

Mille Lacs Band Statutes Annotated

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TITLE 15 – GAMING REGULATORY ACT

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CHAPTER 1

GAMING REGULATORY ACT

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SUBCHAPTER 1

GENERAL PROVISIONS

<u>Section</u>
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§ 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.

§ 107. Prohibited Activities.

- (a) **Minors prohibited.** It shall be unlawful for any adult to allow a person under the age of eighteen (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, or 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 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 thirty (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 thirty (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 supermajority 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 forty-eight (48) hours written notice to the Board Members, by the Director with a minimum of forty-eight (48) hours written notice to the Chairperson, or by a majority vote of the Board with forty-eight (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 forty-eight (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 forty-eight (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 four hundred dollars (\$400.00) per meeting, not to exceed eight hundred (\$800.00) in one 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 thirty (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 brought 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 thirty (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 thirty (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 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 twenty (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) **Confidential 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

1. Athletic Regulation

Section

801

SUBCHAPTER 1

ATHLETIC REGULATION

Section

801. Professional Boxing and Mixed Martial Arts.

802. Purpose of the Department of Athletic Regulation.

803. Jurisdiction of the Department of Athletic Regulation Commission.

804. Department of Athletic Regulation Commission.

805. No Right of Action.

806. Medical Standards.

§ 801. Professional Boxing and Mixed Martial Arts.

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

Historical and Statutory Notes

Source:

Band Ordinance 45-06, § 1.

Band Ordinance 05-11, § I(2), Exh. A, § 801.

Band Ordinance 31-21.

§ 802. Purpose of the Department of Athletic Regulation.

- (a) With the exception of subsection (b), below, the purpose of the Department of Athletic Regulation is to regulate, administer, and oversee the conduct of all professional athletic, including professional boxing and amateur mixed martial arts, events held on the Mille Lacs Band of Ojibwe Reservation for the purpose of promoting the health, safety, and welfare of all persons engaged in such activities, and that of Band Members and the public. The Department of Athletic Regulation shall regulate such events through its Executive Director and Athletic Commissioners.
- (b) The Department of Athletic Regulation (“DAR”) may, upon invitation from another tribe or tribal entity, regulate a boxing or MMA event on behalf of such tribal entity

for the purpose of promoting professionalism and safety in the sport. All such regulatory activities conducted on behalf of another tribe or tribal entity must be compensated by that tribe or tribal entity that extended the invitation to the DAR in an amount that is fair and reasonable, but no less than \$2,000.00 per event. Any monies earned in this manner by the DAR shall be deposited in the Band's general fund within five (5) calendar days of the event.

- (c) The DAR Executive Director and at least two (2) Commission members shall be present at each place where amateur MMA or professional boxing, MMA or other professional athletic activities are to be held pursuant to the provisions of this subchapter. If the Executive Director is unable to attend such event due to illness or for any other reason, the Athletic Regulation Commission members shall oversee the regulation of such event.

Historical and Statutory Notes

Source:

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

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

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

Historical and Statutory Notes

Source:

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

§ 804. Department of Athletic Regulation Commission.

- (a) **General.** The Department of Athletic Regulation shall be managed by an Executive Director and a five-member Board, referred to as the Athletic Regulation Commission ("Commission"). At all times, there shall be at least one (1) Commissioner from each

District serving on the Athletic Regulation Commission. The Commission shall consist of five (5) members appointed in the following manner and have staggered terms as provided in subsection (b), below. The Commission shall have oversight of the Executive Director.

- (b) **Appointments process, terms, oath of office.** Each Commissioner shall be appointed using the following process:
- (1) The Chief Executive shall nominate two (2) individuals and submit their names to the Secretary-Treasurer. Within ten (10) calendar days after receipt of the nominations by the Secretary-Treasurer, the Secretary-Treasurer shall ratify one (1) of the two (2) nominees to be a Commissioner on the Athletic Regulation Commission. Such Commissioner shall serve until September 30, 2008. Any subsequent appointment, other than to fill a vacancy that occurs prior to the end of a term, shall be for four (4) years.
 - (2) The Secretary-Treasurer shall nominate two (2) individuals and submit their names to the Chief Executive. Within ten (10) calendar days after receipt of the nominations by the Chief Executive, the Chief Executive shall ratify one (1) of the two (2) nominees to be a Commissioner of the Athletic Regulation Commission. Such Commissioner shall serve until September 30, 2008. Any subsequent appointment, other than to fill a vacancy that occurs prior to the end of a term, shall be for four (4) years.
 - (3) Each District Representative shall nominate two (2) individuals and submit their names to the Chief Executive. Within ten (10) calendar days after receipt of the nominations by the Chief Executive, the Chief Executive shall ratify one (1) of the two (2) nominees to be a Commissioner of the Athletic Regulation Commission. Such Commissioner shall serve until September 30, 2009. Any subsequent appointment, other than to fill a vacancy that occurs prior to the end of a term, shall be for four (4) years.
 - (4) If the Chief Executive or Secretary-Treasurer does not ratify one individual from any of the nominations sent to them within the time prescribed, then the Band Assembly shall select a Commissioner by majority vote.
 - (5) If any person does not submit a nomination within 30 calendar days after a vacancy has occurred, then the Band Assembly shall nominate two (2) individuals by majority vote and submit their names to the Chief Executive for ratification to the Athletic Regulation Commission. The timing and process for ratification are as stated in clauses (1) and (4) above.
 - (6) No person shall take office until swearing to the oath of office pursuant to 2 MLBS § 8.

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

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

(d) **Commission officers.**

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

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

- (1) The Chairperson shall preside over meetings of the Commission and the Vice-Chairperson shall preside over meetings of the Commission in the absence of the Chairperson. The Secretary shall record, in writing, the minutes of all

Board meetings and all official actions taken by the Commission. A copy of the minutes may be provided to the Band Assembly and Chief Executive upon request.

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

(f) **Vacancies.**

- (1) The DAR or Chairperson shall notify the Band Assembly and Chief Executive of any vacancy on the Commission at least 30 days prior to the end of term or, in circumstances other than the end of a term, immediately upon the knowledge that a vacancy will occur.
- (2) If there is a vacancy on the Commission, then the vacancy shall be filled in the same manner as the vacating Commissioner who was originally appointed.
- (3) Any Commissioner, including the Chairperson, appointed to fill a vacancy shall serve for the remainder of the vacant term. Any Commissioner may be re-appointed during this time period pursuant to subsection (c).

(g) **Elected official.** No elected official shall serve as a Commissioner during her or his term of office.

(h) **Removal.** A Commissioner may be removed by a super-majority vote of four (4) out of five (5) members of the elected officials. The determination of the elected officials is final and unappealable to the Court of Central Jurisdiction.

(i) **Compensation.** Commissioners shall be paid two hundred fifty dollars (\$250.00) per attendance at official Department of Athletic Regulation meetings or events, not to exceed one thousand dollars (\$1,000.00) in one (1) month. Mileage and other travel

expenses will be compensated on the same terms and conditions as applicable to Senior Executive Staff appointees as provided by Band law. Commissioner stipends are restricted to her or his attendance at official Department of Athletic Regulation meetings or events. For this subsection, “events” shall mean a pre-planned professional or amateur combative sport match including, but not limited to, boxing, mixed martial arts, and wrestling matches regulated by the Department of Athletic Regulation within the jurisdiction of the Non-Removable Mille Lacs Band of Ojibwe or as contracted with another federally recognized tribe.

(j) **Training.**

- (1) Commissioners may attend one or more training seminars per year during their terms of membership. These seminars shall be sanctioned by the Association of Boxing Commissioners (“ABC) or other professional boxing or martial arts organization.
- (2) Commissioners attending mandatory training seminars, who are also employees of the Band government, shall be compensated at their documented rate of pay for each hour they are in attendance at such training, plus mileage, and other travel expenses as stated in subsection (i) above. Commissioners, who are also employees of the Band government, shall not be required to use her or his accrued annual leave, but will be paid as if they were at work.
- (3) Commissioners who are not Band government employees and are required to be absent from their employment to attend training pursuant to subsection (j)(1) above, shall be compensated at their previously documented hourly rate of pay, but not to exceed fifteen dollars (\$15.00) per hour, for each hour that they are in attendance at such training, plus mileage, and other travel expenses as stated in paragraph (2) above.

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

- (1) From ticket sales of unarmed combat events, there shall be a 10/90 split between the DAR and the appropriate Grand Casino budget. Ten percent (10%) shall be assigned to the DAR budget through the Office of Management and Budget.
- (2) The remaining budget requirements will be funded from Taxation Revenue to be appropriated each and every year by Band government budget process.
- (3) If an unarmed combat promoter chooses to negotiate a “4-wall” deal with Grand Casino, he or she shall be responsible for marketing and sale of tickets for such unarmed combat event. The promoter shall negotiate with Grand Casino as to all other matters except regulation. For regulation of a “4-wall” event, the promoter shall pay ten percent (10%) of the gross ticket sales to the DAR, but not to exceed two thousand five hundred dollars (\$2,500.00). If any

comp has the potential to impact the regulation fee, the promoter shall be restricted to “comp” no more than ten percent (10%) of the gross ticket sales. Within ten (10) calendar days of the event, the promoter shall file a written report with the DAR listing all ticket sales and comps of the “4-wall” event.

- (4) The minimum payment to the DAR from a promoter for the regulation of any unarmed combat “4-wall” event shall be one thousand dollars (\$1,000.00). Such amount shall be paid according to the timeline established under the DAR Rules and Regulations.

Historical and Statutory Notes

Source:

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

§ 805. No Right of Action.

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

Historical and Statutory Notes

Source:

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

§ 806. Medical Standards.

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

Historical and Statutory Notes

Source:

Band Ordinance 45-06, § 6.

Band Ordinance 23-07, § III.

Band Ordinance 05-11, § I (2), Exh. A, § 806.

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 his or her date of appointment and may be removed prior to completion of his or her term for good cause by a majority vote of the board.

Historical and Statutory Notes

Source:

Band Ordinance 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

<u>Subchapter</u>	<u>Section</u>
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 his or her 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 fifty-one percent (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 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 fifty percent (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 twenty-five percent (25%) of the total employees of the project/jobsite except as otherwise provided in subsection (c) of this section.
- (c) The director may, at his or her 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 ten (10%) percent of the lowest competitive bid, the covered employer shall give one 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 thirty (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 one-half percent (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 thirty (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 thirty (30) days of his or her 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 his or her 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 his or her 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 forty (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 employer 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 fifteen (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 thirty (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 thirty (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 sixty (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 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 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 thirty (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 thirty (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 twenty (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 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

- 1201. Purpose.**
- 1202. Definitions.**
- 1203. Department of Cannabis Regulation.**
- 1204. Department of Cannabis Regulation Board.**
- 1205. Executive Director of the Department.**
- 1206. Seed-to-Sale Electronic Tracking System.**
- 1207. Approval of Cannabis Flower and Products.**
- 1208. Agricultural and Food Safety Practices.**
- 1209. Applicable Environmental Standards.**
- 1210. License Issuance; Transfers; Adjustments; Appeals.**
- 1211. Inspection and License Violation.**
- 1212. Cannabis Business; General Operational Requirements and Prohibitions.**
- 1213. Cultivation.**
- 1214. Manufacturing.**
- 1215. Retail.**
- 1216. Wholesale; Transportation; Delivery.**
- 1217. Testing.**
- 1218. Packaging and Labeling.**
- 1219. Advertising.**
- 1220. Limitation on Consumption; Locations of Consumption.**
- 1221. Ownership and Use of Mille Lacs Corporate Ventures' Revenues.**

1222. Personal Adult Use of Cannabis.

1223. Violations.

1224. Provisional License for Mille Lacs Corporate Ventures.

1225. Medical Marijuana.

§ 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 percent 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 percent 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 percent 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 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 herself 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 four hundred dollars (\$400.00) per meeting, not to exceed eight hundred dollars (\$800.00) in one 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 forty-eight (48) hours written notice to the Board members, by the executive director with a minimum of forty-eight (48) hours written notice to the chairperson, or by a majority vote of the Board with forty-eight (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 forty-eight (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 forty-eight (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 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.

Historical and Statutory Notes

Source:

Band Act 13-24.

§ 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, animal, 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.

§ 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 on Band-owned casino property.
- (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.

§ 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 be 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 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 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 employees. At least one 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 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 percent 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:

Band Act 13-24.

§ 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 ounces or less of adult-use cannabis flower;
 - (B) eight 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 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 per offense against a person who violates § 1222(a)(2).
 - (3) The Department may assess a civil penalty of up to \$100 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 shall obtain a provisional 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 Act and shall expire on December 31, 2024. 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.

Historical and Statutory Notes

Source:

Band Act 13-24.

§ 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.