute 1097-MLC-52, § 3.

§ 102. 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 an implement 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 registered in another jurisdiction.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 4.

§ 103. Exemption of Nonresidents.

(a) 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:

(1) The vehicle carried a registration plate indicating the registration in such other jurisdiction;

(2) The vehicle is owned by a nonresident of the Mille Lacs Reservation; and

(3) 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.

(b) 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 vehicles.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 13.

§ 104. Penalties.

Any person violating 19 MLBS § 101(a) may be fined not more than $100.00. In addition to imposing the penalty, the Court shall order the offender to make application for registration or reregistration and to pay the fee thereof.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 3.03.
Band Act 62-24.

§ 105. Seizure and Impoundment of Vehicles.

If upon order of the Court of Central Jurisdiction to register or reregister 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 title. 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 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 19 MLBS § 2(g). 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.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 3.04.

Cross References

Actions challenging seizure of property, *see* 19 MLBS § 13.

§ 106. Application for Registration.

(a) 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 her or him and shall be accompanied by the required fee.

(b) Applications for original registration of a vehicle shall contain the following information:

(1) The name of the owner.

(2) The address of the owner.

(3) 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.

(4) The District in which the vehicle is kept.

(5) Such further information as the Secretary may reasonably require to enable her or him to determine whether the vehicle is by law entitled to registration or to enable her or him to determine the proper registration fee for the vehicle.

(6) 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.

(c) Applications for removal of registration shall contain the information required in subsection (b) for applications or such parts thereof as the Secretary deems necessary to assure the proper registration of the vehicle.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 5.
Band Act 62-24.

Cross References

Designation of districts, *see* 2 MLBS § 11.
License plates for handicapped persons, *see* 19 MLBS § 602.

§ 107. 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 title; or

(d) A certificate of title is a prerequisite to registration of the vehicle and 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 her or his registration suspended or revoked in accordance with 19 MLBS § 111 and such suspension or revocation still is in effect.

(f) Proof of liability insurance.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 6.

Cross References

Certificates of title, prerequisite to registration, *see* 19 MLBS § 202.

§ 108. Contents, Issuance and Display of Certificates of Registration; Issuance of Duplicate Certificate.

(a) 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.

(b) The Deputy Registrar 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 $10.00.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 7.
Band Act 62-24.

§ 109. Annual Registration Fees.

(a) A registration fee as herein set forth shall be paid for all motor vehicles, not exempted by 10 MLBS § 102, using the public streets or roads of the Mille Lacs Reservation for each calendar year on the following basis:

(1) During the first three (3) years of vehicle life $115.00 per calendar year.

(2) During the fourth through seventh years of vehicle life $67.00 per calendar year.

(3) During the eighth and succeeding years of vehicle life $46.00 per calendar year.

(4) A registration fee of $25.00 shall be paid for all motorcycles using the public streets and roads of the Mille Lacs Reservation for each calendar year.

(5) A two-wheeled utility trailer shall be registered annually for $25.00 or for a one-time registration fee of $50.00.

(6) Any recreational trailer with a gross weight of 3,000 pounds or less shall be registered annually for $25.00 or for a one-time fee of $50.00. Any recreational trailer with a gross weight of more than 3,000 pounds shall be registered annually for $25.00 or for a one-time fee of $100.00.

(b) 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 prorated on a monthly basis, one-twelfth of the annual registration fee for each calendar month or fraction thereof.

Historical and Statutory Notes

Source:

Band Statute 1 097-MLC-52, § 11.
Band Act 62-24.

§ 110. When Fees Refundable.

(a) The Mille Lacs Band shall not refund a fee paid to it except when expressly authorized or directed by this section.

(b) 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 her or 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.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 12.

§ 111. When Registration to be Suspended.

(a) Any Justice of the Court of Central Jurisdiction for the Mille Lacs Band of Chippewa Indians shall suspend the registration when:

(1) The registration was completed through fraud or error and the person who registered the vehicle does not or cannot register the vehicle properly; or

(2) The required fee has not been paid and the same is not paid upon reasonable notice and demand.

(b) 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.

(c) 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 shall pay a fine of $100.00.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 17.
Band Act 62-24.

SUBCHAPTER 2

REGISTRATION PLATES

Section

141. Issuance and Delivery of Registration Plates.
142. Design of Registration Plates.
143. Display of Registration Plates.
144. Issuance of Duplicate Plates.
145. List of Registration Plates Issued.
146. Change of License Plate Without Registration.

§ 141. Issuance and Delivery of Registration Plates.

The Secretary upon registering a vehicle pursuant to this title shall issue and deliver prepaid to the applicant two (2) registration plates for each automobile, motor truck, motor bus, school bus or self-propelled mobile home registered, and one (1) plate for other vehicles registered unless the Secretary believes that two (2) plates will better serve the interests of law enforcement.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 8.

§ 142. Design of Registration Plates.

(a) 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.

(b) All registration plates shall have displayed upon them the following:

(1) The registration number of letters assigned to the vehicle or owner.

(2) The name "Mille Lacs Band of Chippewa Indians" or an abbreviation thereof.

(3) An indication of the period for which the specific plate is issued or the date of expiration of registration.

(4) All registration plates issued shall be treated with a reflectorized material.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, §§ 8.01, 8.02.

§ 143. Display of Registration Plates.

(a) When two (2) registration plates are issued for a vehicle, one (1) such plates shall be attached to the front and one (1) to the rear of the vehicle. Whenever only one (1) registration plate is issued, it shall be attached to the rear.

(b) 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.

(c) If anyone is found to violate the following, he or she shall pay a fine of $100.00:

(1) 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;

(2) 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;

(3) A person who operates a vehicle with a registration plate in an illegible condition due to the accumulation of dirt or other foreign matter.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 9.
Band Act 62-24.

§ 144. Issuance of Duplicate Plates.

(a) Whenever a current registration plate is lost, stolen, or destroyed, the owner of the vehicle to which the plate was attached shall immediately apply to the Deputy Registrar for replacement. The Deputy Registrar shall document the loss or theft of any plate and shall not issue a plate with that number again. The Deputy Registrar shall issue a replacement plate once the owner of the vehicle provides satisfactory proof of the loss, theft, or destruction of the plate; pays of a fee of $10.00; pays the cost of replacement; and completes a form documenting the loss, theft, or destruction of the plate.

(b) Whenever a current registration plate becomes illegible, the owner of the vehicle to which the plate is attached shall apply to the Deputy Registrar for a replacement.

Upon receipt of satisfactory proof of illegibility, and upon payment of all costs and a fee of $10.00, the Deputy Registrar shall issue a replacement. Upon receipt of her or his replacement plate, the applicant shall forthwith surrender to the Deputy Registrar her or his illegible plate.

(c) 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 her or 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 (2) plates were issued.

(d) Any person issued replacement plates who fails to surrender her or his illegible plates as required by subsection (c) within 30 calendar days of issuance of the replacement plates shall pay a fine of $50.00.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 10.
Band Act 62-24.

§ 145. List of Registration Plates Issued.

The Secretary shall keep an accurate and updated list of every registration plate issued, the number thereof, the name of the owner and the description of the motor vehicle.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 10.04.

§ 146. Change of License Plate Without Registration.

A person may request a change of license plate outside their required annual registration. The first time a person requests a change of license plate outside their registration date, they shall pay $10.00. If a person requests a change of license plate outside their registration date more than once, they shall pay $10.00 each time they request a change to their license plate.

Historical and Statutory Notes

Source:

Band Act 62-24.

CHAPTER 3

CERTIFICATES OF TITLE

Subchapter	Section
1. General Provisions	201
2. Transfer of Title	241
3. Security Interests	271

SUBCHAPTER 1

GENERAL PROVISIONS

Section
201. When Certificate of Title Required.
202. Prerequisite to Registration.
203. Application for Certificate of Title.
204. New Vehicles; Certificate of Origin.
205. Maintenance of Records.
206. Contents of Certificate of Title.
207. Grounds for Refusing Issuance of Certificate of Title.
208. Lost, Stolen or Mutilated Certificates.
209. Fees.
210. Suspension or Revocation of Certificate.

§ 201. 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 or she has newly acquired the vehicle.

(b) If he or she applies for registration of a vehicle for which he or she does not hold a valid certificate of title previously issued to her or him by the Secretary for the vehicle in question, he or she shall at the same time apply for a certificate of title.

(c) A vehicle which is presently in possession.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 18.

§ 202. Prerequisite to Registration.

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 her or him by the Secretary for the vehicle in question, that is prima facie evidence that he or she is the record owner of the vehicle and he or she need not apply for a new certificate of title each time he or she applies for registration.

Historical and Statutory Notes

Source:
Band Statute 1097-MLC-52, § 18.01

Cross References

Grounds for refusing registration, *see* 19 MLBS § 107.

§ 203. Application for Certificate of Title.

An application for a certificate of title shall be made to the Secretary upon a form prescribed by her or 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 her or 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 her 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 her or his knowledge neither he or she or any other person has altered the odometer.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 19.

Cross References

Fraudulent application for certificate of title, *see* 19 MLBS §§ 301, 302.
Tampering with odometer reading, *see* 19 MLBS § 303.

§ 204. New Vehicles; Certificate of Origin.

It is hereby specifically required that the automobile manufacturer's certificate of origin be surrendered to the Secretary or her or his designee prior to any lawful registration and titling of any new vehicle.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 19.01.

§ 205. 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.

Historical and Statutory Notes

Source:
Band Statute 1097-MLC-52, § 20.

§ 206. Contents of Certificate of Title.

(a) Each certificate of title issued by the Secretary shall contain:

(1) The name and address of the owner.
(2) 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.

(3) The title number assigned to the vehicle.

(4) A description of the vehicle, including make, model and identifying number.

(5) 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.

(6) Any other data which the Secretary deems pertinent and desirable.

(b) 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.

(c) A certificate of title issued by the Secretary is prima facie evidence of the facts appearing on it.

Historical and Statutory Notes

Source:
Band Statute 1097-MLC-52, § 21.

Cross References

Tampering with odometer, *see* 19 MLBS § 303.

§ 207. 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 or she 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.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, §22.

Cross References

Fraudulent application for certificate of title, *see* 19 MLBS §§ 301, 302.
Tampering with odometer reading, *see* 19 MLBS § 303.

§ 208. 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".

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 23.

§ 209. Fees.

The Secretary shall be paid the following fees:

(a) For filing an application for the first certificate of title, $10.00 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 $10.00 by the owner of the vehicle.

(c) For a duplicate certificate of title, $10.00 by the owner of the vehicle.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 24.
Band Act 62-24.

§ 210. Suspension or Revocation of Certificate.

(a) The Secretary shall suspend or revoke a certificate of title if he or she finds:

(1) The certificate of title was fraudulently procured, erroneously issued, or prohibited by law; or

(2) The vehicle has been scrapped, dismantled or destroyed; or

(3) A transfer of title is set aside by a court by order or judgment.

(b) Suspension or revocation of a certificate of title does not, in itself, affect the validity of a security interested noted on it.

(c) 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.

(d) The Secretary may seize and impound any certificate of title which has been suspended or revoked.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 33.

Cross References

Fraudulent application for certificate of title, *see* 19 MLBS §§ 301, 302.

SUBCHAPTER 2

TRANSFER OF TITLE

Section

241. Transfer of Interest in Vehicle.
242. Death of Owner.
243. When Secretary to Issue New Certificate.
244. Penalties.

§ 241. Transfer of Interest in Vehicle.

(a) If an owner transfers her or his interest in a vehicle other than by the creation of a security interest, he or she shall at the time of the delivery of the vehicle execute an assignment and warranty of title to the transferee in the space provided therefore on the certificate. With respect to motor vehicles that are not 26 years of age or older, the transferor shall also, in the space provided therefore on the certificate state the true cumulative mileage registered on the odometer or that the actual mileage is unknown if the odometer reading is known by the transferor to be different from the true mileage. The transferor shall cause the certificate and assignment to be mailed or delivered to the transferee or the Band's Secretary of Treasury.

(b) The transferee shall, promptly after delivery to her or him of the vehicle, execute the application for a new certificate of title in the space provided therefore on the certificate and cause the certificate and application to be mailed or delivered to the Secretary.

(c) 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 her or him is not liable as owner for any damages thereafter resulting from operation of the vehicle.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 25.

Cross References

Fraudulent practices involving registration and titling of motor vehicle, *see* 19 MLBS § 302.

§ 242. Death of Owner.

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.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 25.05.

§ 243. When Secretary to Issue 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.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 26.

§ 244. Penalties.

(a) 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 19 MLBS § 241(a) shall pay a fine of $50.00.

(b) Any transferee of a vehicle who fails to make an application for a new certificate of title within 14 calendar days of the transfer to her or him of a vehicle shall pay a fine of $100.00. A certificate is considered to have been applied for when the application accompanied by the required fee has been delivered to the Deputy Registrar or deposited in the mail properly addressed with postage required.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, §§ 25.03, 25.04.
Band Act 62-24.

SUBCHAPTER 3

SECURITY INTERESTS

Section

271. Perfection of Security Interests.
272. Duties on Creation of Security Interest.
273. Assignment of Security Interest.
274. Release of Security Interest.
275. Secured Party's Duties.
276. Owner's Duties.
277. Methods of Perfecting Exclusive.

§ 271. Perfection of Security Interests.

(a) 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 title.

(b) A security interest in 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 her or 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.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 27.

Cross References

Applicability of statutes relating to remedies of creditors and Uniform Commercial Code, *see* 19 MLBS § 18.

§ 272. 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 therefore 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 her or 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.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 28.

§ 273. Assignment of Security Interest.

(a) A secured party may assign, absolutely or otherwise, her or 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.

(b) 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.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 29.

§ 274. Release of Security Interest.

(a) 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 Deputy Registrar 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 ten (10) calendar days after receipt of the owner's written demand therefore he or she shall be liable to the owner for $50.00 and for any loss caused to the owner by such failure.

(b) 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.

Historical and Statutory Notes

Source:

Band Statute 1097-ML-52, § 30.
Band Act 62-24.

§ 275. Secured Party's Duties.

(a) 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 her or his security agreement and the indebtedness secured by it.

(b) Any secured party who fails to disclose information pursuant to subsection (a) shall be liable for any loss caused to owner thereby.

Historical and Statutory Notes

Source:
Band Statute 1097-MLC-52, § 31.

§ 276. Owner's Duties.

(a) An owner shall promptly deliver her or 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 her or his security interest is to be assigned, extended or perfected.

Historical and Statutory Notes

Source:
Band Statute 1097-MLC-52, §§ 31.01, 31.03.
Band Act 62-24.

§ 277. Methods of Perfecting Exclusive.

The method provided in this title of perfecting and giving notice of security interests subject to this title is exclusive.

Historical and Statutory Notes

Source:
Band Statute 1097-MLC-52, § 32.

CHAPTER 4

FRAUDULENT PRACTICES

Section

301. Fraudulent Application for Certificate of Title.
302. Fraudulent Practices Involving Registration and Titling of Motor Vehicle.
303. Tampering with Odometer Reading.
304. Improper use of Evidence of Registration.
305. False Evidence of Registration.

§ 301. Fraudulent Application for Certificate of Title.

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 $500.00 fine or exclusion from the Band for not more than 180 days, or all of the above.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 14.

Cross References

Application for certificate of title, *see* 19 MLBS § 203.
Grounds for refusing issuance of certificate of title, *see* 19 MLBS § 207.
Suspension or revocation of certificate of title, *see* 19 MLBS § 210.

§ 302. Fraudulent Practices Involving Registration and Titling of Motor Vehicle.

A person is in violation of the provisions of this title 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 (10) 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 her or his designee of any fact required under the provisions of this title; 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 $500.00.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 14.01.

Cross References

Application for certificate of title, *see* 19 MLBS § 203.
Grounds for refusing issuance of certificate of title, *see* 19 MLBS § 207.
Transfer of interest in vehicle, certificates of title, *see* 19 MLBS § 241.

§ 303. Tampering with Odometer Reading.

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 $500.00. Any person so convicted pursuant to the provisions of this section is liable for all Court costs including compensatory damages that result from her or his unlawful acts payable to the injured party at the direction of the Court.

Historical and Statutory Notes

Source:
Band Statute 1097-MLC-52, § 14.02.

Cross References

Application for certificate of title, *see* 19 MLBS § 203.
Contents of certificate of title, *see* 19 MLBS § 206.
Grounds for refusing issuance of certificate of title, *see* 19 MLBS § 207.
Suspension or revocation of certificate of title, *see* 19 MLBS § 210.

§ 304. Improper Use of Evidence of Registration.

Any person who does any of the following shall pay a fine of $50.00:

(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.

Historical and Statutory Notes

Source:
Band Statute 1097-MLC-52, § 15.
Band Act 62-24.

§ 305. False Evidence of Registration.

Whoever operates or has in her or 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 shall pay a fine of $50.00.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 16.
Band Act 62-24.

CHAPTER 5

TRAFFIC VIOLATIONS

Section

401. Driver's License.
402. Insurance.
403. Careful and Prudent Driving; Speed.
404. Reckless Driving.
405. Driving Under Influence of Alcohol or Controlled Substance.
406. Open Bottle Law.
407. Parking in Restricted Area.
408. Definitions.
409. Signs, Signals Marking.
410. Unauthorized Signs.
411. Unlawful to Possess, Alter or Remove Signs.
412. Accidents.
413. Impeding Traffic.
414. Emergency Vehicles.
415. Right of Way.
416. Operation of Bicycles.
417. Stopping, Standing and Parking.
418. Police May Move Cars.
419. Good Samaritan.
420. Obstructing View of Driver.
421. Littering.
422. School Buses.
423. Hitching Behind Vehicles.
424. Vehicle Lighting.
425. Head Lamps.

426. Rear Lamps.
427. Vehicle Signals.
428. Brakes.
429. Horns.
430. Mufflers.
431. Rear View Mirrors.
432. Windshields.
433. Surface of Tires; Tires with Metal Studs.
434. Offenses et al.
435. Interpretation and Effect.
436. Uniform Traffic Ticket.
437. Fine.
438. Guilty Plea.

Historical and Statutory Notes

Band Statute 1097-MLC-52, § 35.11 provides: The following addition provisions of Minnesota Statues Chapter 169 relating to the Highway Traffic Regulations shall be incorporated by reference as traffic regulations of the Mille Lacs Band of Chippewa Indians.

Minnesota Statute	Title	Band Codification Section
Chapter 169.01	Definitions	35.12
169.06	Signs, Signals Marking	35.13
169.07	Unauthorized Signs	35.14
169.08	Unlawful to Possess, Alter, Deface, or Remove Signs	35.15
169.09	Accidents	35.16
169.15	Impeding Traffic	35.17
169.17	Emergency Vehicles	35.18
169.20	Right of Way	35.19
169.222	Operation of Bicycles	35.20
169.32 and 169.34	Stopping, Standing, and Parking	35.21
169.33	Police May Move Cars	35.22
169.342	Good Samaritan	35.23
169.37	Obstructing View of Driver	35.24
169.42 and 169.421	Littering	35.25
169.44	School Buses	35.26
169.46	Hitching Behind Vehicle	35.27
169.48	Vehicle Lighting	35.29
169.49	Head Lamps	35.29
169.50	Rear Lamps	35.20
169.57	Vehicle Signals	35.21
169.67	Brakes	35.32
169.68	Horns	35.33
169.69	Mufflers	35.34
169.70	Rear View Mirrors	35.35
169.71	Windshields	35.36

169.72	Surface of Tires, Tires with Metal Studs	35.37
169.90-169.95, inclusive	Offenses et al.	35.37
169.96	Interpretation and Effect	35.39
169.99	Uniform Traffic Ticket	35.40

§ 401. Driver's License.

(a) 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 roads 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, shall pay a fine of $500.00.

(b) Any person who is licensed in good standing to operate a motor vehicle shall have her or his license in her or his 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 title. However, no person shall be found guilty of a lack of possession offense if he or she shall produce a valid driver's license to the Law Enforcement Administration within five (5) calendar 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, shall pay a fine of $200.00, and be required to post an assurance bond in an amount deemed appropriate by the Court.

(c) 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 pay a fine of $500.00.

Historical and Statutory Notes

Source:

Band Statute 1164-MLC-6, §§ 53.01, 53.03, 53.04.
Band Statute 1097-MLC-52, §§ 35.01, 35.03, 35.04.
Band Act 62-24.

§ 402. Insurance.

(a) 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 pay a fine of $500.00.

(b) Upon the request of a law enforcement official, any person operating a vehicle registered under the laws of the Band, shall display to said officer proof of vehicle insurance. Failure to provide such proof within seven (7) days from the date of request, shall be grounds for the Court to order the seizure of the vehicle license plate and/or vehicle.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, §§ 35.08, 35.42.
Band Statute 1164-MLC-6, § 54.08.
Band Act 62-24.

Cross References

Government employees, summary dismissal, *see* 6 MLBS § 103.

§ 403. Careful and Prudent Driving; Speed.

(a) 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.

(b) 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.

(c) 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 subsection shall be deemed guilty of a speeding offense, and upon conviction thereof, shall pay a fine of $200.00 for the first offense, and an additional $200.00 for each conviction thereafter. Any person whom the Court deems to be a habitual speeder after two (2) 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.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.
Band Statute 1164-MLC-6, § 53.
Band Act 62-24.

§ 404. Reckless Driving.

Any person who drives or operates 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 pay a fine of $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.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.02.
Band Statute 1164-MLC-6, § 53.02.
Band Act 62-24.

§ 405. Driving Under Influence of Alcohol or Controlled Substance.

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 (2) 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 pay a fine of $500.00, and may be required to post an assurance bond in an amount at the discretion of the Court.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.05
Band Statute 1164-MLC-6, § 53.05.
Band Act 62-24.

Cross References

Government employees, summary dismissal, *see* 6 MLBS § 103.
Prohibited drugs, *see* 23 MLBS § 1.

§ 406. Open Bottle Law.

Any person who shall have in her or his possession on her or 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 her or his person." A person who violates the provisions of this section shall be deemed guilty of an open bottle offense, and upon conviction thereof, shall pay a fine of $500.00.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.06.
Band Statute 1164-MLC-6, § 53.06.
Band Act 62-24.

Cross References

Government employees, summary dismissal, *see* 6 MLBS § 103.
Seizure and confiscation of substances found in motor vehicle, *see* 19 MLBS § 503.
Seizure and confiscation of substances found in watercraft, *see* 20 MLBS § 405.

§ 407. Parking in Restricted Area.

Any employee who shall park her or his vehicle in a restricted area in violation of any order lawfully issued by the Commissioner of Administration, shall be liable upon conviction for a fine of $50.00. The Commissioner of Administration is hereby authorized to promulgate regulations governing all parking areas of employees' vehicles during employment hours. All regulations of the Commissioner of Administration shall be effective ten (10) calendar days after public posting in officially designated areas or five (5) calendar days after an electronic notification has been

sent to employees. The Commissioner of Administration shall by order, designate an area of each band-owned building for such notices no later than Friday, October 3, 1986.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.43.
Band Act 62-24.

Cross References

Parking areas for employees, *see* Admin. Comm. Order 22-85.

§ 408. Definitions.

[See Historical and Statutory Notes preceding 19 MLBS § 401]

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.12

§ 409. Signs, Signals Marking.

[See Historical and Statutory Notes preceding 19 MLBS § 401]

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.13.

§ 410. Unauthorized Signs.

[See Historical and Statutory Notes preceding 19 MLBS § 401]

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.14.

§ 411. Unlawful to Possess, Alter or Remove Signs.

[See Historical and Statutory Notes preceding 19 MLBS §401]

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.15.

§ 412. Accidents.

[See Historical and Statutory Notes preceding 19 MLBS §401]

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.16.

§ 413. Impeding Traffic.

[See Historical and Statutory Notes preceding 19 MLBS §401]

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.17.

§ 414. Emergency Vehicles.

[See Historical and Statutory Notes preceding 19 MLBS §401]

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.18.

§ 415. Right of Way.

[See Historical and Statutory Notes preceding 19 MLBS §401]

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.19.

§ 416. Operation of Bicycles.

[See Historical and Statutory Notes preceding 19 MLBS §401]

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.20.

§ 417. Stopping, Standing and Parking.

[See Historical and Statutory Notes preceding 19 MLBS §401]

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.21.

§ 418. Police may Move Cars.

[See Historical and Statutory Notes preceding 19 MLBS §401]

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.22.

§ 419. Good Samaritan.

[See Historical and Statutory Notes preceding 19 MLBS §401]

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.23.

§ 420. Obstructing View of Driver.

[See Historical and Statutory Notes preceding 19 MLBS §401]

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.24.

§ 421. Littering.

[See Historical and Statutory Notes preceding 19 MLBS §401]

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.25.

§ 422. School Buses.

[See Historical and Statutory Notes preceding 19 MLBS §401]

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.26.

§ 423. Hitching Behind Vehicles.

[See Historical and Statutory Notes preceding 19 MLBS §401]

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.27.

§ 424. Vehicle Lighting.

[See Historical and Statutory Notes preceding 19 MLBS §401]

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.28.

§ 425. Head Lamps.

[See Historical and Statutory Notes preceding 19 MLBS §401]

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.29.

§ 426. Rear Lamps.

[See Historical and Statutory Notes preceding 19 MLBS §401]

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.30.

§ 427. Vehicle Signals.

[See Historical and Statutory Notes preceding 19 MLBS §401]

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.31.

§ 428. Brakes.

[See Historical and Statutory Notes preceding 19 MLBS §401]

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.32.

§ 429. Horns.

[See Historical and Statutory Notes preceding 19 MLBS §401]

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.33.

§ 430. Mufflers.

[See Historical and Statutory Notes preceding 19 MLBS §401]

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.34.

§ 431. Rear View Mirrors.

[See Historical and Statutory Notes preceding 19 MLBS §401]

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.35.

§ 432. Windshields.

[See Historical and Statutory Notes preceding 19 MLBS §401]

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.36.

§ 433. Surface of Tires; Tires with Metal Studs.

[See Historical and Statutory Notes preceding 19 MLBS §401]

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.37.

§ 434. Offenses et al.

[See Historical and Statutory Notes preceding 19 MLBS §401]

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.38.

§ 435. Interpretation and Effect.

[See Historical and Statutory Notes preceding 19 MLBS §401]

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.39.

§ 436. Uniform Traffic Ticket.

[See Historical and Statutory Notes preceding 19 MLBS §401]

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.40.

§ 437. Fine.

The Court of Central Jurisdiction, shall impose a fine of $50.00 for each violation of the provisions of Minnesota Statutes Chapter 169 relating to highway traffic regulations that have been incorporated by reference as traffic regulations of the Mille Lacs Band of Chippewa Indians upon conviction of violating any said regulation. This section applies only to violations found in 19 MLBS §§ 402(b), 408-436, and 504(b).

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 38.03.
Band Act 62-24.

§ 438. Guilty Plea.

Any person cited by a law enforcement officer of the Mille Lacs Band for violation of traffic regulations found in 19 MLBS §§ 402(b), 408-436, and 504(b) who desires to plead guilty and forego judicial process may pay a fine of $50.00 for each such violation. Payment of the fine constitutes an admission of guilt.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52. § 38.04.
Band Act 62-24.

CHAPTER 6

POLICE POWERS

Section

501. Powers of Natural Resource Officer.

502. Powers of Law Enforcement Officer.
503. Seizure and Confiscation of Substances and Vehicles.
504. Hindering, Resisting, Obstructing or Disobeying Law Enforcement Officer.
505. Notice to Appear.

§ 501. Powers of Natural Resource Officer.

(a) Any duly sworn Natural Resource Officer of the Non-Removable Mille Lacs Band of Chippewa Indians is hereby authorized and empowered to enforce the provisions of this title 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 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.

(b) For purposes of enforcing the provisions of this title any duly sworn Natural Resource Officer shall be considered as a duly sworn law enforcement officer of the Band.

Historical and Statutory Notes

Source:
Band Statute 1097-MLC-52, § 36.

§ 502. Powers of Law Enforcement Officer.

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 her or his office, or to make investigations of any violation of the Band's motor vehicle 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.

Historical and Statutory Notes

Source:
Band Statute 1097-MLC-52, § 36.02.

§ 503. Seizure and Confiscation of Substances and Vehicles.

(a) 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 substance described in 9 MLBS § 406 or 23 MLBS §§ 1 (a) or 7 which is possessed in a motor vehicle operated on the roads of the Band in violation of the appropriate statutory section. Anything seized or confiscated shall be held by

the Band until proper determination of the case by the Court of Central Jurisdiction is finalized.

(b) Any duly sworn law enforcement officer of the Band is hereby authorized and empowered to seize and confiscate in the name of the Band, any vehicle in which substances described in subsection (a) are found. Any vehicle so seized, impounded or confiscated shall be held by the Band until proper determination of the case by the Court of Central Jurisdiction is finalized. It shall be the responsibility of the record owner of the vehicle to pay for all costs associated with any seizure, confiscation or impoundment action initiated by a Law Enforcement Officer in the performance of her or his duty. The Mille Lacs Band of Chippewa Indians, any of its officers, agents and employees, shall not be liable for damages to any vehicle so seized, confiscated or impounded.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 36.04.

Cross References

Actions challenging seizure of property, *see* 19 MLBS § 13.
Search without warrant, *see* 24 MLBS § 4108.
Unreasonable searches and seizures, *see* 1 MLBS § 2.

§ 504. Hindering, Resisting, Obstructing or Disobeying Law Enforcement Officer.

(a) 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 her or his official duty, or refuse to submit anything called for by her or him for her or his inspection.

(b) It is a misdemeanor for any person to willfully fail or refuse to comply with any lawful order or direction of any law enforcement officer invested by law with authority to direct, control or regulate traffic on roads subject to the jurisdiction of the Mille Lacs Band.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, §§ 35.41, 37.

Cross References

Fine, *see* 19 MLBS §§ 437, 438.

§ 505. Notice to Appear.

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 her or 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 her or his arrest, and upon her or his arrest proceedings shall be had as in any other case.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 36.01.

CHAPTER 7

PARKING PRIVILEGES FOR PHYSICALLY HANDICAPPED PERSONS

Section

601. Definitions.
602. License Plates for Handicapped Persons.
603. Identifying Certificate.
604. Scope of Privilege.
605. Prohibition.
606. Signs; Parking Spaces to Be Free of Obstructions.
607. Penalty.

§ 601. Definitions.

For the purposes of this chapter "physically handicapped person" means a person who:

(a) because of disability cannot walk without significant risk of falling;

(b) because of disability cannot walk 200 feet without stopping to rest;

(c) because of disability cannot walk without the aid of another person, a walker, a cane, crutches, braces, a prosthetic device, or a wheelchair;

(d) is restricted by a respiratory disease to such an extent that the person's forced (respiratory) expiratory volume for one (1) second, when measured by spirometer, is less than one (1) meter;

(e) has an arterial oxygen tension (PA^02) of less than 60 mm/hg on room air at rest;

(f) uses portable oxygen; or

(g) has a cardiac condition to the extent that the person's functional limitations are classified in severity as class IV according to standards set by the American Heart Association.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, §§ 52.04, 52.052.

§ 602. License Plates for Handicapped Persons.

(a) When a motor vehicle registered under 19 MLBS § 106, or a self-propelled recreational vehicle, is owned or primarily operated by a permanently physically handicapped person, the owner may apply for and secure from the Deputy Registrar of the Mille Lacs Band two (2) license plates with attached emblems, one (1) plate to be attached to the front, and one (1) to the rear of the vehicle. Application for the plates must be made at the time of renewal for first application for registration when the owner first applies for the plates, the owner must submit a physician's statement on a form developed by the Deputy Registrar of the Mille Lacs Band of Chippewa Indians.

(b) The Deputy Registrar of the Mille Lacs Band of Chippewa Indians shall furnish two (2) license plates with attached emblems to each eligible owner. The emblem must bear the internationally accepted wheelchair symbol, approximately three (3) inches square. The emblem must be large enough to be visible plainly from a distance of 50 feet. An applicant eligible for the special plates shall pay the motor vehicle registration fee authorized by law less a credit of $1.00 for each month registered.

(c) If a physically handicapped person parks a vehicle displaying license plates described in this section or any person parks the vehicle for a physically handicapped person, that person shall be entitled to park the vehicle as provided in 19 MLBS § 604.

(d) A person who uses the plates provided under this section on a motor vehicle in violation of this section is guilty of an offense and is subject to a fine of $500.00. This subdivision does not preclude a person who is not physically handicapped from

operating a vehicle bearing the plates if the person is the owner of the vehicle and permits its operation by a physically handicapped person, or if the person operates the vehicles with the consent of the owner who is physically handicapped. A driver who is not handicapped is not entitled to the parking privileges provided in this section and in 19 MLBS § 604 unless parking the vehicle for a physically handicapped person.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 52.

Cross References

Registration plates, *see* 19 MLBS § 141.

§ 603. Identifying Certificate.

(a) The Deputy Registrar of the Mille Lacs Band shall issue a special identifying certificate for a motor vehicle when a physically handicapped applicant submits a physician's statement. The Deputy Registrar shall design separate certificates for persons with permanent and temporary disabilities that can be readily distinguished from each other from outside a vehicle at a distance of 25 feet. The certificate is valid for the duration of the persons disability, as specified in the physician's statement, up to a maximum of six (6) years. A person with a disability of longer duration will be required to renew the certificate for additional period of time, up to six (6) years each, as specified in the physician statement.

(b) The Reciprocity Director shall develop a form for the physician's statement. The statement must be signed by a licensed physician who certifies that the applicant is a physically handicapped person as defined in 19 MLBS § 601 The Director of Reciprocity may request additional information from the physician if needed to verify the applicant's eligibility. The Physician's statement must specify whether the disability is permanent or temporary, and if temporary, the opinion of the physician as to the duration of the disability. A physician who fraudulently certifies to the Director of Reciprocity that a person is a physically handicapped person as defined in 19 MLBS § 601, and that the person is entitled to the license plates authorized by 19 MLBS § 602 or to the certificate authorized by this section, is guilty of an offense and is subject to a fine of $500.00.

(c) When the Deputy Registrar is satisfied that a motor vehicle is used primarily for the purpose of transporting physically handicapped persons, the division may issue without charge a special identifying certificate for the vehicle. The operator of a vehicle displaying the certificate has the parking privileges provided in 19 MLBS § 604 while the vehicle is in use for transporting physically handicapped persons. The certificate issued to a person transporting physically handicapped persons must be renewed every third year. On application and renewal, the person must present

evidence that the vehicle continues to be used for transporting physically handicapped persons.

(d) A certificate must be made of plastic or similar durable material, must be distinct from certificates issued before January 1, 1988, and must bear its expiration date prominently on its face. A certificate issued to a temporarily disabled person must display the date of expiration of the duration of the disability, as determined under subsection (a). Each certificate must have printed on the back a summary of the parking privileges and restrictions that apply to each vehicle in which it is used. The Deputy Registrar may charge a fee of $10.00 for a duplicate to replace a lost, stolen, or damaged certificate.

(e) If a peace officer finds that the certificate is being improperly used, the officer shall report the violation to the law enforcement officers of the Non-Removable Mile Lacs Band of Chippewa Indians and the Deputy Registrar may revoke the certificate. A person who uses the certificate in violation of this section, is guilty of an offense and is subject to a fine of $500.00.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, §§ 52.053-52.055.
Band Act 62-24.

§ 604. Scope of Privilege.

(a) A vehicle that prominently displays the certificate authorized by this chapter may be parked by or for a physically handicapped person:

(1) in a designated handicapped parking place, as provided in 19 MLBS § 605, and;

(2) in a metered parking space without obligation to pay the meter fee.

(b) For purpose of this section, a certification is prominently displayed if it is displayed on the dashboard in the left hand corner of the front windshield of the vehicle with no part of the Certificate obscured.

(c) Notwithstanding paragraph 1 of subsection (a), this section does not permit parking in the areas prohibited by 19 MLBS § 605, spaces reserved for specified purposes or vehicles.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 52.05.

§ 605. Prohibition.

A person shall not: park a motor vehicle in or obstruct access to a parking space designated and reserved for the physically handicapped, on either private or public property; park a motor vehicle in or obstruct access to an area designated by a local governmental unit as a handicapped transfer zone; or exercise the parking privilege provided in 19 MLBS § 604 unless:

(a) That person is physically handicapped person as defined in 19 MLBS § 601, or the person is transporting or parking a vehicle for a physically handicapped person; and

(b) The vehicle visibly displays one (1) of the following: a certificate issued under 19 MLBS § 603, or an equivalent certificate, insignia, or license plate issued by Minnesota or another state or one (1) of its political subdivisions.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 52.06.

§ 606. Signs; Parking Spaces to Be Free of Obstructions.

(a) Handicapped parking spaces must be designated and identified by the posting of signs incorporating the international symbol of access in white on blue and indicating that the parking space is reserved for handicapped persons with vehicles displaying the required certificate, license plates or insignia. A sign posted for the purpose of this section must be visible from inside a vehicle parked in the space, be kept clear of snow or other obstruction which block its visibility, and be non-movable or only movable by authorized person.

(b) The owner or manager of the property on which the designated parking space is located shall ensure that the space is kept free of obstruction. If the owner or manager allows the space to be blocked by snow, merchandise or similar obstruction for 24 hours after receiving a warning from a peace officer, the owner or manager is guilty of an offense and subject to a fine up to $1000.00.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 52.07.
Band Act 62-24.

§ 607. Penalty.

A person who violates 19 MLBS § 605 is guilty of an offense and shall pay a fine of $200.00. This chapter shall be enforced in the same manner as violations of other Band Statutes. Law Enforcement Officers have the authority to tag vehicles parked on reservation property in violation of 19 MLBS §605. A physically handicapped person, or a person parking a vehicle for a handicapped person, who is charged with violating 19 MLBS § 605 because the person parked in a handicapped parking space without the required certificate or license plates, shall not be convicted if the person produces in court or before the court appearance the required certificate or evidence that the person has been issued license plates under this chapter, and demonstrate entitlement to the certificate or plates at the time of arrest or tagging.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 52.08.
Band Act 62-24.

Cross References

Criminal procedure, *see* 24 MLBS § 4001.

TITLE 20 – WATERCRAFT

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CHAPTER 1

GENERAL PROVISIONS

Section
1. Findings and Declarations.
2. Construction and Severability.
3. Reservation of Right of Amendment.
4. Savings Provision.
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6. Applicability of Federal Boat Safety Act of 1971.
7. Reciprocity with State of Minnesota.
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9. Model State Boat Act Implementation.
10. Limited Waiver of Sovereign Immunity.
11. Applicability of Certain Statutory Provisions.
12. Application of Motor Vehicle Laws to Watercraft.
13. Duplicate Certificates or Decals.
14. Cancellation of Title or Registration.
15. Boat Safety Program Content.
16. Disposition of Monies Collected.

§ 1. Findings and Declarations.

(a) The Band Assembly hereby finds and declares that it is a policy of the Non-Removable Mille Lacs Band of Ojibwe to promote the use and enjoyment of the natural resources as well as, to protect the quality of the environment encompassing the trust lands and contiguous waters within the exterior boundaries of the Mille Lacs and Sandy Lake Reservations as described in the Treaty of 1855 for the benefit of enrolled members of the Band.

(b) The Band Assembly hereby finds and declares that it is necessary to regulate the use of watercraft on the waters contiguous to trust land by enrolled members of the Band in order to:

(1) protect the safe exercise of treaty fishing and wild rice harvesting;

(2) protect the ecology of the lake; and

(3) prevent water pollution.

(c) The Band Assembly hereby finds and declares that the establishment of a boat safety program containing standards for registration and titling of watercraft, and for the safe operation of said watercraft on the waters is desirable to prevent the loss of lives, loss or damage to property and vessels, and protection of the marine environment.

(d) The Band Assembly hereby finds and declares that it is a policy of the Non-Removable Mille Lacs Band of Ojibwe to seek a higher degree of reciprocity and comity with the State of Minnesota by establishing concurrent motor vehicle and watercraft registration and titling programs which promotes government to government relations.

(e) The Band Assembly hereby finds and declares that a public policy of closer cooperation and assistance between the Non-Removable Mille Lacs Band of Ojibwe and the State of Minnesota offers increased opportunities for the protection of the natural resources and the general health, welfare and safety of the citizens of both jurisdictions.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-5 1 T.I, § 1.

§ 2. Construction and Severability.

The provisions of this Title shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Title shall be severable and if any phrase, clause, sentence, or provision of this law is declared to be contrary to the Constitution of the Minnesota Chippewa Tribe or any of the laws of the 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 Title and the applicability thereof to any agency, person or circumstance shall not be affected thereby. If the provisions of this Title or any part thereof shall be held contrary to the laws of the State of Minnesota, the other provisions of said law unaffected shall remain in full force and effect as to all severable matters.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.VI, § 10.

§ 3. Reservation of Right of Amendment.

The Band Assembly hereby fully reserves the right to alter, amend or repeal the several provisions of this Title, and all rights and privileges granted or extended hereunder shall be subject to such reserved right.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.VI, § 11.

§ 4. Savings Provision.

Compliance with this Title or standards, regulations, or orders promulgated hereunder shall not necessarily relieve any person subject to the jurisdiction of this Title from liability at common law or under civil or criminal law of the State of Minnesota pursuant to the provisions of 28 U.S.C. 1360 and 18 U.S.C. 1162.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-5 1, T.VI, § 8.

§ 5. Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this Title.

(a) **"Administration"** means the Natural Resources Administration of the Executive branch of government in and for the Non-Removable Mille Lacs Band of Ojibwe.

(b) **"Associated equipment"** means any system, part, or component of a boat as originally manufactured or any similar part or component manufactured or sold for replacement, repair or improvement of such system, part or component; any accessory or equipment for, or appurtenance to, a boat; and any marine safety article accessory, or equipment intended for use by a person on board a boat; but excluding radio equipment.

(c) **"Boat"** means any vessel manufactured or used primarily for noncommercial use; or leased, rented or chartered to another for the latter's noncommercial use; or engaged in the carrying of six (6) or fewer passengers, whether self or motor propelled.

(d) **"Commissioner"** means the Commissioner of Natural Resources in and for the Non-Removable Mille Lacs Band of Ojibwe.

(e) **"Operate"** means to navigate or otherwise use a watercraft.

(f) **"Operator"** means every person who operates or is in actual physical control of a watercraft.

(g) **"Owner"** means a person who claims lawful possession of a vessel by virtue of legal title or equitable interest therein which entitles her or him to such lawful right to possession of a vessel through purchase, exchange, gift, inheritance or other legal action.

(h) **"Passenger"** means every person carried on board a vessel other than the owner or her or his representative; the operator; bona fide members of the crew engaged in the business of the vessel who have contributed no consideration for their carriage and who are paid for their services; or any guest on board a vessel which is being used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly, for her or his carriage.

(i) **"Use"** means operate, navigate, or employ.

(j) **"Vessel"** includes every watercraft used or capable of being used as a means of transportation on the water, other than a seaplane.

(k) **"Watercraft"** means any contrivance used or designed for navigation on water including:

(1) duck boat during the duck hunting season,

(2) sailboat,

(3) canoe,

(4) rice boat during the harvest.

(l) **"Waters"** as used herein, are defined as any lake, pond or other body of water capable of substantial beneficial use, and any waters to which the Band members have access.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, TI, § 2.

§ 6. Applicability of Federal Boat Safety Act of 1971 (46 U.S.C. 1451).

The provisions of the Federal Boat Safety Act shall apply as a federal law coordinating the national boat safety program in the jurisdiction of the Non-Removable Mille Lacs Band of Ojibwe.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.I, § 3.

§ 7. Reciprocity with State of Minnesota.

The Commissioner of Natural Resources is authorized and directed to negotiate a watercraft reciprocity agreement with the Department of Natural Resources in and for the State of Minnesota. The Band Assembly hereby empowers the Commissioner of Natural Resources to execute the said reciprocity agreement on behalf of the Non-Removable Mille Lacs Band of Ojibwe upon the advice of the Chief Executive and the consent of the Band Assembly.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, TI, § 4.

§ 8. Rulemaking Authority of Commissioner.

(a) The Commissioner of Natural Resources may issue regulations necessary or appropriate under the provisions of this section to carry out the purposes of this chapter of law. All said regulations adopted hereunder shall be pursuant to lawful Commissioner's Order pursuant to the provisions of 4 MLBS § 7(h).

(b) The Commissioner shall issue regulations establishing a system for the care and maintenance of official records, an incident and casualty reporting system, minimum safety standards for boats and associated equipment, requiring mg the installation, carrying or using of associated equipment on boats and classes of boats subject to the provisions of this law; and prohibiting the installation, carrying or using of associated equipment which does not conform with safety standards established pursuant to such regulations or other applicable law.

(c) In establishing a need for formulating and prescribing discretionary regulations and standards, the Commissioner shall among other things:

(1) consider the need for and the extent to which the regulations or standards will contribute to boating safety;

(2) consider relevant available boating safety standards, statistics and data including public and private research, development testing and evaluation;

(3) consider whether any proposed regulation or standard is reasonable and appropriate for the particular type of boat or associated equipment for which it is prescribed.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, TI, § 5.

§ 9. Model State Boat Act Implementation.

The Commissioner of Natural Resources is herewith authorized to implement as he or she deems appropriate the substantive content of the model State Boat Act as approved by the National Association of State Boating Law Administrators in conjunction with the council of state governments.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.VI, § 9.02.

§ 10. Limited Waiver of Sovereign Immunity.

The Band Assembly hereby waives sovereign immunity to be sued only in the Court of Central Jurisdiction in cases where a seizure of property occurs pursuant to the provisions of this Title. However, any such action shall be directed solely against the Commissioner of Natural Resources, in her or his official capacity in order to challenge any seizure action and shall be limited to actions seeking an order for the return of goods seized. All other causes of action which arises pursuant to this Title shall be limited in relief to declaratory or injunctive measures and no damages, monetary or otherwise, including but not limited to attorneys' fees, shall be permitted.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.I, § 7.

Cross References

Seizure and confiscation of certain substances, or of vessels containing them, *see* 20 MLBS § 405.

§ 11. Applicability of Certain Statutory Provisions.

The provisions of 24 MLBS § 3301 et seq. Remedies for Creditors and 18 MLBS § 301 Uniform Commercial Code of the State of Minnesota are hereby declared as mandatory provisions of this Title of law available to all lienholders for the recovery of a vessel 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 Ojibwe who resides on land subject to the jurisdiction of the Band. Provisions for due process in the Court of Central Jurisdiction pursuant to 24 MLBS § 3301 et seq. are mandatory prior to any repossession action by any lien holder.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T1, § 8.

Cross References

Security interests, certificates of title, *see* 20 MLBS § 207.

§ 12. Application of Motor Vehicle Laws to Watercraft.

The provisions of 19 MLBS §§ 106-108, 111, 201-208, 241-243, 271-276 and 301-305 relating to motor vehicle registration, certification of titles, certificate issuance, ownership transfer and perfection of security interest and other provisions which may be applied to vessels subject to this Title shall be so applied by order of the Commissioner of Natural Resources if they are not inconsistent with or absent from the provisions of this Title.

Historical and Statutory Notes

Source:
Band Statute 1130-MLC-5l, T.11, § 4.01.

§ 13. Duplicate Certificates or Decals.

(a) If a certificate of title, a certificate of registration, or a pair of decals is lost, stolen, mutilated or destroyed or becomes illegible, the first priority secured party or, if none, the owner or legal representative of the owner named in the certificate, as shown by the records of the Natural Resources Administration, shall promptly apply for and may obtain a duplicate certificate or replacement decals upon payment of $1.00 and furnishing information satisfactory to the Administration.

(b) An application for a duplicate certificate of title shall be accompanied by an affidavit of loss or destruction in a form approved by the Commissioner and signed by the first secured party or, if none, the owner or legal representative of the owner.

(c) The duplicate certificate of title or registration shall contain the legend, "This is a duplicate certificate." It shall be mailed to the first priority secured party named in it or, if none, to the owner.

(d) A person recovering an original certificate of title, certificate of registration, or decal for which a duplicate replacement has been issued shall promptly surrender the original to the Natural Resources Administration.

Historical and Statutory Notes

Source:
Band Statute 1130-MLC-51, T.III, § 5.

Cross References

Certificates of title, *see* 20 MLBS § 202.
Registration and decal, *see* 20 MLBS § 106.

§ 14. Cancellation of Title or Registration.

The Commissioner shall cancel a title or registration whenever:

(a) a transfer of title is set aside by court order or judgment; or

(b) it is subsequently discovered that the issuance or possession of a title or registration is prohibited by law.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.III, § 9.

Cross References

Certificates of title, *see* 20 MLBS § 202.
Registration, *see* 20 MLBS § 101.

§ 15. Boat Safety Program Content.

(a) The Commissioner of Natural Resources shall prior to January 1, 1989, issue a Boat Safety Program for the Mille Lacs Band of Ojibwe which incorporates a Band numbering system approved under this Title, provides for patrol and other activity to assure enforcement of the Band's boat safety laws and regulations, provides for boat safety education programs and provides for the submission of annual reports to the Band Assembly and the appropriate federal agency of the United States.

(b) The Commissioner of Natural Resources is hereby authorized to submit the Band's Boat Safety Program to the United States Department of Transportation or other appropriate federal agency with jurisdiction over the Federal Boat Safety Program. The purpose of the submission of the Band's program is to participate in the allocation of federal funds for the purposes set forth in 46 U.S.C. 145 1 et seq. and those purposes herein stated.

Historical and Statutory Notes

Source:
Band Statute 1130-MLC-51, T.VI, § 9.

§ 16. Disposition of Monies Collected.

All monies, including judicially imposed fines received and receipted pursuant to the provisions of this Title shall be held in a separate account in the name of the Non-Removable Mille Lacs Band of Ojibwe Boat Safety Program until lawfully disbursed by appropriation of the Band Assembly.

Historical and Statutory Notes

Source:
Band Statute 1130-MLC-5 1, T.VI, § 7.

Cross References

Enforcement of this title, *see* 20 MLBS § 401 et seq.

CHAPTER 2

REGISTRATION OF WATERCRAFT

Section

101. Registration Required.
102. Display of Registration Number and Valid Decal.
103. Exceptions from Vessel Registration.
104. Commissioner's Powers and Duties.
105. Application for Registration.
106. Issuance of Registrations and Decals.
107. Registration Periods-Renewals.
108. Transfer of Registrations.
109. Notice of Changed Conditions.

§ 101. Registration Required.

All enrolled members of the Non-Removable Mille Lacs Band of Ojibwe who reside or principally garage a vessel on lands subject to the jurisdiction of the Band shall register said vessel with the Mille Lacs Natural Resource Administration effective May 1, 1988. No resident enrolled member of the Mille Lacs Band may own or operate any vessel on the waters contiguous to lands subject to the jurisdiction of the Band or on the public waters within the boundaries of the State of Minnesota unless said vessel has been registered with the Mille Lacs Natural Resources Administration.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T. II, § 1.

§ 102. Display of Registration Number and Valid Decal.

All vessels owned or operated on the waters under the jurisdiction of the Band or the State of Minnesota by an enrolled member of the Mille Lacs Band who resides on land subject to the jurisdiction of the Band shall display a Band registration number and valid decal in accordance with the provisions of this Title.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.II, § 2.

§ 103. Exceptions from Vessel Registration.

Vessel registration is required under this Title except for the following:

(a) vessels owned by the Band or political subdivision thereof, used principally for governmental purposes and clearly identifiable as such;

(b) vessels owned by enrolled members of the Non-Removable Mille Lacs Band of Ojibwe who do not reside or principally garage said vessel on lands subject to the jurisdiction of the Band;

(c) vessels owned by non-enrolled members of the Minnesota Chippewa Tribe which are not principally garaged on lands subject to the jurisdiction of the Band;

(d) vessels used as a ship's lifeboat.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.II, § 3.

§ 104. Commissioner's Powers and Duties.

The Commissioner of Natural Resources shall provide for the issuance of vessel registrations and may appoint Natural Resource officers, as agents, for the purpose of collecting fees and issuing registration numbers and decals.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.II, § 4.

§ 105. Application for Registration.

Applications for a vessel registration shall be made to the Commissioner of Natural Resources or her or his authorized agent in the manner and upon forms prescribed by the Commissioner. The application shall state the name and address of each owner of the vessel, a description of make, model, year, and manufacturer of vessel, and such other information as may be required by the Commissioner, shall be signed by at least one (1) owner and shall be accompanied by a vessel registration fee of $5.00 per year and any applicable excise taxes imposed pursuant to Band law.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.II, § 5.

§ 106. Issuance of Registrations and Decals.

Upon receipt of a proper application and the registration fee, the Commissioner or her or his designated agent shall assign a registration number and issue a decal for each vessel. The registration number and decal shall be issued and affixed to the vessel in the manner prescribed by the Commissioner consistent with the standard numbering system for vessels set forth in Volume 33 Part 174 of the Code of Federal Regulations. A valid decal affixed as prescribed shall indicate compliance with the annual registration requirements of this Title.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.II, § 6.

§ 107. Registration Periods—Renewals.

All vessel registrations and decals are valid for a period of one (1) year commencing May 1 of each calendar year. For registration periods of less than one (1) year, the Commissioner may collect pro-rated annual registration fees and excise taxes based upon the number of months in the registration period. Vessel registrations are renewable each year in the manner prescribed by the Commissioner upon payment of the vessel registration fee and the excise tax. Upon renewing a vessel registration, the Commissioner shall issue a new decal to be affixed as prescribed by law.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.II, § 7.

§ 108. Transfer of Registrations.

Any person subject to the jurisdiction of this Title acquiring a vessel from a dealer or a vessel already validly registered under the name of different owner or the laws of the State of Minnesota or any other state jurisdiction shall, within 15 days of the acquisition or purchase of the vessel, apply to the Natural Resources Administration for transfer of the vessel registration, and the application shall be accompanied by a transfer fee of $2.00.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.II, § 8.

§ 109. Notice of Changed Conditions.

Notice shall be given to the issuing authority by the owner indicated on the certificate of registration within 15 days of the occurrence of any of the following:

(a) transfer of any part or all of the ownership of a vessel registered under this title;

(b) any change of address of owner, destruction, loss, abandonment, theft, or recovery of the vessel; or

(c) loss or destruction of a valid certificate of registration on the vessel.

Historical and Statutory Notes

Source:

Band Statute 1 1 30-MLC-51, T.III, § 4.04.

CHAPTER 3

CERTIFICATES OF TITLE

Section

201. Legislative Intent.
202. When Certificate of Title Required.
203. Surrender of Certificates of Title from Exterior Jurisdiction.
204. Surrender of Manufacturer's Certificate of Origin.
205. Application for Certificate of Title.
206. Issuance.
207. Security Interests.
208. Suspension or Revocation of Certificate.

§ 201. Legislative Intent.

It is the intention of the Band Assembly to establish a system of certificates of title for vessels and watercraft similar to that in existence for motor vehicles. It is the goal of this legislation that the title certificate become *prima facie* evidence of ownership of the vessel it describes so that persons may rely upon that certificate; and that security interests in vessels be perfected solely by notation of a secured party upon the title certificate.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.III, § 1.

Cross References

Motor vehicles, certificates of title, *see* 19 MLBS § 201.

§ 202. When Certificate of Title Required.

Whenever a vessel is to be registered for the first time as required by this Title, application shall be made at the same time for a certificate of title. Any person who purchases or otherwise obtains majority ownership of any vessel subject to the provisions of this Title of law shall, within 1 5 days thereof, apply for a new certificate of title which shows the vessel's change of ownership.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.III, § 4.02.

§ 203. Surrender of Certificates of Title from Exterior Jurisdiction.

All enrolled members of the Band who reside or principally garage any watercraft on lands subject to the jurisdiction of the Band, and who are holders of vessel or watercraft certificates of titles issued by the State of Minnesota or any other jurisdiction shall surrender said certificate of title at the time of application for a Band certificate of title. The Commissioner of Natural Resources is prohibited from issuing any Band certificate of title for which an existing exterior jurisdiction certificate of title remains outstanding.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.III, § 2.

§ 204. Surrender of Manufacturer's Certificate of Origin.

Upon application for a certification or title to a new vessel never before titled and sold by an in-state or out-of-state dealer or manufacturer's statement of origin or other document or documents certifying the first conveyance of said vessel after its manufacture. The manufacturer's statement of origin or other similar document or documents shall reflect the model year, make, and hull identification number of the vessel.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.III, § 6.

§ 205. Application for Certificate of Title.

Applications for certificates of title may be made through the Commissioner of Natural Resources or her or his designated agents on the form prescribed for this purpose. The fee for a vessel certificate of title is $5.00. Each application for a title certificate shall require the person to be designated as the registered owner to swear under penalties of the perjury laws of this Band or the United States of America that he or she is the owner or an authorized agent of the owner of the vessel, and that it is free of any claim of lien, mortgage, conditional sale, or other security interests of any person except the person or persons set forth in the application as secured parties.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.III, § 3.

§ 206. Issuance.

The Commissioner of Natural Resources shall provide for the issuance of vessel certificates of title to the appropriate owner or secured party.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.III, § 4.

§ 207. Security Interests.

(a) Security interests in vessels subject to the requirements of this Title shall be perfected only by indication upon the vessel's title certificate.

(b) Security interests may be released or acted upon as provided by the law under which they arose or were perfected. No renewal or extension of any existing security interest is affected by the provisions of this law.

(c) The method provided in this Title of perfecting and giving notice of security interest subject to this Title is exclusive.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.III, §§ 4, 7.

§ 208. Suspension or Revocation of Certificate.

(a) The Commissioner of Natural Resources shall suspend or revoke a certificate of vessel title if he or she finds:

(1) the certificate of title was fraudulently procured, erroneously issued, or prohibited by law; or

(2) the vessel has been scrapped, dismantled or destroyed; or

(3) a transfer of title is set aside by a court order or judgment.

(b) Suspension or revocation of a certificate of title does not, in itself, affect the validity of a security interest noted on it.

(c) When the Commissioner 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 hand deliver the certificate to the Commissioner

(d) The Commissioner may seize and impound any certificate of title which has been lawfully suspended or revoked.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.III, § 8.

CHAPTER 4

REGULATION OF WATERCRAFT

Section

301. Applicability of Minnesota Statutory Watercraft Regulations: Chapter 361.
302. Methods of Operation.
303. Lights.
304. Mufflers.
305. Life Preservers or Life Floats.
306. Use of Vessel in Negligent Manner.
307. Use of Vessel in Grossly Negligent Manner.
308. Use of Vessel While Under the Influence of Alcohol or Drugs Prohibited.
309. Responsible Operation of Watercraft.
310. Operation by Children.
311. Obstruction of Legal Process.
312. Malicious Mischief Against Documents, Stickers or Decals.
313. Duty of Operator Involved in Collision, Accident, or Other Casualty.
314. Immunity from Liability of Persons Rendering Assistance.
315. Penalty.

§ 301. Applicability of Minnesota Statutory Watercraft Regulations: Chapter 361.

(a) The Commissioner of Natural Resources is herewith authorized to implement, as he or she deems necessary and appropriate, substantive content of Minnesota Statutes Chapter 361.01 through 361.28 inclusive, as applicable Band regulatory provisions pursuant to the issuance of a Commissioner's Order.

(b) All such regulatory provisions implemented pursuant to subsection (a) shall become effective 15 days after the date of execution and notice to the members of the Band so effected.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.IV, § 7.

Cross References

Commissioner's orders, *see* 4 MLBS § 7.

§ 302. Methods of Operation.

Every person subject to the jurisdiction of this Title who operates a motor propelled boat or vessel on any waters, shall operate the same in a careful and prudent manner at a rate of speed no greater than is reasonable and proper under the conditions existing at the point of operation, taking into account the amount and character of traffic, size of the lake or body of water, freedom from obstruction to view ahead and so as not to unduly or unreasonably endanger life, limb, property or other rights of any person entitled to the use of such waters.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.IV, § 1.

§ 303. Lights.

It shall be unlawful for any person subject to the jurisdiction of this Title to operate any motor propelled boat or vessel on any such waters without a white light during the hours of darkness, distinctly visible under clear weather conditions for a distance of at least 300 feet.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.IV, § 2.

§ 304. Mufflers.

All such motor driven boats or vessels shall use a muffler or other similar devise to reduce the sound of exhaust.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.IV, § 3.

§ 305. Life Preservers or Life Floats.

Every motor driven boat operating on any such waters and carrying passengers for hire or leased for hire, shall have a life preserver or life float for each passenger said boat or vessel has capacity to carry, placed or attached in such manner as to be convenient for use.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.IV, § 6.

Cross References

Termination of unsafe use of vessel, *see* 20 MLBS § 407.

§ 306. Use of Vessel in Negligent Manner.

Any person subject to the jurisdiction of this Title who operates a vessel in such a manner as to endanger or be likely to endanger any person(s) or property shall be negligent and subject to civil and criminal penalties of 20 MLBS §§ 401 and 402.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, TV, § 3.

§ 307. Use of Vessel in Grossly Negligent Manner.

Any person subject to the jurisdiction of this Title who by operating a watercraft in a reckless or grossly negligent manner and in willful and careless disregard of life or property and causes personal injury to another and/or damages to the property of another shall be subject to both criminal and civil penalties of 20 MLBS §§ 401 and 402.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, TV, § 4.

§ 308. Use of Vessel While Under the Influence of Alcohol or Drugs Prohibited.

(a)

(1) For the purposes of this section, "vessel" means any watercraft used or capable of being used as a means of transportation on the water.

(2) For the purposes of this section, "vessel operator" means a person who is in actual physical control of a vessel.

(b) A person subject to the jurisdiction of this Band statute is guilty of operating a vessel while under the influence of intoxicating liquor or any drug if the person operates a vessel upon the waters while:

(1) the person has 0.10 grams or more of alcohol per 210 liters of breath as shown by analysis of the person's breath, blood or other bodily substance made pursuant to the laws of the Band;

(2) the person is under the influence of or affected by intoxicating liquor or any drug; or

(3) the person is under the combined influence of or affected by intoxicating liquor and any drug.

(c) The fact that any person charged with a violation of this section is or has been entitled to use such drug under the laws of the Band or the State of Minnesota shall not constitute a defense against any charge of violating this section. A person cited under this section may upon request be given a breath test for blood alcohol or may request to have a blood sample taken for blood alcohol analysis. An arresting Band officer shall administer field sobriety tests when circumstances permit.

(d) A violation of this section is a misdemeanor and may subject the violator to both criminal and civil penalties of 20 MLBS §§ 401 and 402.

Historical and Statutory Notes

Source:

Bank Statute 1130-MLC-51, T.IV, § 4.

Cross References

Prohibited drugs, *see* 23 MLBS § 1 et seq.

§ 309. Responsible Operation of Watercraft.

No person subject to the jurisdiction of this Title shall knowingly authorize or permit a person who is under the influence or affected by intoxicating liquor or any drug or who is physically or mentally disabled or incapable, to operate any watercraft.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.IV, § 5.

§ 310. Operation by Children.

Except in the case of an emergency, no person under the age of 13 years shall operate or be permitted to operate any watercraft propelled by a motor, unless there is present in the watercraft in addition to the operator, her or his parent or legal guardian, or at least one (1) person of the age of 18 years or over.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.IV, § 5.01.

§ 311. Obstruction of Legal Process.

It shall be unlawful for any person subject to the jurisdiction of this Title to willfully hinder, resist, or obstruct a duly authorized official, officer or employee of the Non-Removable Mille Lacs Band of Ojibwe in the performance of her or his official duty, or to refuse to submit anything called for by her or him for inspection.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.IV, § 8.

Cross References

Authority of officers, *see* 20 MLBS § 405.

§ 312. Malicious Mischief Against Documents, Stickers or Decals.

It shall be unlawful for any person subject to the jurisdiction of the Mille Lacs Band to deface, alter or mutilate any official document, sticker or decal issued in compliance with the provisions of this Title.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.IV, § 9.

§ 313. Duty of Operator Involved in Collision, Accident, or Other Casualty.

The operator of a vessel involved in a collision, accident, or other casualty, to the extent the operator can do so without serious danger to the operator 5 own vessel or persons aboard, shall render all practical and necessary assistance to persons affected by the collision, accident, or casualty to save them from danger caused by the incident. Under no circumstances may the rendering of assistance or other compliance with this section be evidence of the liability of such operator for the collision, accident or casualty. The operator shall also give her or his name, address, and the identification of the operator's vessel to any duly authorized law enforcement officer of the Band or the State of Minnesota and any person injured and to the owner of any property damaged: provided, that this requirement shall not apply to operators of vessels when they are participating in an organized competitive event covered by a permit issued by any lawful jurisdiction. These duties are in addition to any duties otherwise imposed by federal or state law.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.V, § 1.

§ 314. Immunity from Liability of Persons Rendering Assistance.

Any person who complies with 20 MLBS § 313 or who gratuitously and in good faith renders assistance at the scene of a vessel collision, accident, or other casualty, without objection of the person assisted, shall not be held liable for any civil damages as a result of the rendering of assistance or for any act or omission in providing or arranging salvage, towage, medical treatment, or other assistance, where the assisting person acts as any reasonably prudent person would have acted under the same similar circumstances.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T. V, § 2.

§ 315. Penalty.

Any violation of the provisions of 20 MLBS §§ 301-312 shall be subject to penalties imposed in 20 MLBS §§ 401 and 402.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.IV, § 10.

CHAPTER 5

ENFORCEMENT

Section

401. Criminal Penalties.
402. Civil Penalties.
403. Criminal Violations as Evidence in Civil Actions.
404. Injunctive Relief.
405. Enforcement Authority.
406. Notice in lieu of Summons.
407. Termination of Unsafe Use of Vessel.

§ 401. Criminal Penalties.

Any person subject to the jurisdiction of this Title who violates the prohibitory provisions of 20 MLBS §§ 306, 307, or 313 or any regulations issued thereunder shall be fined not more than $5,000.00 for each violation and imprisoned not more than one (1) year or both.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.VI, § 1.

Cross References

Regulation of watercraft, *see* 20 MLBS § 301 et seq.

§ 402. Civil Penalties.

(a) In addition to any other penalty prescribed by law any person subject to the jurisdiction of this Title who violates any provision of this Title shall be liable to a civil penalty of not more than $2,000.00 for each violation except that the maximum civil penalty shall not exceed $5,000.00 for any related series of violations.

(b) In addition to any other penalty prescribed in subsection (a), any person subject to the jurisdiction of this Title who is guilty of gross neglect in violating any provision of this Title or the regulations issued thereunder shall be liable for compensatory damages to the injured party under the civil code of the Band. If the violation further involves the grossly negligent use of a vessel, the vessel except as what may be exempt pursuant to federal law, shall be liable and may be proceeded against in the

Court of Central Jurisdiction pursuant to federal forfeiture proceedings (28 U.S.C. 2461 et seq.) Which are herewith incorporated by reference.

Historical and Statutory Notes

Source:

Band Statute 1 1 30-MLC-51, T.VI, § 2.

Cross References

Damages, *see* 24 MLBS § 651 et seq.
Regulation of watercraft, *see* 20 MLBS § 301 et seq.

§ 403. Criminal Violations as Evidence in Civil Actions.

Violations as evidence in civil actions by any of the parties thereto shall not be negligence per se, but shall be *prima facie* evidence of negligence. The record of conviction for criminal violations of 20 MLBS §§ 301-305 and 308-312 shall be admissible as evidence in civil actions in the Court of Central Jurisdiction.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, TV, § 5.

§ 404. Injunctive Relief.

The Court of Central Jurisdiction shall have jurisdiction to restrain violations of this Title upon petition brought on behalf of the Non-Removable Mille Lacs Band of Ojibwe. Whenever practical, the Commissioner of Natural Resources shall give notice to any person against whom an action for injunctive relief is contemplated and afford her or him an opportunity to present her or his views, and except in the case of knowing and willful violation, shall afford her or him a reasonable opportunity to achieve compliance. The failure to give notice and afford such opportunity does not preclude the granting of appropriate relief.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.VI, § 3.

§ 405. Enforcement Authority.

(a) Any duly authorized law enforcement officer or Natural Resource officer of the Mille Lacs Band may enforce the provisions of this Title.

(b) Any duly authorized law enforcement or Natural Resource officer shall have the authority to inspect any vessel registered with the Non-Removable Mille Lacs Band of Ojibwe for the purpose of inspecting the title and registration of the vessel and its mandatory safety features.

(c) Any duly authorized law enforcement or Natural Resource officer of the Mille Lacs Band is hereby authorized and empowered to enter upon any trust land subject to the jurisdiction of the Band or the contiguous waters to said land for the purpose of carrying out the duties and functions of her or his office, or to make investigations of any violation of the provisions of this Title, and in aid thereof to take affidavits upon oath administered by him, and to cause proceedings to be instituted if proof at hand warrants it.

(d)

(1) Any duly authorized law enforcement officer or Natural Resource officer of the Mille Lacs Band is hereby authorized and empowered to seize and confiscate in the name of the Band any substance described in 19 MLBS §406 or 23 MLBS § 1(a) or 7 which is possessed in any vessel operated on the waters subject to the jurisdiction of this Title in violation of the appropriate section of this Title. Anything seized or confiscated shall be held by the chief law enforcement officer until proper final determination of the case by the Court of Central Jurisdiction.

(2) Any duly authorized law enforcement officer or Natural Resource officer of the Mille Lacs Band is hereby authorized and empowered to seize and confiscate in the name of the Band, any vessel in which substances described in 19 MLBS §406 or 23 MLBS §1(a) or 7 are found. Any vessel so seized impounded or confiscated shall be held by the chief law enforcement officer until proper final determination of the case by the Court of Central Jurisdiction. It shall be the responsibility of the record owner of the vehicle to pay for all costs associated with any seizure, confiscation or impoundment action initiated by a duly authorized officer of the Band in the performance of her or his lawful duty. The Non-Removable Mille Lacs Band of Ojibwe, any of its officers, agents, and employees, shall not be liable for damages to any vessel so seized confiscated or impounded.

(e) Any duly authorized law enforcement officer or Natural Resource officer of the Mille Lacs Band may arrest without warrant any person subject to the jurisdiction of this Title detected in the actual violation of any provision of this chapter of law and to take such person before the Court of Central Jurisdiction and make a proper complaint.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.VI, §4.

Cross References

Hindrance, resistance or obstruction of officer, *see* 20 MLBS §311.
Unreasonable searches and seizures, *see* 1 MLBS § 2.
Warrant, summons and arrest, *see* 24 MLBS § 4101 et seq.

§ 406. Notice in lieu of Summons.

(a) When a person subject to the jurisdiction of this Title is arrested for any violation of law which is punishable as a 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 short form complaint. Said notice shall conform with applicable provisions of the United States Government, United States Department of Interior, Title 25 - Indians.

(b) In order to secure release, without being taken into custody and immediately taken before the court, the arrested person must give her or 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.

(c) If the person so summoned fails to appear on the return day, the court shall issue a warrant for her or his arrest, and upon her or his arrest proceedings shall be had as in any other case.

(d) In the event that a person so arrested refuses to sign in quadruplicate a written notice prepared by the arresting officer, the arresting officer shall immediately take such person before any justice of the Court of Central Jurisdiction and make a proper complaint.

Historical and Statutory Notes

Source:
Band Statute 1130-MLC-51, T.VI, § 5.

Cross References

Warrant, summons and arrest, *see* 24 MLBS § 4101 et seq.

§ 407. Termination of Unsafe Use of Vessel.

If a duly authorized law enforcement or Natural Resource officer of the Mille Lacs Band observes a boat being used without sufficient lifesaving or firefighting devices or in an overloaded or other unsafe condition as defined in the regulations of the Commissioner of Natural Resources, and in her or his judgment such use creates an especially hazardous condition, he or she may direct the operator to take whatever immediate and reasonable steps would be necessary for the safety of those aboard the vessel, including directing the operator to return to mooring and to remain there until the situation creating the hazard is corrected or ended.

Historical and Statutory Notes

Source:

Band Statute 1130-MLC-51, T.VI, § 6.

Cross References

Life preservers or life floats, *see* 20 MLBS § 305.

TITLE 21 – REAL AND PERSONAL PROPERTY

Chapter	Section
1. General Provisions	1
2. Land Consolidation	101
3. Easements and Leases	201
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5. Real Estate Mortgages	401
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CHAPTER 1

GENERAL PROVISIONS

Section

1. Findings and Determinations.
2. Reservation of Right of Amendment.
3. Jurisdiction for the Court of Central Jurisdiction.
4. Transfers and Changes of Venue.
5. Fees.
6. Non-Removable Mille Lacs Band of Chippewa Indians may be made Defendant in Certain Cases.

Historical and Statutory Notes

The Preamble to Band Statute 1087-MLC-40 provides: "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."

Band Statute 1087-MLC-40, § 64 provides: "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."

§ 1. Findings and Determinations.

(a) 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.

(b) 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.

(c) 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.

(d) 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 title shall be liberally construed so as to effectuate the purposes which gave rise to it.

(e) 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 this title in the event that default conditions of the loan exist.

(f) The Band Assembly hereby finds and determines that any interest 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § I.

§ 2. Reservation of Right of Amendment.

The Band Assembly hereby fully reserves the right to alter, amend or repeal the provisions of this title, and all rights and privileges granted or extended hereunder, shall be subject to such reserved right.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 65.

§ 3. 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 2.

Cross References

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

§ 4. Magistrate Jurisdiction.

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 chapters 1, 2 and 4 to 6 of this title. They shall perform their duties pursuant to chapters 1, 2 and 4 to 6 of this title under the title of Magistrate.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 2.02.

Cross References

Subject matter jurisdiction, Court of General Jurisdiction, *see* 5 MLBS § 111.

§ 4. Transfers and Changes of Venue.

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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 2.03.

§ 5. Fees.

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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 2.01.

§ 6. 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, nor to relieve any person from complying with any requirement of such laws.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-43, § 59.

Cross References

Liberal construction of this section, *see* 21 MLBS § 404.

CHAPTER 2

LAND CONSOLIDATION

Section

101. Non-members and non-Indians Prohibited from Receiving Interests in Trust or Restricted Lands.
102. Life Estate in Spouse or Children.
103. Escheat.
104. Federal Law and Regulations.

§ 101. Nonmembers and Non-Indians Prohibited from Receiving Interests in Trust or Restricted Lands.

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, 220 1 , 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 nonmembers 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-44, § 67.

§ 102. Life Estate in Spouse or Children.

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 nonmembers 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 21 MLBS § 101 provided, that any said surviving spouse or children not be excluded or removed from said lands for cause after hearing pursuant to 2 MLBS § 201.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-44, § 67.01.

§ 103. Escheat.

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:

(a)

(1) 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,

(2) A specific finding of the Court that the subject heir is not eligible to receive an interest in the trust or restricted property,

(3) 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 lifetime occupancy,

(4) A specific finding of the amount of compensation due to the subject heir and

(5) An order for payment of said compensation in an amount reasonable and appropriate not to exceed $500.00 by the Non-Removable Mille Lacs Band of Chippewa Indians.

(b) Right to appeal the decision of the justice to the entire Court of Central Jurisdiction whose decision shall be final.

Historical and Statutory Notes

Source:
Band Statute 1087-MLC-44, § 67.02.

§ 104. Federal Law and Regulations.

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 3 MLBS § 16. The justices of the Court of Central Jurisdiction shall have exclusive jurisdiction in matter related to this chapter and each shall be bound thereby to the applicable provisions of the laws of the United States of America. 125 U.S.C.A. § 2201 et seq.

Historical and Statutory Notes

Source:
Band Statute 1087-MLC-44, § 67.03.

CHAPTER 3

EASEMENTS AND LEASES

Section

201. Validity of Easements.
202. Easements Over Individual Trust Land.
203. Authority of Commissioner of Natural Resources.
204. Application for Easement.
205. Unauthorized Easements; Penalty.
206. Trespass.
207. Seizure of Vehicles, Equipment or Goods used in Trespass.
208. Leases of Restricted Land under the Jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians.

Historical and Statutory Notes

The Preamble to 1098-MLC-48 provides: "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."

§ 201. 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.

Historical and Statutory Notes

Source:

Band Statute 1098-MLC-48, § 1.

§ 202. Easements Over Individual Trust Land.

The provisions of this chapter shall not be construed as applicable for obtaining easements over individual trust land.

Historical and Statutory Notes

Source:

Band Statute 1098-MLC-48, § 1.01.

§ 203. 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 or she determine any easement to be invalid, he or she 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.

Historical and Statutory Notes

Source:

Band Statute 1098-MLC-48, § 2.

§ 204. Application for Easement.

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 lessee, all requests for easements shall be forwarded to the Commissioner of Natural Resources who shall make a determination of the issues and make her or his recommendation for acceptance or rejection to the Chief Executive. Upon the authorization of the Chief Executive, he or she 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 lessee of said action and the right of the lessee to a hearing before the Band Assembly to contest the rejection. Any lessee who seeks to appeal the decision of the Band Assembly shall petition the Speaker of the Assembly within ten (10) 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 (5) days after the decision of the Band Assembly is rendered or the right of appeal to the Court shall be forfeited.

Historical and Statutory Notes

Source:

Band Statute 1098-MLC-48, § 2.01.

§ 205. Unauthorized Easements; Penalty.

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 21 MLBS § 204 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 $500.00.

Historical and Statutory Notes

Source:

Band Statute 1098-MLC-48, § 2.02.

§ 206. Trespass.

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 $500.00.

Historical and Statutory Notes

Source:

Band Statute 1098-MLC-48, § 2.03.

Cross References

Exclusion, *see* 2 MLBS, § 3001 et seq.

§ 207. Seizure of Vehicles, Equipment or Goods Used in Trespass.

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.

Historical and Statutory Notes

Source:

Band Statute 1098-MLC-48, § .2.04.

Cross References

Unreasonable searches and seizures, *see* 1 MLBS § 2.

§ 208. 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.

Historical and Statutory Notes

Source:

Band Statute 1098-MLC-48, § 3.

Cross References

Water conservation measures, building permits for leased lands, *see* Nat. Res. Comm. Order 112-89.

CHAPTER 4

FORCIBLE ENTRY AND UNLAWFUL DETAINER

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

SUBCHAPTER 1

GENERAL PROVISIONS

Section

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

§ 301. Recovery of Premises.

(a) No person shall make entry into lands or tenements except in cases where her or his entry is allowed by law and in such cases he or she shall not enter by force but only in a peaceable manner.

(b) When any person has made unlawful or forcible entry into lands or tenements and detains the same, or having peaceably entered, unlawfully detains the same, the person entitled to the premises may recover possession thereof in the manner hereinafter provided.

(c)

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

(2)

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

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

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

(ii) If the notice to quit was served within 90 days of the date of any act of the tenant coming within the terms of clause (A) or (B) of subparagraph (i) the burden of proving that the notice to quit was not served in whole or part for the retaliatory purpose shall rest with the plaintiff.

(3) In any proceeding for the restitution of premises upon the ground of nonpayment of rent, it shall be a defense thereto, if the tenant establishes by a

preponderance of the evidence that the plaintiff increased the tenant's rent or decreased the services as a penalty in whole or part for any lawful act of the tenant as described in § 301 (c)(2)(i)(B), providing that the tenant tender to the Court or to the plaintiff the amount of rent due and payable under her or his original obligation.

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

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 6.

Cross References

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

§ 302. Limitation of Actions.

No restitution shall be made under this chapter of any lands or tenements of which the part complained of, or her or his ancestor, or those under whom he or she holds the premises, have been in quiet possession for three (3) years next before the filing of the complaint, after the determination of the leasehold estate that he or she may have had therein.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 6.03.

§ 303. Complaint and Summons.

The person complaining shall file a complaint with a Magistrate describing the premises of which possession is claimed, stating the facts which authorize the recovery and praying for restitution thereof. The Magistrate shall thereupon issue a summons, commanding the person against whom such complaint is made to appear before her or him on a day and at a place in such summons named, which shall not be less than three (3), nor more than ten (10) days from the day of issuing the same. A copy of the complaint shall be attached to the summons, which shall state that it is so attached and that the original has been filed. All summons shall be served in accordance with 24 MLBS § 2001 et seq.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 6.04.

§ 304. Answer and Hearing.

After the return of the summons at the time and place appointed therein, if the defendant appeared, he or she 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 or she shall adjourn the trial as provided in 21 MLBS § 305, but either party may demand a trial by jury. The proceedings in such action shall be the same as in other civil actions in a Magistrate's Court, except as in this chapter, otherwise provided.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 6.05.

§ 305. Adjournment.

The Magistrate, in her or his discretion, may adjourn the trial, but not beyond six (6) days after the return day, unless by consent of parties; but in all cases mentioned in 21 MLBS § 301, except in an action upon a written lease signed by both parties thereto, if the defendant, her or his agent or attorney shall make oath that he or she cannot safely proceed to trial for want of a material witness, naming her or him and that he or she has made due exertion to obtain the witness and believes that, if such adjournment be allowed, he or she will be able to procure the attendance of such witness at the trial or her 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 (3) months.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 6.06.

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

(a) **Non-Emergency Writ of Restitution.** If upon the trial, the Magistrate or jury find for the plaintiff, the Magistrate shall immediately thereupon, enter judgment that the plaintiff have restitution of the premises and tax the cost for her or him. The

Magistrate shall issue execution in favor of the plaintiff for such costs and also immediately issue a non-emergency writ of restitution. No stay of the non-emergency writ of restitution may be granted except upon a showing by the defendant that the restitution would work a substantial hardship upon the defendant. Upon a proper showing by the defendant of substantial hardship, the Magistrate may stay the non-emergency writ of restitution for a reasonable period not to exceed seven (7) days, except that no stay of the non-emergency writ of restitution shall extend later than three (3) days prior to the date the rent is next due. If the Magistrate or jury shall find for the defendant, he or she shall enter judgment for the defendant, tax the costs against the plaintiff and issue execution therefore.

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

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

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

(i) illegal drug activity;

(ii) abandonment; or

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

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

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

(4) The Band may also by administrative order issue an emergency writ of restitution if it is signed by three (3) Executive Officers listed in 4 MLBS § 4. The administratively issued emergency writ of restitution shall have the same force and effect as an emergency writ of restitution issued by the Court of Central Jurisdiction and shall describe the factual circumstances creating the need for immediate action. Upon the issuance of an administrative emergency writ of restitution, an Enforcement Officer of Tribal Police will serve a copy of the emergency writ of restitution on the occupant(s) and enforce it without delay. After enforcement, the Band shall file a copy of the administratively issued emergency writ of restitution with the Court of Central Jurisdiction. Upon filing, the Court shall schedule a hearing where the Band must submit evidence justifying the issuance of the administrative emergency writ of restitution consistent with § 306 (c)(1) above.

Historical and Statutory Notes

Source:

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

Cross References

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

§ 307. Failure to Reach a Verdict.

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

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 6.08.

§ 308. Notice of Appeal.

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

Historical and Statutory Notes

Source:
Band Statute 1087-MLC-40, § 6.09.

§ 309. Appeals.

If either party feels aggrieved by the judgment he or she may appeal within ten (10) days as in other cases triable before Magistrates except that if the party appealing remains in possession of the premises, her or his bond shall be conditioned to pay all costs of such appeal and abide the order the Court may make therein and pay all rents and other damages justly accruing to the part excluded from possession during the pendency of the appeal. Upon the taking of such appeal all further proceedings in the case shall be stayed, except that in an action on a lease against a tenant holding over after the expiration of the term thereof, or termination thereof, by notice to quit, if the plaintiff give bond as provided in 21 MLBS § 308, a writ of restitution shall issue as if no appeal had been taken and the appellate court shall thereafter issue all needful writs and processes to carry out any judgment which may be rendered in such court.

Historical and Statutory Notes

Source:
Band Statute 1087-MLC-40, § 6.10.

§ 310. Form of Verdict or Finding.

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

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

Historical and Statutory Notes

Source:
Band Statute 1087-MLC-40, § 6.11.

§ 311. Form of Summons and Writ of Restitution.

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

FORM OF SUMMONS

Non-Removable Mille Lacs Band of Chippewa Indians
) ss.
District of _____)

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

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

_____
Magistrate

FORM OF WRIT OF RESTITUTION

Non-Removable Mille Lacs Band of Chippewa Indians
) ss.
District of _____

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

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

Therefore, you are hereby commanded that, taking with you the force of the District, if necessary, you cause the said _____ to be immediately removed from the aforesaid premises and the said _____ to have peaceable restitution of the same. You are also hereby commanded that of the goods and chattel of the said _____ with said District you cause to be levied, and the same being disposed of according to law, to be paid to the said _____ the sum of _____ dollars, being the costs taxed against the said _____ for the said _____ at the Court aforesaid together with $1.00 for this writ; and thereof, together with this writ, make due return within 30 days from the date hereof, according to law.

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

_____

Magistrate

Historical and Statutory Notes

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

§ 312. Execution of Writ of Restitution.

The officer holding the writ of restitution shall execute the same by making a demand upon defendant if he or she can be found in the District or any adult member of her or his family holding possession of the premises, or other person in charge thereof, for the possession of the same and that the defendant remove her or himself, her or his family and all of her or 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 her or him necessary, the force of the District and whatever assistance may be necessary, at the cost of the complainant, remove the said defendant, her or his family and all her or 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 her or his lien and foreclose the same by public sale as provided for in case of sales.

Historical and Statutory Notes

Source:
Band Statute 1087-MLC-40, § 6.14.

Cross References

Additional remedy for tenants, *see* 21 MLBS § 341.
Petition, unlawful removal or exclusion of tenant, *see* 21 MLBS § 345.

SUBCHAPTER 2

UNLAWFUL REMOVAL OR EXCLUSION: RECOVERY OF POSSESSION

Section

341. Additional Remedy for Tenants.
342. Application to Tenants Restricted.
343. Public Policy of the Band.
344. Manner of Recovering Possession.
345. Petition.
346. Order.
347. Security for Costs and Damages.
348. Execution of Order.
349. Dissolution or Modification of Order.
350. Appeal of Order for Recovery.

§ 341. Additional Remedy for Tenants.

The purpose of this subchapter 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 subchapter 21 MLBS §301 or 312 shall not apply to proceedings under this subchapter.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 11.

§ 342. Application to Tenants Restricted.

The provisions of this subchapter shall apply only to tenants as that term is defined in 21 MLBS § 372(e) and buildings as that terms is defined in 21 MLBS § 372(a).

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 12.

§ 343. Public Policy of the Band.

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

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 10.

§ 344. Manner of Recovering Possession.

Any tenant who is unlawfully removed or excluded from lands or tenements which are demised or let to her or him may recover possession of the premises in the manner described in this subchapter.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 7.

§ 345. Petition.

The tenant shall present a verified petition to the Court of Central Jurisdiction in which the premises are located, which petition shall:

(a) Describe the premises of which possession is claimed and the owner as defined in 21 MLBS § 372(c), of the premises.

(b) 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 21 MLBS § 306 in favor of the owner and against petitioner as to the premises and executed in accordance with 21 MLBS § 312.

(c) Ask for possession thereof.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, §7.01.

§ 346. Order.

If it clearly appears from the specific grounds and facts stated in the verified petition or by separate affidavit of petitioner or her or his counsel or agent that the removal or exclusion was unlawful, the Court shall immediately order that petitioner have possession of the premises.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 7.02.

§ 347. Security for Costs and Damages.

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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 7.03.

§ 348. Execution of Order.

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 or she can be found, or her 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 her or him whatever assistance may be necessary and immediately place the petitioner in possession of the premises. If the defendant or her 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 her or his agent, in the same manner as a summons is required to be served in a civil action in the Court of Central Jurisdiction.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 7.04.

§ 349. Dissolution or Modification of Order.

The defendant by written motion and notice served by mail or personally upon petitioner or her or his attorney at least two (2) days prior to the hearing date on the motion may obtain dissolution or modification of the order for possession, issued pursuant to 21 MLBS § 346 unless the petitioner proves the facts and grounds upon which the writ is issued. A defendant bringing a motion pursuant to this section may recover possession of the premises only in accordance with 21 MLBS § 301 or otherwise provided by law. Upon the dissolution of the order, the Court shall tax costs to petitioner, subject to the provisions of 21 MLBS § 306 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.

Historical and Statutory Notes

Source:
Band Statute 1087-MLC-40, § 8.

§ 350. Appeal of Order for Recovery.

An order issued under 21 MLBS § 346 or affirmed, modified or dissolved under 21 MLBS § 349 is a final order for purposes of appeal and either party aggrieved by the order may appeal within ten (10) days after the entry of the order. If the party appealing remains in possession of the premises, her or 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.

Historical and Statutory Notes

Source:
Band Statute 1087-MLC-40, §9.

SUBCHAPTER 3

ADDITIONAL REMEDIES

Section
371. Purpose to Provide Additional Remedies.
372. Definitions.
373. Proceedings by Owner Limited.
374. Owner's Right to Collect Rent Suspended.

§ 371. Purpose to Provide Additional Remedies.

The purpose of this section and 21 MLBS §§ 372 and 373 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.

Historical and Statutory Notes

Source:
Band Statute 1087-MLC-40, § 15.

§ 372. Definitions.

As used in this section and 21 MLBS §§ 371 and 373, the terms in this section shall have the meanings assigned to them:

(a) **"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.

(b) **"Commercial Tenant"** means any person paying rent in a building who is not a tenant.

(c) **"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 21 MLBS §§ 371 to 373.

(d) **"Person"** means a natural Indian person, corporation, partnership or unincorporated association.

(e) **"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.

(f) **"Violation"** means:

(1) A violation of any state, county or city health, safety, housing building, fire prevention or housing maintenance code applicable to the building.

(2) 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 her or his direction or control.

(3) A violation of an oral or written agreement, lease or contract for the rental of a dwelling in a building.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 16.

§ 373. Proceedings by Owner Limited.

A tenant may not be evicted nor may her or his obligations under her or 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 90 days after the filing of the complaint, unless it is found that the complaint was not made in good faith. After 90 days the burden of proof shall be on the tenant.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 14.

§ 374. 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 13.

CHAPTER 5

REAL ESTATE MORTGAGES

Subchapter	Section
1. General Provisions	401
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SUBCHAPTER 1

GENERAL PROVISIONS

Section

401. Pledge of Allotted Lands as Collateral.
402. Relinquishment of Title to Residence.
403. Minnesota Chippewa Tribal Housing Corporation Contracts; Validity of Mortgages.
404. Construction.

405. Presumption of Identity.
406. Limitation on Foreclosure.
407. Holder of Junior Mortgage May Pay Default in Prior Mortgage.
408. Reinstatement of Mortgage.
409. Purchaser at Foreclosure, Execution, Or Judicial Sale May Pay Taxes, Assessments, Insurance Premiums or Interest.
410. Attorney's Fees.

§ 401. Pledge of Allotted Lands as Collateral.

(a) 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.

(b) Notwithstanding the provisions of subsection (a), any pledge of an allotment as collateral for the construction or renovation of any residential dwelling shall not exceed two (2) acres of the total allotment when the total exceeds two (2) acres of land.

(c) 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-44, § 66.

§ 402. Relinquishment of Title to Residence.

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 (2) 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 her or his mortgage foreclosed pursuant to 21 MLBS §§ 431 and 461. The redemption period found in 21 MLBS § 484 shall be utilized for an

opportunity for the home-buyer to recover her or 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-44, § 63.

§ 403. Minnesota Chippewa Tribal Housing Corporation Contracts; Validity of Mortgages.

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 15 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 this chapter.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-44, § 63.01.

§ 404. Construction.

21 MLBS §§ 7 and 404 to 406 shall be liberally construed for the purpose of ascertaining marketability of title as between vendor and purchaser.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-43, § 62.

§ 405. 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 (1) instrument the party is designated by initials which correspond with the name appearing in another instrument with the exception of the use of Indian names.

Historical and Statutory Notes

Source:
Band Statute 1087-MLC-43, § 61.

§ 406. 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.

Historical and Statutory Notes

Source:
Band Statute 1087-MLC-43, § 60.

§ 407. 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, her or his agent or attorney, stating the items and describing the premises, and a copy must be filed for record with the clerk of court.

Historical and Statutory Notes

Source:
Band Statute 1087-MLC-42, § 55.

§ 408. Reinstatement of Mortgage.

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 $150.00 or one-half of the attorney's fees authorized by 21 MLBS § 410, 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-42, § 56.

§ 409. 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, her or 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 (10) days before the expiration of the year of redemption.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-43, § 58.

§ 410. Attorney's Fees.

(a) 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

(b) 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 30 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-43, § 57.

SUBCHAPTER 2

FORECLOSURE BY ACTION

Section

431. Rules Governing Foreclosure Actions.
432. Foreclosure for Installment: Dismissal, Stay.
433. Judgment.
434. Strict Foreclosure.
435. Purchase by Mortgagee.
436. Surplus.
437. Report, Confirmation, Resale.
438. Satisfaction of Judgment, Execution for Deficiency.
439. Redemption by Mortgagor or Creditor.
440. Delivery of Possession.

§ 431. Rules Governing Foreclosure Actions.

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 subchapter otherwise provides.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-41, § 17.

§ 432. 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-41, § 21.

§ 433. Judgment.

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 her or his authority for making a sale.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-41, § 18.

§ 434. 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 (1) year after the judgment adjudging the amount due on such mortgage.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-41, § 26.

§ 435. Purchase by Mortgagee.

The mortgagee, or anyone 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-41, § 19.

§ 436. 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 (3) 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-41, § 20.

§ 437. 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 30 days after such confirmation.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-41, § 22.

§ 438. 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-41, § 23.

§ 439. Redemption by Mortgagor or Creditor.

The mortgagor, or those claiming under him, within the time specified in 21 MLBS § 484, 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 4% per annum, and, if no rate to be provided in the mortgage, at the rate of 4%, together with any further sum which may be payable pursuant to 21 MLBS § 462. Creditors having a lien may redeem in the order and manner specified in 21 MLBS § 485 but no creditor shall be entitled to redeem unless within such specified redemption period he or she files with the Clerk notice of her or his intent to redeem.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-41, § 24.

§ 440. 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-41, § 25.

SUBCHAPTER 3

FORECLOSURE BY ADVERTISEMENT

Section

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§ 461. 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-42, § 27.

§ 462. 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-42, § 28.

Cross References

Foreclosure by action, redemption by mortgagor or creditor, *see* 21 MLBS § 439.

§ 463. Notice of Sale, Service On Occupant.

Six (6) 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 (4) 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-42, § 29.

§ 464. 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, her or his personal representative or assigns.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-42, § 30.

§ 465. Attorney to Foreclose: Record of Power.

When an attorney at law is employed to conduct such foreclosure, her or 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 her or his authority shall likewise be evidenced by recorded power.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-42, § 31.

§ 466. Sale, How and by Whom Made.

The sale shall be made by the Chief Law Enforcement Officer at public venue to the highest bidder, in the district in which the premises to be sold, or some part thereof are situated, between 9:00 a.m. and the setting of the sun.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-42, § 32.

§ 467. 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-42, § 33.

§ 468. 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-42, § 34.

§ 469. 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 beat 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, her or his legal representative or assigns. ln 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-42, § 35.

§ 470. Statement of Unpaid Amount.

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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-42, § 35.01.

§ 471. Surplus.

In all cases not provided for in 21 MLBS § 470, 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 op demand, to the mortgagor, her or his legal representative or assigns.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-42, § 36.

§ 472. Mortgagee or Assignees May Purchase.

The mortgagee, his assignees, or their legal representatives, may fairly and in good faith purchase the premises so advertised, or any part thereof, at such sale.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-42, § 37.

§ 473. Certificate of Sale.

(a) 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:

(1) A description of the mortgage,

(2) A description of the property sold,

(3) The price paid for each parcel sold,

(4) The time and place of the sale, and

(5) The name of the purchaser,

(6) The time allowed by the law for redemption.

(b) The certificate shall be recorded within 20 days after such sale, and when so recorded, upon expiration of the time for redemption, shall operate as a conveyance to the purchaser or her 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-42, § 38.

§ 474. Premises in More Than One County; Record.

If any mortgage covering real estate in more than one (1) county be foreclosed by proceedings had in one (1) 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-42, § 39.

§ 475. Execution after Expiration of Term.

Where the terms of office, of the law enforcement officer who made the sale expires within 20 days thereafter, and before he or she has executed the certificate required by law, he or she may execute and acknowledge the same in like manner and with like effect as if her or his term had not expired.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-42, § 40.

§ 476. Perpetuating Evidence of Sale.

Any party desiring to perpetuate the evidence of any sale made in pursuance of this chapter may procure:

(a) 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 her or his employ knowing the facts.

(b) 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 or return showing that fact, to be made by the officer or person attempting to make such service.

(c) An affidavit by the person foreclosing the mortgage, or her 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-42. § 41.

§ 477. 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-42, § 42.

§ 478. Affidavit of Costs.

Within ten (10) days after the filing for record of the certificate of sale, the party foreclosing or her 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-42, § 43.

§ 479. Excessive Costs or Interest.

At any time within one (1) year after the sale, the mortgagor, her or his heirs or assigns, may recover from the owner of the mortgage at the time of foreclosure three (3) 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 her or his assigns.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-41, § 44.

§ 480. 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 compiled with and prima facie evidence of title in fee thereunder in the purchaser at such sale, her or his heirs or assigns, after the time for redemption therefrom has expired.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-42, § 45.

§ 481. 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 (5) 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 (5) years after the removal of such disability.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-42, § 46.

§ 482. 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 15 years after the date of such sale; provided that persons under disability, as provided in 21 MLBS § 481, 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-42, § 47.

§ 483. Interest of Purchaser; Attachment or Judgment.

The interest acquired upon such sale is subject to the line 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-42, § 48.

§ 484. Redemption by Mortgagor.

(a) When residences and/or fee land have been sold in conformity with the preceding sections of this chapter the mortgagor, her or his personal representatives or assigns, within six (6) months after such sale, except as otherwise provided in subsection (b), 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 4% per annum, and if no rate be provided in the mortgage, at the rate of 4% 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 her 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 her or his right to a deficiency judgment against the mortgagor.

(b) Notwithstanding the provisions of subsection (a), when residences have been sold in conformity with the preceding sections of this chapter, the mortgagor, her or his personal representatives or assigns, within 12 months after such sale may redeem such residence in accordance with the provisions of payment of subsection (a), 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% of the original

principal amount secured by the mortgage or the mortgaged premises, as of the date of the execution of the mortgage.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-42, § 49.

Cross References

Foreclosure by action, redemption by mortgagor or creditor, *see* 21 MLBS § 439.

§ 485. Redemption by Creditor.

If no such redemption be made by the mortgagor, her or 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 (5) days after the expiration of the redemption period specified in 21 MLBS § 484 and each subsequent creditor having a lien in succession, according to priority of liens, within five (5) days after the time allowed the prior lien holder, respectively, may redeem by paying the amount aforesaid and all liens prior to her or 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 or she files for record notice of her or his intention to redeem with the clerk of court, of each district where the mortgage is recorded.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-42, § 50.

Cross References

Foreclosure by action, redemption by mortgagor or creditor, *see* 21 MLBS § 439.

§ 486. Redemption: How Made.

(a) 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 her or him to the chief law enforcement officer, who made the sale, or her or his successor in office, the amount required by law for such redemption, and shall produce to such person or officer:

(1) 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 or she 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.

(2) Any assignment necessary to establish her or his claim, verified by the affidavit of her or 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.

(3) An affidavit of her or himself or her or his agent, showing the amount then actually due on her or his lien.

(b) Within 24 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 her or his office for one (1) year thereafter, for which service he or she 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-42, § 51.

§ 487. Certificate of Redemption.

(a) 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:

(1) The name of the person redeeming, and the amount paid by her or him on such redemption.

(2) A description of the sale for which such redemption is made and of the property redeemed.

(3) 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.

(b) If redemption is made by the owner of the property sold, her or his heirs, personal representatives, or assigns such certificate shall be recorded within four (4) days after the expiration of the year allowed her or him for redemption, and if made by a

creditor holding a lien, the certificate shall be recorded within four (4) 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-42. § 52.

§ 488. Effect of Redemption.

If redemption is made by the owner of the property sold, her or 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 21 MLBS § 487, operates as an assignment to her or him of the right acquired under such sale, subject to such right of any other to redeem as provided by law.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-42, § 53.

§ 489. 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 or she shall, in writing, notify such law enforcement officer that he or she 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 her or 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 her or him of

a certified copy thereof. The remedy therein provided shall be' in addition to other remedies now existing.

Historical and Statutory Notes

Source:
Band Statute 1087-MLC-42, § 54.

CHAPTER 6

RECOVERY OF POSSESSION OF PERSONAL PROPERTY

Section

501. Personal Property Recoverable Before Final Judgment.
502. Motion.
503. Notice of Hearing.
504. Findings and Order.
505. Protective Orders.
506. Stay.
507. Claimant's Bond.
508. Respondent's Bond.
509. Fair Market Value.
510. Deposit in Lieu of Bond.
511. Order for Seizure of Property.
512. Insufficiency of Surety.
513. Custody, Delivery and Return of Property.
514. Failure of Claimant to Establish Right to Possession.

§ 501. Personal Property Recoverable Before Final Judgment.

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.

Historical and Statutory Notes

Source:
Band Statute 1087-MLC-40, § 3.

§ 502. Motion.

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:

(a) The property sought to be recovered;

(b) 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;

(c) The specific facts showing the respondent is wrongfully detaining the property;

(d) 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;

(e) A statement that the respondent clearly understood the terms of the agreement;

(f) 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

(g) A good faith approximation of the current market value of each item or categories of like items of property being claimed.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 4.

§ 503. Notice of Hearing.

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 24 MLBS § 2007(a). 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 ____ at ____, 20 ____, 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 21 MLBS § 507). 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 4.02.

§ 504. Findings and Order.

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 21 MLBS § 507, 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 21 MLBS § 507, 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40 § 4.03.

§ 505. Protective Orders.

If the Court makes the findings prescribed by 21 MLBS § 504 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 4.04.

§ 506. Stay.

An order requiring seizure of property may be stayed up to ten (10) days to allow the respondent time to post a bond pursuant to 21 MLBS § 508.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 4.041.

§ 507. Claimant's Bond.

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 1-½ the fair market value of the property seized.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 4.05.

§ 508. Respondent's Bond.

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 1-½ 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 re-bonding, or may limit or condition the right to retain or regain the property upon re-bonding. The cost of regaining possession of the property from the sheriff or the claimant shall be borne by respondent except as set forth in 21 MLBS § 514.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 4.051.

§ 509. Fair Market Value.

The current fair market value of the property shall initially be presumed as stated in the affidavit submitted pursuant to 21 MLBS § 503. If the Court determines the current fair market value of the property is different, it shall adjust the required amount of the bonds.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 4.052.

§ 510. Deposit in Lieu of Bond.

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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40 § 4.052.

§ 511. Order for Seizure of Property.

(a) An order for seizure of property shall:

(1) Identify the property to be seized;

(2) Direct a law enforcement officer to seize the property; and

(3) 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.

(b) An order for seizure of property may:

(1) Describe the place or places which may be entered by force, by the law enforcement officials, subject to the limitations of paragraph (3).

(2) Require that the respondent, her or 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.

(3) 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.

(c) 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 5.

§ 512. Insufficiency of Surety.

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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 5.04.

§ 513. Custody, Delivery and Return of Property.

When the law enforcement official has taken property pursuant to an order of the Court, he or she shall keep it in a secure place and shall deliver it to the party entitled thereto as soon as reasonably possible upon receiving her or 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 5.05.

§ 514. Failure of Claimant to Establish Right to Possession.

If at a hearing following seizure of property pursuant to 21 MLBS § 503, 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.

Historical and Statutory Notes

Source:

Band Statute 1087-MLC-40, § 4.052.

TITLE 22 – TAXATION

Chapter	Section
1. General Provisions	1
2. Commissioner of Finance	101
3. Tobacco Excise Taxes	201
4. Gasoline and Petroleum Products Excise Tax	301
5. Motor Vehicle Excise Tax	401
6. Sales and Use Taxes	501
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CHAPTER 1

GENERAL PROVISIONS

Section

1. Findings and Determinations.

Historical and Statutory Notes

Band Statute 1081-MLC-26 provides: "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.

'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 at 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 nonperformance 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 nonperformance, 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." The Preamble of Band Statute 1085-MLC-30-39 provides:

"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 Lac 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."

§ 1. Findings and Determinations.

(a) 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 Ojibwe, 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 Ojibwe 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.

(b) 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.

(c) 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 Ojibwe-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 Ojibwe. Any such tax, imposed herewith shall preempt any such similar tax imposed by Minnesota Statutes.

(d)

(1) 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 Ojibwe. Any such tax imposed herewith shall preempt any such similar tax imposed by Minnesota Statutes.

(2) The Band Assembly hereby finds that the Mille Lacs Band of Ojibwe-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 Ojibwe, 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.

(3) 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 Ojibwe 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.

(4) The Band Assembly hereby finds that the Mille Lacs Band of Ojibwe-Corporate Commission shall generate revenues for the Non-Removable Mille Lacs Band of Ojibwe 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.

(5) The Band Assembly hereby finds that the provisions of this subsection 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 subdivisions thereof, from any action of seizure, as contraband, of unstamped cigarettes and/or tobacco products traveling to the Mille Lacs Band of Ojibwe-Corporate Commission from any out-of-state Indian entity under provisions of the Buy Indian Act (25 U.S.C. § 47).

(e) 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 Ojibwe 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 Ojibwe. Any such tax imposed herewith shall preempt any such similar tax imposed by Minnesota Statutes.

(f) 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 Ojibwe, which is required to be registered under the laws of the Non-Removable Mille Lacs Band of Ojibwe, 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 Ojibwe. Any such tax imposed herewith shall preempt any such tax imposed by Minnesota Statutes.

(g) 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 Ojibwe 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 Ojibwe. Any such tax imposed herewith shall preempt any such similar tax imposed by Minnesota Statutes.

(h) 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 Ojibwe. Any such tax imposed herewith shall preempt any such similar tax imposed by Minnesota Statutes.

(i) 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.

(j) The Band Assembly hereby declares that the intent and purposes of this Title and 18 MLBS § 401 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 Ojibwe to be free from all taxation imposed by the state of Minnesota and any of its political subdivisions 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 Ojibwe in any court of competent jurisdiction with the exception of limited waivers to the Court of Central Jurisdiction authorized herewith.

(k) The Band Assembly hereby finds and declares that the Solicitor General in and for the Non-Removable Mille Lacs Band of Ojibwe 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 Title or 18 MLBS § 401. He or she 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 Ojibwe. It is hereby enacted into law.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-30, § 1.
Band Statute 1085-MLC-30 § 1.10.

Cross References

Licensure of tobacco products distributor, *see* 22 MLBS § 211.
Tobacco excise taxes, unlawful activity, *see* 22 MLBS § 216.

CHAPTER 2

COMMISSIONER OF FINANCE

Section

101. Reservation of Right.
102. Creation and Term of Office of Commissioner of Finance.
103. Seal.
104. General Powers and Duties of The Commissioner of Finance.
105. Revenue Division.
106. Uniform System of Records and Accounting.
107. Prohibition of Automatic Fund Transfers of Tax Revenue.
108. Emergency Expenditure of Unauthorized Funds.
109. Balanced Budget.
110. Prohibition Against Any Pledge of Taxation Revenue Uncollected.
111. Use of Information.
112. Service of Notice by Mail.
113. Court of Central Jurisdiction-Judicial Review.
114. Relief.

Historical and Statutory Notes

The Section of Finding and Determinations of Band Statute 1085-MLC-37 provides: "The Findings and Determinations of the Band Assembly enacted in Band Statute 1085MLC-30, Section 1-1.11 [22 MLBS §1] are reenacted and applicable provisions of law for each Chapter of law entitled 'Band Statute 1085-MLC-'31-39'. The designation '31-39' de notes 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."

Band Statute 1085-MLC-37, § 76 provides: "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 affect 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."

§ 101. 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.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-37, § 77.

§ 102. Creation and Term of Office of Commissioner of Finance.

(a) There is hereby created an appointed position to be known as the Commissioner of Finance.

(1) **Nomination.** The Commissioner of Finance shall be nominated from amongst three (3) names submitted by the Band Assembly to the Chief Executive. The Chief Executive and Secretary-Treasurer shall interview each nominee and return to the Band Assembly within 15 business days of receipt of the nominees of the Band Assembly the name of one (1) person for confirmation to the position of Commissioner of Finance.

(2) **Incumbents.** If the incumbent Commissioner of Finance is nominated for a subsequent term of office, the Band Assembly may submit fewer than three (3) names to the Chief Executive. All other provisions of paragraph (1) shall continue to apply.

(3) **Qualifications.** Each nominee shall possess ability and experience in the area of accounting, finance administration, or in the area of tax administration.

(4) **Responsibilities.** The Commissioner of Finance shall be an appointee of the Non-Removable Mille Lacs Band of Ojibwe with responsibility to all Branches of Band government in the areas of budget and finance.

(5) **Special revenue resolutions.** The Commissioner of Finance shall report and fulfill the duties of her or 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 (2) members of the Band Assembly and be concurred upon by the Chief Executive.

(b) The Commissioner of Finance shall serve a term of office to expire April 30, 1 987. Henceforth, the term of office of the Commissioner of Finance shall be four (4) years. The nomination process established in subsection (a) 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.

(c) The Commissioner of Finance shall have no authority to act beyond April 30 of the year in which her or his term of office expires in the event of her or his lack of confirmation to a successive term of office before said date.

(d) The Commissioner of Finance shall post a fidelity bond in favor of the Non-Removable Mille Lacs Band of Ojibwe in an amount satisfactory to the Band Assembly.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-37, § 66.
Band Statute 1141-MLC-2, § 10.10.
Band Act 13-23.

§ 103. 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 Ojibwe-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.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-37, § 81.

§ 104. General Powers and Duties of the Commissioner of Finance.

It shall be the duty of the Commissioner of Finance, and he or she shall have following powers and duties:

(a) The Commissioner of Finance shall be the chief administrative officer of the Office of Management and Budget pursuant to the directives of the Band Assembly.

(b) The Commissioner of Finance shall have and exercise general supervision over the administration of this Title pursuant to the jurisdiction of the Non-Removable Mille Lacs Band of Ojibwe.

(c) The Commissioner of Finance shall confer with, advise and give the necessary instructions and directions to the Mille Lacs Band of Ojibwe-Corporate Commission in the implementation of this Title.

(d) The Commissioner of Finance shall direct proceedings, actions and prosecutions to be instituted to enforce this Title 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 this Title.

(e) 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 Ojibwe, and to require the Solicitor General to defend the Commissioner of Finance in any action brought against her or him by any party.

(f) 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.

(g) The Commissioner of Finance shall have the power to require businesses organized pursuant to 16 MLBS § 1 et seq. and the Mille Lacs Band of Ojibwe 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.

(h) 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 or she may have authority to investigate or determine.

(i) 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 Ojibwe, 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 or she may have 'authority to investigate or determine.

(j) 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 or she may deem expedient to prevent evasions of the tax laws of the Band.

(k) 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.

(l) 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 or she 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 Ojibwe and all recommendations for any and all modifications thereto.

(m) 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 this Title. Such rules and regulations shall have the force and effect of law.

(n) The Commissioner shall exercise and perform such further powers and duties, as may be required, or imposed upon her or him pursuant to "Special Revenue Resolution" as promulgated in 22 MLBS § 102 only or that imposed by law.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-37, § 67.
Band Statute 1141-MLC-2, § 10.09.

Cross Reference

Commissioner's Orders, *see* 4 MLBS § 7.
Education-related funds, responsibility of Office of Management and Budget, *see* 9 MLBS § 25.

§ 105. Revenue Division.

Subject to the provisions of this chapter and 22 MLBS § 104 provisions thereto, the Commissioner of Finance shall have the power to organize a Revenue Division within the Office of Management and Budget as he or she may deem necessary and expedient.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-37, § 69.

§ 106. 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 this Title. Additionally, he or she 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.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-37, § 70.

§ 107. 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."

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-37, § 71.

§ 108. Emergency Expenditure of Unauthorized Funds.

(a) Notwithstanding 22 MLBS §§ 102 and 107, 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 $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.

(b) Upon the exercise of provisions of subsection (a), 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 subsection (a) shall not be exercised more than one (1) time per any calendar month.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-37, § 72.

§ 109. 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 or she 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.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-37, § 73.

Cross References

Budget, *see* Const. Art. 6, § 1(1).

§ 110. 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.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-37, § 74.

§ 111. Use of Information.

Notwithstanding the provisions of any other chapter of this Title, the Commissioner of Finance may use any information in her or his possession, or to which he or she 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 her or his direct control to any exterior person, entity or government. All information collected shall be deemed highly classified and confidential.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-37, § 79.

§ 112. Service 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 or she may, at her or his discretion, make such service by regular mail retaining for her or his records adequate proof of such service.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-37, § 80.

§ 113. 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 chapter.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-37, § 78.

Cross References

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

§ 114. Relief.

Any cause of action which arises pursuant to this chapter 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.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-37, § 78.01.

CHAPTER 3

TOBACCO EXCISE TAXES

Section
201. Reservation of Right.
202. Definitions.
203. Tax on Sale of Cigarettes.
204. Tax Upon Use or Storage of Cigarettes by Consumers.
205. Tax on Sale of Tobacco Products.
206. Tax Upon Use or Storage of Tobacco Products.

207. Exemptions to Taxes Imposed Upon Storage.
208. Effect on Other Taxes and Fees.
209. Legal Incidence of Taxes Imposed.
210. Distribution of Free Sample Packages.
211. Licensure of Distributor.
212. Records of Distributor and Retailers.
213. Payment of Tax and Filing of Returns.
214. Contraband.
215. Limit on Cigarette Purchases.
216. Unlawful Activity.
217. Enforcement.
218. Immunity from Self-Incrimination.
219. Revenue Distribution.
220. Administrative Expenses.
221. Court of Central Jurisdiction-Judicial Review.
222. Payment or Bond Prerequisite to Suit.
223. Limited Waiver of Sovereign Immunity.

Historical and Statutory Notes

Band Statute 1085-MLC-30§18 provides: "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."

§ 201. 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.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-30, § 17.

§ 202. Definitions.

When used in this chapter, unless the context clearly indicates otherwise, the following terms shall have the meanings, respectively ascribed to them in this section:

(a) **"Cigarettes"** means any roll for smoking made wholly or in part of tobacco, and encased in any material except tobacco.

(b) **"Consumer"** means any person who has Title to or possession of cigarettes in storage, for use of other consumption in this state.

(c) **"Distributor"** means the Mille Lacs Band of Ojibwe Corporate Commission.

(d) **"Little Cigar"** means any roll for smoking, made wholly or in part of tobacco, which has a factory list price not exceeding $12.00 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 (3) pounds per thousand.

(e) **"Member"** means any Indian person who resides on or otherwise enters lands under the jurisdiction of the Non-Removable Mille Lacs Band of Ojibwe, who is recognized by the governing entities of the Band as an enrolled member in any status who is eligible for government services and participating in activities of the Band.

(f) **"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.

(g) **"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.

(h) **"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.

(i) **"Retailer-Vendor"** means any licensed business entity of the Corporate Commission.

(j) **"Rights Protection Fund"** means the exterior legal contract between the Band and Ziontz, Pirtle, Morisset, Ernstoff and Chestnut.

(k) **"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 22 MLBS § 216(f), or for any other purpose whatsoever.

(l) **"Stamp"** means the adhesive stamp supplied by the revenue Commissioner or the imprint made by a tax meter machine authorized by the Commissioner.

(m) **"Storage"** means any keeping or retention of cigarettes for use or consumption in this state.

(n) **"Tobacco product"** means cigars; little cigars as defined herein; che roots; 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.

(o) **"Use"** means the exercise of any right or power incidental to the ownership of cigarettes.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-30, §19.

Cross References

Membership, *see* Const. Art. 2, § 1.

§ 203. Tax on Sale of Cigarettes.

A tax is hereby imposed upon the sale of cigarettes on territories governed by the Non-Removable Mille Lacs Band of Ojibwe or having cigarettes in possession on territories governed by the Non-Removable Mille Lacs Band of Ojibwe with the intent to sell and a tax upon the Mille Lacs Band of Ojibwe-Corporate Commission as the licensed distributor at the following rates:

(a) The tax on cigarettes is hereby imposed in the amount of $0.18 per package of cigarettes.

(b) The tax on long cigarettes per unit packages shall be $0.18 per package of cigarettes.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-30, § 2.

§ 204. 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 Ojibwe, and upon such consumers at the following rates:

(a) The tax on such cigarettes shall be $0.18 on each such package of cigarettes.

(b) The tax on such cigarettes is hereby imposed in the amount of $0.18 per package of cigarettes.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-30, § 3.

§ 205. Tax on Sale of Tobacco Products.

A tax is hereby imposed upon all tobacco products in the territories governed by the Non-Removable Mille Lacs Band of Ojibwe and upon the Mille Lacs Band of Ojibwe - Corporate Commission, as the sole licensed distributor of tobacco products at the rate of 20% 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.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-30, § 4.

§ 206. Tax Upon Use or Storage of Tobacco Products.

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 Ojibwe, and upon such consumers, at a rate of 20% 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 22 MLBS § 203 with the exception of long grain and plug tobacco used for cultural purposes.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-30, § 4.01.

§ 207. Exemptions to Taxes Imposed Upon Storage.

(a) Except as otherwise provided in this chapter, any consumers who shall store cigarettes or little cigars of 200 or less in the possession of any one (1) consumer, provided that such cigarettes or little cigars were carried into lands under the jurisdiction of the Non-Removable Mille Lacs Band of Ojibwe by such consumers.

(b) The tax shall not apply to the storage of tobacco products in quantities of:

(1) Not more than 50 cigars;

(2) Not more than ten (10) ounces of snuff or snuff powder;

(3) Not more than one (1) pound of smoking or chewing tobacco or other tobacco products not specifically mentioned herein, in the possession of any one (1) consumer.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-30, § 5.

§ 208. Effect on Other Taxes and Fees.

The tax imposed by this chapter shall be in addition to any and all other taxes or license fees now or hereafter imposed.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-30, § 5.014.

§ 209. Legal Incidence of Taxes Imposed.

(a) The legal incidence of the Non-Removable Mille Lacs Band of Ojibwe 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 Ojibwe-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 preempted by this chapter of the law of the Non-Removable Mille Lacs Band of Ojibwe.

(b) The Mille Lacs Band of Ojibwe-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.

(c) 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 Ojibwe Corporate Commission.

Historical and Statutory Notes

Source:

Band Statute 1085-MLC-30, §§ 5.015, 6.

§ 210. Distribution of Free Sample Packages.

(a) 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 Ojibwe provided that monthly reports and payment of taxes as imposed in 22 MLBS § 203 shall be made directly to the Commissioner of Finance in the manner and under the terms provided for by him.

(b) Any manufacturer is authorized to provide such packages that contain not more than 15 cigarettes per package.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-30, § 7.

§ 211. Licensure of Distributor.

(a) The Mille Lacs Band of Ojibwe-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 Ojibwe or to any non-member pursuant to any agreement authorized in 22 MLBS § 1(d)(3).

(b) 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.

(c) The application for a distributors license shall be accompanied by a fee of $200.00 and a corporate surety bond issued by the Secretary of Treasury in the amount of $1,000.00, 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 subsection (a), shall be accompanied by a fee of $100.00.

(d) Any license issued pursuant to the provisions of subsection (a) shall be valid for a period of one (1) 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 $100.00 for the distributors license and $50.00 for the retailer’s license.

(e) Each license shall be prominently displayed on the premises covered by the license. No license shall be transferable to any other person or entity.

(f) The Solicitor General, upon probable cause, may revoke, cancel or suspend the license of the distributor or any retailer for violations of provisions of 22 MLBS §§ 212-214 and 216-218, or any other law applicable to the sale of tobacco products. No license shall be revoked or canceled except after notice and hearing as provided in 22 MLBS §§ 217 and 218.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-30, § 8.

§ 212. Records of Distributor and Retailers.

(a) 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 itemized 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 (1) 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 Ojibwe, 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 Ojibwe. 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.

(b) At any time during normal business hours the Commissioner of Finance, or her 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 subsection (a) and the packages of cigarettes to determine whether or not all the provisions of this chapter 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.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-30, § 9.

§ 213. Payment of Tax and Filing of Returns.

(a) On or before the 21st 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. The provisions of this subsection and subsection (d) shall be applicable provisions to the filing of returns and payment of taxes levied in all the chapters of this Title, unless expressly superseded or contrary to existing language within each chapter. The return shall be accompanied by a remittance for the full unpaid tax liability shown by it.

(b) On the 21st 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 Ojibwe, 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.

(c) 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.

(d) All returns which are late and payments of taxes which are due pursuant to time specified in subsection (b) shall be liable for penalty of 10% per month on the tax found due. In addition, a penalty of $10.00 for the first month (28 days) plus $5.00 for each month thereafter until the maximum penalty of $25.00 is reached. If it is found that a false and fraudulent return has been filed or filed late with intent to evade the taxes imposed in 22 MLBS § 203, 204, 205 or 206, the offense shall be subject to criminal prosecution and civil liability.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-30, § 10.

§ 214. Contraband.

(a) 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.

(b) 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.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-30, §11.

§ 215. Limit on Cigarette Purchases.

No member shall purchase more than five (5) cartons of cigarettes from any licensed retailer or the distributor during one (1) calendar day.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-30, §7.02.

§ 216. Unlawful Activity.

(a) 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 $500.00, and/or sentenced to labor not to exceed 180 days.

(b) Any person other than a licensed distributor and/or retailer, who shall sell, offer to sell or have in her or his 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 $500.00.

(c) 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 $500.00.

(d) Any person other than an authorized representative of the distributor or retailer, who shall possess, receive or transport more than 2,000 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 $500.00.

(e) Any authorized representative of the distributor or retailer, who shall offer for sale or who shall sell any cigarettes or tobacco products to a nonmember of the Non-Removable Mille Lacs Band of Ojibwe absent provisions authorized by 22 MLBS § 1(d)(3) 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 $500.00.

(f) 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 $500.00.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-30, § I 2.

§ 217. Enforcement.

The Commissioner of Finance shall enforce all provisions of this chapter. He or she may prescribe all rules and regulations consistent with the provisions of this chapter through Commissioner's Orders. He or she may call upon the Solicitor General or any Band law enforcement officer to aid her or him in the performance of her or his duties. He or she may appoint such employees of the Non-Removable Mille Lacs Band of Ojibwe as may be required to administer the provisions of this chapter. He or she may bring injunction proceedings against the distributor or any licensed retailer from acting in a manner inconsistent with the provisions of this chapter.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-30, § 13.

§ 218. Immunity from Self-Incrimination.

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 her or him or subject her or 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.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-30, § 1302.

Cross References

Self-incrimination, *see* 1 MLBS § 4.

§ 219. Revenue, Distribution.

(a) 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 Ojibwe: Taxation Revenue Account' and not be distributed except upon formal Revenue Resolution of the Band Assembly so directing disbursement.

(b) The Band Assembly hereby declares that the revenues from cigarette and tobacco products taxes shall be distributed to the Rights Protection Fund. Notwithstanding subsection (a), any expenditure of said funds for purposes other than exterior legal funding purposes shall require a Revenue Resolution of the Band Assembly.

(c) 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 Ojibwe, or of any entity of the Band or for any purpose inconsistent with subsection (b).

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-30, § 14.

§ 220. Administrative Expenses.

In no event, shall the expenses of administration of the provisions of this chapter exceed 5% of the gross receipts of the taxes imposed herein.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-30, § 13.01.

§ 221. 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 chapter.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-30, § 15.

§ 222. Payment or Bond Prerequisite to Suit.

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 or she intends to pay the tax if the Court so requires.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-30, § 15.01.

§ 223. Limited Waiver of Sovereign Immunity.

(a) 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 her or his official capacity in order to challenge any seizure action.

(b) Any said limited waiver of sovereign immunity shall be valid only in the Court of Central Jurisdiction and subject to further limitations in subsections (c) and (d).

(c) Any and all seizure causes of action which arise pursuant to this chapter shall be limited to actions against the Commissioner of Finance in her or his official capacity for an order returning any seized goods.

(d) All other causes of action which arise pursuant to this chapter 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.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-30, § 16.

CHAPTER 4

GASOLINE AND PETROLEUM PRODUCTS EXCISE TAX

Section

301. Reservation of Right.
302. Definitions.
303. Imposition of Gasoline Excise Tax.
304. Authorization for Price Bidding Amongst Retailers on Lands Exterior to Jurisdiction of Non-Removable Mille Lacs Band of Ojibwe.
305. Violations.
306. Official Travel for Government Purposes Utilizing Personal Vehicles.
307. Legal Incidence.
308. Identification Cards.
309. Offenses.
310. Enforcement.
311. Immunity from Self-Incrimination.
312. Revenue Distribution.
313. Refunds to Contractors.
314. Administrative Expenses.
315. Court of Central Jurisdiction-Judicial Review.
316. Payment or Bond as Prerequisite to Suit.
317. Limited Waiver of Sovereign Immunity.

Historical and Statutory Notes

The Section of Finding and Determinations of Band Statute 1085-MLC-32 provides: "The Findings and Determinations of the Band Assembly enacted in Band Statute 1085MLC-30, Section 1-1.11 [22 MLBS § 1] are reenacted and applicable provisions of law for each Chapter of law entitled 'Band Statute 1085-MLC-31-39'. The designation '3 1-39' de notes 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."

Band Statute 1085-MLC-32, § 43 provides: "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."

§ 301. 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.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-32, § 42.

§ 302. Definitions.

When used in this chapter, unless the context clearly indicates otherwise, the following terms shall have the meanings, respectively, ascribed to them in this section:

(a) **"Dealer"** means any person, except a distributor, engaged in the business of buying and selling gasoline and other petroleum products in this state.

(b) **"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.

(c) **"Gasoline"** means all products commonly or commercially known or sold as gasoline (including casing head and absorption or natural gas) regardless of their classification or uses.

(d) **"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.

(e) **"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.

(f) **"Petroleum Products"** means gasoline and fuel oil.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-32, § 45.

§ 303. Imposition of Gasoline Excise Tax.

(a) There is hereby imposed an excise tax of $0.15 per gallon on all gasoline and an excise tax of $0.30 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 Ojibwe used on those roads under the jurisdiction of the Non-Removable Mille Lacs Band of Ojibwe. 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 Ojibwe. 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 Ojibwe when purchased from a retail vendor organized pursuant to 16 MLBS § 1.

(b) The Office of Management and Budget is hereby authorized and directed to add $0.15 to each gallon of gasoline purchased and $0.30 to each gallon of diesel fuel purchased and 5% 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 Ojibwe: Petroleum Products Revenue Account" within five (5) days after monthly payment to any authorized dealer for gasoline, diesel and petroleum products purchases during the previous month.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-32, §§ 33.35.02.

§ 304. Authorization for Price Bidding Amongst Retailers on Lands Exterior to Jurisdiction of Non-Removable Mille Lacs Band of Ojibwe.

The Commissioner of Corporate Affairs is hereby authorized and directed to publish a notice for bids from any gasoline dealer within a 30-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 Ojibwe, 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 22 MLBS § 303 by March 15, 1985 with said contractual agreement to be ratified by the Band Assembly, no later than March 20, 1985. Imposition of gasoline excise taxes (22 MLBS § 303) will not be effective until the Commissioner of Corporate Affairs sets up the storage tanks and publishes a notice for bids from any gasoline dealers within a 30-mile radius of Band land.

Historical and Statutory Notes

Source:

Band Statute 1085-MLC-32, § 34.

Cross References

Procurement, *see* 7 MLBS § 1 et seq.

§ 305. Violations.

(a) Any person, subject to the jurisdiction of the Non-Removable Mille Lacs Band of Ojibwe, who shall operate any vehicle described in 22 MLBS § 303, 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.

(b) 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.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-32, § 35.

§ 306. Official Travel for Government Purposes Utilizing Personal Vehicles.

(a) 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 (1) 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.

(b) 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 Ojibwe. All such receipts shall be submitted on a monthly basis to the Commissioner of Revenue, state of Minnesota for proper refund of inapplicable taxes.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-32, § 36.

§ 307. Legal Incidence.

The legal incidence of the Non-Removable Mille Lacs Band of Ojibwe 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 18 MLBS §101. 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 Ojibwe-Corporate Commission.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-32, § 44.

§ 308. Identification Cards.

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.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-32, § 44.01.

§ 309. Offenses.

(a) 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 $100.00.

(b) Any person who shall knowingly purchase gasoline and diesel fuel from an authorized dealer with the intent to operate such vehicle for nongovernment purposes, shall be deemed guilty of theft, and upon conviction thereof, shall be sentenced to liability for the debt and a fine of $100.00.

(c) 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 $500.00, and/or sentenced to labor not to exceed 180 days.

(d) 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 $500.00.

(e) 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 $500.00.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-32, § 37.

§ 310. Enforcement.

The Commissioner of Finance shall enforce all provisions of this chapter. He or she may prescribe all rules and regulations consistent with the provisions of this Chapter through Commissioner's Orders. He or she may call upon the Solicitor General or any Band law enforcement officer to aid her or him in the performance of her or his duties. He or she may appoint such employees of the Non-Removable Mille Lacs Band of Ojibwe as may be required to administer the provisions of this chapter. He or she may bring injunction proceedings against the distributor or any licensed retailer from acting in a manner inconsistent with the provisions of this chapter.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-32, § 38.

§ 311. Immunity from Self-Incrimination.

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 her or him or subject her or 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.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-32, § 38.02.

Cross References

Self-incrimination, see 1 MLBS § 4.

§ 312. 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 "Non-Removable Mille Lacs Band of Ojibwe: Taxation Revenue Account" and not be distributed except upon formal Revenue Resolution of the Band Assembly so directing disbursement.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-2, § 39.

§ 313. Refunds to Contractors.

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 Ojibwe 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.

Historical and Statutory Notes

Source:
Band Statute 1055-MLC-32 § 35.03.

§ 314. Administrative Expenses.

In no event shall the expenses of administration of the provisions of this chapter exceed 5% of the gross receipts of the taxes imposed herein.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-32, § 38.01.

§ 315. 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 chapter.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-32, § 40.

Cross References

Subject matter jurisdiction court of Central Jurisdiction, *see* 5 MLBS § 111.

§ 316. Payment or Bond as Prerequisite to Suit.

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 or she intends to pay the tax if the Court so requires.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-32, § 40.01.

§ 317. Limited Waiver of Sovereign Immunity.

(a) 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 her or his official capacity in order to challenge any seizure action.

(b) Any said limited waiver of sovereign immunity shall be valid only in the Court of Central Jurisdiction, and subject to further limitations in subsections (c) and (d).

(c) Any and all seizure causes of action which arise pursuant to this chapter shall be limited to actions against the Commissioner of Finance in her or his official capacity for an order returning any seized goods.

(d) All other causes of action which arise pursuant to this chapter 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.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-32, § 41.

CHAPTER 5

MOTOR VEHICLE EXCISE TAX

Section

401. Imposition of Excise Tax on Purchase Price of Motor Vehicle.
402. Application of Provisions of Chapter 6.

Historical and Statutory Notes

The Section of Findings and Determinations of Band Statute 1085-MLC-33 provides; 'The Findings and Determinations of the Band Assembly enacted in Band Statute 1085MLC-30, Sections 1-1.1 1 [22 MLBS § 1) 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."

§ 401. Imposition of Excise Tax on Purchase Price of Motor Vehicle.

There is hereby imposed an excise tax of 5% on the purchase price of any motor vehicle purchased or acquired on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Ojibwe, which is required to be registered under the laws of the Band.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-31, § 46.

Cross References

Motor vehicle registration, *see* 19 MLBS § 101 et seq.

§ 402. Application of Provisions of Chapter 6.

All provisions of Chapter 6 of this Title the Non-Removable Mille Lacs Band of Ojibwe in the following sections numbered: 22 MLBS §§ 501, 505, 506 and 510-517 and 1085-MLC-31, § 31 in toto shall apply herewith.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-31, § 47.

CHAPTER 6

SALES AND USE TAXES

Section

501. Reservation of Right.
502. Definitions.
503. Imposition of General Sales Tax.
504. Legal Incidence of Tax Imposed.
505. Tax as Debt from Retailer to Band.
506. Presumption and Burden of Proof.
507. Exemptions from Sales Tax.
508. Road Building Materials.
509. Special Surcharge Taxes.
510. Offenses.
511. Enforcement.
512. Immunity from Self-Incrimination.
513. Revenue Distribution.
514. Administrative Expenses.
515. Court of Central Jurisdiction-Judicial Review.
516. Payment or Bond Prerequisite to Suit.
517. Limited Waiver of Sovereign Immunity.

Historical and Statutory Notes

The Section of Findings and Determinations of Band Statute 1085-MLC-31 provides: "The Findings and Determinations of the Band Assembly enacted in Band Statute 1085MLC-30, Section 1-1.1 1 [22 MLBS § 1] are reenacted as applicable provisions of law for each Chapter of law entitled 'Band Statute 1085-MLC-31-39'. The designation '31-39' de notes 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."

Band Statute 1085-MLC-31, § 31 provides: "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."

The title of Ordinance 15-11 is: “An ordinance repealing Section 509(a) of Chapter 6 in Title 22 (Taxation) of the Mille Lacs Band Statutes Annotated (MLBS) and adopting a new Section 509(a) to enact a tax requiring that $0.50 of each alcoholic drink sold by or at Grand Casino Hinckley be disbursed to the Mille Lacs Band of Ojibwe Government for its use to fund the Band’s Alcohol Abuse and Drug Abuse programs, including a Women’s Halfway House.”

The Preamble to Ordinance 15-11 provides: “It is enacted by the Band Assembly of the Mille Lacs Band of Ojibwe for the purpose of repealing Section 509(a) of Chapter 6 in Title 22 of the Mille Lacs Band Statutes Annotated in its entirely and adopting a new Section 509(a) to enact a tax on each alcoholic drink sold by or at Grand Casino Hinckley (GCH) to require that $0.50 of each alcoholic drink sold by or at GCH be distributed to the Mille Lacs Band of Ojibwe government to fund its Alcohol Abuse and Drug Abuse programs, including a Women’s Halfway House.”

§ 501. 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.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-31, § 30.

§ 502. Definitions.

When used in this chapter, unless the context clearly indicates otherwise, the following terms shall have the meaning, respectively, ascribed to them in this section:

(a) **"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.

(b) **"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.

(c) **"Retailer"** means persons engaged in making sales at retail.

(d) **"Sale"** includes, but is not limited to each of the following transactions:

(1) 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 money or by exchange or barter;

(2) 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;

(3) 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.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-31, § 32.

§ 503. Imposition of General Sales Tax.

There is hereby imposed an excise tax of 5% of the gross receipts from sales and retail, as herein defined, made by any licensed retail vendor organized pursuant to 16 MLBS § 1, on territories governed by the Non-Removable Mille Lacs Band of Ojibwe after February 28, 1985. Notwithstanding the foregoing, the tax imposed hereby upon sales at retail through coin-operated vending machines shall be 4% of the gross receipts of such sales.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-31, § 20.

Cross References

Capital Improvements Authority, tax exemptions, *see* 12 MLBS § 212.
Public service occupations tax, *see* 22 MLBS §§ 601, 602.

§ 504. Legal Incidence of Tax Imposed.

The legal incidence of the Non-Removable Mille Lacs Band of Ojibwe general sales tax on the gross receipts from sales at retail shall be placed upon each retail vendor organized pursuant to provisions of 16 MLBS § 1. Each retail vendor may at the discretion of the Non-Removable Mille Lacs Band of Ojibwe-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.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-31, § 21.

§ 505. Tax as Debt from Retailer to Band.

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 Ojibwe and shall be a debt from the retailer to the Corporate Commission recoverable at law in the same manner as other debts.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-31, § 22.01.

§ 506. Presumption and Burden of Proof.

It is the purpose for proper administration of provisions of this chapter 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 makes the sale.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-31, § 22.

§ 507. Exemptions from Sales Tax.

The following are specifically exempted from taxes imposed in this chapter:

(a) 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.

(b) 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.

(c) The gross receipts from the sale of an existing home or residence, or the construction of a new residence when each is financed in whole or part by the United States, in accordance with 38 U.S.C., §§ 8.01-8.05, as amended.

(d) The gross receipts 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.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-31, § 23.

Cross References

Gasoline and petroleum products excise tax, see 22 MLBS § 301 et seq.

§ 508. Road Building Materials.

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 Ojibwe, the construction or repair thereof, whether purchased by the Band or any contractor.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-31, § 23.05.

§ 509. Special Surcharge Taxes.

(a) There is hereby imposed, a special surcharge tax on each alcoholic drink sold by or at Grand Casino Hinckley ("GCH") requiring that $0.50 of each drink sold shall be distributed to the Mille Lacs Band of Ojibwe government to fund its Alcohol Abuse and Drug Abuse programs, including a Women's Halfway House. Further, it is hereby imposed, a special surcharge tax on each alcoholic drink sold by or at Grand Casino Mille Lacs ("GCML") requiring that $1.25 of each drink sold shall be distributed to the Mille Lacs Band of Ojibwe government to fund its Alcohol Abuse and Drug Abuse programs, including a Women's Halfway House. The Commissioner of Finance shall set aside such funds upon her or his receipt of them and place them in a separate account for such purpose.

(b) There is hereby imposed a special surcharge tax of 10% 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.

(c) There is hereby imposed, a special surcharge tax, requiring that 1% of gross cannabis sales within the Band's sovereign territory be distributed to the Mille Lacs Band of Ojibwe government to fund drug abuse prevention efforts through education, prevention, and treatment for the community.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-31, § 24.
Band Ordinance 15-11, § 1.
Band Ordinance 09-18, § 1.
Act 13-24.

§ 510. Offenses.

(a) 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 falsifications of records, and upon conviction thereof, shall be fined up to $500.00, and/or sentenced to labor not to exceed 180 days.

(b) 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 $500.00.

(c) Any person who is 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 $500.00.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-31, § 25.

§ 511. Enforcement.

The Commissioner of Finance shall enforce all provisions of this chapter. He or she may prescribe all rules and regulations not inconsistent with the provisions of this chapter through Commissioner's Order. He or she may call upon the Solicitor General or any Band law enforcement officer to aid her or him in the performance of her or his duties. He or she may appoint such employees of the Non-Removable Mille Lacs Band of Ojibwe as may be required to administer the provisions of this chapter. He or she may bring injunction proceedings against the distributor or any licensed retailer from acting in a manner inconsistent with the provisions of this chapter.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-31, § 26.

§ 512. Immunity from Self-Incrimination.

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 her or him or subject her or 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.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-31, § 26.02.

Cross References

Self-incrimination, *see* 1 MLBS § 4.

§ 513. 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 Ojibwe: Taxation Revenue Account" and not be distributed except upon formal Revenue Resolution of the Band Assembly so directing disbursement.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-31, § 27.

§ 514. Administrative Expenses.

In no event, shall the expenses of administration of the provisions of this chapter exceed 5% of the gross receipts of the taxes imposed herein.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-31, § 26.01.

§ 515. 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 chapter.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-31, § 28.

Cross References

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

§ 516. Payment or Bond Prerequisite to Suit.

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 or she intends to pay the tax if the Court so requires.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-31, § 28.01.

§ 517. Limited Waiver of Sovereign Immunity.

(a) 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 her or his official capacity in order to challenge any seizure action.

(b) Any said limited waiver of sovereign immunity shall be valid only in the Court of Central Jurisdiction, and subject to further limitations in subsections (c) and (d).

(c) Any and all seizure causes of action which arise pursuant to this chapter shall be limited to actions against the Commissioner of Finance in her or his official capacity for an order returning any seized goods.

(d) All other causes of action which arise pursuant to this chapter 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.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-31, § 29.

CHAPTER 7

PUBLIC SERVICE CONTRACTS OCCUPATION TAX

Section

601. Imposition of Public Service Contracts Occupations Tax.
602. Payment.

Historical and Statutory Notes

The Section of Finding and Determinations of Band Statute 1085-MLC-36 provides: "The Findings and Determinations of the Band Assembly enacted in Band Statute 1085MLC-30 Section 1-1.1 1 [22 MLBS § 1] are reenacted and applicable provisions of law for each chapter of law entitled 'Band Statute 1085-MLC-31-39'. The designation '3 1-39' de notes 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."

Band Statute 1085-MLC-36, §§ 51 and 63 provide: "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 subdivisions, 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 [now 22 MLBS § 503] 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 subdivision thereof."

"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."

§ 601. Imposition of Public Service Contracts Occupations Tax.

There is hereby imposed a Public Service Occupations Tax in an amount equal to one-half of 1% of the total contractual award. Said tax shall not be in lieu of taxes imposed pursuant to 22 MLBS § 503 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 22 MLBS § 503 or the provisions of this section. In the event, any contractor shall be liable for taxation imposed by 22 MLBS § 501, all material and supply purchases shall be made by the Band and in the name 'Non-Removable Mille Lacs Band of Ojibwe' and resold at retail/wholesale cost, whichever is applicable, and therefore exempt from general sales tax imposed by any political subdivision of the United States of America, or the state of Minnesota and any of its political subdivisions

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-36, § 50.

Cross References

Capital Improvements Authority, tax exemptions, *see* 12 MLBS § 212.
Employment Rights Fee, *see* 15 MLBS § 1031 et seq.

§ 602. Payment.

All said occupation taxes shall become due and payable from the proceeds of each progress payment in proportional amounts within three (3) 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. The occupation tax shall be paid to the Commissioner of Finance and placed in the existing account in the name Non-Removable Mille Lacs Band of Ojibwe Taxation Revenue Account. Said funds not to be distributed except upon formal Revenue Resolution of the Band Assembly so directing disbursement.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-36, § 50.01.

CHAPTER 8

PERSONAL INCOME TAX

Section
701. Imposition of Income Tax.

Historical and Statutory Notes

The Section of Findings and Determinations of Band Statute 1085-MLC-34 provides: 'The Findings and Determinations of the Band Assembly enacted in Band Statute 1085- MLC-30 Sections 1-1.1 1 [22 MLBS §1] 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."

§ 701. Imposition of Income Tax.

There is hereby imposed an income tax on all personal income earned by the members of the Non-Removable Mille Lacs Band of Ojibwe and generated from civil service employment with the Non-Removable Mille Lacs Band of Ojibwe for the purpose of preemption 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 $1.00.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-34, § 48.

Cross References

Government employees, *see* 6 MLBS § 1 et seq.

CHAPTER 9

ESTATE TAX

Section
801. Imposition of Estate Tax.

Historical and Statutory Notes

The Section of Findings and Determinations of Band Statute 1085-MLC-35 provides: "The Findings and Determinations of the Band Assembly enacted in Band Statute 1085MLC-30, Sections 1-1.1 1 [22 MLBS § 1] 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."

§ 801. 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 Ojibwe in an amount equal to 0.01% of the total value of the estate, for the purpose of preemption of any estate tax that may now or hereinafter be imposed by the state of Minnesota or any political subdivision

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-35, § 49.

TITLE 23 – PROHIBITED DRUGS

Section
1. Incorporation by Reference.
2. Definitions.
3. Possession, Sale, or Manufacture; Fraud.
4. Possession, Sale, or Manufacture for Use.
5. Drugs Consumed by Minors.
6. Administration of Substance with Intent to Injure or Facilitate Crime.
7. Possession within Motor Vehicle.

8. Petition to Lift Exclusion.
9. Court of Central Jurisdiction Subject Matter Jurisdiction.
10. Automatic Appeal.

§ 1. Incorporation by Reference.

(a) For the purpose of enforcing 23 MLBS § 7, the Band Assembly hereby creates Title 23 of the Mille Lacs Band Statutes. Title 23 shall be titled "Prohibited Drugs." It is the intent of the Band Assembly to incorporate the following provisions of the Statutes of the State of Minnesota, Chapter 152 - Drugs; Controlled Substances as Title 23 of the Mille Lacs Band Statutes. The intent of the Band Assembly is to exercise concurrent criminal jurisdiction with the State of Minnesota pursuant to the provisions of 18 U.S.C. § 1162 to protect the general health, welfare, and safety of those persons who reside on lands subject to the jurisdiction of the Band. The following provisions of Minnesota Statutes Chapter 152 are hereby incorporated by reference into this Title:

(1) Section 152.01 – Definitions,

(2) Section 152.02 – Schedule of Controlled Substances,

(3) Section 152.10 – Sales, Persons Eligible; and

(4) Section 152.12 – Health Care Providers May Prescribe.

(b) All subsections within an above sectional listing shall apply.

(c) The following provisions of Minnesota Statutes, Chapter 152 shall be incorporated by reference into this Title for the purposes of enforcement:

(1) Sections 152.01 - Definitions,

(2) Section 152.02 - Schedule of Controlled Substances,

(3) Section 152.10 - Sales, Persons Eligible,

(4) Section 152.11 - Prescriptions; and

(5) Section 152.12 - Health Care Providers May Prescribe.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.10.
Band Statute 1164-MLC-6, § 52.04.
Band Act 13-24.

Cross References

Seizure and confiscation of substances and vehicles, *see* 19 MLBS § 503.
Enforcement authority, *see* 20 MLBS § 405.

§ 2. Definitions.

For the purpose of enforcement of this Title, the word **"sell"** means distributing in any manner, any exchanging from one (1) party to another, and is not necessarily limited to monetary exchanges.

Historical and Statutory Notes

Source:

Band Statute 1164-MLC-6, § 52.06.

§ 3. Possession, Sale, or Manufacture; Fraud.

(a) Any person who knowingly and intentionally possesses, sells, distributes, manufactures, cultivates, or compounds any narcotics or dangerous drugs, except those narcotics or dangerous drugs lawfully possessed, sold, manufactured, prepared, cultivated, compounded, processed, or obtained, shall be deemed guilty of an offense under this subsection.

(b) A person shall be deemed guilty of an offense under this subsection if they knowingly and intentionally:

(1) attempt to obtain any narcotic or dangerous drug by fraud, deceit, misrepresentation, or subterfuge,

(2) falsely identify themselves as a person authorized by law to obtain a narcotic or dangerous drug,

(3) use forged, altered or fictitious prescriptions,

(4) use a fake name or address on a prescription,

(5) alter or change any label on a narcotic or dangerous drug, drug package, or receptacle by affixing a false or forged label; or

(6) conceal any material fact or otherwise misrepresent a package or container containing a narcotic or dangerous drug.

(c) Upon the conviction of a person found guilty of an offense under subsection (a) or (b), they may be fined up to $5000.00, excluded from all lands under the jurisdiction of the Band for a period of time at the Court's discretion, or both.

Historical and Statutory Notes

Source:

Band Statute 1164-MLC-6, § 52.

Cross References

What Constitutes a Fraudulent or Deceitful Act or Statement, *see* 24 MLBS § 402.

§ 4. Possession, Sale, or Manufacture for Use.

Any person who knowingly and intentionally possesses, sells, manufactures, distributes, cultivates, or compounds any narcotic or dangerous drug for personal use or the use of any other person shall be deemed guilty of an offense, and upon conviction thereof, may be fined no more than $500.00, excluded from all lands under jurisdiction of the Band for a period of time at the discretion of the Court.

Historical and Statutory Notes

Source:

Band Statute 1164-MLC-6, § 52.01.

§ 5. Drugs Consumed by Minors.

Any person who knowingly and intentionally possesses, sells, distributes, manufactures, cultivates, or compounds any narcotic or dangerous drug that is unlawfully consumed by a minor person, shall be deemed guilty of an offense, and upon conviction thereof, may be excluded from all lands under jurisdiction of the for a period of time at the discretion of the Court. It shall not be a defense that any said person was unaware of the identity or age of any minor consumer or any illegal narcotic or dangerous drug.

Historical and Statutory Notes

Source:

Band Statute 1164-MLC-6, § 52.02.

Cross References

Contributing to delinquency of minor, *see* 24 MLBS § 1260.
Juvenile justice, *see* 8 MLBS § 101 et seq.
Minors in need of care, *see* 8 MLBS § 201 et seq.

§ 6. Administration of Substance with Intent to Injure or Facilitate Crime.

Any person who administers or causes another to take any poisonous, stupefying, overpowering, narcotic, or anesthetic substance with the intent thereby to injure or to facilitate the commission of a crime, shall be deemed guilty of an offense, and upon conviction thereof, may be excluded from all lands under the jurisdiction of the Band for a period of time at the discretion of the Court.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 52.03.

§ 7. Possession within Motor Vehicle.

(a) Any person who is the owner of a private motor vehicle, or the driver of a motor vehicle if the owner is not present, who possesses on her or his person, or knowingly keeps or allows to be kept within the area of the vehicle normally occupied by the driver or passengers, controlled drugs, or violates 15 MLBS § 1222(a)(1)(i), (ii), (iv), or (v) or 15 MLBS § 1222(a)(2)(i), shall be deemed guilty of an offense. Upon conviction thereof, a person may receive a fine not to exceed $500.00, provided that the violation of Title 15 or introduction of controlled substance on lands under the jurisdiction of the Band is not for illegal distribution purposes.

(1) The judge or jury shall specifically enter a finding of intent based upon the evidence introduced at trial.

(2) Should the judge or jury enter a finding of intent to distribute, upon conviction thereof, a sentence of exclusion from all lands under the jurisdiction of the Band for a period of time at the discretion of the Court shall be imposed.

(b) 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.

(1) For any person 21 years old and older, the existence of more than two (2) ounces of cannabis flower, eight (8) grams of concentrate, or 800 milligrams of edible product, including low-potency hemp-derived product, in the trunk of any motor vehicle shall be prima facie evidence of an intent to illegally distribute.

(2) For any person 20 years old and younger, the existence of cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in the trunk of any motor vehicle shall be prima facie evidence of an intent to illegally distribute.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 35.09.
Band Statute 1164-MLC-6, § 52.05.
Band Act 13-24.

Cross References

Search without warrant, *see* 24 MLBS § 4108.
Seizure and confiscation of substances and vehicles, *see* 19 MLBS § 503.
Enforcement authority, *see* 20 MLBS § 405.

§ 8. Petition to Lift Exclusion.

In the event that a person convicted of violating a section of this Title is excluded from lands under the jurisdiction of the Band, he or she shall have the right to petition the presiding trial judge every 180 days to lift their exclusion. A review hearing shall be held twice each year to determine if any exclusion shall be lifted.

History and Statutory Notes

Source:

Band Statute 1164-MLC-6, § 52.07.

§ 9. Court of Central Jurisdiction Subject Matter Jurisdiction.

The Court of Central Jurisdiction is hereby granted subject matter jurisdiction for any cause of action which arises from this Title. Nothing in this Title shall be construed as a waiver of sovereign immunity of the Band in any state or federal court of competent jurisdiction. The

District Court of the Court of Central Jurisdiction shall have original jurisdiction over all causes of action which arise from any provisions of this Title. A Criminal Division is hereby created in the Court of Central Jurisdiction to hear causes of action arising from this Title.

Historical and Statutory Notes

Source:

Band Statute 1097-MLC-52, § 38.
Band Statute 1164-MLC-6, § 59.

Cross References

Subject matter jurisdiction, *see* 5 MLBS § 111.

§ 10. Automatic Appeal.

In all cases under this Title, all convictions shall be subject to automatic appeal to the full Court of Central Jurisdiction.

Historical and Statutory Notes

Source:

Band Statute 1164-MLC-6, § 52.07.

Cross References

Appeals, *see* 24 MLBS § 2501 et seq.

TITLE 24 – JUDICIAL PROCEEDINGS

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CHAPTER 1

CIVIL CAUSES OF ACTION

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SUBCHAPTER 1

GENERAL PROVISIONS

Section
1. Purpose.
2. Exclusive Original Jurisdiction.
3. Concurrent Jurisdiction.
4. Application of Uniform Commercial Code of State of Minnesota.
5. Truth in Lending Act.
6. Consumer Protection Laws of State of Minnesota.

§ 1. Purpose.

The purpose of this chapter is:

(a) To promote the general welfare, preserve and maintain justice, and to accord equal rights, equal protection and equal opportunity for all persons under the civil jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians by enacting a written law to establish standards for civil causes of action.

(b) To exercise inherent powers of government essential to the attributes of sovereignty by regulating the civil affairs of persons who enter or reside on lands subject to the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians and to provide a forum for the redress of civil grievances and disputes between persons located on said lands.

(c) To provide a written code of civil law of the Non-Removable Mille Lacs Band of Chippewa Indians which may be invoked in the courts of any jurisdiction exterior to the Band, by any Band member who may be subject to the civil jurisdiction, of the State of Minnesota pursuant to the provisions of 28 USC 1360.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.I, § 1.

§ 2. Exclusive Original Jurisdiction.

(a) The Court of Central Jurisdiction is hereby conferred exclusive original jurisdiction over all civil causes of action, involving any person, where said grievance or dispute arises concerning any property, personal or otherwise, located on lands subject to the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians, except as otherwise provided in paragraph (b) below.

(b) The Court of Central Jurisdiction shall have exclusive original jurisdiction over all civil matters in which the Non-Removable Mille Lacs Band of Chippewa Indians, any of its political subdivisions or entities, or its officers, appointees or employees are parties in their official capacity; provided that the Court of Central Jurisdiction shall have no jurisdiction over any such civil matter if (1) the Band or any of its political subdivisions or entities, by written contract, consents to the jurisdiction of any other court or courts of competent jurisdiction, to the exclusion of the Court of Central Jurisdiction, and waives its sovereign immunity only to this extent and (2) the Band Assembly adopts a resolution ratifying the contract. Band Assembly ratification of a contract in which a political subdivision or entity of the Band waives that subdivision or entity's sovereign immunity shall not be construed as a waiver of the Band's own sovereign immunity. Nothing herein shall be construed as a waiver of sovereign immunity of the Band unless specifically authorized in accordance with Band law or by specific Band statute.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.I, § 2.
Band Ordinance 08-93.

Cross References

Subject matter jurisdiction, Court of Central jurisdiction, *see* 5 MLBS § 111.

§ 3. Concurrent Jurisdiction.

The jurisdiction invoked by this chapter over any person, cause of action or subject shall be concurrent with any valid jurisdiction over the same of the Courts of the United States; provided, however, this chapter does not recognize, grant or cede jurisdiction to any other political or governmental entity.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.I, § 3.

Cross References

Personal jurisdiction, *see* 5 MLBS § 113.
Subject matter jurisdiction, *see* 5 MLBS § 111.

§ 4. Application of Uniform Commercial Code of State of Minnesota.

Pursuant to the provisions of 18 MLBS §301, the provisions of Minnesota Statutes Chapter 336, the Uniform Commercial Code, shall apply to any applicable civil causes of action which arise pursuant thereto.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.I, § 17.

Cross References

Acceptance and counteroffer, *see* 24 MLBS § 107.

§ 5. Truth in Lending Act.

The provisions of the laws of the United States of America relative to truth in lending as set forth in 15 USC 1601, et seq. shall apply to all persons who are creditors and lessors as defined by the act. The justices of the Court of Central Jurisdiction shall be bound thereby to the provisions of said act.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.I, § 18.

Cross References

Banks and banking, *see* 17 MLBS § 1 et seq.
Creditors' remedies, *see* 24 MLBS § 3301 et seq.
Commercial practices, *see* 18 MLBS § 1 et seq.

§ 6 Consumer Protection Laws of State of Minnesota.

The Consumer Protection Laws of the State of Minnesota shall apply as the Consumer Protection Laws of the Non-Removable Mille Lacs Band of Chippewa Indians. The justices of

the Court of Central Jurisdiction shall be bound thereby to enforce the provisions of said Consumer Protection Laws.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.I, § 19.

SUBCHAPTER 2

CONTRACTS

Section

101. Definition of Contract.
102. Legal Requirements.
103. Offer.
104. Interpretation.
105. Time for Performance.
106. Persons Capable of Contracting.
107. Essential Elements of Consent.
108. Withdrawal of Offer.
109. Object of Contract.
110. Consideration.
111. Formation of Contracts: Expressed or Implied.
112. Oral or Written Contracts: Statue of Frauds.
113. Public Auctions.
114. Parolee Evidence Rule.
115. Explanation or Supplementation of Terms.
116. Unlawful Contract Provisions.
117. Defenses to Judicial Enforcement of Contracts.
118. Rights and Obligations of Non-Parties.
119. Breach of Contract.
120. Remedies of Breach of Contract.

§ 101. Definition of Contract.

A contract is an agreement, upon sufficient consideration, to do or not to do a particular thing. It may be oral or written, provided however that oral contracts as described in 24 MLBS § 112 are not enforceable.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.I., § 4.

§ 102. Legal Requirements.

The legal requirements necessary in forming a contract are:

(a) Two (2) or more parties, all of whom are legally capable of making a contract.

(b) An offer by one (1) party to do or refrain from doing a certain thing.

(c) Acceptance of the offer by words or actions of the other party.

(d) Consideration, or benefit, to one (1) party in payment for the promise or actions of the other.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.I., § 4.01.

§ 103. Offer.

(a) An offer is a proposal by one (1) party to another party, showing a present intention to contract and giving the other party the right to accept to that the contract may be created.

(b) To qualify as an offer, the words or acts shall meet the following basic requirements:

(1) The offer must indicated a present serious intention to contract.

(2) The essential terms of the offer must be definite and certain.

(3) The offer must be communicated to an identified party.

(c) The four (4) essential terms identified in paragraph (2) of subsection (b) are parties, subject matter, time for performance and price.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.I., §§ 4.01.01-4.01.03.

§ 104. Interpretation.

A contract is to be interpreted according to the law and usage of the place where it is to be performed or, if it does not indicate a place or performance, according to the law and usage of the place where it is made, unless otherwise stated in the contract.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.I., § 4.02.

§ 105. Time for Performance.

If no time is specified for the performance of an act, a reasonable time is allowed. If the act is capable of being done instantly, such as payment of money, it must be performed immediately when due and ascertained.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.I., § 4.03.

§ 106. Persons Capable of Contracting.

(a) All persons are capable of contracting except minors under the age of 16 and persons of unsound mind. Minors have only such capacity as shall be specified in the Band Statutes relating directly to them.

(b) The contract of a minor if made while he or she is under the age of 16 may be disaffirmed by the minor her or himself either before her or his majority or within one (1) year's time afterwards.

(c) A minor cannot disaffirm a contract otherwise valid to pay the reasonable value of things necessary for her or his support or that of her or his family entered into by her or him when not under the care of a parent or guardian able to provide for her or him.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.I., § 5.

Cross References

Children and families, *see* 8 MLBS § 1 et seq.

§ 107. Essential Elements of Consent.

(a) Consent of the parties to a contract must be free, mutual and communicated by each to the other.

(b) Consent which is not free is not void but voidable and may be rescinded in the manner prescribed by the statutes on revision (24 MLBS § 117). An apparent consent is not real or free and is voidable when obtained through duress, fraud, undue influence or mistake.

(c) An offer to make a contract shall be construed as inviting acceptance in any manner and by any medium reasonable in the circumstances unless the offer clearly and expressly indicates, by its language or circumstances involved, that a specific method of acceptance is required.

(d) Consent is deemed to be fully communicated between the parties as soon as the party accepting the offer has put her or his acceptance in the course of transmission to the party making the offer in conformity with subsection (c).

(e) A definite expression of acceptance or a written confirmation which is sent within a reasonable time operates as an acceptance even though it states terms additional to or different from those offered or agreed upon, unless acceptance is expressly made conditional on assent to the additional or different terms. Any acceptance that materially changes the offer is a counteroffer that must be accepted by the original offeree to form a contract, except for sales contracts that are subject to interpretation under the Uniform Commercial Code of the State of Minnesota.

(f) A voluntary acceptance of the benefit of a transaction is equivalent to consent to all the obligations arising from it so far as the facts are known, or ought to be known, to the party accepting.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.I., § 6.

Cross References

Applicability of Uniform Commercial Code, *see* 18 MLBS §301; 24 MLBS § 4.

§ 108. Withdrawal of Offer.

(a) An offer may be withdrawn at any time before its acceptance is communicated to the party making the offer, but not afterwards with the exception of option contracts or in the case of detrimental reliance.

(1) When an offeree gives something of value in exchange for a promise by the offeror not to revoke an outstanding contract, this shall be called an option contract. The option shall be treated as a contract in which the offeror bargains away her or his right to revoke the offer. If the option agreement does not specify a time limit, the court shall require the offeror to hold the contract open to the offeree's acceptance for a reasonable period of time.

(2) When the offeree relies upon an outstanding offer and as a result, suffers harm or loss this shall constitute detrimental reliance. Detrimental reliance by the offeree on an outstanding offer, where the reliance was reasonable and foreseeable by the offeror, shall make the offer irrevocable for a reasonable period of time.

(b) An offer is withdrawn by the communication of notice of withdrawal by the party making the offer to the other party, and received by him, in the manner prescribed for communication of consent and acceptance, before her or his acceptance has been communicated to the former; or, by the lapse of time prescribed in such offer for its acceptance, or if no time is so prescribed, the lapse of a reasonable time without communication of acceptance; or beginning of performance if the reasonable method of acceptance; or, by the failure of the acceptor to fulfill a condition precedent to acceptance; or by the death or insanity of the offeror before acceptance of the offer; or by the supervening illegality of the proposed contract.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.I., §§ 6.05, 6.06.

§ 109. Object of Contract.

(a) The object of a contract is the thing which the party receiving the consideration agrees to do or not to do.

(b) The object of a contract must be lawful when the contract is made and possible and capable of being determined by the time the contract is to be performed.

(c) Where a contract has only a single object and such object is unlawful in whole or in part, or wholly impossible of performance, or so vaguely expressed as not to be wholly ascertainable, the entire contract is void.

(d) Where a contract has several distinct objects, one (1) or more of which are lawful and one (1) or more of which are unlawful in whole or in part, the contract is void as to the unlawful objects and valid as to the rest, if performance of the contract is possible after the exclusion of the unlawful part or parts.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.I., § 7.

§ 110. Consideration.

(a) Consideration is the price bargained for and paid for a promise. It may consist of an act, a forbearance, or a return promise.

(b) The test of a sufficient consideration is whether the act, forbearance, or return promise results in a benefit to the promisor or a detriment to the promisee.

(c) Consideration must be of some legal value. If there is no detriment or benefit, then the agreement is not enforceable. However, the amount of value is irrelevant. The court will uphold and enforce an agreement where there is consideration and will not impose its view as to whether the consideration was adequate or fair.

(d) No preexisting duty imposed by law or contract shall be consideration on a subsequent contract.

(e) The following shall be substituted for consideration.

(1) A promise to perform a legal duty created in the past transaction and owing to the promisee is enforceable without new consideration.

(2) If the promisee reasonably relied on promisor's promise to her or his detriment or forbearance, the contract will be enforced.

(f) A written instrument is presumptive evidence of a consideration.

(g) The burden of proof of showing a want of consideration sufficient to support an instrument lies with the party seeking to invalidate or avoid it.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.I., §§ 4.04, 8.

§ 111. Formation of Contracts: Expressed or Implied.

A contract is either expressed or implied. An expressed contract is one the terms of which are stated in words. An implied contract is one the existence and terms of which are manifested by conduct of the parties.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.I., § 9.

§ 112. Oral or Written Contracts: Statute of Frauds.

(a) All contracts may be oral except such as are specially required by statute to be in writing.

(b) The following contracts shall not be enforceable by action unless the same or some memorandum thereof be in writing and subscribed by the party to be charged or her or his agent, thereunto authorized by law.

(1) An agreement that by its terms is not to be performed within a year from the making thereof.

(2) An agreement made upon consideration of marriage, other than a mutual promise to marry.

(3) An agreement for the sale of real estate or an interest therein or lease of the same for a period longer than a year, but this does not abridge the power of the Court of Central Jurisdiction to compel specific performance of any agreement for the sale of real estate in case of part performance thereof.

(4) A contract of sale or to sell any personal property of the value of $500.00 or upward unless the buyer shall actually receive and accept part of the personal property sold or contracted, or give something in earnest or part payment to bind the bargain. These provisions apply to every sale or contract for sale of personal property.

(c) Where a contract which is required to be in writing is prevented from being put into writing by the fraud or deceit of a party thereto, any other party who is prejudiced by such fraud may enforce it against the fraudulent party.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.I., §§ 9.01, 10.

§ 113. Public Auctions.

Where a sale is made by public auction of any real or personal property, an entry by the auctioneer or clerk of sale, in her or his sale book at the time of the kind of property sold and description thereof sufficient for identification, the terms of sale, the price, and the name or names of the purchaser or person on whose account the sale is made is sufficient for memorandum to satisfy the requirements found in 24 MLBS § 115.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.I., § 10.02.

§ 114. Parolee Evidence Rule.

(a) In order to simplify the judicial interpretation of contracts by having a single, clear source of proof concerning the terms of the contract, the Parole Evidence Rule as set forth in subsection (b) shall be exercised in the Court of Central Jurisdiction.

(b) The Parole Evidence Rule: Where the parties to a contract express their agreement in writing with the intent that it contain the complete and final expression of their bargain, any other expressions, whether written or oral made prior to or concurrent with the writing are inadmissible to change the terms of the writing.

(c) The parole Evidence Rule shall only apply when there is a writing that is intended to be the complete and final expression of the bargain. In the event that the writing is not intended to be the complete and final expression of the contract, then other expressions whether oral or written are admissible even if they vary or contradict the terms of the writing.

(d) The parole Evidence Rule shall only apply to evidence of agreements which change the final written expression. Evidence concerning oral or written agreements shall be admissible to aid in interpreting rather than changing the terms of the bargain. The party seeking to admit the evidence, however, must first produce evidence that the writing is ambiguous.

(e) The parole Evidence Rule shall not apply to situations in which the agreement itself is being challenged. Evidence concerning other oral or written expressions shall be admissible to show that no contract existed or that the entire agreement is unenforceable.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.I., § 13.

§ 115. Explanation or Supplementation of Terms.

Terms which are set forth in writing, intended by the parties as a final expression of their agreement with respect to such terms as are included therein, may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement but may be explained or supplemented:

(a) By evidence of prior course of dealing between the parties; and

(b) By evidence of terms as they are defined by the common usage particular to the subject of the contract; or

(c) By evidence of consistent additional terms unless the court finds the writing to have been intended also as a complete and exclusive statement of the terms of the agreement.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.I., § 10.03.

§ 116. Unlawful Contract Provisions.

(a) All contracts which have for their object, directly or indirectly, to exempt anyone from responsibility for her or his own fraud or willful injury to the person or property of another or from violation of law whether willful or negligent, are against the public policy of the Non-Removable Mille Lacs Band of Chippewa Indians and shall be void.

(b) Every contract in which the amount of damage or compensation for the breach of an obligation is determined in anticipation thereof is void to that extent, except the parties may agree therein upon an amount presumed to be the damage for breach in cases where it would be impractical or extremely difficult to fix the actual damages.

(c) Every provision in a contract restricting a party from enforcing her or his rights under it by usual legal proceedings in the Court of Central Jurisdiction or limiting her or his time to do so, is void.

(d) Every contract restraining exercise of a lawful profession, trade or business is void to the extent, except:

(1) One who sells the goodwill of a business may agree with the buyer to refrain from carrying on a similar business within a specified reservation or part thereof, so long as the buyer or person deriving title to the goodwill from her or him carries on a like business therein;

(2) Partners may, upon or in anticipation of a dissolution of the partnership, agree that none of them will carry on a similar business within the same reservation, or part thereof, where the partnership business has been transacted;

(3) An employee may agree with an employer at the time of employment or at any time during such employment not to engage directly or indirectly in the same business or profession as that of her or his employer for any period not exceeding five (5) years from the date of such agreement or within the boundaries of the same reservation.

(e) Usury is the exaction of interest or service charges or deferred payment on a sale of goods on a loan of money which interest or service charge is higher than the rate established by the laws of the State of Minnesota for similar transactions. Such a usurious contract is illegal and void.

(f) The law of the Non-Removeable Mille Lacs Band of Chippewa Indians will aid neither party to an illegal contract. If it is executory, neither party may enforce it. If executed, the Court of Central Jurisdiction shall not permit revision and recovery of what was given in performance.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.I., § 11.

§ 117. Defenses to Judicial Enforcement of Contracts.

The following defenses to judicial enforcement of contracts shall be recognized in the Court of Central Jurisdiction:

(a) The lack of legal capacity to contract shall be an available defense to judicial enforcement of contracts. Nothing herein shall relieve minors of their right to affirm the provisions of a contract when they come of age or in the case of mentally incompetent persons when they become competent. Persons who lack legal capacity in matters where they affirm said contract shall be bound by the provisions of said contract even if they were unaware of the fact that the contract was previously voidable. In all cases, minors and persons who are mentally incompetent shall be liable for the reasonable value of any necessities for sustaining life that may be conferred on them pursuant to the provisions of their contracts.

(b) Failure to comply with the Statute of Frauds (24 MLBS § 112) shall be an available defense to judicial enforcement of contracts. The Statute of Frauds shall be liberally construed so as to limit the substantial loss of property or money simply because a person failed to put an otherwise valid agreement into writing.

(c) The illegality of the contract shall be an available defense to judicial enforcement of contracts. Contracts in which either the subject matter of the contract or the purpose of the contract is illegal are void an unenforceable in regard to the illegal portion of the contract only.

(d) Fraud or duress shall be an available defense to judicial enforcement of contracts. Where a party signs a contract or gives oral assent based upon a false impression of the contract terms created by the other party, the contract shall be voidable by the innocent party. Where the consent of one (1) party is obtained by force or threat of force against the party or members of the party's family, the contractual obligations of the victim are voidable. This shall be termed duress.

(e)

(1) Unconscionability of a contract shall be a defense to judicial enforcement of contracts. The unconscionability of contract doctrine shall work to protect against one-sided bargains, called contracts of adhesion, in which one (1) party with little or no bargaining power is subjected to oppressive terms by the other party. The Court of Central Jurisdiction shall consider the relative bargaining strength of the parties, economic justification for the terms, and injury to the party or to the public policy of the Non-Removable Mille Lacs Band of Chippewa Indians if the terms of the contract are enforced.

(2) It shall be the duty of the Court of Central Jurisdiction to prevent oppression and/or surprise upon one (1) party to the contract by refusing to enforce contract provisions containing warranty disclaimers, waivers of Statute of Limitations or of all defenses, disclaimers of liability or other unreasonable terms or requirements. Obscure or technical language in the contract which the party is obviously unable to comprehend shall also be justification for refusal to enforce the provisions of said contract.

(3) If the court finds a contract or any part of a contract to be unconscionable, the court may refuse to enforce the contract at all, or refuse to enforce the unconscionable terms or limit the enforcement of the terms in order to avoid the oppressive result.

(f) Mistake or ambiguity in the provisions of a contract shall be a defense to judicial enforcement of contracts. The standard rules of contract law regarding mistake or ambiguity shall be utilized in the Court of Central Jurisdiction.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.I., § 12.

§ 118. Rights and Obligations of Nonparties.

(a) The rights and obligations of nonparties to any contract shall be recognized in the Court of Central Jurisdiction. A non-party shall be any person who was neither the offerer nor the offeree at the time that a contract was formed. The Court of Central Jurisdiction shall recognize three (3) types of nonparties: the intended third-party beneficiary, the assignee of rights, and the delegate of duties.

(b) The legal status of intended third-party beneficiaries shall arise at the formation stage of the original contract. The legal status of assignees and delegates, shall arise subsequent to the formation stage, when either or both of the original parties seeks to transfer rights or assignments and/or to delegate duties to a third party.

(c) A contract made expressly for the benefit of a third parson may be enforced by her or him at any time before the parties rescind such contract.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.I., §§ 5.03, 14.

§ 119. Breach of Contract.

(a) The contract law of the Non-Removable Mille Lacs Bands of Chippewa Indians requires that the parties to a contract perform all of their promises pursuant to the provisions of said contract. When one (1) party does not perform a promise pursuant to the terms of the contract, the other party shall have a breach of contract cause of action in the Court of Central Jurisdiction. However, not every breach of a promise made in a contract by one (1) party shall automatically entitle the other party to judicial enforcement of the provisions of said contract. The breach may be justifiable as provided hereafter.

(b) The Court of Central Jurisdiction shall recognize the following as excuses or defenses for the breach of a contract, sand said excuses shall not be exclusive.

(1) Impossibility of performance of the provisions of a contract.

(2) Supervening illegality.

(3) The other contracting parties prior breach of the provisions of a contract.

(4) The waiver of non-performance of the provisions of a contract by the other contracting party.

(5) A later change of the agreement by the parties.

(c) A breach of contract cause of action shall exist in the Court of Central Jurisdiction when a party refuses to perform, fails to perform, or defectively performs a contractual obligation which is due and which has not been excused or discharged.

(d) In the event the breach of contract is substantial or material, the contract obligations of the non-breaching party may be discharged and the non-breaching party may no longer have to perform her or his contractual obligations.

Historical and Statutory Notes

Source:

Band Statute 1144-MLC-5, T.I., §15.

§ 120. Remedies for Breach of Contract.

The following remedies for breach of contract shall be available to any party in a breach of contract matter:

(a) The Court of Central Jurisdiction may award monetary damages as a remedy aimed at making good the losses of the non-breaching party. Only damages which are consequential, foreseeable, unavoidable and certain shall be recoverable.

(b)

(1) The Court of Central Jurisdiction may award specific performance as a remedy in which the breaching party is ordered to perform the contract according to its exact terms. In the event the party willfully disobeys a specific performance order of the court, he or she may be fined or may be subject to contempt of court sanctions pursuant to the laws of the Non-Removable Mille Lacs Band of Chippewa Indians.

(2) The Court of Central Jurisdiction shall award specific performance when other forms of relief or remedy authorized by law are deemed to be inadequate to compensate for any losses of the non-breaching party.

(c) The Court of Central Jurisdiction may award restitution to any nonbreaching party to a contract. Restitution shall be awarded to prevent unjust enrichment by the breaching party and shall be measured by the gain of the breaching party as opposed to the non-

breaching parties loss. Restitution recovery may be both monetary and tangible or intangible. Restitution may also be in a form so as to restore the parties to a previous position by revision or cancellation of the contract or where a contract is reformed to reflect a more accurate statement of the parties agreement.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.I., § 16.

Cross References

Damages, *see* 24 MLBS §651 et seq.

SUBCHAPTER 3

ACTIONS FOR HARMFUL CONDUCT

Part	Section
A. General Provisions	201
B. Intentional Harms	251
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PART A

GENERAL PROVISIONS

Section
201. Rights and Obligations of All Persons.
202. Responsibility for Willful and Negligent Acts.
203. Right to Peaceful Possession of Property.

§ 201. Rights and Obligations of All Persons.

Every person who invades the interest of another, as provided in this chapter, shall be liable to the injured person in accordance with the provisions of this chapter.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II. § 1.

§ 202. Responsibility for Willful and Negligent Acts.

Every person is responsible for injury to the person, property, or rights of another caused by her or his willful acts or caused by her or his want of ordinary care or skill.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, § 2.

§ 203. Right to Peaceful Possession of Property.

Every person is entitled to peaceful possession of her or his own personal property and violation of that interest in peaceful possession is actionable as provided in this chapter.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, § 3.

Cross References

Deprivation of property without due process of law, *see* 1 MLBS § 8.
Intentional interference with personal property, *see* 24 MLBS § 255.
Recovery of possession of personal property, *see* 21 MLBS § 501 et seq.
Replevin, *see* 24 MLBS §3501 et seq.
Unreasonable searches and seizures, *see* 1 MLBS § 2.

PART B

INTENTIONAL HARMS

Section
251. Assault and Battery.

252. Infliction of Mental Distress.
253. False Imprisonment.
254. Trespass to Land.
255. Intentional Interference with Personal Property.

§ 251. Assault and Battery.

(a) A cause of action may be brought for assault or assault and battery. An assault is any willful and unlawful attempt or offer with force or violence, to hurt the person of another. It is any act of such a nature as to create an apprehension of battery. Words alone are not enough to constitute an assault. The apprehension must be one which would normally be aroused in the mind of a reasonable person. Battery is any willful and unlawful use of force or violence upon the person of another. Person includes any part of the body or anything so closely attached thereto that it is customarily regarded as a part thereof.

(b) Assault or battery is justifiable in the follow cases:

(1) When necessarily committed by a police officer in the performance of any legal duty or by any other person assisting her or him or acting by her or his direction;

(2) When necessarily committed by any person in arresting one who has committed any felony, and delivering her or him to a public officer competent to receive her or him in custody;

(3) When committed either by the party about to be injured, or by any other person in her or his aid or defense; in preventing or attempting to prevent an offense against her or his person or any trespass or other unlawful interference with real or personal property in her or his lawful possession; provided the force or violence used is not more than sufficient to prevent such offense;

(4) When committed by a parent or the authorized agent of any parent, or by any guardian or teacher in the exercise of a lawful authority to restrain or correct the child, ward, or student, provided restraint or correction has been rendered necessary by the child's refusal to obey the lawful command of such person, and the force or violence used is reasonable in manner and moderate in degree;

(5) When committed by any person to prevent any insane person, or other person of unsound mind, including persons temporarily or partially deprived of reason, from committing an act dangerous to her or himself or to another, or enforcing such restraint as is necessary for the protection of her or his person or for her or his restoration to health, during such period only as shall be

necessary to obtain legal authority for the restraint or custody of her or his person.

(c)

(1) The damages recoverable for assault are those for the plaintiff's mental or physical injury, or both. The establishment of the cause of action, without proof of harm, entitles the plaintiff to recover at least nominal damages.

(2) Proof of contact with the plaintiff's person entitles her or him to recover at least nominal damages. The establishment of this cause of action entitles her or him also to compensation for the mental disturbance inflicted upon her or him as well as for any physical harm that may arise.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, §§ 4, 39, 40.

Cross References

Children and families, *see* 11 MLBS § 1 et seq.
Criminal assault and battery, *see* 24 MLBS § 1101, 1102.

§ 252. Infliction of Mental Distress.

A cause of action shall exist for the infliction of mental distress. Infliction of mental distress is an act which goes beyond the limits of accepted conduct in the community. The actor must intend that the person injured will suffer mental distress of a very serious kind. The mental distress must in fact exist and result from the act.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, § 5.

§ 253. False Imprisonment.

(a) False imprisonment occurs when a person's freedom of movement has been intentionally and unlawfully restrained.

(b) A person is not liable for false imprisonment of another in the following circumstances:

(1) When making a lawful arrest;

(2) When exercising judicial authority or carrying out the order of a court.

(3) When temporarily detaining a person where there is probable cause to believe such person is attempting to remove unpurchased goods or merchandise without intention of paying the purchase price.

(c) A false imprisonment establishes a cause of action for at least nominal damages. The plaintiff may also recover any other damages that he or she can show where proximately caused by false imprisonment.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, §§ 6, 41.

Cross References

False arrest or unlawful restraint, criminal offenses, *see* 24 MLBS § 1108.

§ 254. Trespass to Land.

(a) A person is subject to liability to another for trespass, irrespective of whether he or she thereby causes harm, if he or she intentionally and unlawfully:

(1) Enters land or any house or structure on the land in the rightful possession of the other or causes a thing or third person to do so;

(2) Remains on such property; or

(3) Fails to remove from such property a thing which he or she is under a duty to remove.

(b) Extent of liability: A trespasser under this section is liable for any physical harm to the possessor of the property, or to the land, or to any personal property located thereon, or to any persons who are lawfully on the premises or their personal property, caused by any act or activity of the trespasser.

(c)

(1) Where a person is entitled to a judgment for harm to land resulting from an unlawful invasion and not amounting to a total destruction in value, and damages, at the plaintiff's election, include compensation for:

(i) The difference between the value of the land before the harm and the value after the harm or the cost of restoration which has been or reasonably may be incurred, or if a separable portion of the land has been damaged, the loss in its value, and

(ii) The loss of use of the land; and

(iii) Discomfort and annoyance, in an action brought by the occupant.

(2) The damages for past and prospective invasions of land include all detriment to the land past, present or future caused by such trespass.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, §§ 7, 42.

Cross References

Criminal trespass, *see* 24 MLBS § 1151.

§ 255. Intentional Interference with Personal Property.

(a) Personal property includes any kind of property not amounting to an interest in real estate. Leases shall be considered as personal property for the purposes of this section.

(b) A trespass to a personal property may be committed by intentionally and unlawfully:

(1) Dispossessing another of the personal property; or

(2) Using or interfering with the use of personal property in the possession of another, where:

(i) the personal property is impaired as to its condition, quality or value; or

(ii) the possessor is deprived of the use of the personal property for a substantial time; or

(iii) bodily harm is caused to the possessor, or harm is caused to some person or thing in which the possessor has a legally protected interest.

(3) Disposing of personal property entrusted to the person.

(4) Mis-delivering personal property.

(5) Refusing to surrender personal property to the person entitled thereto.

(c) One who interferes with personal property in any of the ways described in subsection (b) shall be subject to liability for the damages caused. Damages may be measured by the fair market value of the item if it is no longer available to the rightful possessor or cannot be restored to her or his use in the condition in which it was taken; or the fair rental value of the item if such value is ascertainable and any damages caused by reason of the unavailability of the personal property to the owner. Damages shall be in such form and amount as is deemed just by the court.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, §§ 8-10.

Cross References

Malicious mischief, criminal offenses, *see* 24 MLBS § 1160.
Right to peaceful possession of property, *see* 24 MLBS § 203.

PART C

PUBLIC NUISANCE ORDINANCE

Section:

301. Purpose.
302. Nuisance Define.
303. Other Definitions.
304. Abatement Procedure.
305. Emergency Abatement Procedure.
306. Sovereign Immunity.
307. Severability.

§ 301. Purpose.

This Ordinance is created to minimize the impact of undesirable conditions and behaviors on Band Lands and to preserve the peace and tranquility of communities on Band Lands.

Historical and Statutory Notes

Source:
Band Ordinance 30-03, § 301.

§ 302. Nuisance Defined.

A nuisance is any substance, matter, emission, sound or thing, which is found upon, is found in, or is being discharged or is flowing from, any street, highway, railroad right-of-way, vehicle, body of water, excavation, building, lot, grounds or other property on Band Lands, and which creates a dangerous or unhealthy condition on, or which threatens the public peace on or the health, safety or sanitary condition of Band Lands, or which is offensive to or has a blighting influence on a community on Band Lands. Nuisances include, but are not limited to, the following:

(a) **Abandoned Vehicle.** Any vehicle that is parked for a period longer than 30 days with either no tags or expired tags more than 30 days overdue.

(b) **Dangerous structure.** A structure which is potentially hazardous to persons or property including, but not limited to:

(1) A structure which is in danger of partial or complete collapse; or

(2) A structure with any exterior parts which are loose or in danger of falling; or

(3) A structure with any parts such as floors, porches, railings, stairs, ramps, balconies or roofs, which are accessible and which have collapsed, are in danger of collapsing, or are unable to support the weight of normally imposed loads.

(c) **Fire Hazards.** Anything or condition which creates a fire hazard or which is a violation of the fire code.

(d) **Graffiti.** Any letter, word, name, number, symbol, slogan, message, drawing, picture, writing, or other mark of any kind visible to the public that is drawn, painted, chiseled, scratched or etched upon a rock, tree, wall, bridge, roadway, fence, gate, building or other natural or man-made structure in violation of 24 MLBS § 1161.

(e) **Grass and Weeds.** Grass or weeds in a yard surrounding a residence which have grown to a height of 12 or more inches.

(f) **Hazards.** Anything or condition on property which may contribute to the injury of any person present on the property, including, but not limited to, open holes, open foundations, open wells, dangerous trees or limbs, abandoned refrigerators or trapping devices.

(g) **Health Hazards.** Anything or condition which creates a health hazard or which is a violation of any health or sanitation law.

(h) **Insects, rodents and pest harborage.** Conditions that are conducive to the presence, harborage or breeding of insects, rodents or other pests, provided that beekeeping and equipment and devices used for beekeeping shall not be considered under this Part of this Subchapter.

(i) **Loud Music.** Any music emitted from any car, house or music player so as to create a disturbance to the neighbors or community members between the hours of 10:00 p.m. and 8:00 a.m.

(j) **Refuse, noxious substances, hazardous wastes.** Refuse, noxious substances or hazardous wastes laying, pooled, accumulated, piled, left, deposited, buried or discharged upon or in, or being discharged or flowing from, any property, structure or vehicle, except for:

(1) Refuse deposited at places designated and provided for that purpose and in compliance with 11 MLBS § 1005 or other applicable law.

(2) Refuse stored in accordance with this Ordinance and 11 MLBS §§ 1002-1007 or other applicable law, or vehicle parts stored in an enclosed structure.

(3) Compost piles established and maintained for gardening purposes.

(k) **Uncontrolled Party.** Any social gathering that creates a disturbance so as to disrupt the peacefulness of the neighborhood or community due to loud noises and/or fights or other obnoxious behavior.

Historical and Statutory Notes

Source:
Band Ordinance 30-03, § 302.

§ 303. Other Definitions.

(a) Attractive Nuisance means anything or condition located on property that could reasonably be viewed as attracting children to enter into or onto the property, thing or condition to play, and which pose a risk of injury or death to such children.

(b) Band Lands means lands owned by or held in trust for the Minnesota Chippewa Tribe, the Mille Lacs Band of Ojibwe Indians, or one (1) or more members of the Mille Lacs Band of Ojibwe Indians, and subject to the jurisdiction of the Mille Lacs Band.

(c) Enforcement Officer means any officially designated Mille Lacs Band Housing Authority representative, Community Development representative, Health & Human Services representative, Tribal Police Officer or Department of Natural Resources warden or official.

Historical and Statutory Notes

Source:
Band Ordinance 30-03, § 303.

§ 304. Abatement Procedure.

Except as provided in § 305 of this Chapter, the following procedure will be used to abate a nuisance:

(a) **Order.** An Enforcement Officer shall serve a written order upon the party believed to be responsible for creation of the nuisance, if known, and upon the Owner and Tenant of the property on which the nuisance is located (if different from the person believed to be responsible for creation of the nuisance). The Enforcement Officer may also serve the written order upon any other known party to the nuisance. The order shall contain the following:

(1) A full and complete street address or a real estate description sufficient to identify the location of the nuisance.

(2) A description of the nuisance and the remedial action required to abate the nuisance.

(3) The abatement deadline, to be determined by the Enforcement Officer, allowing a reasonable time for the performance of any act required.

(4) A statement that the order may be appealed and a hearing in the Court of Central Jurisdiction obtained by filing a written request for hearing with the Court Clerk prior to the abatement deadline designated in the order.

(5) A statement that, if the remedial action is not taken nor a request for a hearing filed with the Court Clerk within the time specified, the Mille Lacs Band will abate the nuisance and charge all costs incurred therein against the person responsible for creation of the nuisance or the Owner or Tenant of the property on which the nuisance is located.

(b) **Setting Hearing Date.** In the event that a request for hearing is filed, the Court Clerk shall schedule the matter for hearing. In all instances, the Court Clerk shall set the hearing no longer than 60 days from the filing of the request for hearing.

(c) **Notice of Hearing Date.** In the event a request for hearing is filed with the Court of Central Jurisdiction, the Court Clerk shall mail a notice of the date, time, place and subject of the hearing to the owner, tenant and/or known responsible parties. The Court Clerk shall also mail the notice to the District Community Center where the nuisance is located requesting that it be posted. The Court Clerk shall also notify the Enforcement Officer and the Solicitor General's Office.

(d) **Hearing.** If the Court ruling requires abatement, an Order shall be issued to fix a time when the nuisance must be abated and shall provide that, if the nuisance is not abated within the time specified, the Mille Lacs Band may abate the nuisance and assess the costs of the abatement to the person found responsible for the nuisance.

(e) **Abatement.** If the remedial action is not taken nor an appeal filed within the time specified, the Mille Lacs Band may abate the nuisance.

(f) **Fines.** Any person subject to the jurisdiction of the Mille Lacs Band who creates, allows or is responsible for a nuisance within the meaning of this Part of this Subchapter shall be guilty of a civil misdemeanor. If, by a preponderance of the evidence, such person is found guilty of such charge, a fine may be imposed up to a maximum amount of $1,000.00.

Historical and Statutory Notes

Source:
Band Ordinance 30-03, § 304.

§ 305. Emergency Abatement Procedure.

When an Enforcement Officer determines that a dangerous structure, an attractive nuisance, or any other nuisance as defined in this Ordinance exists on Band Lands and constitutes an immediate danger or hazard which, if not immediately abated, will endanger the health or safety of the public, and such danger cannot be removed in a timely manner by following the procedures of Section 304 of this Chapter, the Mille Lacs Band may abate the nuisance by the procedure described below:

(a) **Order.** The Mille Lacs Band may order emergency abatement by an administrative order to be signed by the Mille Lacs Band Commissioner of Community Development, Housing Authority Executive Director, Chief of Tribal Police, Commissioner of Health & Human Services, Commissioner of Administration, Assistant Commissioner of Administration, or their officially designated representative ("Responsible Official"). The Order must describe the nuisance, identify its location, summarize the bases on which the Enforcement Officer determined that an emergency abatement was appropriate under this section, and set forth the concurrence of the Responsible Official in that determination. Upon issuance of the Order, the Band will abate the nuisance in accordance with the Order,

and an Enforcement Officer will serve a copy of the Order upon the party believed to be responsible for creation of the nuisance, if known, and upon the Owner and Tenant of the property on which the nuisance is located (if different from the person believed to be responsible for creation of the nuisance).

(b) **Notice of Abatement.** Following an emergency abatement, the Responsible Official shall file the administrative order with the Court of Central Jurisdiction and request that a hearing be scheduled before the Court following notice to the party believed to be responsible for the creation of the nuisance, if known, and to the Owner and Tenant of the property on which the nuisance is located (if different from the person believed to be responsible for creation of the nuisance). The notice shall attach a copy of the administrative order and shall contain:

(1) a description of the nuisance;

(2) the action taken;

(3) the reasons for immediate action;

(4) the costs incurred in abating the nuisance; and

(5) the date, time and place of the hearing.

(c) **Hearing.** At the time of the hearing, the Court shall hear from the Enforcement Officer, the Responsible Official, and Commissioner or any other person who wishes to be heard regarding their personal knowledge of the nuisance.

(d) **Fines and Assessments.** Any person subject to the jurisdiction of the Mille Lacs Band who creates, allows or is responsible for a nuisance abated under this section shall be guilty of a civil misdemeanor. If, by a preponderance of the evidence, such person is found guilty of such charge, a fine may be imposed up to a maximum amount of $1,000.00. In addition, if the Band proves by a preponderance of the evidence that the emergency abatement was appropriate under this section, the Court of Central Jurisdiction may levy an assessment for costs incurred by the Band in abating the nuisance.

Historical and Statutory Notes

Source:
Band Ordinance 30-03, § 305.

§ 306. Sovereign Immunity.

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

Historical and Statutory Notes

Source:
Band Ordinance 30-03, § 306.

§ 307. Severability.

If the Court of Central Jurisdiction adjudges any provision of this Title to be invalid, such judgment shall not affect any other provision of this Title not specifically included in the judgment.

Historical and Statutory Notes

Source:
Band Ordinance 30-03, § 307.

PART D

DEFAMATION

Section
351. Defamation Classified and Defined.
352. Obligation to Refrain from Defamation.
353. Privileged Communications.
354. Publication.
355. Damages.

§ 351. Defamation Classified and Defined.

Defamation is effected by:

(a) **Libel.** Libel is a false and unprivileged publication by writing, printing, picture, or other presentation to the eye which exposes any person to hatred, contempt, ridicule, or exposure to abuse, or which causes her or him to be shunned or avoided, or which has a tendency to injure her or him in her or his occupation.

(b) **Slander.** Slander is a false and unprivileged oral statement other than libel, which:

(1) Charges any person with crime, or with having been indicted, convicted, or punished for crime;

(2) Imputes to her or him the present existence of an infectious, contagious or repulsive disease;

(3) Tends directly to injure her or him in respect to her or his office, profession, trade, or business, either by imputing to her or him general disqualification in those respects which the office or other occupation peculiarly requires or by imputing something with reference to her or his office, profession, trade, or business that has a natural tendency to lessen its profit.

(4) Imputes to her or him sexual misconduct.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, § 17.

§ 352. Obligation to Refrain from Defamation.

Every person is obligated to refrain from infringing upon the right of others not to be defamed.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, § 16.

§ 353. Privileged Communications.

(a)

(1) Fairness or fair comment as used in this section means that the statement was made, in part, at least, for the purpose of giving the public the benefit of comment which it is entitled to have rather than for the ulterior motive of causing harm to the plaintiff.

(2) The term malice or malicious as used in this section means the communication was made intentionally, with evil intent and without just cause or excuse; made for the purpose of annoying or injuring another. Malice may be inferred from proof that the defendant had knowledge of the falsity of the statement and/or acted with reckless disregard of whether the statement was true or false.

(b) No one can be held liable for a written or oral communication which is privileged.

(1) Absolute privilege: Any communication made in the course of legislative and judicial proceedings or, communications made in the discharge of a duty by an officer of government under authority of law is absolutely privileged and cannot be the subject of a defamation complaint so long as the communication is within the scope of the legislative, judicial, or executive proceedings of government.

(2) Qualified privilege: Communications made without malice and with honest belief in the truthfulness of the statement, is privileged in the following circumstances:

(i) A response to a legitimate inquiry;

(ii) Communications regarding family or household matters;

(iii) Communications regarding school matters;

(iv) Communications regarding activities in organizations and societies;

(v) Communications between church members or members of cultural societies regarding the organizational or administrative matters of such societies;

(vi) Statements made in an honest endeavor to protect one's reputation;

(vii) Communications in aid of law enforcement;

(viii) Communications to public authorities by a private person;

(ix) Any petition for redress of grievance addressed to government;

(x) Any comment on a matter of public interest and concern, so long as the comment is fair, made for a bona fide public purpose and not malicious.

(xi) Any communication dealing with political matters, public officers and candidates for office, so long as they are fair and not made maliciously.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, § 18-20.

§ 354. Publication.

In order to constitute actionable defamation, a communication must be to persons other than the plaintiff.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, § 21

§ 355. Damages.

An award of damages for defamation shall not exceed $500.00.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, § 22.

PART E

FRAUD AND DECEIT

Section
401. Deceit.
402. What Constitutes a Fraudulent or Deceitful Act or Statement.

§ 401. Deceit.

One who willfully deceives another, with intent to induce her or him to change her or his position to her or his injury or risk, is liable for any damage which that person suffers.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, § 23.

§ 402. What Constitutes a Fraudulent or Deceitful Act or Statement.

In order to prove a case of fraud or deceit, the plaintiff must show that the defendant made a statement or representation which met the following requirements:

(a) It was made as a statement of fact, not mere opinion;

(b) It was untrue and known to be untrue by the party making it or else recklessly made;

(c) That it was made with the intent to deceive and for the purpose of inducing the other party to act upon it;

(d) That the plaintiff was reasonably entitled to rely upon said statement and did so;

(e) That he or she was thereby induced to act upon the statement; and;

(f) He suffered injury or damage.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, § 24.

PART F

INVASION OF PRIVACY

Section
451. Right of Privacy.
452. Liability.
453. Damages.

§ 451. Right of Privacy.

Everyone is entitled to protection against intrusion or disclosure on their personal and private affairs.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, § 25.

§ 452. Liability.

Any action which makes public private facts which would tend to damage the plaintiff's reputation or good name, or who discloses information contained in confidential records of the Band or any of its agencies to persons not authorized to receive such information shall be liable for damages to the person injured thereby.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, § 26.

§ 453. Damages.

The damages for invasion of privacy shall be within the discretion of the judge pursuant to the severity of the invasion or privacy and the limits of the Indian Civil Rights Act. (25 U.S.C.A. § 1302.)

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, § 27.

PART G

NEGLIGENCE

Section
501. Definition.
502. Establishing Negligence.
503. Standard of Care.
504. Comparative Fault.

§ 501. Definition.

Negligence means the failure to exercise reasonable or ordinary care, which causes harm to persons or property.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, § 28.

§ 502. Establishing Negligence.

To establish negligence, the plaintiff must show the following:

(a) The defendant was under a duty to the plaintiff to use ordinary care;

(b) The defendant breached that duty;

(c) The breach caused the plaintiff's injury; and

(d) The plaintiff sustained actual loss or damage.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, § 29.

§ 503. Standard of Care.

The standard of care is the standard which can be expected to be followed by a reasonable person in the same or similar circumstances.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, §30.

§ 504. Comparative Fault.

Where the actions of two (2) or more persons combined to cause the plaintiff's injury, the responsibility shall be proportioned to each in accordance with the degree of fault that each bears. Where the plaintiff her or himself is partly to blame for their injury to damage, any award of damages shall be reduced by the proportion which their fault bears to the fault of all other parties.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, § 31.

PART H

WRONGFUL DEATH

Section
551. Wrongful Death Actions.

§ 551. Wrongful Death Actions.

When the death of a person is caused by the wrongful act, neglect or default of another, her or his personal representative may bring an action for damages against the person causing the death. Every such action shall be for the benefit of the spouse, child or children or the person whose death was caused. If there be no wife, husband, child or children, the action may be maintained for the benefit of the parents, minor sisters or brothers, provided that it is shown that they were dependent upon the deceased person for support or sustained some personal damages by reason of the death.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, § 32.

Cross References

Survival of actions, *see* 24 MLBS § 2015.

PART I

CULTURAL ACTIONS

Section
601. Action for Causing Cultural Harm.
602. Cultural Harm.
603. Sanctions.

§ 601. Action for Causing Cultural Harm.

Any person shall have a right to bring a cultural action against another for causing cultural harm.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, § 34.

§ 602. Cultural Harm.

Cultural harm is established by showing that the defendant has engaged in conduct which:

(a) Tends to harm the good health of the community by producing physical or moral degradation;

(b) Raises fears and apprehension in the community.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, § 35.

§ 603. Sanction.

In the even any defendant is found to have committed a cultural offense, the court may impose such sanctions as it deems just and consistent with the traditions and beliefs of the Band which include but not be limited to injunctions, both positive and negative, removal and exclusion. It may also include orders for performance of community service or for payment of fines.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, § 36.

Cross References

Exclusion, *see* 2 MLBS § 201.

PART J

DAMAGES

Section
651. Applicability.
652. Measure of Damages.
653. Exemplary (Punitive) Damages.

§ 651. Applicability.

This Part J shall govern damage awards for harmful conduct described in this subchapter except where a different measure is specifically provided.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, § 37.

§ 652. Measure of Damages.

For any injury to person or property, the measure of damages, except where otherwise expressly provided by this chapter, is the amount which will compensate for all detriment proximately caused thereby, whether it could have been anticipated or not.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, § 37.01.

§ 653. Exemplary (Punitive) Damages.

In any action for injury to person or property, where the defendant has been guilty of fraud, malice, actual or presumed, or by willful and wanton misconduct, the court or jury, in addition to the actual damage, may give damages for the sake of example and by way of punishing the defendant, but in no event shall such damages exceed specified limits where provided in this chapter.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, § 38.

PART K

SUITS AGAINST BAND OFFICIALS

Section
701. Immunity.

§ 701 Immunity.

(a) No elected official or employee of the Mille Lacs Band of Chippewa Indians shall be subject to a lawsuit for money damages for actions taken in the course of their official duties or in the reasonable belief that such actions were within the scope of their official duties; unless, in the case of a Band employee who does not hold elected

office, it is established that such action was taken with malicious intent and in bad faith.

(b) 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.

Historical and Statutory Notes

Source:
Band Statute 1096-MLC-28, § 44.
Band Statute 1303-MLC-4, § 9.04.

Cross References

Chief Executive and appointed officers, immunity, *see* 4 MLBS § 24.
Consolidated Nay-Ah-Shing School Board, responsibility for unacceptable performance of duties, *see* 9 MLBS § 13.
Domestic abuse prevention, immunity of Law Enforcement Officers, *see* 8 MLBS § 415.
Duty to report abuse or neglect, immunity, *see* 8 MLBS § 304.
Government employees, *see* 6 MLBS § 1 et seq.
Immunity for Justices and Judges, *see* 5 MLBS § 119.
Solicitor General, Immunity, *see* 4 MLBS § 21.

CHAPTER 2

CRIMINAL CAUSES OF ACTION

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

SUBCHAPTER 1

GENERAL PROVISIONS

Section

1001. Findings and Determinations.
1002. General Definitions.
1003. Civil Actions Not Barred.
1004. Limitation of Actions.
1005. Responsibility.
1006. Self-Defense.
1007. Attempt.

§ 1001. Findings and Determinations.

(a) The Band assembly hereby finds and determines that the purpose of this chapter is to protect all persons under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians through the development of various measures which define in writing acceptable and non-acceptable behaviors or omissions in the behavior of those persons who are enrolled members and other Indians under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians and to provide equal justice to all who may come before the Court of Central Jurisdiction charged with a criminal offense.

(b) The Band Assembly hereby finds that the public safety and welfare of all persons under the jurisdiction of the Band will be enhanced by preventing the commission of crime through the deterring effect of the sentences authorized when the public safety and interest requires.

(c) The Band Assembly hereby finds that the Court of Central Jurisdiction shall be authorized to exercise its inherent jurisdiction in three (3) types of legal matters:

(1) Civil litigation.

(2) Criminal litigation.

(3) Unwritten cultural law litigation.

(d) Notwithstanding anything to the contrary, the provisions of this chapter shall be construed according to the fair import of its terms, to promote justice, and to effect its purpose, in the best interest of enhancing the customs and sovereign right of the people of the Non-Removable Mille Lacs Band of Chippewa Indians which are hereby declared.

Historical and Statutory Notes

Source:

Band Statute 1164-MLC-6, § 1.

Cross References

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

§ 1002. General Definitions.

Unless otherwise specified in a particular section, the following should apply:

(a) **Acts.** Has its usual and ordinary grammatical meaning and includes any bodily movement, and form of communication where relevant, includes a failure or omission to take action.

(b) **Bodily Harm.** Means physical pain, illness or any impairment of physical condition and includes mental illness or impairment.

(c) **Deceit.** Means a person knowingly and intentionally causes harm or damage to another by:

(1) Creating or confirming in another an impression which is false and which the offender does not believe to be true; or

(i) Failing to correct a false impression which the offender previously has created or confirmed; or

(ii) Preventing another from acquiring information pertinent to the disposition of the property involved; or

(iii) Selling or otherwise transferring or encumbering property, failing to disclose a lien, adverse claim, or other legal impediment to the enjoyment of the property whether such impediment is or is not of value or is not a matter of official record; or

(iv) Promising performance which the offender does not intend to perform or know will not be performed. Failure to perform standing alone is not evidence that the offender did not intend to perform.

(d) **Deprive.** Means to knowingly and intentionally withhold the property of another, permanently or for such a period as to appropriate a portion of the value or with the purpose to restore it only upon payment of reward or other compensation.

(e) **Enter or remain unlawfully.** A person who knowingly and intentionally enters or remains unlawfully in or upon any vehicle, or occupied structure or premises when he or she is not licensed, invited or otherwise privileged to do so. A person who enters or

remains upon land does so with privilege unless notice is personally communicated to her or him by an authorized person, or unless such notice is given by posting in a conspicuous manner.

(f) **Gross Negligence.** A person acts with gross negligence whenever there is an intentional failure to perform a duty in reckless disregard of the consequences; such a gross wanter of care and regard for the rights of others as to justify the presumption of willfulness and wantonness.

(g) **Intentionally.** A person acts intentionally when her or his acts are willful and on purpose.

(h) **Knowingly.** A person acts knowingly with respect to conduct or to a circumstance described by a statute defining an offense, when he or she is aware of her or his conduct or that the circumstance exists. When knowledge of the existence of a particular fact is aware of high probability of its existence. Equivalent terms such as "knowing" or "with knowledge" have the same meaning.

(i) **Minor.** For purposes of this section, a minor shall be considered any person less than 18 years of age.

(j) **Obtain.** Means a person knowingly and intentionally in relation to property, to bring about transfer of interest or possession, whether to the offender or to another and in relation to labor of services, to secure the performance thereof.

(k) **Occupied Structure.** Means any building, vehicle or other place suited for human occupancy or night lodging of person or for carrying on business, whether or not a person is actually present. Each unit of a building consists of two (2) or more units separately secured or occupied is a separate occupied structure.

(l) **Offender.** Means a person who has been or is liable to be arrested, charged, convicted or punished for a public offense.

(m) **Owner.** Means a person, other than the offender, who has possession of or any other interest in the property involved, even though such interest or possession is unlawful and without whose consent the offender has no authority to exert control over the property.

(n) **Person.** Includes an individual, business association, partnership, corporation, government, or other legal entity, and an individual acting or purporting to act for or on behalf of any government or subdivision thereof.

(o) **Possession.** Is the knowing control of anything for a sufficient time to be able to terminate control.

(p) **Premises.** Includes any type of structure or building and any real property.

(q) **Property.** Means anything of value. Property includes, for example, but is not limited to real estate, money, commercial instruments, written instruments representing or embodying rights concerning anything of value, labor or services, or otherwise of value to the owner, things growing on or affixed to, or found on land, or part of, or affixed to any building, birds, animals and fish, which ordinarily are kept in a state of confinement, etc.

(r) **Property of Another.** Includes property in which the offender her or himself may have an interest, but does not have the authority to impair or defeat the interest of the other person in the property.

(s) **Public Places.** Means any place to which the public or any substantial group thereof has access.

(t) **Solicit or Solicitation.** Means to knowingly and intentionally command, authorize, urge, incite, request, or advise another to commit an offense.

(u) **Tamper.** Means to knowingly and intentionally interfere with something improperly, meddle with it, make unwarranted alternation in its existing condition, or deposit refuse upon it.

(v) **Threat.** Means a menace, however communicated, to knowingly and intentionally:

(1) Inflict physical harm on the person threatened or by any other person or on property; or

(2) Subject any person to physical confinement or restraint; or

(3) Commit any criminal offense; or

(4) Accuse any person of criminal offense; or

(5) Expose any person to hatred, contempt or ridicule; or

(6) Harm the credit or business reputation of any person; or

(7) Reveal any information sought to be concealed by the person threatened; or

(8) Take action as an official against anyone or anything, or withhold official action, or cause such action or withholding; or

(9) Testify or provide information or withhold testimony or information with respect to another legal claim or defense.

(w) **Weapons.** Means any instrument, firearm, article or substance which, regardless of this primary function, is readily capable of being used to produce death or serious bodily injury.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 8.

§ 1003. Civil Actions Not Barred.

This chapter does not bar, suspend or otherwise affect any right or liability to damages, penalty, forfeiture, or other remedy authorized by law to be recovered and civil injury is not merged into the criminal offense.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 7.

§ 1004. Limitation of Actions.

A prosecution for any offense may be commenced within one (1) year after it is committed. The period of limitations does not run under the following conditions:

(a) During any period in which the offender is not usually and publicly residing within this Reservation or is beyond the jurisdiction of this Reservation; or,

(b) During any period in which the offender is a public officer and the offense charged is theft of public funds while in public office; or

(c) During a prosecution pending against one (1) offender for the same conduct, even if the prosecution is dismissed.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 7.01.

§ 1005. Responsibility.

A person who is in an intoxicated or drugged condition is criminally responsible for conduct unless such condition is involuntarily produced and deprives her or him capacity to appreciate

the criminality of her or his conduct to the requirements of law. An intoxicated or drugged condition may be taken into consideration in determining the existence of a mental state which is an element of the offense.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 9.

§ 1006. Self-Defense.

(a) A person is justified in the use of force or threat to use force against another when and to the extent that he or she reasonably believes that such force is necessary to defend her or himself or another person against another's imminent use of unlawful force or prevent other person's trespass on or tortuous or criminal interference with real or personal property which he or she or her or his family owns, possesses or has the legal duty to protect.

(b) However, a person is justified in the use of force likely to cause death or serious bodily harm only if he or she reasonably believes that such force is necessary to prevent imminent death or serious bodily injury to her or himself or another person.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 10.

§ 1007. Attempt.

(a) A person commits the offense of attempt when he or she knowingly and intentionally with the purpose to commit a specific offense, does any act toward the commission of such offense.

(b) It shall not be a defense to a charge of attempt that because of a misapprehension of the circumstances it would have been impossible for the accuse to commit the offense attempted.

(c) A person convicted of the offense of attempt shall be punished not to exceed the maximum provided for the offense attempted.

(d) A person shall not be liable under this section, if under circumstance manifesting a voluntary and complete renunciation of her or his criminal purpose, he or she avoided the commission of the offense attempted by abandoning her or his criminal effort.

(e) Proof of the completed offense does not bar conviction for the attempt.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6 § 11.

SUBCHAPTER 2

DEPARTMENT OF JUSTICE

Section
1051. Creation.
1052. Powers and Duties of Department of Justice.
1053. Department of Justice Members.
1054. Powers and Duties of Solicitor General.
1055. Powers and Duties of Chief Law Enforcement Officer.
1056. Meetings.

§ 1051. Creation.

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

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 2.

§ 1052. Powers and Duties of Department of Justice.

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

enforcement and judiciary in general. The Department of Justice shall be authorized to take whatever lawful actions are deemed necessary in the interests of improving the general public interests, faith and confidence in the judicial systems.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 2.01.

§ 1053. Department of Justice Members.

The Department of Justice shall consist of the following:

(a) Solicitor General, Deputy Solicitor General(s), and legal support staff;

(b) Chief Law Enforcement Officer, Deputy Law Enforcement Officers and staff; and

(c) MLBO Compliance Officer and staff.

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

Historical and Statutory Notes

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

Cross References

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

§ 1054. Powers and Duties of Solicitor General.

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

(a) To convene the department for due cause at any time. In the event that he or she fails to do so upon request of any two (2) members of the Department, the Department may be convened after 48 hours written notice by any member of the Department.

(b) As an appointed official and the Band's lead attorney, the Solicitor General is responsible to all Mille Lacs Band of Ojibwe elected officials.

(c) The Solicitor General shall have the responsibility for ensuring the enforcement of all the laws of the Mille Lacs Band of Ojibwe.

(d) The Solicitor General shall have a duty to supervise investigations of potential violations of the law.

(e) The Solicitor General shall prosecute any and all violators of the law.

(f) The Solicitor General's primary allegiance shall be to the laws of the Band and not to the Executive Branch. The Solicitor may conduct investigations and prosecute members of the Executive Branch, as well as the Legislative or Judicial Branches within the parameters of Band law.

(g) The Solicitor General shall have the supervisory and administrative control of the Justice Department including Deputy Solicitor General(s) and staff, Law Enforcement Officers and staff, and MLBO Compliance Officer and staff.

(h) The Solicitor General shall review the laws of the Mille Lacs Band of Ojibwe to assure their compliance with the Indian Civil Rights Act (25 U.S.C.A. § 1302).

(i) The Solicitor General shall supervise and advise the Chief Law Enforcement Officer as to her or his duties and obligations.

(j) The Solicitor General is authorized to perform background investigations for purposes of employment and election purposes.

Historical and Statutory Notes

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

Cross References

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

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

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

(a) The Chief Law Enforcement Officer shall have the authority to enforce the laws of the Non-Removable Mille Lacs Bands of Chippewa Indians.

(b) The Chief Law Enforcement Officer shall have the duty to promote public safety, protect members of the Band and Band property, preserve the peace, and enforce all Band laws.

(c) The Chief Law Enforcement Officer shall have the authority to delegate her or his powers and duties to other officers under her or his command.

(d) The Chief Law Enforcement Officer and other Officers under her or his command shall have the authority to make arrests. Law Enforcement Officers all have the authority to carry handguns, other firearms, and other weaponry for their personal protection and protection of others.

(e) The Chief Law Enforcement Officer shall work with other law enforcement agencies to promote the peace.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 5.

Cross References

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

§ 1056. Meetings.

The Department of Justice shall meet as it may deem necessary. Its meetings shall be tape recorded, transcribed and distributed to the Chief Executive, Speaker of the Assembly and the Chief Justice within five (5) days following said meetings. The Solicitor General shall be responsible for compliance and he or she shall consider said minutes to be classified and prohibit any further distribution of such. The minutes shall be prima facie evidence of the facts therein state.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 6.

SUBCHAPTER 3

OFFENSES INVOLVING DAMAGE TO THE PERSON

Section

1101. Assault.
1102. Assault and Battery.
1103. Abduction.
1104. Obscene or Harassing Telephone Calls.
1105. Opening Sealed Letter--Intercepted Mail.
1106. Interference with Privacy.
1107. Mistreatment of Patients.
1108. False Arrest or Unlawful Restraint.
1109. Intimidation of a Public Official.

§ 1101. Assault.

Any person who shall knowingly and intentionally intimidate or threaten immediate bodily harm to another person through unlawful force or violence shall be deemed guilty of assault, and upon conviction thereof, shall be sentenced to labor for a period not to exceed 180 days, or a fine of not more than $500.00, or both if so determined by the Court, furnish a peace bond in case in an amount to be designated by the Court.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 12.

Cross References

Civil actions for assault and battery, *see* 24 MLBS § 251.
Domestic abuse prevention, *see* 8 MLBS § 401 et seq.
Duty to report abuse or neglect, *see* 8 MLBS § 301 et seq.
Government employees, summary dismissal, *see* 6 MLBS § 103.

§ 1102. Assault and Battery.

Any person who shall knowingly and intentionally strike another person, or otherwise inflicts bodily injury, or negligently inflicts bodily harm on another with a weapon, or who shall be offering violence, cause another to harm her or himself, shall be deemed guilty of assault and battery, 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.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 13.

Cross References

Civil actions for assault and battery, *see* 24 MLBS § 251.
Domestic abuse prevention, *see* 8 MLBS § 401 et seq.
Duty to report abuse or neglect, *see* 8 MLBS § 301 et seq.
Government employees, summary dismissal, *see* 6 MLBS § 103.

§ 1103. Abduction.

Any person who shall knowingly take away, or detain another person against her or his will or without the consent of the parent or other person having lawful care or charge of her or him, shall be deemed guilty of abduction 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.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 14.

§ 1104. Obscene or Harassing Telephone Calls.

Any person who by means of a telephone makes any comment, request, suggestion or proposal which is obscene, lewd or indecent or makes a telephone call, whether or not conversation ensues, without disclosing her or his identity and with intent to annoy, abuse, threaten or harass any person at the called number or makes or causes the telephone another repeatedly or continuously to ring, with intent to harass any person at the called number, or knowingly permits any telephone under her or his control to be used for any purpose prohibited by this section shall be guilty of an offense and upon conviction thereof, shall be sentenced to a fine not to exceed $500.00, and/or be required to furnish a satisfactory bond to keep the proper use of a telephone.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 16.

§ 1105. Opening Sealed Letter--Intercepted Mail.

Any person who knowing that he or she does not have the consent of either the sender or the addressee intentionally opens any sealed letter, telegram or package addressed to another, or who knowing that a sealed letter, telegram or package has been opened without the consent of

either the sender or addressee, intentionally publishes any of the contents, or who knowingly intercepts any letter, telegram or package addressed to another person, shall be deemed guilty of an offense and upon conviction shall be sentenced to incarceration for a period of time not to exceed 180 days, and/or a fine not to exceed $500.00, in addition to any award of damages for the benefit of the injured party.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 17.

Cross References

Civil actions, invasion of privacy, *see* 24 MLBS § 451 et seq.

§ 1106. Interference with Privacy.

Any person who enters upon another's property and surreptitiously gazes, stares, or peeps in the window of a house or place of dwelling of another with or without the intent to intrude upon or interfere with the privacy of a member of the household thereof, shall be deemed guilty of an offense and upon conviction shall be sentenced to incarceration for a period of time not to exceed 180 days, and/or fine not to exceed $500.00, in addition to any awards of damages for the benefit of the injured party.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 18.

Cross References

Civil actions, invasion of privacy, *see* 24 MLBS § 451 et seq.

§ 1107. Mistreatment of Patients.

Any person who being in charge of or employed at any facility which provides care to another person, who intentionally abuses, ill-treats or culpably neglects any patient to her or his physical detriment, shall be deemed guilty of an offense and upon conviction shall be sentenced to incarceration for a period of time not to exceed 180 days, and/or a fine not to exceed $500.00, in addition to any award of damages for the benefit of the injured party.

Historical and Statutory Notes

Source:

Band Statute 1164-MLC-6, § 19.

Cross References

Duty to report abuse or neglect, *see* 8 MLBS § 301 et seq.

§ 1108. False Arrest or Unlawful Restraint.

Any person who shall knowingly and intentionally make, or cause to be made the unlawful arrest, detention or imprisonment of another person, or who shall knowingly and without lawful authority restrain another so as to interfere substantially with her or his liberty, shall be deemed guilty of an 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.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 20.

Cross References

False imprisonment, civil causes of action, *see* 24 MLBS § 253.

§ 1109. Intimidation of a Public Official.

Any person who commits an offense contained in §§ 1101, 1102, 1104 or 1106 of this Title against an elected or formerly elected office holder of the Band motivated primarily by the fact that the official is or was formerly an elected office holder shall be guilty of intimidation of a public official, and upon conviction thereof shall be sentenced to imprisonment for a term of up to one (1) year or a fine of not more than $5,000.00 or both.

Historical and Statutory Notes

Source:
Band Ordinance 39-98, § 16.

Cross References

Definition of Elected Officials for purposes of Band Ordinance 39-98, *see* 6 MLBS § 1102.

SUBCHAPTER 4

OFFENSES AGAINST PROPERTY

Section

1151. Trespass.
1152. Theft.
1153. Embezzlement.
1154. Fraud.
1155. Issuing a Bad Check.
1156. Forgery.
1157. Fraudulent Long Distance Telephone Calls.
1158. Receiving Stolen Property.
1159. Extortion.
1160. Malicious Mischief.
1161. Graffiti.

§ 1151. Trespass.

(a) Any person who shall knowingly and intentionally go upon or pass over any cultivated or enclosed lands or premises of another person and shall refuse to go immediately therefrom on the request of the owner or occupant thereof, or who shall knowingly allow livestock to occupy or graze on the cultivated or enclosed lands of another person shall be deemed guilty of an offense and upon conviction thereof shall be punished by a fine not to exceed $500.00, and/or shall be sentenced to labor for a period not to exceed 180 days, in addition to any award of damages made by the Court for the benefit of the injured party.

(b) Any person who shall go upon or pass over any lands which are under lease or any allotted lands of another person and shall refuse to immediately therefrom on the request of the lessee, or owner or occupant thereof, shall be deemed guilty of an offense and upon conviction shall be sentenced to a fine not to exceed $500.00, in addition to any award of damages for the benefit of the injured party.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 21.

Cross References

Trespass to land, civil causes of actions, *see* 24 MLBS § 254.

§ 1152. Theft.

Any person who shall knowingly and intentionally obtain or exert unauthorized control over property of the owner and has the purpose of depriving the owner of the property, or to deprive the owner of the property, or uses, conceals or abandons the property knowing such use, concealment or abandonment probably will deprive the owner of the property shall be deemed guilty of theft, and upon conviction thereof, shall be sentenced to labor for a period not to exceed 180 days or a fine not to exceed $500.00, or by both fine and imprisonment, and may be ordered by the Court to make proper restitution.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 22.

Cross References

Government employees, summary dismissal, *see* 6 MLBS § 103.

§ 1153. Embezzlement.

Any person who having lawful custody of property not her or his own, shall knowingly and intentionally appropriate the same to her or his own use with intent to deprive the owner thereof, shall be deemed guilty of embezzlement 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 may be ordered by the Court to make proper restitution. As used in this section, embezzlement shall also include the spending a minor's funds by parents or guardians for other than the purpose for which the funds were placed in the custody of the parents or guardians.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 23.

Cross References

Government employees, summary dismissal, *see* 6 MLBS § 103.

§ 1154. Fraud.

Any person who shall knowingly and intentionally by misrepresentation or deceit, or by false interpretation or by the use of false weights or measures, knowingly obtain any money or other property of value, shall be deemed guilty of fraud, 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 may be ordered by the Court to make proper restitution.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 24.

Cross References

Dangerous drugs, fraud, *see* 23 MLBS § 3.
Fraud and deceit, civil causes of action *see* 24 MLBS §§ 401, 402.
Government employees, summary dismissal, *see* 6 MLBS § 103.
Motor vehicles, fraudulent practices, *see* 19 MLBS § 301 et seq.
Pawnbrokers and junk dealers, *see* 18 MLBS § 209.
Procurement sanctions, *see* 7 MLBS § 49.

§ 1155. Issuing a Bad Check.

Any person who knowingly and intentionally issues or delivers a check for the purpose of obtaining the property, labor or services of another, knowing that it will not be paid by the depository, commits the offense of issuing a bad check. If the offender has an account with the depository, failure to make good the check within 15 days, after written notice of nonpayment has been received by the issuer is prima facie evidence that the person knew it would not be paid by the depository. A person convicted of issuing a bad heck shall be sentenced to labor for a period not to exceed 180 days, and/or a fine not to exceed $500.00.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 25.

§ 1156. Forgery.

Any person who shall, with intent to defraud falsely sign, or knowingly execute or alter any written instrument, shall be deemed guilty of forgery, 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 may be ordered by the Court to make proper restitution.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 26.

Cross References

Government employees, summary dismissal, *see* 6 MLBS § 103.

§ 1157. Fraudulent Long Distance Telephone Calls.

Any person who obtains long distance telephone service by intentionally charging the cost thereof to a false or nonexistent telephone, or to the telephone number of another person without their knowledge or consent, or to a credit card number of another person or government or business without prior authority, shall be deemed guilty of an offense, and upon conviction may be sentenced to labor for a period of 180 days, and/or fine not to exceed $500.00, in addition to any award of damages for the benefit of the injured party.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 15.

§ 1158. Receiving Stolen Property.

Any person who shall knowingly obtain control over stolen property knowing the property to have been stolen by another, and has the purpose of depriving the owner of the property, and knowingly uses, conceals or abandons, the property in such a manner as to deprive the owner of the property, or uses, conceals or abandons the property, knowing such use, concealment or abandonment probably will deprive the owner of the property, shall be deemed guilty of an 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, and may be ordered by the Court to make proper restitution.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 27.

Cross References

Government employees, summary dismissal, *see* 6 MLBS § 103.

§ 1159. Extortion.

Any person who by making false charges against another or by any other means whatsoever, knowingly extorts any monies, goods, property or anything else of any value, shall be deemed guilty of extortion, and upon conviction thereof, shall be sentenced to labor for a period not to exceed 180 days, and/or a fine of $500.00.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 29.

§ 1160. Malicious Mischief.

Any person who shall knowingly disturb injure, destroy or tamper with any livestock or other domestic animals or other property of another, shall be deemed of malicious mischief, and upon conviction thereof, shall be sentenced to labor for a period not to exceed 180 days, and/or a fine of $500.00.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 30.

Cross References

Government employees, summary dismissal, *see* 6 MLBS § 103.
Injury to public property, *see* 24 MLBS § 1201.
Intentional interference with personal property, civil causes of action, *see* 24 MLBS § 255.

§ 1161. Graffiti.

(a) Any person subject to the jurisdiction of the Mille Lacs Band who is found, by a preponderance of the evidence, to have knowingly placed graffiti on any real or personal property on Band Lands, without the permission of the owner of the property or other legal authorization, is guilty of vandalism, which is a civil misdemeanor, and is subject to a fine and other penalties as set forth in this section. As used in this § 1161:

(1) **"Graffiti"** means any letter, word, name, number, symbol, slogan, message, drawing, picture, writing, or other mark of any kind visible to the public that is drawn, painted, chiseled, scratched or etched on a rock, tree, wall, bridge, roadway, fence, gate, building or other natural or man-made structure.

(2) **"Band Lands"** means lands owned or held in trust for the Minnesota Chippewa Tribe, the Mille Lacs Band of Ojibwe Indians, or one (1) or more members of the Mille Lacs Band of Ojibwe Indians, and subject to the jurisdiction of the Mille Lacs Band.

(3) **"Juvenile"** means any person who is less than 18 years of age.

(b) In any case arising under this section, it shall be presumed that the Mille Lacs Band and its entities did not give permission to any person to place graffiti on any property, vehicles, signs, fixtures, or furnishings belonging to the Mille Lacs Band or its entities unless such permission was in writing.

(c) Upon conviction of any person under this section for vandalism, the Court may, in addition to any fine and other penalties imposed, order the defendant to clean up, repair, or replace the damaged property. The Court may also order the defendant, and her or his parents or guardians if the defendant is a juvenile, to keep the damaged property or another specified property free of graffiti for up to one (1) year.

(d) If a juvenile is personally unable to pay a fine imposed under this section, the parent(s) or guardian(s) of that juvenile shall be liable for payment of the fine.

(e) The Court may order any person ordered to perform community service or graffiti removal under this section to undergo counseling. If the person was under the influence of alcohol or other illegal substance, the Court may also require a drug and alcohol assessment and drug or alcohol treatment.

(f) **Penalties.**

(1) The maximum penalty for a first offense of vandalism under this § 1161 shall be a fine of $250.00 and 80 hours of community service, plus full restitution to the victim. If the defendant is a juvenile still in school, community service shall be performed in a manner not to interfere with school.

(2) The maximum penalty for a second offense shall be a fine of $500.00 per offense and 160 hours of community service, plus full restitution to the victim. If the offender is a juvenile, then the penalty may be taken from the parent or legal guardian.

(3) The maximum penalty for a third and any subsequent offense of vandalism under this § 1161 is a $1,000.00 fine and 200 hours of community service per offense, plus full restitution to the victim. If the defendant is a juvenile still in school, community service shall be performed in a manner not to interfere with school.

(4) Upon a third or subsequent conviction for vandalism under this § 1161, the defendant may be banned from entering all Mille Lacs Band Government buildings, except for employment, to conduct business at the District Government Centers, or to obtain medical treatment at Band medical facilities. The Court may suspend or modify this sentence for good cause shown by defendant.

(g) **Prohibition against Selling or Furnishing Aerosol Paint to Minors.**

(1) It shall be unlawful for any person, firm, or corporation subject to the jurisdiction of the Mille Lacs Band, except a parent, legal guardian, or supervising adult, to provide to any person any aerosol container of paint that is capable of defacing property without first obtaining bona fide evidence in the form of a Band identity card or State driver's license that the person to whom the aerosol container is provided is 18 years of age or older.

(2) It shall be unlawful for any person subject to the jurisdiction of the Mille Lacs Band who is under the age of 18 years to purchase an aerosol container of paint that is capable of defacing property.

(3) Every Mille Lacs Band entity, and every retailer licensed by the Corporate Commission to do business with the Mille Lacs Band, which sells or offers for sale on or near Band Lands aerosol containers of paint, shall post a sign stating:

(i) "Any person subject to the jurisdiction of the Mille Lacs Band who knowingly or intentionally defaces real or personal property with paint on Band Lands is guilty of vandalism under Band law and shall be prosecuted to the full extent of the law."

(4) It is unlawful for any person subject to the jurisdiction of the Mille Lacs Band to carry on her or his person and in plain view to the public an aerosol container of paint into any posted Band facility, park, playground, swimming pool, beach, or recreational area without valid written authorization from the Band.

(5) It is unlawful for any person subject to the jurisdiction of the Mille Lacs Band who is under the age of 18 years to possess an aerosol container of paint while on any public highway, street, alley, way, or other public place on Band Lands, regardless of whether that person is or is not in any automobile, vehicle, or other conveyance.

(6) Any person who is found guilty, by a preponderance of the evidence, of violating subparagraphs (1), (2), (4) or (5) of this paragraph (g) shall be guilty of a civil misdemeanor and subject to a maximum fine in the amount of $250.00 per offense. The Corporate Commission shall revoke the license to do business with the Band of any retailer who fails to post the sign required by subparagraph (3) of this paragraph after providing 14 days written notice of such requirement to such retailer.

(h) If the Court of Central Jurisdiction adjudges any provision of this section to be invalid, such judgment shall not affect any other provisions of this section not specifically included in the judgment.

(i) Nothing contained in this section shall be construed as a waiver of sovereign immunity of the Mille Lacs Band of Ojibwe Indians.

Historical and Statutory Notes

Source:
Band Ordinance 29-03.

SUBCHAPTER 5

OFFENSES AGAINST PUBLIC ADMINISTRATION

Section
1201. Injury to Public Property.
1202. Misuse of USDA Donated Commodities.
1203. Bribery.
1204. Perjury.
1205. Resisting Lawful Arrest.
1206. Refusing to Aid an Officer.
1207. Obstructing Justice.
1208. Escape.
1209. False Report to Law Enforcement Officers.
1210. Disobedience to Lawful Orders of Court; Contempt.
1211. Violation of Approved Tribal Ordinance.
1212. Violation of Orders or Opinions.
1213. Impersonating Tribal Official or Other Person in Authority.

§ 1201. Injury to Public Property.

Any person who shall without proper authority, knowingly use or tamper with or knowingly or negligently injure any public property of the Band or property held for the benefit of the Tribes by the United States, shall be deemed guilty of an offense and upon conviction thereof, shall be sentenced to labor for a period not exceed 180 days and/or a fine not to exceed $500.00, and may be ordered by the Court to make proper restitution.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 31.

Cross References

Government employees, summary dismissal, *see* 6 MLBS § 103.

Malicious mischief, *see* 24 MLBS § 1160.

§ 1202. Misuse of USDA Donated Commodities.

Any person who shall, within the boundaries of the Non-Removable Mille Lacs Band of Chippewa Indians knowingly sell, trade, waste, or otherwise dispose of in an unauthorized manner USDA donated commodities issued by the Band and any person who knowingly received from another person as part of a sale, trade or other transaction any USDA donated commodities issued to that person by the Band, shall be deemed guilty of an 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. The Court shall notify the Band Commodity Certifying Officer of any convictions under the provisions of this section.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 32.

§ 1203. Bribery.

Any person who shall knowingly give or offer to give any money, property or services, or anything else of value to another person with the intent to influence another in the discharge of her or his public duties or conduct, and any person who shall knowingly accept, solicit or agree to solicit, or accept any bribe, shall be deemed guilty of an 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, and may be required by the Band Assembly to forfeit any Tribal office held by such person.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 34.

Cross References

Government employees, summary dismissal, *see* 6 MLBS § 103.

§ 1204. Perjury.

Any person who shall knowingly in any judicial proceeding in the Court of Central Jurisdiction, falsely swear or interpret, or shall make a sworn statement or affidavit, knowing the same to be untrue, or shall induce or procure another person to do so, shall be deemed guilty of perjury 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.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 35.

§ 1205. Resisting Lawful Arrest.

Any person who shall knowingly, by force, violence or subterfuge, resist, or assist another person to resist a lawful arrest, shall be deemed guilty of an 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.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 36.

Cross References

Warrant, summons and arrest, *see* 24 MLBS § 4101 et seq.

§ 1206. Refusing to Aid an Officer.

Any person who shall neglect or refuse, without good cause, when called upon by any law enforcement officer to assist in the arrest of any person charged with or convicted of any offense, or in securing such offender when apprehended, or in conveying such offender to the nearest place of confinement, or in preventing the commission by another of an offense, shall be deemed guilty of an offense, and upon conviction thereof, shall be sentenced to labor for a period of 180 days, and/or a fine not to exceed $500.00 provided that no responsibility shall attach to the person assisting a law enforcement officer at the officer's request.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 37.

§ 1207. Obstructing Justice.

Any person who knowing a person is an offender, knowingly prevents or obstructs anyone from performing an act that might id in the discovery or apprehension of an offender or suppresses by

act of concealment, alteration or destruction any physical evidence that might aid in the discovery or apprehension of an offender, shall be deemed guilty of the offense of obstructing justice, 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.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 38.

Cross References

Government employees, summary dismissal, *see* 6 MLBS § 103.

§ 1208. Escape.

Any person who being in lawful custody for any offense, shall knowingly escape or who shall knowingly permit or assist another person to escape from lawful custody, shall be deemed guilty of an 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. For purpose of this section "lawful custody" shall mean imprisonment of a person charged with or convicted of an offense detention of a person pursuant to arrest, detention for extradition or deportation, or any lawful detention for the purpose of the protection of the welfare of the person detained, or for the protection of society.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 39.

§ 1209. False Report to Law Enforcement Officers.

Any person who knowingly gives false information to any law enforcement officer with the purpose of implicating another, reporting an offense or incident that he or she knows he or she has no such information shall be deemed guilty of an 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.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 40.

§ 1210. Disobedience to Lawful Orders of Court; Contempt.

Any person who shall knowingly disobey any order, subpoena, warrant or command duly issued, made or given by the Court of Central Jurisdiction or any other officer thereof, or who shall knowingly fail to return to official detention following leave granted for a specific purpose or limited time, shall be deemed guilty of an offense and upon conviction thereof, shall be fined in an amount not exceeding $500.00, and/or sentenced to labor for a period not to exceed 180 days. For purpose of this section "official detention" includes but is not limited to constraint incidental to release on bail.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 41.

Cross References

Judicial authority, *see* 5 MLBS § 101 et seq.

§ 1211. Violation of Approved Tribal Ordinance.

Any person who knowingly violates an Ordinance promulgated by the Legislative Branch of Government and legally in force, shall be deemed guilty of an offense, and upon conviction thereof, shall be fined in an amount not exceeding $500.00, and/or sentenced to labor for a period not to exceed 180 days, or subjected to any other penalty as prescribed in the Ordinance.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 42.

Cross References

Legislative power, *see* 3 MLBS § 2.
Passage of laws, *see* 3 MLBS § 16.

§ 1212. Violation of Orders or Opinions.

(a) 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 $500.00 and possible forfeiture of any office or employment opportunity presently held.

(b) Any Band member who shall willfully violate 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 $500.00 and/or revocation and suspension of all usufructuary rights under Band law for a period of up to five (5) years.

Historical and Statutory Notes

Source:
Band Statute 1085-MLC-37, § 68.
Band Statute 1092-MLC-25, § 13.02.

Cross References

Commissioner's Orders, *see* 4 MLBS § 7.
Executive Orders, *see* 4 MLBS § 6.
Secretarial Orders, *see* 3 MLBS § 7.
Solicitor General's Opinions, *see* 4 MLBS § 18.

§ 1213. Impersonating Tribal Official or Other Person in Authority.

Any person who shall falsely impersonate or identify or represent her or himself as an elected official, appointee(s), law enforcement or any other person of authority authorized by the Non-Removable Mille Lacs Band of Chippewa Indians, the United States, any State or any of its political subdivisions, for the purpose of inducing another to submit to such pretended official authority, or otherwise to act in reliance upon that pretense to her or his prejudice, shall be guilty of an offense, and upon conviction thereof, shall be sentenced to labor for a period of 180 days, and/or not to exceed $500.00.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 43.

Cross References

Government employees, summary dismissal, *see* 6 MLBS § 103.

SUBCHAPTER 6

OFFENSES AGAINST PUBLIC ORDER, HEALTH AND DECENCY

Section
1251. Carrying Concealed Weapons.

1252. Handgun Registration.
1253. Disorderly Conduct.
1254. Maintaining A Public Nuisance. [Repealed].
1255. Cruelty to Animals.
1256. Game Violations.
1257. Gambling.
1258. Liquor Violations.
1259. Sanitation and Public Health.
1260. Contributing to Delinquency of Minor.
1261. Curfew. [Repealed].
1262. Off-Road Use of Motor Bikes, Cycles or Scooters.

§ 1251. Carrying Concealed Weapons.

Any person who shall go about in public places armed with a dangerous weapon concealed upon her or his person, unless he or she shall have a permit signed by a Judge of the Court of Central Jurisdiction, shall be deemed guilty of an offense, and upon conviction thereof, shall be sentenced to labor for a period of 180 days, and/or a fine not to exceed $500.00, and the weapons so carried may be confiscated by the Court of may be seized at officers discretion. This Section does not apply to any law enforcement officer.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 44.

§ 1252. Handgun Registration.

All handguns shall be registered with the Department of Justice.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 44.01.

§ 1253. Disorderly Conduct.

(a) Any person subject to the jurisdiction of the Mille Lacs Band of Ojibwe Indians who is found, by a preponderance of the evidence, to have engaged intentionally in any of the following behaviors on Band Lands or on a Mille Lacs Band school bus, knowing, or having reasonable grounds to know that such behavior will, or will tend to, alarm, anger or disturb others or provoke an assault or breach of the peace, is

guilty of disorderly conduct, which is a civil misdemeanor, and is subject to a fine in an amount not to exceed $500.00 per offense:

(1) Engages in brawling or fighting; or

(2) Disturbs a lawful meeting or assembly of persons without lawful authority; or

(3) Engages in offensive, obscene, abusive, or abusive conduct tending reasonably to arouse alarm, anger, or resentment in others or uses offensive, obscene, or abusive words which, by their very utterance, inflict injury or tend to incite an immediate breach of the peace; or

(4) Blocks vehicular or pedestrian traffic without lawful authority; or

(5) Prevents the free ingress or egress to public or private places without lawful authority; or

(6) Makes a false report or warning of a fire, impending explosion or other catastrophe in a place in which such an occurrence would endanger human life; or

(7) Appears in a public or private place in an intoxicated and disorderly condition; or

(8) Creates a disturbance, while hosting or attending a party, so as to disrupt the peacefulness of the neighborhood or community through loud noises and/or fights or other obnoxious behavior; or

(9) Plays her or his music from any car, house or music player so as to create a disturbance to the neighbors or community members between the hours of 10:00 p.m. and 8:00 a.m.

(b) The Tribal Police shall have authority to investigate any disturbance on Band Lands or on a Mille Lacs school bus. Upon reasonable suspicion, which may be based on the complaint of another person, that any person subject to the jurisdiction of the Mille Lacs Band is engaging in or has engaged in disorderly conduct as defined in paragraph (a) of this section, the Tribal Police shall request that such conduct be immediately stopped. If the person refuses to immediately stop such conduct, such person shall be subject to arrest and to the maximum fine as stated in paragraph (a) of this section.

(c) As used in this section, Band Lands means lands owned or held in trust for the Minnesota Chippewa Tribe, the Mille Lacs Band of Ojibwe, or one (1) or more members of the Mille Lacs Band of Ojibwe Indians, and subject to the jurisdiction of the Mille Lacs Band.

(d) If the Court of Central Jurisdiction adjudges any provision of this Ordinance to be invalid, such judgment shall not affect any other provisions of this Ordinance not specifically included in the judgment.

(e) Nothing contained in this section shall be construed as a waiver of sovereign immunity of the Mille Lacs Band of Ojibwe Indians.

Historical and Statutory Notes

Source:
Band Ordinance 27-03.

§ 1254. Maintaining a Public Nuisance.

[REPEALED].

Historical and Statutory Notes

Source:
Band Ordinance 30-03.

Cross References

Public Nuisance Ordinance, *see* 24 MLBS § 301 et seq.

§ 1255. Cruelty to Animals.

Any person who shall torture or cruelly mistreat any animals, shall be deemed guilty of an offense, and shall be sentenced to labor for a period not to exceed 180 days, and/or a fine not to exceed $500.00, and to provide such care as the Court shall direct.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 47.

§ 1256. Game Violations.

Any enrolled member of the Non-Removable Mille Lacs Band of Chippewa Indians or any persons under the jurisdiction of this Court, who shall knowingly sell, trade, or give away to a non-member or offer for sale or trade any edible portion of any game fish, game bird or game animal, or protect any person from being apprehended, or charged with a violation of an existing game law in force and effect, or fail to report, to the proper authorities any person who sells or

attempts to sell any edible portion of any game bird, game fish or game animal, or violates any rules or regulations as provided by Chapter 7 of the Band Code for the conservation of the fish and game of the Reservation shall be sentenced to labor for a period not to exceed 180 days and/or a fine not to exceed $500.00.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 48.

Cross References

Natural Resource Protection Code, *see* 11 MLBS § 2001 et seq.

§ 1257. Gambling.

Any person who shall violate any law, rule or regulation established for the control or regulation of any game of chance on territories under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians, shall be deemed guilty of an 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.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 49.

Cross References

Gaming control, *see* 15 MLBS § 1 et seq.

§ 1258. Liquor Violations.

(a) Any person under the age of 21 who shall knowingly and intentionally possess or use any wine, beer, ale, whiskey or any article whatsoever which produces any intoxication; or any minors who shall appear in any public or private place(s) while under the influence of intoxicating liquor to any degree, shall be deemed guilty of a liquor violation offense, and upon conviction thereof, may be sentenced to a community service labor for period not to exceed 10 days for the first offense and 20 days for any repeat offense, and/or a fine not to exceed $50.00 for the first offense and $100.00 for any repeated offense. Upon any conviction for a second or more liquor violations under this Section, said person shall forfeit her or his right to any employment or youth program participation for a period not to exceed 180 days.

(b) Any person who knowingly and intentionally purchases, transports or possesses any wine, bee, ale, whiskey, or any article whatsoever which produces alcoholic intoxication for or in any minor person or who shall consume any of the above with a minor person shall be deemed guilty of a liquor violation offense, and upon conviction thereof, may be sentenced to labor for a period not to exceed 180 days, and/or a fine not to exceed $500.00.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 50.

Cross References

Government employees, summary dismissal, *see* 6 MLBS § 103.
Juvenile delinquency, criminal procedure, *see* 24 MLBS § 4301 et seq.
Juvenile justice, *see* 8 MLBS § 101 et seq.

§ 1259. Sanitation and Public Health.

Any person who shall violate any rules or regulations enforced by any Administration of the Band with responsibility for the health and welfare of the persons under the jurisdiction of the Band as adopted by Commissioner's Order shall be guilty of an 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.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 51.

§ 1260. Contributing to the Delinquency of Minor.

Any person who shall knowingly contribute to the delinquency of a minor, shall be deemed guilty of an 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.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 54.

Cross References

Duty to report abuse or neglect, *see* 8 MLBS § 301 et seq.
Juvenile delinquency, criminal procedure, *see* 24 MLBS § 4301 et seq.
Juvenile justice, *see* 8 MLBS § 101 et seq.
Prohibited drugs, consumption by minors *see* 23 MLBS § 5.

§ 1261. Curfew.

[REPEALED].

Historical and Statutory Notes

Source:
Band Ordinance 31-03.

Cross References

Curfew Regulations, *see* 8 MLBS §§ 71, 72.
Duty to report abuse or neglect, *see* 8 MLBS § 301 et seq.

§ 1262. Off-Road Use of Motor Bikes, Cycles or Scooters.

The use of motor bikes, motorcycles or motor scooters is restricted to existing roads, and any person who knowingly or negligently uses such a vehicle on any other Reservation land, including trails designed for horseback or pedestrian travel, shall be deemed guilty of an 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.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, §33.

Cross References

Traffic violations, *see* 19 MLBS § 501 et seq.

SUBCHAPTER 7

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Section
1301. Definitions.

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

§ 1301. Definitions.

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

(a) **"Drug-related overdose"** means an acute condition, including mania, hysteria, extreme physical illness, or coma, resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance was combined, and that a layperson would reasonably believe to be a drug overdose that requires immediate medical assistance.

(b) **"Good faith"** does not include seeking medical assistance during the course of the execution of an arrest warrant or search warrant or a lawful search.

(c) **"Individual"** means a human being.

(d) **"Opiate antagonist"** means naloxone hydrochloride or any similarly acting drug approved by the federal Food and Drug Administration for the treatment of a drug overdose.

Historical and Statutory Notes

Source:
Band Ordinance 48-21, § 2.

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

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

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

Historical and Statutory Notes

Source:
Band Ordinance 48-21, § 2.

§ 1303. Health Care Professionals; Release from Liability.

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

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

(b) to someone other than the individual to whom it is prescribed.

Historical and Statutory Notes

Source:
Band Ordinance 48-21, § 2.

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

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

(a) the evidence for the charge or prosecution was obtained as a result of the individual's seeking medical assistance for another individual; and

(b) the individual seeks medical assistance for another person who is in need of medical assistance for an immediate health or safety concern, provided that the individual who seeks the medical assistance is the first person to seek the assistance, provides her or his name and contact information, remains on the scene until assistance arrives or is provided, and cooperates with the authorities.

Historical and Statutory Notes

Source:
Band Ordinance 48-21, § 2.

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

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

Historical and Statutory Notes

Source:
Band Ordinance 48-21, § 2.

§ 1306. Persons on Probation or Release.

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

Historical and Statutory Notes

Source:
Band Ordinance 48-21, § 2.

§ 1307. Effect on Criminal Prosecutions.

(a) The act of providing first aid or other medical assistance to someone who is experiencing a drug-related overdose may be used as a mitigating factor in a criminal prosecution for which immunity is not provided.

(b) Nothing in this subchapter shall:

(1) be construed to bar the admissibility of evidence obtained in connection with the investigation or prosecution of other crimes or violations committed by an individual who otherwise qualifies for limited immunity under this subchapter;

(2) preclude the prosecution of a person on the basis of evidence obtained from an independent source;

(3) be construed to limit, modify, or remove any immunity from liability currently available to public entities, public employees by law, or prosecutors; or

(4) prevent probation officers from conducting drug testing of persons on pretrial release, probation, furlough, supervised release, or parole.

Historical and Statutory Notes

Source:
Band Ordinance 48-21, § 2.

SUBCHAPTER 8

BAND MEMBER LEGAL SERVICES - REPEALED

Historical and Statutory Notes

Source:
Band Ordinance 41-22 (Band Member Legal Services has been moved to Title 15).

CHAPTER 3

PROCEDURE

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SUBCHAPTER 1

GENERAL PROVISIONS

Section
2001. Definitions.
2002. Judicial Philosophy.
2003. Traditional Theory of Law of Mille Lacs Band.

2004. Principle of Law of Mille Lacs Band.
2005. Causes of Action.
2006. Effect of Criminal Cause of Action.
2007. Law Applicable in Civil Actions.
2008. Opinion and Orders of Court.
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2010. Proceedings of Court: Public-At-Large.
2011. Record of Proceedings.
2012. Written Decisions Mandated.
2013. Statute of Limitations.
2014. Trial by Jury.
2015. Survival of Actions.

§ 2001. Definitions.

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

(a) **Elder.** An elder for purposes of this statute shall be an enrolled Mille Lacs Band member who has reached the chronological age of 55.

(b) **Guardian Ad Litem.** A guardian who is appointed by a court to speak for or defend a minor or incompetent in any suit to which the minor or incompetent in any way may be a party.

(c) **Incompetent.** A person who is insane, an imbecile, or feeble-minded, or is not mentally able to manage their affairs.

(d) **Minor.** A person who is under the age of 18 years, unless otherwise specified.

(e) **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.

(f) **Party Aggrieved.** One whose right has been directly and injuriously affected by action of the court.

(g) **Statute of Limitations.** A specified length of time after which no cause of action or right to sue exists.

(h) **Summons.** A notice in writing to a defendant informing her or him that an action has been brought against her or him and judgment will be taken against her or him if he or she fails to answer the complaint within the prescribed time set forth therein.

Historical and Statutory Notes

Source:
Band Statute 1303-MLC-4, § 43.

§ 2002. Judicial Philosophy.

The judicial philosophy of the Non-Removable Mille Lacs Band of Chippewa Indians is a product of the terms and conditions of our customs of life since time immemorial. Peace and harmony between the people of the Band is necessary to ensure the continued survival of the Anishinabe. At times the circle of peace and harmony amongst the people will be disrupted. This circle of life needs to be restored in a manner that permits the integrity of the individual to be maintained so that the community will continue to grow and prosper. It shall be the judicial philosophy of the Court of Central Jurisdiction to promote the traditional teachings of our elders that have served the people so well since the beginning of time; to apply these principles of life to resolve conflicts between individuals; to strengthen and help those who come before the Court so that they may experience a good life. To this end, proceedings in the Court of Central Jurisdiction shall not be adversarial but shall be a search for truth and justice.

Historical and Statutory Notes

Source:
Band Statute 1303-MLC-4, § 4.

Cross References

Executive hearings, procedure, *see* 4 MLBS § 13.

§ 2003. Traditional Theory of Law of Mille Lacs Band.

The theory of law of the Non-Removable Mille Lacs Band of Chippewa Indians is based upon a high regard for the concept of sha wa ni ma. It is one of our ways of life according to custom. The purpose of sha WA ni ma is to keep the people together as one. This purpose is good for all people. It serves to balance the forces of life and brings stability to the people. To achieve this way of life, the laws of the Band shall be construed to balance the rights of the individual with the need to continue to co-exist in peace and harmony with one another. In this way, order will be preserved and justice shall be accorded to each person who has cause to appear before the Court of Central Jurisdiction.

Historical and Statutory Notes

Source:
Band Statute 1303-MLC-4, § 5.

Cross References

Cultural actions, *see* 24 MLBS § 601 et seq.

§ 2004. Principle of Law of Mille Lacs Band.

The principle of law in the Court of Central Jurisdiction shall be a cooperative search for truth and justice amongst all persons coming before the Court as well as the Court itself. All individuals coming before the court share an equal obligation and responsibility in bringing forth the fact surrounding a particular vent that has given rise to a matter before the Court of Central Jurisdiction. To achieve this goal, all individuals who appear before the Court must adhere to basic principles of honor, respect, integrity, pity and kindness. Therefore, it shall be the mission of the court of Central Jurisdiction to actively search for truth within the principles of individual rights, privileges, honor, respect, integrity, pity and kindness to and for all persons who have cause to utilize the judicial system of the Non-Removable Mille Lacs Band of Chippewa Indians. To this end, the justices of the Court of Central Jurisdiction shall be bound.

Historical and Statutory Notes

Source:
Band Statute 1303-MLC-4, § 6.

§ 2005. Causes of Action.

The Court of Central Jurisdiction shall recognize all suits as prescribed by law and cases in equity.

Historical and Statutory Notes

Source:
Band Statute 1303-MLC-4, § 24.

§ 2006. Effect of Criminal Cause of Action.

A criminal cause of action shall not bar any available civil relief arising from the same set of circumstances or events in the Court of Central Jurisdiction.

Historical and Statutory Notes

Source:
Band Statute 1303-MLC-4, § 10.01.

Cross References

Criminal causes of action, *see* 24 MLBS § 1001 et seq.

§ 2007. Law Applicable in Civil Actions.

(a) In all civil cases the Court of Central Jurisdiction shall apply the written statutory and case law of the Non-Removable Mille Lacs Band of Chippewa Indians. In the event of the lack of written Band law, the Court shall apply any pertinent laws of the United States of America. In the event of the lack of existence of said written law, the Court shall apply any laws of the State of Minnesota that do not conflict with the unwritten customs and traditions of the Band since time immemorial. Where any doubt arises as to the customs and traditions of the Band, the court shall request the advice of qualified elders familiar with customs and tradition.

(b)

(1) 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 do not rest for their authority upon any expressed or positive declaration of the will of the Band Assembly.

(2) In all other causes of civil action that do not derive 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.

Historical and Statutory Notes

Source:
Band Statute 1303-MLC-4, § 27.
Band Statute 1087-MLC-44, § 68.

§ 2008. Opinion and Orders of Court.

Each Justice and Judge shall be bound by the provisions of the Constitution of the Minnesota Chippewa Tribe, the laws of the Non-Removable Mille Lacs Band of Chippewa Indians and any applicable laws of the United States. Prior to the issuance of any opinion and order of the Court, each Justice and Judge shall consider and weigh unwritten cultural law, historical tribal legal opinions, and precedents of the Court of Central Jurisdiction.

Historical and Statutory Notes

Source:
Band Statute 1303-MLC-4, § 29.

§ 2009. Full Faith and Credit.

Full faith and credit shall be given to public acts, records and civil judicial proceeding of all other reservations and all Federal and State jurisdictions that have enacted a full faith and credit provision in their Constitution or Statutes or on a case-by-case basis, have granted full faith and credit to judicial determinations of the Court of Central Jurisdiction.

Historical and Statutory Notes

Source:
Band Statute 1303-MLC-4, § 25.

§ 2010. Proceedings of Court: Public-At-Large.

The proceedings of the Court of Central Jurisdiction shall be open to the public except in matters involving minors. The presiding judge or justice may exclude the public from a proceeding upon the motion of any party or upon the Court's own motion for good cause as the court determines.

Historical and Statutory Notes

Source:
Band Statute 1303-MLC-4, § 35.

§ 2011. Record of Proceedings.

The Court of Central Jurisdiction shall maintain a record of all proceedings of the Court, which record shall include the title of the case, the parties, the names and addresses of all witnesses, the date of the hearing or trial, the mane of the presiding judge, and the judgment together with any other facts or circumstances deemed important to the case.

Historical and Statutory Notes

Source:
Band Statute 1303-MLC-4, § 33.

§ 2012. Written Decisions Mandated.

The Court of Central Jurisdiction shall in all cases give written decisions, which shall be filed with the Clerk of Court along with all other papers in the case.

Historical and Statutory Notes

Source:
Band Statute 1303-MLC-4, § 34.

§ 2013. Statute of Limitations.

The following limitations on actions shall be utilized for civil cases before the Court of Central Jurisdiction:

(a) An action may be commenced only 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 otherwise provided for by law.

(b) 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 harmful conduct, one (1) year form the time a cause of action arose as a result of an employee-employer relationship or the hiring or termination of an individual from employment, unless a different time is otherwise prescribed by law. An action shall be deemed to have been commenced for the purposes of this Section when a written complaint has been filed. The Statute of limitations shall not run while a person is a minor, incompetent, or serving in the armed forces of the United States. The time is tolled as to persons absent from the jurisdiction of the Band for the purpose of avoiding process.

Historical and Statutory Notes

Source:
Band Statute 1303-MLC-4, § 26.

Cross References

Finality of adoption judgment, *see* 8 MLBS § 626.

§ 2014. Trial by Jury.

(a) The right to a trial by jury shall exist in criminal matters where a defendant is exposed to a fine great than $500.00 or where an individual may be imprisoned and in civil

cases where the plaintiff's claim exceeds $1000.00. A trial by jury shall not be available in domestic relations, probate or cases in equity matters.

(b)

(1) In cases where a jury may be requested, the request for a jury must be made in writing to the Clerk. The request for a jury may be made at any time after commencement of an action, but no later than five (5) days after the filing of the last pleading. The request for a trial by jury in civil matters must be accompanied by a case or surety bond in the amount of $100.00 to cover the costs of the jury trial.

(2) The failure of a party to request a jury, as required in paragraph (1) constitutes a waiver of a trial by jury.

Historical and Statutory Notes

Source:
Band Statute 1303-MLC-4, § 37.

Cross References

Criminal procedure, jury trial, *see* 24 MLBS § 4201.
Right to a trial by jury, *see* 1 MLBS § 10.

§ 2015. Survival of Actions.

In the event any person has a claim against another person, whether arising on a contract or otherwise, and such person dies prior to final adjudication of said claim, that action may be continued or maintained by the descendant's personal representative.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, § 33.

Cross References

Death of adoption petitioner prior to adoption, *see* 8 MLBS § 618.
Wrongful death actions, *see* 24 MLBS § 551.

SUBCHAPTER 2

APPEALS

Section
2501. Notice of Appeal.
2502. Basis of Appeals.
2503. Nature of Appeal.
2504. Decision of Court of Appeals.
2505. Authority.

§ 2501. Notice of Appeal.

A party aggrieved by a final judgment or other final order of the Court shall within 30 days after the date of such judgment or order, file with the Clerk of Court a notice of intent to appeal, along with a $20.00 filing fee.

Historical and Statutory Notes

Source:
Band Statute 1303-MLC-4, § 38.

§ 2502. Basis of Appeals.

The following shall constitute lawful reasons for an appeal, which may include but not be limited to:

(a) Irregularity in the proceedings of the Court, jury, or adverse party, or error of the Court, or abuse of discretion by which either party was prevented from having a fair trial; or

(b) Misconduct of the jury of if any one (1) or more jurors have been induced to assent to any general or special verdict to a finding on any question submitted to them by the Court; or

(c) Surprise which ordinary foresight could not have guarded against; or

(d) Newly discovered evidence which could not, with reasonable care, have been discovered and produced at the trial; or

(e) Insufficiency of the evidence to justify the verdict or other decision or that which is against the law; or

(f) Error of law occurring at the trial as in ruling in the admission of evidence or in charging the jury or judicial rulings founded in objections; or

(g) Prejudice on the part of the trial judge or abuse of discretion.

Historical and Statutory Notes

Source:
Band Statute 1303-MLC-4, § 39.

§ 2503. Nature of Appeal.

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

Historical and Statutory Notes

Source:
Band Statute 1303-MLC-4, § 40.

§ 2504. Decision of Court of Appeals.

The concurrence of a majority of the Justices of the Court of Central Jurisdiction is necessary to pronounce judgment. If a majority of justices does not concur, a judgment or order is affirmed. The Chief Justice shall assign a Justice the task of preparing a written opinion of the Court. Minority opinions shall not be permitted as official parts of the Court record. The opinion of an individual justice on any case shall not be disclosed to the public.

Historical and Statutory Notes

Source:
Band Statute 1303-MLC-4, § 42.

§ 2505. Authority.

The Court of Appeals shall have all the power and authority necessary to carry into effect all of its judgments, decrees and deliberations in the matters over which it has jurisdiction.

Historical and Statutory Notes

Source:
Band Statute 1303-MLC-4, § 41.

SUBCHAPTER 3

CERTIFICATION OF QUESTIONS OF LAW

Section

3001. Certification of Questions from Exterior Courts.
3002. Orders, Petitions or Motions for Answers to Questions.
3003. Certification of Questions to Exterior Courts.
3004. Uniformity of Construction.

§ 3001. Certification of Questions from Exterior Courts.

The Court of Appeals may answer questions of law certified to it by an exterior court when requested. The Court of Central Jurisdiction may answer questions of law of the Mille Lacs Band which may be determinative of a cause then pending in the certifying court when there is no controlling precedent in the decisions of the Court of Central Jurisdiction.

Historical and Statutory Notes

Source:
Band Statute 1303-MLC-4, § 28.

§ 3002. Orders, Petitions or Motions for Answers to Questions.

The provisions of 24 MLBS § 3001 may be invoked by legislative order, executive order or upon a petition of the Solicitor General or upon the Court's own motion or upon the motion of a party.

Historical and Statutory Notes

Source:
Band Statute 1303-MLC-4, § 28.01.

§ 3003. Certification of Questions to Exterior Courts.

The Court of Central Jurisdiction may order certification of questions of law to an exterior court when there are involved in any proceeding before the Court of Central Jurisdiction questions of law in the receiving jurisdiction which may be determinative of the cause then pending when there are no controlling precedents in the decisions of the foreign jurisdiction.

Historical and Statutory Notes

Source:
Band Statute 1303-MLC-4, § 28.02.

§ 3004. Uniformity of Construction.

This subchapter shall be construed so as to make uniform the law among those jurisdictions which have enacted a uniform certification of questions of law act.

Historical and Statutory Notes

Source:
Band Statute 1303-MLC-4, §28.03.

SUBCHAPTER 4

CREDITORS' REMEDIES

Section

3301. Due Process.
3302. Property Defined.
3303. Petitions to Court of Central Jurisdiction.
3304. Notice of Hearing.
3305. Findings, Orders and Bond.
3306. Protection of Petitioner's Rights.
3307. Order for Seizure of Property.
3308. Wage Deductions. [Repealed].
3309. Unlawful Removal or Disconnection of Property.

§ 3301. Due Process.

Any creditor be they a person, company, corporation, association, partnership, cooperative, utility and any other public or private commercial entity who engaged in any commercial activity whether it be selling in any goods or services of any material value or any other type of commercial transaction for the purchase of any goods or services with any person who resides on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians, who has not received monetary compensation for the provision of said goods or services or any licensed commercial entity who provides a services, received payment for the service and failed to perform or deliver the goods or services, whereby such written or oral agreement has been entered into or said service or property was consumed or is located on lands subject to the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians shall not deprive any person of any property, real or personal, or any service absent due process of law in the Court of Central Jurisdiction pursuant to 1 MLBS § 8 and Article XIII of the Constitution of the Minnesota Chippewa Tribe.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-47, § 21.

§ 3302. Property Defined.

Property includes, but is not limited to, everything which is subject to ownership corporeal or incorporeal, tangible or intangible, visible or invisible, real or personal; everything that has an exchangeable value which is or may be the subject of ownership, legal or beneficial or private as a result of a transaction of any type from one (1) party to another. Services provided by public/private cooperatives, utilities, or public or private commercial entities are specifically included.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-47, § 21.01.

§ 3303. Petitions to Court of Central Jurisdiction.

Any person, company, corporation, association, partnership, cooperative, utility and any other public or private commercial entity including financial institutions who seek to deny any person subject to the jurisdiction of the Band of any property, with or without just cause, shall first petition the Court of Central Jurisdiction for a show cause hearing and a determination that said property may be lawfully removed from any said person or that services may be lawfully denied, or that compensation should be received or any other relief deemed appropriate and reasonable.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-47, § 21.02.

§ 3304. Notice of Hearing.

The Clerk of Court shall schedule a hearing within 30 days after receipt of the Petition. The Clerk shall submit a Notice of Hearing to the person against whom the action is being instituted. The Notice shall state that the person has a right to appear at this hearing on her or his own behalf or with an attorney. The person shall have a right to present defenses to the claim and to state the reasons why the property or service described in the Petition should not be taken or denied. The Petition shall clearly state a claim to the goods sought to be recovered or the services sought to be requested or denied. Finally, the Notice shall clearly state that if the person fails to appear at the hearing the Court has the authority to enter a default judgment on behalf of

the Petitioner and direct that the above-described property be immediately taken from their possession or that services may be lawfully denied or that services must be performed or that compensation should be received or whatever appropriate or reasonable relief is requested.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-47, § 21.03.

§ 3305. Findings, Orders and Bond.

After a hearing, the Court shall order seizure of the property or denial of services from the person and deliver to the Petitioner, if the Petitioner has demonstrated the probability of success on the merits entitling the Petitioner to payment, possession or repossession or disconnection of property or service unless the Court makes the following findings: The person has shown a defense to the merits of the Petitioner's claim, the defense is a fair basis for litigation and the defense would, if established at hearing on the merits, entitle the person to retain possession of the property. In such cases where a defense on the merit is found to be fair, the person shall post a bond in the amount plus one-quarter of the Petitioner's monetary claim. This bond shall indicate said persons good faith to compensate the Petitioner in the event that the Court rules in favor of the Petitioner.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-47, § 21.04.

§ 3306. Protection of Petitioner's Rights.

If the Court makes the findings prescribed by 24 MLBS § 3305 and orders that the person may retain possession pending final decision on the merits, the Court shall enter a further order protecting the rights of the Petitioner to the extent possible. The order may require that the person make partial payment of the debt which may be due and that the payment shall be made either directly to Petitioner or into an escrow account that the person post a bond in an amount set by the Court, that the person make the property available for inspection from time to time, that the person 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.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-47, § 21.05.

§ 3307. Order for Seizure of Property.

An order for seizure of property shall: Identify the property to be seized or the disconnection of the serviced property; direct a law enforcement officer to seize the property or to accompany any Petitioner to seize or disconnect property pursuant to court order and specify that the Petitioner is authorized immediately or after a specified reasonable period of time to seek or otherwise dispose of property as a method of collection of any judgment debt.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-47, § 21.06.

§ 3308. Wage Deductions.

[REPEALED].

Historical and Statutory Notes

Source:
Band Ordinance 27-01.

§ 3309. Unlawful Removal or Disconnection of Property.

Any creditor be they a person, company, corporation, association, partnership, cooperative, utility and any other public or private commercial entity, who absent a lawful order from the Court of Central Jurisdiction, who shall attempt to remove or disconnect any property from any person under the jurisdiction of the Band, shall be deemed to have committed a property trespass offense in violation of 2 MLBS § 304(m) and the Solicitor General shall initiate civil action against said person seeking their removal and exclusion from lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians for a period of time not to exceed 180 days.

Historical and Statutory Notes

Source:
Band Statute 1090-MLC-47, § 21.08.

SUBCHAPTER 4-a

WITHHOLDING FROM EARNINGS AND PER CAPITA PAYMENTS

Section

3351. Definitions
3352. Withholding from Earnings
3353. Withholding from Per Capita Payments
3354. Ripeness
3355. Notice to Debtor; Hearing
3356. Priority
3357. Full Payment of Debts
3358. Notice to Creditor
3359. Duty of Creditor
3360. Sovereign Immunity of the Band
3361. Civil Procedure

§ 3351. Definitions.

For the purpose of this Subchapter:

(a) The term **"actual damages"** means an amount assessed pursuant to an adjudicated matter before a court of competent jurisdiction for damages actually incurred. Such damages do not include nominal, exemplary or punitive damages, or court costs or attorney fees.

(b) The term **"earnings"** means compensation paid or payable for personal services, whether denominated as wages, salary, commission, or otherwise, and includes periodic payments to a personal retirement program.

(c) The term **"disposable income"** means that part of the income of any individual remaining after the required deduction from that income of any amounts, such as but not limited to, federal income tax, social security, state income tax, if any, pension deductions, and cost of health insurance coverage for obligor and dependents. Disposable income shall also include per capita payments.

(d) The term **"garnishment"** means any legal or equitable procedure through which the earnings of an individual are withheld for payment of any lawful debt.

(e) The term **"per capita payment"** means any distribution of gaming proceeds to members of the Mille Lacs Band pursuant to the Band's Net Gaming Revenue Allocation Plan as approved by the Secretary of the Interior pursuant to 25 U.S.C. § 2701 et seq., or any other distribution to a member of the Mille Lacs Band that is designated a "per capita payment" by Band statute. No Band Member and no other person or entity shall have any right, title, interest or entitlement in or to any per capita payment unless and until the payment is made. The rights, if any, of judgment creditors or other persons or entities to obtain a share of a per capita payment when it is made are governed by §§ 3352 through 3359 of this Title.

(f) The term **"political subdivision"** shall mean the Corporate Commission of the Mille Lacs Band of Ojibwe as defined in 16 MLBS § 101 or any other entity defined in Band Statutes as a political subdivision of the Band.

Historical and Statutory Notes

Source:
Band Ordinance 27-01, § 2.
Band Ordinance 46-05, § 1.
Band Ordinance 37-12, §§ 1, 3351.
Band Ordinance 38-12, §§ 1, 3351.

§ 3352. Withholding from Earnings.

As an ancillary proceeding to (1) a civil or criminal action for the recovery of money filed in the Court of Central Jurisdiction, or (2) a civil judicial proceeding, public act or record granted full faith and credit by the Court of Central Jurisdiction pursuant to 24 MLBS § 2009, the Court of Central Jurisdiction shall have the authority, pursuant to its subject matter jurisdiction as described in 5 MLBS § 111, to order the Office of Management and Budget to withhold from the earnings of any person to which a debt judgment or judgment for child support or arrearages has been obtained and remit the amount withheld to the judgment creditor. Except in circumstances of child support payment or arrearages, the earnings of an individual shall not be withheld in excess of 10% of the individual's disposable income. Except as specifically provided in this Section or controlling Federal law, the Court shall not order any withholding from the earnings of any person to satisfy any judgment or other claim.

Historical and Statutory Notes

Source:
Band Ordinance 27-01, § 3.
Band Ordinance 37-12, §§ 1, 3352.
Band Ordinance 38-12, §§ 1, 3351.
Band Ordinance 75-12, §§ 1, 3351.

§ 3353. Withholding from Per Capita Payments.

(a) As an ancillary proceeding to (1) a civil or criminal action for the recovery of money filed in the Court of Central Jurisdiction, or (2) a civil judicial proceeding, public act or record granted full faith and credit by the Court of Central Jurisdiction pursuant to 24 MLBS § 2009, the Court of Central Jurisdiction shall have the authority, pursuant to its subject matter jurisdiction as described in 5 MLBS § 111, to order the Office of Management and Budget to withhold and remit portions of per capita payments from Band Members for the sole purpose of satisfying a judgment or a lien against the Band Member to whom the per capita payments are payable that is:

(1) In favor of the United States Internal Revenue Service;

(2) For child support payments or arrearages;

(3) In favor of an individual Band member, provided that the Court shall not order the withholding and remission of any portion of a per capita payment to satisfy a judgment or lien obtained in connection with a loan or other transaction relating to a bail bond or other similar transaction; or

(4) In favor of the Band or any political subdivision thereof;

(5) For actual damages expressed in the form of a restitution award incorporated within a final criminal judgment involving: (1) assault and battery as either defined herein, 24 MLBS §1102, or pursuant to equivalent federal, state or tribal law; 2) an offense committed against the property of another as defined in Subchapter 4 of Chapter 3 herein, or equivalent federal, state or tribal law.

(6) Except for judgments or liens for child support payments or arrearages, the total amounts withheld from a per capita payment to satisfy the judgments or liens listed above shall not exceed 30% of the payment. In cases involving judgments or liens for child support payments or arrearages, the total amount withheld shall not exceed 50% of the payment. Except as specifically provided in this Section or controlling Federal law, the Court shall not order any withholding from a per capita payment to satisfy any judgment or other claim.

(b) The Band's Court of Central Jurisdiction shall have no authority to award punitive, special, exemplary, treble, or consequential damages, and any such award shall be null and void and of no effect.

Historical and Statutory Notes

Source:
Band Ordinance 27-01, § 4.
Band Ordinance 46-05, § 2.
Band Ordinance 37-12, §§ 1, 3353.
Band Ordinance 38-12, §§ 1, 3353.
Band Ordinance 75-12, §§ 1, 3353.

§ 3354. Ripeness.

The Court of Central Jurisdiction shall not initiate a withholding proceeding pursuant to this Subchapter for any debt that is not at least 60 days past due, except in circumstances of current child support payments and arrearages.

Historical and Statutory Notes

Source:
Band Ordinance 27-01, § 5.

§ 3355. Notice to Debtor; Hearing.

In any withholding proceeding pursuant to this Subchapter, the debtor shall receive notice as required by the Mille Lacs Band Rules of Civil Procedure. Upon such notice to the debtor, the Court of Central Jurisdiction shall hold a hearing, at the debtor's request, to permit the debtor to dispute the financial obligation in question. The burden of proof shall be on the debtor to show that a proposed garnishment would be improper.

Historical and Statutory Notes

Source:
Band Ordinance 27-01, § 6.

§ 3356. Priority.

The Court of Central Jurisdiction shall give priority to any withholding from earnings or per capita payments in the following order:

(a) Satisfaction of a judgment or lien in favor of the United States Internal Revenue Service, except to the extent that Federal law allows priority to be given to satisfaction of a judgment or lien for child support payments or arrearages;

(b) Satisfaction of a judgment or lien for child support payments or arrearages;

(c) Satisfaction of a judgment or lien in favor of individual Band Members who obtained the judgment lien in the first instance in the Court of Central Jurisdiction, provided that the Court shall not order the withholding of any portion of a per capita payment to satisfy a judgment or lien obtained in connection with a loan or other transaction relating to a bail bond or other similar transaction;

(d) Satisfaction of a judgment or lien in favor of non-Band member petitioners who obtained a criminal judgment lien in the Court of Central Jurisdiction;

(e) Satisfaction of a judgment or lien in favor of the Band or any political subdivision thereof;

(f) Satisfaction of any other judgment in favor of a Band Member for which withholding from earnings is authorized under § 3352 of this Subchapter, provided that the Court

shall not order the withholding of a portion of a per capita payment to satisfy such a judgment; and

(g) Satisfaction of any other judgment in favor of a non-Band Member for which withholding from earnings is authorized under § 3352 of this Chapter, provided that the Court shall not order the withholding of a portion of a per capita payment to satisfy such a judgment.

Historical and Statutory Notes

Source:
Band Ordinance 27-01, § 7.
Band Ordinance 37-12, §§ 1, 3356.
Band Ordinance 38-12, §§ 1, 3356.
Band Ordinance 75-12, §§ 1, 3356.

§ 3357. Full Payment of Debts.

The Court of Central Jurisdiction shall order the withholding of portions of a person's earnings or from a Band Member's per capita payments in accordance with §§ 3352 through 3356 of this Subchapter until such time as the judgments or liens for which portions of the person's earnings or the Band Member's per capita payments are being withheld are paid in full or discharged by the judgment creditor.

Historical and Statutory Notes

Source:
Band Ordinance 27-01, § 8.
Band Ordinance 46-05, § 4.
Band Ordinance 37-12, §§ 1, 3357.
Band Ordinance 38-12, §§ 1, 3357.

§ 3358. Notice to Creditor.

The Court of Central Jurisdiction shall duly inform any creditor for whom a prior order of withholding has been modified by the Court due to an order of withholding granted in favor of a subsequent creditor with higher priority.

Historical and Statutory Notes

Source:
Band Ordinance 27-01, § 9.
Band Ordinance 37-12, §§ 1, 3358.
Band Ordinance 38-12, §§ 1, 3358.

§ 3359. Duty of Creditor.

Any creditor who has obtained an order of withholding pursuant to this Chapter must notify the Court of Central Jurisdiction within five (5) days when a judgment subject to such an order has been repaid in full or discharged by the creditor. The failure of a creditor to provide such notice to the Court shall constitute grounds for a finding of contempt by the Court of Central Jurisdiction.

Historical and Statutory Notes

Source:
Band Ordinance 27-01, § 10.
Band Ordinance 37-12, §§ 1, 3359.
Band Ordinance 38-12, §§ 1, 3359.

§ 3360. Sovereign Immunity of the Band.

Nothing contained in this Act shall be construed as a waiver of the sovereign immunity of the Mille Lacs Band of Ojibwe or any of its political subdivisions.

Historical and Statutory Notes

Source:
Band Ordinance 27-01, § 11

§ 3361. Civil Procedure.

All actions pursuant to this Title shall be conducted in accordance with the Mille Lacs Band Rules of Civil Procedure. The Office of Solicitor General shall develop appropriate forms for use in any action pursuant to this Title. The Court of Central Jurisdiction shall retain copies of such forms for use by any party.

Historical and Statutory Notes

Source:
Band Ordinance 27-01, § 12.

SUBCHAPTER 4-B

COLLECTION OF DEBTS AND FINES OWED TO THE MILLE LACS BAND

Section
3401. Finding and Determinations
3402. Authority
3403. Notice of Process

§ 3401. Finding and Determination.

(a) The Band Assembly hereby finds and determines that the Non-Removable Mille Lacs Band of Chippewa Indians desires to be a government that is consistently financially responsible in order to better serve our people now and in the future.

(b) The Band Assembly finds and determines that the Personal Loan Program(s) of the Non-Removable Mille Lacs Band of Chippewa Indians have many delinquent loans outstanding.

(c) The Band Assembly finds and determines that the Court of Central Jurisdiction has imposed fines, many of which are unpaid or uncollectable.

(d) The Band Assembly finds and determines that outstanding or delinquent loans and unpaid court-imposed fines are a threat to the financial and political integrity of the Non-Removable Mille Lacs Band of Chippewa Indians.

Historical and Statutory Notes

Source:
Band Ordinance 41-94, § 1.

§ 3402. Authority.

(a) Under this Subchapter, the Secretary/Treasurer of the Mille Lacs Band shall exercise the authority of the Mille Lacs Band, to withhold any funds that may be payable to any person, for use as a set-off against any debt or court ordered fine owed by that person to the Mille Lacs Band.

(b) The Secretary of Treasury shall withhold any funds payable to individuals only if the debt or fine owed is delinquent by 45 days or more.

(c) The Secretary of Treasury shall give 20 days written notice prior to any set-off withholding that may occur.

Historical and Statutory Notes

Source:
Band Ordinance 41-94, § 2.

§ 3403. Notice of Process.

(a) For purposes of this Subchapter, notice is given by the Secretary/Treasurer placing a Notice of Withholding in the mail and a sending of notice by certified mail return receipt requested to the last known address. If either of the two (2) Notice of Withholding mailings does not return to the Secretary/Treasurer within a 10 day time period notice has been given.

(b) In the event that an individual disputes the set-off withholding they have 10 days from the date of the mailing of the notice to file a petition with the Court of Central Jurisdiction. The burden of proof shall be on the petitioning party to show that the withholding is improper or that they were not given notice.

(c) The Court shall hold a hearing within 10 days of the filing of a petition pursuant to this Subchapter. Notice must be given to the Secretary/Treasurer within 5 days of the filing of a petition as described in paragraph (b) of this Section or by any disinterested third-party personally serving the Secretary of Treasury.

(d) Relief that the Court may grant pursuant to this Subchapter is limited to a determination of whether the set-off withholding is proper.

(e) The withholding provisions of this Subchapter are in addition to any other withholding provisions in Band Law.

(f) The provisions of this Subchapter are intended to apply retroactively to any debt that was incurred previous to the enactment of this Subchapter.

Historical and Statutory Notes

Source:
Band Ordinance 41-94, § 3.

SUBCHAPTER 5

REPLEVIN

Section
3501. Applicability.
3502. Claim for Immediate Delivery of Property.

3503. Affidavit.
3504. Direction to Law Enforcement Officer.
3505. Security Furnished by Plaintiff.
3506. Seizure of Property.
3507. Service of Defendant.
3508. Third Party Claims or Return to Defendant.
3509. Sureties and Deposits.
3510. Officer's Report.

§ 3501. Applicability.

The replevin procedure set out in this subchapter shall be utilized for all cases before the Court of Central Jurisdiction.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, § 11.

§ 3502. Claim for Immediate Delivery of Property.

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 this subchapter.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, § 11.01.

§ 3503. Affidavit.

When an immediate delivery is claimed, an affidavit must be made by the plaintiff or by someone on her or his behalf stating that the plaintiff is the owner of the property claimed, is lawfully entitled to the possession of it, or that he or she 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 affidavit must state that the property is wrongfully detained by the defendant and that the alleged cause of the detention of the property, according to her or 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 affidavit must also state the actual value of the property.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, § 11.02.

§ 3504. Direction to Law Enforcement Officer.

The plaintiff, after completing and endorsing the affidavit required by 24 MLBS § 3503, may require any law enforcement officer of the Non-Removable Mille Lacs Band of Chippewa Indians to take the property from the defendant and deliver it to the plaintiff.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, § 11.03.

§ 3505. Security Furnished by Plaintiff.

Before possession of any property may be taken by the plaintiff, he or she 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.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, § 11.04.

§ 3506. Seizure of Property.

Upon receipt of the affidavit, endorsement, and security by the Band law enforcement officer, the officer shall take the property described in the affidavit, if it be in the possession of the defendant or her or his agent, and retain it in her or his custody. He or she shall keep it in a safe place and deliver it to the party entitled property. If the property of any part thereof be concealed in a building or enclosure, the officer shall publicly demand its deliver. If it is not delivered, then the officer must obtain a search warrant from the Court of Central Jurisdiction.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, § 11.05.

Cross References

Search warrants, *see* 24 MLBS § 4107.
Unreasonable searches and seizures, *see* 1 MLBS § 2.

§ 3507. Service of Defendant.

The 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 or she can be conveniently found, or to her or his agent from whose possession the property is taken; 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.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, § 11.06.

§ 3508. Third Party Claims or Return to Defendant.

(a) If the property taken be claimed by any other person than the defendant or her or his agent, and such person shall make an affidavit of her or his title thereto and right to possession thereto, stating such right and title, and serve the same upon the 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 her or his agent shall be valid against the officer, unless made as provided; and notwithstanding such claim when so made, he or she may retain the property a reasonable time to demand such indemnity.

(b) 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.

(c) 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.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, §§ 11.07-11.09.

§ 3509. Sureties and Deposits.

(a) 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 deposit shall remain in the custody of the Court until the Court shall make an order disposing of it.

(b) 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.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, § 11.10-11.11.

§ 3510. Officer's Report.

(a) Within 20 days after taking the property, the officer shall be notified by the Clerk of the Court in writing to make a verified report of her or 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 her or his copy of levy, with the Clerk of the Court.

(b) The failure or neglect of the officer to make such verified report of her or his proceedings shall not, however, void her or his proceedings under the affidavit and endorsement but shall render her or him liable for contempt of court.

Historical and Statutory Notes

Source:
Band Statute 1144-MLC-5, T.II, §§ 11.12, 11.13.

SUBCHAPTER 6

CRIMINAL PROCEDURE

Part	Section
A. General Provisions	**4001**
B. Complaint	**4051**

C. Warrant, Summons, and Arrest **4101**
D. Preliminary Proceedings **4151**
E. Trial **4201**
F. Sentence **4251**
G. Juvenile Delinquency **4301**

PART A

GENERAL PROVISIONS

Section

4001. Definitions.
4002. Court of Central Jurisdiction.
4003. Jurisdiction over Persons.
4004. Rights of Defendant.
4005. Deposit and Disposition of Fines, Fees and Other Payments Made to Court.

§ 4001. Definitions.

(a) Arraignment is the bringing of an accused before the Court, informing her or him of her or his rights and of the charge against her or him, receiving her or his plea and setting bail as appropriate in accordance with 24 MLBS §4158 and Court orders promulgated thereof.

(b) Arrest is the taking of a person into custody in the manner authorized by law, in order that he or she may be held to answer for a criminal offense.

(c) Bail is the security given for the purpose of insuring that the accused is present at the impending criminal proceedings.

(d) A complaint is a written statement sworn to by the complaining witness and charging that a named individual has committed a particular criminal offense.

(e) A search warrant is a written order in the name of the Band, signed by a Justice of the Court of Central Jurisdiction and directed to a law enforcement officer ordering her or him to conduct a search, to seize items or property or place to be searched and shall particularly describe the items to be seized and brought before the Justice.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, §§ 62, 67, 71, 75.

§ 4002. Court of Central Jurisdiction.

The Court of Central Jurisdiction is hereby granted subject matter jurisdiction for any cause of action which arises from 24 MLBS Chapter 2 (§ 1001 et seq.) or this subchapter. Nothing in this subchapter shall be construed as a waiver of sovereign immunity of the Non-Removable Mille Lacs Band of Ojibwe in any state or federal court of competent jurisdiction. The Court of Central Jurisdiction shall have original jurisdiction over all causes of action which arise from any provisions of 24 MLBS Chapter 2 and this subchapter. A Criminal Division is hereby created in the Court of Central Jurisdiction to hear causes of action arising from 24 MLBS Chapter 2 and this subchapter.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 59.
Band Ordinance 52-21, § 3.

Cross References

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

§ 4003. Jurisdiction Over Persons.

The criminal jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians shall extend and apply to enrolled members of the Non-Removable Mille Lacs Band of Chippewa Indians, enrolled members of any of the other five (5) Bands of the Minnesota Chippewa Tribe and those Indian Persons who reside on Lands subject to the territorial jurisdiction of the Band.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 60.

Cross References

Court of Central Jurisdiction, criminal jurisdiction over persons, *see* 5 MLBS § 112.

§ 4004. Rights of Defendant.

In all criminal prosecutions, the defendant shall have the following rights: the right to be present throughout the proceeding and to defend her or himself with proper decorum or at her or his own expense by counsel, the right to know the nature and cause of the charge and to receive a copy of the complaint, the right to meet the witnesses against her or him face to face, the right to

compulsory process to obtain the testimony of witnesses in her or his behalf and physical evidence, the right to a speedy public trial by an impartial jury, but the defendant may waive the right to a speedy trial by requesting a delay, the right not to testify. The failure of the defendant to testify shall not be construed against her or him or commented upon by the Solicitor General.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 85.

Cross References

Civil Rights Code, *see* 1 MLBS § 1 et seq.

§ 4005. Deposit and Disposition of Fines, Fees and Other Payments Made to Court.

All monies paid to the Court of Central Jurisdiction as a result of the provisions of this subchapter or 24 MLBS Chapter 2 (§ 1001 et seq.) or other lawful orders of the Court, shall be paid to the Clerk of Court, who shall issue a receipt.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 90.

Cross References

Special surcharge tax on fines, *see* 22 MLBS § 509.

PART B

COMPLAINT

Section
4051. Initiation of Prosecution.
4052. Form and Content of Complaint.
4053. Screening and Submission of Complaints.
4054. Joinder of Offenses.
4055. Joinder of Defendants.
4056. Amendment of Complaint.

§ 4051. Initiation of Prosecution.

All criminal prosecutions for violation of the Code of Offenses shall be initiated by complaint. A complaint may be initiated by the Solicitor General, any law enforcement officer of the Band or any person under the jurisdiction of the Band.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 62.

§ 4052. Form and Content of Complaint.

Complaints shall:

(a) Be in writing and in the name of the Non-Removable Mille Lacs Band of Chippewa Indians and be signed by the complaining witness sworn to and witnessed before the Court of Central Jurisdiction's Solicitor General and/or before a duly qualified Justice of the Court of Central Jurisdiction.

(b) Contain a statement by the complaining witness describing in ordinary language the nature of the offense committed, including the time and place as nearly as may be ascertained,

(c) State the name or description of the person alleged to have committed the offense, and

(d) State the section of 24 MLBS Chapter 2 which has been violated.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 62.01.

§ 4053. Screening and Submission of Complaints.

The Chief Justice of the Court of Central Jurisdiction may designate an individual or individuals who shall be available to assist persons in drawing up complaints and who shall screen them for sufficiency. Complaints shall then be submitted without delay to a Justice of the Court of Central Jurisdiction to determine whether probable cause exists and whether a warrant or summons shall be issued. However, provisions of Band Statute which required mediation and Court orders which require Show Cause Hearings shall apply prior to any formal filing of a complaint with the Clerk of Court.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 62.02.

§ 4054. Joinder of Offenses.

A complaint may charge two (2) or more different offenses connected together in their commission arising out of the same incident. If two (2) or more complaints are filed against the same defendant in same Court, the Court may order them to be consolidated. The Solicitor General is not required to elect between the different offenses or counts set forth in the complaint, but the defendant may be convicted of any number of offenses charged and each offense which the defendant is convicted may be stated in the verdict or the finding of the Court. However, the Court may in the interests of justice and for good cause shown, in its discretion, order that the different offenses counts set forth in the complaint be tried separately. An acquittal of one (1) or more counts shall not be deemed an acquittal of any other count.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 63.

§ 4055. Joinder of Defendants.

Two (2) or more defendants may be charged in the same complaint if they are alleged to have participated in the same series of acts constituting an offense or offenses. All of the defendants need not be charged in each count. When two (2) or more persons are included in the same charge, at any time before the defendants begin their defense, on the application of the Solicitor General, the Court may direct any defendant to be discharged so that he or she may be a witness for the Band. When two (2) or more persons are included in the same complaint, and the Court is of the opinion that there is not sufficient evidence against one (1) defendant, it must order her or him to be discharged before the evidence is closed, so that he or she may be a witness for her or his co-defendant.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 63.01.

§ 4056. Amendment of Complaint.

A complaint may be amended in matters of substance at any time before the defendant please, without leave of Court. The Court may permit any charge to be amended as to form at any time before verdict or the finding of the court if no additional or different offense is charged and if

the substantive rights of defendants are not prejudiced. No charge will be dismissed because of a defect in form which does not prejudice a substantial right of the defendant.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 64.

PART C

WARRANT, SUMMONS AND ARREST

Section
4101. Arrest Warrants.
4102. Summons in Lieu of Warrant to Arrest.
4103. Prerequisites for Arrest.
4104. Time of Making Arrest.
4105. Summons in Lieu of Arrest.
4106. Notification of Rights at Time of Arrest.
4107. Search Warrants.
4108. Search Without Warrant.
4109. Stop and Frisk.
4110. Inventory of Seized Property.

§ 4101. Arrest Warrants.

(a) If it appears from the complaint, or from an affidavit or affidavits filed with the complaint, or from examination upon oath of witnesses, that there is probable cause to believe an offense has been committed, a warrant for the arrest of the defendant shall be issued by the Court. Every Justice of the Court of Central Jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians shall have the authority to issue such warrants. An arrest warrant shall be in writing and in the name of the Non-Removable Mille Lacs Band of Chippewa Indians, specify the name or description and address, if known, of the person to be arrested, state the date of issuance of the warrant, describe the offense charged, be signed by the issuing Justice, command that the person against whom the complaint was made be arrested and brought before the Court issuing the warrant.

(b) A warrant to arrest shall be by a duly qualified enforcement officer. No warrant to arrest shall be valid unless it bears the signature of a duly qualified Justice of the Court of Central Jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians. The warrant may specify the amount of bail.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 65.

§ 4102. Summons in Lieu of Warrant to Arrest.

When authorized to issue a warrant of arrest, a duly qualified Justice of the Court of Central Jurisdiction may, in lieu thereof, issue a summons commanding the accused to appear before the Court at a specified time and place, to answer to the charge. If a defendant fails to appear in response to a summons, a warrant for her or his arrest shall be issued.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 66.

§ 4103. Prerequisites for Arrest.

(a) No law enforcement officer shall arrest any person for a violation of 24 MLBS Chapter 2 except when the officer shall have a warrant signed by a Justice of the Court of Central Jurisdiction commanding the arrest of such person, or the officer knows for a certainty that such a warrant has been issued, or the offense shall occur in the presence of the arresting officer, or the officer shall have probable cause to believe that the person to be arrested has committed an offense and the existing circumstances require an immediate arrest.

(b) When the accused has been arrested without a warrant, a complaint shall be filed forthwith for the Court of Central Jurisdiction to review as to whether probable cause exists to hold the accused, and in no instance shall a complaint be filed later than at the time of the arraignment.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, §§ 67.01, 67.02.

§ 4104. Time of Making Arrest.

An arrest may be made on any day and at any time of day or night, except that a person cannot be arrested pursuant to an arrest warrant, in her or his home at night, unless so directed by the Justice in writing on the arrest warrant.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 68.

§ 4105. Summons in Lieu of Arrest.

When otherwise authorized to arrest a suspect without a warrant, a law enforcement officer may instead issue to such person a summons to appear before the Court of Central Jurisdiction at a stated time and place, and answer to the charge. The summons shall contain the same information as a warrant, except that it may be signed by a law enforcement officer. If a defendant fails to appear in response to such a summons, a warrant for her or his arrest shall be issued.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 69.

§ 4106. Notification of Rights at Time of Arrest.

Upon arrest the suspect shall be advised of the following rights: that he or she has the right to remain silent, that any statements made by her or him may be used against her or him in Court, that he or she has the right to obtain counsel at her or his own expense.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 70.

Cross References

Assistance of counsel, *see* 1 MLBS § 6.
Self-incrimination, *see* 1 MLBS § 4.

§ 4107. Search Warrants.

(a) Every Justice of the Court of Central Jurisdiction shall have authority to issue warrants for search and seizure of the premises and property of any person under the jurisdiction of the Court.

(b) No warrant of search and seizure shall be issued except upon statement of fact sufficient to show probable cause that a search will discover stolen, embezzled, contraband, or otherwise criminally possessed property, property which has been or is

being used to commit a criminal offense, or property which constitutes evidence of the commission of a criminal offense. Such probable cause shall be supported by a written and sworn statement based upon reliable information and particularly describing the place or things to be searched and things to be seized.

(c) Warrants of search and seizure shall only be executed by law enforcement officers. The executing officer shall return the warrant to the Court of Central Jurisdiction within the time limit shown on the face of the warrant, which in no case shall be longer than ten (10) days from the date of issuance. Warrants not returned within such time limits shall be void.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 71.

Cross References

Replevin, seizure of property, *see* 24 MLBS § 3506.

§ 4108. Search Without Warrant.

No law enforcement officer shall conduct any search without a valid warrant except incident to making a lawful arrest or with consent of the person being searched, or person lawfully in possession of the object or place to be searched, or who is reasonably believed to be in lawful possession or when he or she has probable cause to believe that the person searched may be armed and the officer conducts a frisk search, or when the search is of a moving vehicle and the officer has probably cause to believe that it contains contraband, stolen or embezzled property.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, §72.

Cross References

Prohibited drugs, possession in motor vehicle, *see* 23 MLBS § 7.
Seizure and confiscation, certain substances and vehicles containing them, *see* 19 MLBS § 503.

§ 4109. Stop and Frisk.

(a) A law enforcement officer may stop any person he or she observes in circumstances that give the law enforcement officer reasonable cause to suspect that the person has committed, or is committing, or is about to commit an offense involving the use or

attempted use of force against a person, or theft, damage or destruction of property, if the stop is reasonable necessary to obtain or verify an account of the person's presence or conduct or to determine whether to arrest the person.

(b) A law enforcement officer may stop any person he or she finds near the scene of the offense that the law enforcement officer has reasonable cause to suspect has just been committed if the law enforcement officer has reasonable cause to suspect that the person has knowledge of material facts needed to aid to the investigation of the offense, or the stop is reasonably necessary to obtain or verify the person's identity or an account of the offense.

(c) A law enforcement officer who has lawfully stopped a person under this section may frisk that person and take other reasonable cause to suspect that the person is armed and presently dangerous to the law enforcement officer or another person present, and take possession of any object that the law enforcement officer discovers during the frisk if the law enforcement officer has probable cause to believe the object is a deadly weapon.

(d) A law enforcement officer who has lawfully stopped a person under this section may demand of the person her or his name and her or his present or last address.

(e) A law enforcement officer who has lawfully stopped a person under this section shall inform the person, as promptly as possible under the circumstances, and in any case before questioning the person, that he or she is a law enforcement officer and that the stop is not an arrest, but rather a temporary detention for an investigation, and that upon complete of the investigation the person will be released unless he or she is arrested.

(f) After the authorized purpose of the stop has been accomplished or 30 minutes have elapsed, whichever occurs first, the law enforcement officer shall allow the person to go unless he or she has arrested the person.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 73.

§ 4110. Inventory of Seized Property.

Law enforcement officers shall make an inventory of all property seized by warrant or otherwise, and a copy of such inventory shall be left with the persons from whom the property was taken.

Historical and Statutory Notes

Source:

Band Statute 1164-MLC-6, § 74.

PART D

PRELIMINARY PROCEEDINGS

Section

4151. Time of Arraignment.
4152. Reading of Complaint and Advice of Rights.
4153. Appearance at Arraignment.
4154. Receipt of Pleas at Arraignment.
4155. Record.
4156. Bail - Release Prior to Trial.
4157. Bail - Release by Law Enforcement Officer.
4158. Dismissal.
4159. List of Witnesses.
4160. Production of Evidentiary Materials for Inspection.
4161. Notice of Interposed Defense.
4162. Suppression of Evidence Illegally Seized or Involuntary Confession or Admission.
4163. Time to Prepare for Trial.

§ 4151. Time of Arraignment.

Arraignment shall be held in open Court without unnecessary delay after the accused is taken into custody, and in no instance, shall arraignment be later than 72 hours after an accused is detained, taken into custody, or held under the temporary commitment order signed by a Justice of the Court of Central Jurisdiction.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 75.01.

§ 4152. Reading of Complaint and Advice of Rights.

Before an accused is required to plead to any criminal charge, the Justice shall prove the accused with a copy of the complaint, read to the accused and determined that he or she understands the complaint and the section of the Mille Lacs Band Statutes Annotated which he or she is charged with violating, including the maximum authorized penalty, and advise the accused that he or she has the right to remain silent, to secure bail, to be tried by jury, to cross-examine the witnesses against her or him, to call witnesses in her or his behalf, to be represented by counsel at her or

his own expense and that the arraignment will be postponed should he or she desire to consult with lay or professional counsel.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 75.02.

§ 4153. Appearance at Arraignment.

The accused has the right to appear personally for the arraignment; however, the accused may elect to appear through counsel.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 75.03.

§ 4154. Receipt of Pleas at Arraignment.

(a) If the accused pleads "not guilty" to the charge, the Justice shall then inform her or him of a trial date and set conditions for bail prior to trial.

(b) If the accused pleads "guilty" to the charge, the Justice shall determine that the plea is made voluntarily and that the accused understands the consequences of the plea, including the rights which he or she is waiving by the plea. The Justice may then impose sentence, or defer sentencing for a reasonable time, in order to obtain any information he or she deems necessary for imposition of a just sentence. The accused shall be afforded an opportunity to inform the Court of extenuating circumstances or facts in mitigation of the sentence.

(c) If the accused refuses to plead, the Justice shall enter a plea of not guilty on her or his behalf.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 76.

§ 4155. Record.

The Court must prepare and keep a record of all arraignment proceedings.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 76.03.

§ 4156. Bail - Release Prior to Trial.

Every person charged with any offense before the Court of Central Jurisdiction shall be entitled to release from custody, pending trial under whichever one (1) or more of the following conditions is deemed necessary to reasonably assure the appearance of the person at any time lawfully required:

(a) Release on personal recognizance upon execution by the accused of a written promise to appear at trial and all other lawfully required times.

(b) Release to the custody of a designated person or organization agreeing to assure the accused's appearance.

(c) Release with reasonable restrictions on the travel, association, or place of residence of the accused during the period of release.

(d) Release after deposit by the accused or a bondsman of the bond, in either cash or other sufficient collateral in an amount specified by the Justice or bail schedule. The Justice, in her or his discretion, may require that the accused post only a portion of the total bond. The full sum becomes due if the accused fails to appear as ordered. In all cases wherein the bail is determined to be necessary, bail must be reasonable in amount and the amount shall be sufficient to assure compliance with the conditions set forth in the bail, not oppressive, commensurate with the nature of the offense charged, considerate of the financial ability of an accused, considerate of the defendant's record, employment status and family background.

(e) Release after execution of a bail agreement by two (2) reliable members of the Band who shall appear before a Justice of the Court of Central Jurisdiction and execute whatever agreement is necessary to assure the appearance of the person at any time lawfully required.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 77.

Cross References

Excessive bail, *see* 1 MLBS § 7.

§ 4157. Bail - Release by Law Enforcement Officer.

Any law enforcement officer authorized to do so by the Court of Central Jurisdiction may admit an arrested person to bail pursuant to the bail schedule or release upon personal recognizance. The law enforcement officer shall have available a bail schedule prepared by the Court of Central Jurisdiction which shall be used for setting money bond, where such condition or release is deemed necessary. Any law enforcement officer who refuses to release an accused on bail, or who specifies a bail condition which the accused is unable to satisfy shall bring such accused before a Justice of the Court of Central Jurisdiction for review of the release conditions at the first available opportunity and without unnecessary delay.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 78.

Cross References

Excessive bail, *see* 1 MLBS § 7.

§ 4158. Dismissal.

The Court may either on its own motion or upon the application of the Solicitor General and in furtherance of justice, order a complaint to be dismissed. The reasons for the dismissal shall be set forth in an order entered upon the minutes.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 79.

§ 4159. List of Witnesses.

The prosecution shall furnish the defendant a current list of witnesses to be used in connection with the trial. This list shall include the names and addresses of the witnesses.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 80.

§ 4160. Production of Evidentiary Materials for Inspection.

Upon a motion of either party, within a reasonable time before trial, the Court may require all parties to produce all documents, papers or things which each party intends to use as evidence at the trial. Inspection of such materials shall take place in the Court's presence. The Court shall exclude from evidence all materials not presented for inspection unless good cause is shown for failure to comply.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 80.01.

§ 4161. Notice of Interposed Defense.

At the time of entering a plea of not guilty, or later if for good cause, the Court permit, the defendant shall furnish the prosecution written notice of intent to interpose the defense of insanity, self-defense or alibi. The defendant shall also furnish a list of witnesses to be called in support of such defense.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 80.02.

§ 4162. Suppression of Evidence Illegally Seized or Involuntary Confession or Admission.

A defendant may move the Court to suppress any confession or admission given by her or him on the grounds that it was not voluntary. A defendant may move the Court to suppress any evidence obtained by an unlawful search and seizure. Such motions must be in writing and served upon the prosecution before trial, unless good cause is shown. At least 10 days notice of such motions must be given upon hearing, if the motion is granted, the confession, admission or evidence shall not be admitted as evidence against the defendant.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 81.

§ 4163. Time to Prepare for Trial.

After plea, the defendant shall be entitled to a reasonable time to prepare for trial.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 82.

PART E

TRIAL

Section
4201. Jury Trial.
4202. Order of Procedure.
4203. Special Instructions.
4204. Verdict.

§ 4201. Jury Trial.

Any person accused of an offense for which imprisonment is a possible penalty shall be granted a jury trial, upon her or his request made at the time of arraignment. The Justice shall instruct the jury with regard to the applicable law and the jury shall decide all questions of fact on the basis of that law. The jury shall deliberate in secret and return a verdict of guilty or not guilty. The Justice shall render judgment in accordance with the jury verdict.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 83.

Cross References

Jury trial, generally, *see* 24 MLBS § 2014.
Right to jury trial, *see* 1 MLBS § 10.

§ 4202. Order of Procedure.

The rules of Court procedure relating to the conduct of trials shall apply to trials held pursuant to this subchapter, with the additional provisions set out in 24 MLBS §§ 4203, 4204.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 84.

§ 4203. Special Instructions.

When the evidence is concluded if either party desires special instructions to be given to the jury, such party should submit them to the Justice in writing. Outside the presence of the jury, the opposing party or parties and their counsel shall have reasonable time to examine the requested instructions and argue to the Court for their adoption or rejection. The instructions shall then be settled by the Justice.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 84.01.

§ 4204. Verdict.

After the close of evidence, the Justice shall render a verdict or in a jury trial, the Justice may direct a verdict of acquittal. Except in case of directed verdict, the jury shall retire to determine a verdict after the charge. All instructions, physical evidence and notes taken by the jurors shall be available to them. The jury shall remain in the charge of the bailiff appointed by the Court until discharged by the Justice. During its deliberation, the jury may return to Court to request further instructions from the Justice or request that the Clerk read portions of the transcript of any testimony in the case. The jury must render a verdict of "guilty" by a two-thirds vote or "not guilty" on every allegation in the complaint. After the verdict of the jury has been announced to the Justice, or in case the jury is unable to reach a verdict, the Justice shall discharge the jury.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 84.02

PART F

SENTENCE

Section
4251. Acquittal.
4252. Penalties.
4253. Payment of Fines by Installments.
4254. Considerations in Sentencing.
4255. Probation.
4256. Parolee.

§ 4251. Acquittal.

If a judgment of acquittal is rendered the defendant must be immediately released.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 86.

§ 4252. Penalties.

(a) Any person who has been convicted in the Court of Central Jurisdiction of an offense shall be sentenced to one (1) or a combination of the following penalties:

(1) Imprisonment for a period not to exceed the maximum permitted by the provision defining the offense, which in no case shall be greater than six (6) months, and which can also include a work or school release program.

(2) A money fine in an amount not to exceed the maximum permitted by the provision defining the offense, which in no case shall be greater than $5,000.00 per offense.

(3) Community Services for the benefit of the Band.

(4) Rehabilitative measures.

(b) In addition or in lieu of any of the above penalties, the Court may require an offender who has inflicted injury upon the person or property of another to make restitution or compensate the injured person through the surrender of the property, the payment of money damages, or the performance of any other act for the benefit of the injured party.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, §§ 86.01, 86.02

Cross References

Special surcharge tax on fines, *see* 22 MLBS § 509.

§ 4253. Payment of Fines by Installments.

If a convicted offender is unable to pay forthwith a money fine assessed under 24 MLBS § 4252, the Court shall allow her or him to make reasonable installment payments to the Clerk of Court at specified intervals until the entire sum is paid, or sentence her or him to labor for the benefit of the Band in order to discharge a fine at the rate of $10.00 per day. If the offender defaults on such payments the Court may fine her or him in contempt of Court and imprison her or him accordingly, or after notice to the offender, collect the unpaid balance from the offender's per capita payments or other property.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 86.03

§ 4254. Considerations in Sentencing.

In determining the character and duration of the sentence which shall be imposed, the Court shall take into consideration the previous conduct of the defendant, the circumstances under which the offense was committed and whether the offense was malicious or willful, and whether the offender has made efforts to make amend and shall give due consideration to the extent of the defendant's resources and the needs of her or his dependents.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 86.04.

§ 4255. Probation.

(a) Where a sentence of imprisonment has been imposed on a convicted offender, the Court of Central Jurisdiction may in its discretion, suspend the serving of such sentence and release the person on probation under any reasonable conditions deemed appropriate by the Court, provided that the period of probation shall not exceed the maximum term of sentence set for such offense.

(b) Any person who violates the terms of her or his probation may be required by the Court to serve the sentence originally imposed or such part of it as the Court may determine to be suitable, giving consideration to all the circumstances provided that such revocation of probation shall not be ordered without a hearing before the Court at which time the offender shall have the opportunity to explain her or his actions.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 87.

§ 4256. Parolee.

(a) Any person who shall without misconduct, serve one-half of the sentence imposed shall be eligible for parolee under such reasonable conditions as set by the Court.

(b) Any person who violates the conditions of her or his parolee may be required by the Court to serve the whole of the original sentence, provided that such revocation of parolee shall not be ordered without a hearing before the Court at which time the offender shall have the opportunity to explain her or his actions.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 88.

PART G

JUVENILE DELINQUENCY

Section
4301. Exclusion of Public from Hearing.
4302. Rights of Accused.
4303. Disposition in Lieu of Sentence.
4304. Records.
4305. Violations Heard in Criminal Division.

§ 4301. Exclusion of Public from Hearing.

Whenever the person under the ages of 14 years is accused of committing one (1) of the offenses of this Band Statute, the general public shall be excluded from the hearing, except under petition of the juvenile, the Court in its discretion, may hear and determine the case in a public hearing.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 89.

§ 4302. Rights of Accused.

The juvenile shall be entitled to have counsel with her or him at her or his own expense, shall be allowed to present, confront and cross-examine witnesses under oath, shall be entitled to adequate notice of charges against her or him and the privilege against self-incrimination shall apply to any statement the juvenile may have made before the trial and at the trial. Adequate notice of the charges against a juvenile shall also be given to the parents or guardian of the juvenile. A standard of guilt to be employed is that the juvenile must be found guilty beyond a reasonable doubt.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 89.01.

Cross References

Civil Rights Code, *see* 1 MLBS § 1 et seq.

§ 4303. Disposition in Lieu of Sentence.

In lieu of sentence the Court may place the juvenile under supervision of a responsible person or institution, selected by the Justice for a designated period or may take such other action as may be deemed advisable in the circumstances.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 89.02.

§ 4304. Records.

(a) All law enforcement records concerning a juvenile except traffic records, shall not be open to public inspection of their contents disclosed to the public, unless ordered by the Court.

(b) All law enforcement records and records of the Court pertaining to a juvenile shall be physically sealed when the youth reaches the age of 18 years. These records shall not be open to inspection except by a written order from the Court.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 89.04.

§ 4305. Violations Heard in Criminal Division.

Exceptions to 24 MLBS §4303 are that the following violations may be heard in either the Criminal Division or the Human Resources Division of the Court of Central Jurisdiction and the records may be open to inspection if tried in either the Criminal Division on any traffic, liquor law, or fish and game violation.

Historical and Statutory Notes

Source:
Band Statute 1164-MLC-6, § 89.05.

Cross References

Natural Resource Protection Code, enforcement, *see* 11 MLBS § 2601 et seq.
Traffic violations, *see* 19 MLBS § 401 et seq.

TITLE 25 – REVISOR OF STATUTES

Section

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

§ 1. Purpose.

The purposes of this statute are to:

(a) establish an independent Revisor's Office to ensure the annual compilation, updating, and publication of Band laws and official acts,

(b) provide confidential drafting services of proposed legislation and policy revisions to District Representatives; and

(c) establish a Tribal Register for the publication of Band statutes and policies, Executive Orders, Secretarial Orders, Commissioner's Orders, Legislative Orders, Chief Justice Orders, and other official notices.

Historical and Statutory Notes

Source:

Band Ordinance 08-21, § 2.

§ 2. Definitions.

(a) **"Act"** means an ordinance pursuant to 3 MLBS § 1.

(b) **"Agency"** and **"Department"** refer to any division or section of the executive or legislative branches established by statute to carry out the functions of Band government, to include the departments of Administration, Athletic Regulation, Community Development, Education, Health and Human Services, Natural Resources, Gaming and Regulatory Authority, Mille Lacs Corporate Ventures, and the Office of Management and Budget.

(c) **"Band"** means the Non-Removable Mille Lacs Band of Ojibwe.

(d) **"Band Assembly"** means the Band's legislative branch, established pursuant to 3 MLBS § 1, and comprised of the duly elected Speaker of the Assembly and three (3) District Representatives.

(e) **"Chief Executive"** means the elected official who leads the Band's executive branch pursuant to 4 MLBS § 6.

(f) **"Clerical error"** means a manifest clerical, typographical, punctuation, grammatical, or spelling mistake in the preparation, assembly, or submission of any measure that does not alter the sense, meaning, or effect of said measure.

(g) **"Court"** means the Band's Court of Central Jurisdiction established pursuant to 5 MLBS § 1.

(h) **"Legislative Session"** means the period of time, occurring twice per calendar year pursuant to 3 MLBS § 18.

(i) "**Measure**" means a bill, resolution, Legislative Order, amendment, Act, or any legislation under consideration by the Band Assembly. For purposes of this Title appropriations bills are not measures.

(j) **"MLBS"** means Mille Lacs Band Statutes, which is the preferred legal citation for the Laws and Rules of the Non-Removable Mille Lacs Band of Ojibwe.

(k) **"Resolution"** means either a resolution of the Band Assembly or a resolution of the Joint Session of the Band Assembly.

(l) **"Revisor"** means the selected official who leads the Band Revisor's Office in accordance with this statute and is charged, among other things, with codifying new statutes in a manner consistent with the existing Band law without altering the substance of such statutes.

(m) **"Speaker of the Assembly"** means the elected official who leads the Band's legislative branch pursuant to 3 MLBS § 6.

Historical and Statutory Notes

Source:

Band Ordinance 08-21, § 2.
Band Ordinance 40-22.
Band Act 33-24.

§ 3. Selection of Revisor.

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

Historical and Statutory Notes

Source:

Band Ordinance 08-21, § 2.

§ 4. Revisor's Powers.

(a) **Regular staff; hiring and salaries.** The Revisor shall employ and may fix the salaries of drafters and technical, research, and clerical assistants necessary to do the work of the Revisor's Office.

(b) **Additional staff; contractors.** When full-time employees are not available to do the work of the office, the Revisor may contract for drafting, technical, research, or clerical services.

(c) **Contracting.** The Revisor may enter into contracts to provide necessary services and supplies to the office.

(d) **Limitations of powers.** The exercise of the powers set forth in subsections (a) to (c) is subject to the control of the Band Assembly.

(e) **Contracts.** A contract shall be reviewed by the Office of the Solicitor General in accordance with 7 MLBS § 26(b)(2). The Band Assembly shall ratify contracts in accordance with 7 MLBS § 26(b)(4). The Revisor shall follow the procurement process in Title 7.

(f) **Form and Numbering.** All Executive Orders, Secretarial Orders, Legislative Orders, Commissioner's Orders, and Opinions of the Solicitor shall bear the Revisor's signature as to form and numbering.

(g) **Custodian of Records.** The Revisor shall be the custodian of all Executive Orders, Secretarial Orders, Legislative Orders, Commissioner's Orders, and Opinions of the Solicitor.

(h) **Corrections**. The Revisor has authority to correct clerical errors in any measure within 30 calendar days of final approval. The Revisor shall provide notice of the change to the Chief Executive, the Speaker of the Assembly, and each District Representative within three (3) business days of the correction.

Historical and Statutory Notes

Source:

Band Ordinance 08-21, § 2.
Band Ordinance 40-22.
Band Act 33-24.

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

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

(b) **Drafting responsibilities.** On request, the Revisor's Office shall draft bills, resolutions, and amendments solely for District Representatives of the Band Assembly. The Revisor's work product shall be prioritized in the order received during that legislative session of Band Assembly, or as otherwise directed by a majority vote of the Band Assembly.

(c) **Requests for drafting services.** The District Representatives may submit to the Revisor's Office requests for drafting services. A request must state briefly the policy and purpose of the document to be drafted. Documents must be drafted to conform to the instructions given in the request.

(d) **Drafting manual.** The Revisor's Office shall prepare and issue a drafting manual containing styles and forms for drafting bills, resolutions, and amendments.

Historical and Statutory Notes

Source:

Band Ordinance 08-21, § 2.

§ 6. Other Office Duties During Legislative Session.

(a) **Advice concerning effect of bills.** The Revisor's Office shall give members of the Band Assembly advice concerning the legal effect of bills or proposed bills, but only at the request of the members.

(b) **Report to Band Assembly.** As needed or at least once every two (2) legislative sessions, the Revisor's Office shall report to the Band Assembly any statutory changes recommended by any branch of government, including any statutory deficiencies or contradictions noted in any decision or opinion of the Court of Central Jurisdiction. The report must include any comment necessary to clearly outline the legislative problem reported.

(c) **Technical bills.** The Revisor's Office shall prepare and submit to the Band Assembly bills clarifying and correcting the statutes and executive branch policies that are required by statute to be ratified by the Band Assembly.

(d) **Preparing and presenting the bills.** The Revisor's Office shall assist in preparing any bill requested by a District Representative. In preparing a bill, the Revisor may correct misspelled words and other minor clerical errors. Bills are to remain under the supervision of the Parliamentarian.

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

Historical and Statutory Notes

Source:

Band Ordinance 08-21, § 2.

§ 7. Prohibitions and Limitations.

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

(a) They may not reveal to any person not employed by the legislative branch the content or nature of a request for drafting services. The content of the request, as well as documents and communications relating to the drafting service supplied, is not public and is not subject to subpoena, search warrant, deposition, writ of mandamus, interrogatory, or other disclosure.

(b) They may not overtly urge or oppose the substantive provisions of legislation, except in accordance with § 6(a) of this Title.

(c) They may not use office time to conduct legal business other than the business of the Revisor's Office.

(d) They may not engage in activities outside of their work for the Revisor's Office that would violate the duty to exercise independent professional judgment on behalf of the Revisor's Office or the prohibition against representing multiple clients as set forth in the Minnesota Rules of Professional Conduct.

(e) They may not take part in political management or political campaigns for Band office; use their official authority or influence for the purpose of interfering with or affecting the result of a Band election; knowingly solicit, accept, or receive a political contribution for a Band election; or run as a candidate for election to a Band political office.

Historical and Statutory Notes

Source:

Band Ordinance 08-21, § 2.

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

No later than January 15 of each year, the Revisor shall publish on the private-facing Tribal Register, for the previous two (2) legislative sessions, in a publication called "Official Acts of the Non-Removable Mille Lacs Band of Ojibwe":

(a) Executive Orders,

(b) Secretarial Orders,

(c) Commissioner's Orders,

(d) Legislative Orders,

(e) Chief Justice Orders,

(f) Solicitor's Opinions,

(g) acts,

(h) resolutions; and

(i) any new or revised department policy.

Historical and Statutory Notes

Source:

Band Ordinance 08-21, § 2.
Band Act 87-22.

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

(a) **Permanent required contents.** The Revisor's Office shall publish editions of the Laws of the Non-Removable Mille Lacs Band of Ojibwe. The Laws of the Non-Removable Mille Lacs Band of Ojibwe must contain the applicable constitution, all general and permanent statutes in force, and any other information the Revisor considers desirable and practicable.

(b) **Headnotes.** The headnotes of the sections of any edition of the Laws of the Non-Removable Mille Lacs Band of Ojibwe printed in boldface type are mere catchwords to indicate the contents of the section and are not any part of the statute.

(c) **New laws incorporated.** No later than May 1 of each year, the Revisor shall incorporate into the text of the Laws of the Non-Removable Mille Lacs Band of Ojibwe the permanent general laws enacted, with amendments made to the statutes, during the previous two (2) legislative sessions. The Revisor shall also omit any sections expressly repealed. The Revisor shall assign appropriate chapter and section numbers to these laws and shall arrange them in proper order. After each section the Revisor shall place a source note indicating the chapter and section of the acts from which the section was derived, in addition to explanatory historical and statutory notes.

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

Historical and Statutory Notes

Source:

Band Ordinance 08-21, § 2.
Band Ordinance 40-22.

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

If the Revisor's Office does not publish an edition of the Laws of the Non-Removable Mille Lacs Band of Ojibwe in a given year, it may publish a supplement to the Laws of the Non-Removable Mille Lacs Band of Ojibwe. The supplement must be identified by the year of publication and to the extent possible must otherwise comply with § 9 of this Title. The Revisor's Office may not use supplements for more than eight (8) consecutive legislative sessions without also publishing an edition of the Laws of the Non-Removable Mille Lacs Band of Ojibwe in accordance with § 9 of this Title.

Historical and Statutory Notes

Source:

Band Ordinance 08-21, § 2.
Band Ordinance 40-22.

§ 11. Publication Powers.

The Revisor's Office, in preparing a printer's copy for editions of statutes, may not alter the sense, meaning, or effect of any legislative act, but may:

(a) renumber sections or subsections and parts of sections or subsections,

(b) change the wording of headnotes,

(c) rearrange sections or subsections,

(d) combine sections or subsections into other sections or other subsections, or both,

(e) divide sections or subsections into other sections or subsections so as to give to distinct subject matters a section or subsection number,

(f) substitute the proper section, chapter, or subsection numbers for the terms “this act,” “the preceding section,” and the like,

(g) substitute figures for written words and vice versa,

(h) substitute the date on which the law becomes effective for the words “the effective date of this act,” and the like,

(i) change capitalization for the purpose of uniformity,

(j) correct manifest clerical, typographical, grammatical, or punctuation errors,

(k) correct words misspelled in bills,

(l) change reference numbers to agree with renumbered chapters, sections, or subsections,

(m) delete the phrases “Laws of the Non-Removable Mille Lacs Band of Ojibwe” and other phrases identifying other editions of any supplements to the Laws of the Non-Removable Mille Lacs Band of Ojibwe if the phrases are used in a reference to a statutory section,

(n) replace gender-specific words with gender-neutral words and, if necessary, recast the sentences containing gender-specific words; and

(o) make similar editorial changes to ensure the accuracy and utility of the publication.

Historical and Statutory Notes

Source:

Band Ordinance 08-21, § 2.
Band Ordinance 40-22.

§ 12. Certificate of Correctness.

In preparing an edition of the Laws of the Non-Removable Mille Lacs Band of Ojibwe or a supplement to the Laws of the Non-Removable Mille Lacs Band of Ojibwe the Revisor's Office shall compare each section in the edition with the original section of the statutes or with the original section in the act from which the section was derived, together with all amendments of the original section. In one (1) copy of the edition, the Revisor shall attach a certificate certifying that this comparison has been made and that all sections appear to be correctly printed. The copy containing the Revisor's certificate must be filed locally within the Revisor's Office as a public record. All other copies of the edition must contain a printed copy of the certificate.

Historical and Statutory Notes

Source:

Band Ordinance 08-21, § 2.
Band Ordinance 40-22.

§ 13. Sale and Distribution of Laws.

(a) **Number of copies printed.** The Revisor shall determine how many copies of the Laws of the Non-Removable Mille Lacs Band of Ojibwe and supplements to the Laws of the Non-Removable Mille Lacs Band of Ojibwe are to be printed. Subject to the requirements of subsection (b), the Revisor shall determine how the copies are to be distributed.

(b) **Free distribution.** The Revisor shall distribute without charge copies of each edition of the Laws of the Non-Removable Mille Lacs Band of Ojibwe and supplements to the Laws of the Non-Removable Mille Lacs Band of Ojibwe to the persons or bodies listed in this subsection. Before distributing the copies, the Revisor shall inform these persons or bodies of the cost of the publication and the availability of statutes on the Internet, and shall ask whether their work requires the full number of copies authorized by this subsection. Unless a smaller number is needed, the Revisor shall distribute:

(1) one (1) copy to each elected official of the Band, to be personally owned,

(2) one (1) copy to the Revisor's Office in accordance with § 12 of this Title,

(3) three (3) copies to the Legislative Branch,

(4) three (3) copies to the Office of the Chief Executive,

(5) three (3) copies to the Court.

(6) three (3) copies each to the department of administration, the department of community development, the department of education, the department of

health and human services, the department of natural resources, the department of justice, three (3) copies to the office of the solicitor general, tribal police department,

(7) one (1) copy each to the judges of District Court, the justices of the Court of Appeals, the Parliamentarian, the office of management and budget, the department of athletic regulation, the department of gaming regulatory authority, the department of motor vehicles, the tribal employment rights office, Band boards, any educational institution under the control and jurisdiction of the Band,

(8) one (1) copy to each attorney employed at the Mille Lacs Band Member Legal Services, or any successor organization,

(9) three (3) copies to Mille Lacs Band Member Legal Services, or any successor organization,

(10) two (2) copies each to the Library of Congress and Minnesota State Law Library for copyright and depository purposes,

(11) two (2) copies each to Mitchell Hamline School of Law, the Law School of the University of Minnesota, and University of St. Thomas School of Law,

(12) two (2) copies each to the Minnesota Historical Society and Minnesota Secretary of State,

(13) one (1) copy each to Bois Forte Band of Chippewa, Fond Du Lac Reservation, Grand Portage Band of Chippewa Indians, Leech Lake Band of Ojibwe, Lower Sioux Indian Community, Prairie Island Indian Community, Red Lake Band of Chippewa Indians, Shakopee Mdewakanton Sioux Community, Upper Sioux Community, and White Earth Reservation; and

(14) one (1) copy each to the public library of the largest municipality of Aitkin County, Mille Lacs County, and Pine County.

(c) **Marking of Band copies.** Copies of the Laws of the Non-Removable Mille Lacs Band of Ojibwe and supplements to the Laws of the Non-Removable Mille Lacs Band of Ojibwe that are distributed to those listed in subsection (b)(2) - (9) must be marked with the words “Band Copy” and kept for the use of the office.

(d) **Sale.** Any foreign entity may purchase from the Revisor a copy of the Laws and the Non-Removable Mille Lacs Band of Ojibwe and supplement to the Laws of the Non-Removable Mille Lacs Band of Ojibwe. The Revisor shall fix a reasonable sale price for each publication. Revenue from the sale of any publication must be deposited in the general fund. With consent from the Band Assembly, the Revisor may offer any

publications for sale to enrolled Band members at cost. The Revisor may also establish a public library containing Band laws.

Historical and Statutory Notes

Source:

Band Ordinance 08-21, § 2.
Band Ordinance 40-22.

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

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

Historical and Statutory Notes

Source:

Band Ordinance 08-21, § 2.

§ 15. Tribal Register.

(a) **Public content.** The Revisor shall publish an online, public Tribal Register containing:

(1) Band statutes,

(2) Solicitor's Opinions,

(3) department policies; and

(4) notice of any comment period pertaining to statutory revisions.

(b) **Privileged content.** The Revisor shall publish an online, private Tribal Register, which shall be available at all times to enrolled Band members, first-generation descendants of enrolled Band members, Band employees, and any individual who requires access to its contents to fulfill her or his professional responsibilities to the Band or Band members, containing:

(1) Executive Orders,

(2) Secretarial Orders,

(3) Commissioner's Orders,

(4) Legislative Orders,

(5) Chief Justice Orders,

(6) Solicitor's Opinions,

(7) acts,

(8) resolutions; and

(9) any new or revised department policy.

(c) **Privileged content access.**

(1) **Band members.** Enrolled Band members shall have immediate access to the private-facing Tribal Register.

(2) **Band employees.** Band employees shall have immediate access to the private-facing Tribal Register during all times of their employment with the Band.

(3) **Band descendants and those with professional responsibilities.** Upon request, Government Affairs shall provide access to the private-facing Tribal Register to first-generation descendants of enrolled Band members and any individual who requires access to its contents to fulfill her or his professional responsibilities to the Band or Band members. Such access must be provided within two (2) business days.

(d) **Publication.** The Revisor shall update the Tribal Register whenever necessary, except that no material properly submitted for publication shall remain unpublished for more than ten (10) business days.

(e) **Submission of items for publication.** An agency must publish all Commissioner's Orders, department policies, or other relevant items by submitting a copy of the entire document, including dates when adopted, to the Revisor within three (3) calendar days of adoption in addition to any other copies which may be required to be filed with the Revisor by other law. All Commissioner's Orders, department policies, and other relevant items adopted prior to April 1, 2022, must be submitted to the Revisor within seven (7) calendar days.

(f) **Distribution.** When an agency properly submits a Commissioner's Order, policy, or other item to the Revisor, the Revisor must then be accountable for the publication of the same in the Tribal Register.

(g) **Cost.** The Tribal Register shall be made available to enrolled Band members and Band employees free of charge.

Historical and Statutory Notes

Source:

Band Ordinance 08-21, § 2.
Band Ordinance 40-22.
Band Act 87-22.

§ 16. Financial and Proprietary Information.

(a) **Public.** The Secretary-Treasurer and Commissioner of Finance may, in consultation with each other, redact any documents published on the public-facing Tribal Register that contain financial and proprietary information. Financial and proprietary information includes, but is not limited to, revenues, expenses, profits, capital re-investment, equipment and software purchases, and any percentage calculations.

(b) **Privileged.** The Secretary-Treasurer and Commissioner of Finance may, in consultation with each other, redact any documents published on the private-facing Tribal Register that contain financial and proprietary information about Mille Lacs Corporate Ventures. Financial and proprietary information includes, but is not limited to, revenues, expenses, profits, capital re-investment, equipment and software purchases, and any percentage calculations. Any information redacted under this section may be provided for viewing to enrolled members of the Band upon the filing of a written request with the Secretary-Treasurer or Commissioner of Finance.

Historical and Statutory Notes

Source:

Band Ordinance 55-22.
Band Act 87-22.

§ 17. Personally Identifiable Information.

The Revisor of Statutes is authorized to redact all information within documents published on the Tribal Register that may reasonably be considered personally identifiable information. Personally identifiable information includes, but is not limited to, Social Security numbers, tribal enrollment numbers, dates of birth, or any other data that could reasonably identify a person.

Historical and Statutory Notes

Source:
Band Ordinance 55-22.

TITLE 26 – COMPENSATION OF ELECTED OFFICIALS

Section
1. Definitions.
2. Administration.
3. Salary.
4. Severance.
5. Pension.
6. Pension Loan.
7. Withholding of Taxes.
8. Notice and Timing of Benefit.
9. Amendment.

§ 1. Definitions.

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

(a) **"Beneficiary"** means the individual(s) named on the Beneficiary Designation Form by the former elected official to receive any remaining severance and/or pension amount upon the death of the former elected official.

(b) **"Elected Officials"** means the Chief Executive, Secretary-Treasurer, and the District Representatives.

(c) **"Elective Office"** means the positions held by the duly elected Chief Executive, Secretary-Treasurer, and District Representatives.

(d) **"Length of Service"** means the years, months, weeks, and days, that a duly elected official has been in elective office. This time shall be calculated consecutively, as well as non-consecutively taking into account any breaks of service. The time shall be calculated from the date the elected official takes the oath of office to the date that an official vacates elective office.

(e) **"Pension"** means the monthly amount, based on length of service in elective office, that an individual is deemed qualified to receive after leaving elective office.

(f) **"Pensioner"** means a former elected official who is eligible to receive a pension.

(g) **"Pension Loan"** means a loan made to a current elected official or former elected official that is capped at 50% of her or his vested amount, but no more than $20,000.00, according to the terms of this pension plan.

(h) **"Retirement"** means the time after the date that an elected official has officially vacated her or his office for retirement purposes.

(i) **"Salary"** means the gross annual rate of pay of elected officials for their employment with the Band calculated before any deductions.

(j) **"Severance"** means the monthly payment representing 80% of the former elected official's salary that is paid to the former elected official in the first six (6) months after leaving office.

(k) **"Vacate"** and **"vacating"** refer to an elected official no longer holding elective office for any reason.

(l) **"Years of Service"** means the number of years an elected official serves in any elective office either consecutively or non-consecutively.

Historical and Statutory Notes

Source:

Band Ordinance 27-18, § 2.

§ 2. Administration.

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

Historical and Statutory Notes

Source:

Band Ordinance 27-18, § 3.

§ 3. Salary.

(a) **Generally.** All elected officials shall receive a salary based on the elective office held and the total number of years of service in any elective office.

(b) **Salary increases.** Salary levels shall be adjusted annually for each respective elected office in accordance with the following:

(1) Chief Executive.

First year: $175,000.00.

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

(2) Secretary-Treasurer.

First year: $175,000.00.

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

(3) District Representatives.

First year: $150,000.00.

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

(4) Salaries are not to exceed $240,000.00 after annual adjustments regardless of years or terms of service.

(c) **Effective date.** This salary system is effective for any elected official in office on or after July 10, 2012.

Historical and Statutory Notes

Source:

Band Ordinance 27-18, § 4.

§ 4. Severance.

(a) Former elected officials shall, for a period of six (6) months after vacating office, receive a monthly severance equal to80% of the salary they received in their last month in elective office. If a former elected official dies prior to the end of the six (6) month period, the obligation to pay severance shall be payable to her or his designated beneficiary.

(b) **Effect of recall, removal, or conviction.** An elected official who has been recalled or removed from elective office by official action for theft, robbery, burglary embezzlement, fraud, or any other similar act against the Band or any Band entity, or has been determined by a court of competent jurisdiction to have committed another similar civil or criminal act against the Band or any Band entity while in elective office, may have their severance reduced, denied, or terminated by majority vote of

the Joint Session. Such denial of severance is final and may not be appealed to the Court of Central Jurisdiction.

(c) Severance pay may be garnished only through petitioning the Court of Central Jurisdiction and only for debts owed to the Band.

(d) This section is effective for any elected official in office on or after July 10, 2012, with the exception of any restriction as noted in subsection (b) above.

Historical and Statutory Notes

Source:

Band Ordinance 27-18, § 5.

§ 5. Pension.

(a) Former elected officials shall receive a monthly pension for a period equal to her or his total cumulative number of years in elective office in the amount prescribed in subsection (d) of this section beginning on the first day of the seventh month after vacating elective office. Each elected official qualified to receive a pension shall designate a beneficiary on the Beneficiary Designation Form and such form shall be kept in a confidential file in the office of the Commissioner of Finance.

(b) Former elected officials shall qualify for a pension based on the total cumulative number of years served in any elective office according to the dollar amount shown in subsection (d) below.

(c) **No pension while in elective office.** If an elected official who has been receiving or is scheduled to receive a pension returns to elective office, her or his pension shall be suspended until the elected official vacates elective office. This subsection is not intended to include those amounts that an elected official may access as per the pension loan guidelines in § 6 of this Title.

(d) **Pension amount.** Former elected officials shall receive the following pensions:

Total cumulative years of service:	1-2	Over 2
Monthly pension, plus interest:	$1,500.00	$2,500.00

(e) **Contingent Option to Accelerate Certain Pension Payments.** Pensioners who have served as elected officials for a cumulative period in excess of five (5) years may accelerate the payment of any monthly payments then due to them, which are payable on or after the sixty-first month after the commencement of their pension pursuant to the terms of subsections (a) through (d) above (the "Acceleration Eligible Payments")

by written notice (the "Acceleration Notice") to the Commissioner of Finance delivered during an Annual Payment Acceleration Election Period, as hereafter defined.

(1) The Acceleration Notice shall specify the portion of the Acceleration Eligible Payments then due to such pensioner that are to be accelerated and paid out currently up to, but not in excess of, the total Acceleration Eligible Payments.

(2) An Acceleration Notice will be accepted and honored by the Commissioner of Finance only if received by her or him from a pensioner then receiving monthly pension installments during the period commencing on July 1 and ending on July 31 of each year (the "Annual Payment Acceleration Election Period").

(3) Any Acceleration Eligible Payment elected to be paid out currently in an Acceleration Notice shall be paid to the pensioner not later than 30 days after the close of the Annual Payment Acceleration Election Period in which any Acceleration Notice is delivered.

(4) Any portion of the pensioner's pension accelerated pursuant to this subsection shall reduce the electing pensioner's future entitlement to a pension and number of monthly payments in inverse order in which otherwise due. The Commissioner of Finance shall notify the pensioner of such reduction in future amount and number of installments of the pension due as a result of the acceleration by written notice delivered with any accelerated payment.

(f) **Effect of recall, removal, or conviction.** An elected official who has been recalled or removed from elective office by official action for theft, robbery, burglary, embezzlement, fraud, or any other similar act against the Band or any Band entity, or has been determined by a court of competent jurisdiction to have committed another similar civil or criminal act against the Band or any Band entity while in elective office, may have their pension reduced, denied, or terminated by a majority vote of the Joint Session. Such denial of a pension is final and may not be appealed to the Court of Central Jurisdiction.

(g) **Effect of death of former elected official.** If a former elected official dies prior to the end of her or his pension entitlement period, any remaining monthly payments shall be payable to her or his designated beneficiary as named on the Beneficiary Designation Form. In the case of an individual beneficiary, if the beneficiary dies prior to the end of the Band's obligation to pay monthly pension payments to the beneficiary, the Band's obligation shall end as of the beneficiary's date of death and no further payments will be made. If two (2) or more beneficiaries are designated, the

surviving beneficiaries shall be paid in full, or equal to 100% of, the remaining monthly payments.

(h) **Judicial and administrative garnishment.** Pension may be garnished only through petitioning the Court of Central Jurisdiction and only for debts owed to the Band. Other than as provided in this subsection, the interest of any pensioner prior to payments of her or his pension of this section shall not be subject to the claims of any creditor, spouse, or others, and may not be voluntarily or involuntarily alienated, encumbered, anticipated, assigned, or pledged.

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

Historical and Statutory Notes

Source:

Band Ordinance 27-18, § 6.

§ 6. Pension Loan.

(a) Former and current elected officials may apply in writing to the Commissioner of Finance for a loan up to an amount equaling 50% of her or his vested pension, but never more than $20,000.00.

(b) All pension loans must be paid back to the pension fund over a period five (5) years or the former or current elected official's remaining pension term as of the loan date, whichever is less. The Commissioner of Finance will accept such payments on behalf of the Band.

(c) Any former or current elected official who requests a pension loan must sign a promissory note to the Band.

(d) Interest on the note will be charged according to the Wall Street Journal's U.S. Prime Rate in effect at the note's inception.

(e) Interest earned on the note would be credited to the pension account.

(f) A former or current elected official may only have one (1) pension loan in effect at any one (1) time. Additional borrowings would require a consolidation of old and new amounts into a new note with new terms according to this Title.

(g) Monthly payments of principal and interest on the note may be withheld against the former or current elected official's pension, severance, per capita, or payroll payments.

(h) The Commissioner of Finance will be responsible for administering the granting of and collections on pension loans according to the terms of this Title.

(i) The effective date of this section is May 22, 2012.

Historical and Statutory Notes

Source:

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

§ 7. Withholding Taxes.

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

Historical and Statutory Notes

Source:

Band Ordinance 27-18, § 8.

§ 8. Notice and Timing of Benefit.

(a) **General notice of amount and timing of benefit.** The Commissioner of Finance shall notify a pensioner or former elected official of their benefit eligibility within 60 days after vacating elective office. The notice shall contain the amount of the pension, severance, or both if applicable, the timing of periodic payment(s), and other pertinent information.

(b) **Notice for reduction, denial, or termination.** In the event of any change in the amount or timing of their benefit(s), or if a pensioner or former elected official is to have their benefit(s) denied or terminated, the Commissioner of Finance shall provide written notice to the pensioner or former elected official. The notice shall contain the reasons for the change, denial, or termination.

Historical and Statutory Notes

Source:

Band Ordinance 27-18, § 9.

§ 9. Amendment.

In regard to compensation, the elected officials reserve the right to review and amend the compensation plan in even numbered years after July 10 of that year. Amendments to the severance or pension language may be made in any year. The pension plan is a fully funded plan and is intended to remain as such.

Historical and Statutory Notes

Source:
Band Ordinance 27-18, § 10.

TITLE 27 – EMERGENCY MANAGEMENT

Section
1. Findings.
2. Definitions.
3. Authorities of the Chief Executive.
4. Declaration of State of Emergency.
5. Termination of State of Emergency.
6. Accountability and Reporting.
7. Coronavirus Relief Funds.

§ 1. Findings.

The Band Assembly finds it necessary to:

(a) confer upon the Chief Executive all emergency management powers,

(b) establish an emergency operation plan for the protection of public health, life, property, and general well-being adequate to cope with disasters resulting from natural and man-made causes; and

(c) provide for the coordination of all emergency management functions with comparable functions of the federal, state, and local units of government and of private agencies.

Historical and Statutory Notes

Source:
Band Ordinance 27-20, § 1.

§ 2. Definitions.

As used in this Title:

(a) **"Emergency"** and **"disaster"** refer to an event or set of circumstances which:

(1) demands immediate action to protect public health, life, and property; or

(2) reaches such degree of destructiveness as to warrant the Chief Executive declaring a state of emergency.

(b) **"Public place"** means any location that the Band government maintains for the use of the public under the territorial jurisdiction of the Band.

Historical and Statutory Notes

Source:

Band Ordinance 27-20, § 2.

§ 3. Authorities of the Chief Executive.

At all times other than a state of emergency, the Chief Executive is authorized to:

(a) establish a Tribal Emergency Response Committee, which will consist of Executive Officers and any other officials or individuals the Chief Executive deems necessary to meet the demands of the emergency or disaster,

(b) prepare and maintain a comprehensive emergency operation plan and to coordinate preparations of the emergency operations plan and programs by the political subdivisions of the Band; and

(c) institute training programs and public information programs and to take all necessary preparatory actions, including the mobilization of the Mille Lacs Tribal Police Department in advance of actual emergency or disaster.

Historical and Statutory Notes

Source:

Band Ordinance 27-20, § 3.

§ 4. Declaration of State of Emergency.

In the event of an emergency or disaster, the Chief Executive is authorized to declare a state of emergency through the issuance of an executive order. Once the Chief Executive has declared a

state of emergency, and until termination of the state of emergency, the Chief Executive, or the Tribal Emergency Response Committee acting on behalf of the Chief Executive, may:

(a) provide resources and services necessary to avoid or minimize harm to health, life, and property,

(b) enter into agreements with the federal government and government of the State of Minnesota for the receipt of public assistance funds and coordinate such agreements between the political subdivisions of the Band,

(c) procure supplies and equipment,

(d) reallocate funds already appropriated to political subdivisions of the executive branch as reasonably necessary to meet the needs of the emergency or disaster; and

(e) prohibit any number of persons from assembling or gathering on or at any public place.

Historical and Statutory Notes

Source:

Band Ordinance 27-20, § 4.

§ 5. Termination of State of Emergency.

Any state of emergency declared by the Chief Executive shall terminate if:

(a) the Chief Executive issues an executive order terminating the emergency; or

(b) the Band Assembly issues a resolution terminating the emergency.

Historical and Statutory Notes

Source:

Band Ordinance 27-20, § 5.

§ 6. Accountability and Reporting.

(a) The Chief Executive will provide periodic updates to the Band Assembly regarding the status of an emergency or disaster as needed, requested, or available.

(b) The Chief Executive and the Tribal Emergency Response Committee will provide the Band Assembly with the minutes of Tribal Emergency Response Committee meetings within one (1) week after such meetings.

(c) The Chief Executive will provide to the Band Assembly, at monthly intervals after such declaration, a report on the total expenditures incurred by the Band government during the preceding monthly interval which are directly attributable to the exercise of powers and authorities conferred by such declaration. Within one (1) month after the termination of an emergency, the Chief Executive will provide a final report to the Band Assembly on all such expenditures.

Historical and Statutory Notes

Source:

Band Ordinance 27-20, § 6.

Cross References

Executive Branch, Powers and Duties of Chief Executive, *see* 4 MLBS § 6.
Legislative Branch, Legislative Power, *see* 3 MLBS § 3.

§ 7. Coronavirus Relief Funds.

(a) The Commissioner of Finance is directed to report to the Band Assembly on expenditures incurred due to Coronavirus Disease 2019. Such reports will include, but not be limited to:

(1) the total amount of payments from the Coronavirus Relief Fund received from the United States Department of the Treasury,

(2) the amount of funds received that were expended or obligated for each project or activity; and

(3) a detailed list of all projects or activities for which funds were expended or obligated, including the name of the project or activity, a description of the project or activity, and detailed information on any loans issued, contracts and grants awarded, transfers made to other government entities, and direct payments made by the Band that are greater than $50,000.00.

(b) Upon the Band Assembly's formal or informal acceptance of such reports, the Commissioner of Finance is authorized to submit such reports to the United States Department of the Treasury to certify that the contents of such reports are true, accurate, and complete. The Commissioner of Finance shall also submit a copy of the report to the Chief Executive.

Historical and Statutory Notes

Source:

Band Ordinance 60-20, § 1.