

## **Ordinance 44-03**

A Ordinance providing for the general welfare of the people of the Mille Lacs Band of Ojibwe by a Gaming Regulatory Act to regulate gaming on band lands.

The District I Representative introduced the following Bill on the 19<sup>th</sup> day of August 2003.

### **PREAMBLE**

It is enacted by the Band Assembly of the Mille Lacs Band of Ojibwe the following act for the purpose of establishing a statutory system for the effective regulation of gaming activities within the jurisdiction of the Band to be called the Gaming Regulatory Act; establishing an independent regulatory authority called the Mille Lacs Band Gaming Regulatory Authority; and for other purposes.

### **TITLE 15 GAMING REGULATORY ACT**

#### **Section 1. REPEAL AND REPLACEMENT OF TITLE 15 AND GAMING REGULATIONS; EFFECTIVE DATE; TRANSITION.**

This Gaming Act and regulations promulgated thereunder shall constitute the entire gaming laws and regulations of the Band. The prior Title 15 of Band Statutes is hereby repealed and replaced. Upon final approval of Initial Detailed Gaming Regulations by the Gaming Authority (hereinafter the "Authority") and the Band Assembly pursuant to section 11(d)(2)(C), such regulations will replace and supercede all then existing gaming regulations. Authority control of gaming regulation shall become effective upon the date that this Act is filed with and approved by the National Indian Gaming Commission and the first Director of the Office of Gaming Regulation and Compliance, as described in section 12 of this Act, takes the oath of office. The Authority Board of Directors, the Director of the Office of Gaming Regulation and Compliance, the Commissioner of Corporate Affairs, and the Commissioner of Finance shall work together to assure the smooth transition of gaming regulation from the Commission to the Authority.

#### **Section 2. FINDINGS**

The Mille Lacs Band of Ojibwe Assembly finds that:

(a) The Mille Lacs Band of Ojibwe 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 to 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.

### **Section 3. DECLARATION OF PURPOSE.**

The express purpose of this Gaming Regulatory Act is:

(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 assure 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 Compacts;

(e) to ensure that gaming on Band Lands is conducted in conformity with Band law, the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. section 2701 et seq. and regulations promulgated pursuant thereto, applicable State law and the Compact;

(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 IGRA and regulations promulgated thereto.

### **Section 4. DEFINITIONS.**

For the purpose of this Act, the following definitions shall apply:

(a) "Authority" means the Mille Lacs Band Gaming Regulatory Authority established by this Act.

- (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. Part 556.4.
- (e) “Band” means the Mille Lacs Band of Ojibwe.
- (f) “Band Gaming Laws” means this Act and all subsequent amendments thereto, and all detailed regulations promulgated thereunder.
- (g) “Band Lands” means any land within the jurisdiction of the Band upon which gaming activities pursuant to 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) “Compact(s)” means any Class III tribal-state gaming compact in effect between the Band and the State of Minnesota to govern the conduct of certain Class III Gaming Activities on Band Land.
- (m) “Compliance” means that any gaming and gaming related activity regulated by this Act is conducted in accordance with applicable laws.
- (n) “Compliance Determination” has the meaning given in section 11(d)(5) of this Act.
- (o) “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.
- (p) “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.

- (q)** “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).
- (r)** “Confidential Restricted Availability Data” means Confidential Data that is not available to the subject of the data.
- (s)** “Corporate Commission” means the Corporate Commission of the Mille Lacs Band of Ojibwe Indians as established by 16 MLBSA section 101 et seq.
- (t)** “Corporate Commissioner” means the Mille Lacs Band Commissioner for Corporate Affairs.
- (u)** “Court of Central Jurisdiction” or “CCJ” means the Court of Central Jurisdiction of the Mille Lacs Band of Ojibwe Indians established by 5 MLBSA section 1 et seq.
- (v)** “Director” means the director of the Office of Business Regulation and Compliance as described in section 12 of this Act.
- (w)** “Exclusion List” means a list prepared pursuant to section 11(d)(9) of this Act that contains the names of Persons who shall not be permitted in any Gaming Enterprise.
- (x)** “Financial Information on a Gaming Enterprise” 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.
- (y)** “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 his or her 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.
- (z)** “Gaming Activity” or “Gaming Activities” means any Class I, Class II, or Class III gaming activity as defined by the Indian Gaming Regulatory Act and conducted by or under the jurisdiction of the Band.
- (aa)** “Gaming Compliance Officer” or “GCO” means the officer described in section 12(b)(1)(D) of this Act.
- (bb)** “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.
- (cc)** “Gaming Enterprise(s)” means the Grand Casino Mille Lacs, the Grand Casino Hinckley and any other commercial facility or business owned by the Band through the

Corporate Commission and operated, in whole or in part, for the conduct of Gaming or related to Gaming Activities within the jurisdiction of the Band.

**(dd)** “Gaming Regulatory Authority” means the independent agency established herein and designated with responsibility for performing the Band’s regulatory responsibilities and duties under IGRA, this Act, and any Compacts.

**(ee)** “Gaming Supplier” means any contractor or other supplier of gaming goods, supplies, materials, equipment, or services to any Gaming Enterprise, the aggregate annual cost of which to the Band’s Gaming Enterprises is at least \$25,000. The term Gaming Supplier shall be more particularly defined in detailed gaming regulations to be promulgated by the Authority.

**(ff)** “Hearing Examiner” means an individual employed or contracted with by the Authority for the purpose of conducting a hearing pursuant to section 11 of this Act. Such person shall: (1) be independent of any claimant, the Corporate Commission, any Gaming Enterprise, and any affiliates of the foregoing; (2) be an attorney in good standing licensed by the Mille Lacs Band and any State, and (3) have relevant legal experience.

**(gg)** “Immediate Family” or “related to” means persons who are the subject individual’s spouse, parents, siblings, and children (either adopted or biological).

**(hh)** “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.

**(ii)** “Indian Gaming Regulatory Act” or “IGRA” means the Act of October 17, 1988, Public Law 100-497, 25 USC section 2701 et seq. as amended, and all regulations promulgated pursuant thereto.

**(jj)** “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 section 12(b)(2) of this Act or (2) any Compliance Recommendation that has been completed by the Director but not yet finally acted upon by the Authority.

**(kk)** “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 Act.

**(ll)** “Initial Detailed Gaming Regulations” means a full and complete set of gambling regulations, to be the first regulations promulgated by the Authority pursuant to section 11(d)(2) herein and submitted to the Band Assembly for final approval, to comprehensively regulate all aspects of gaming necessary to (1) ensure effective, independent oversight and regulation of all gaming conducted on Reservation lands; (2)

ensure that Persons who hold key positions in the Band's gaming enterprises 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 Band/State gaming compacts; and (5) clearly define and distinguish the respective duties and powers of casino management and gaming regulation so that they compliment one another in such a manner as to maximize the benefits of gaming to the Band and the surrounding non-Indian community.

**(mm)** "Key Employee" means any person as defined in 25 C.F.R. Part 502.14 and any other persons who may, pursuant to the Detailed Gaming Regulations, be included under the definition of "Key Employee" and become subject to such requirements.

**(nn)** "Management Principal" means any person who is an officer or member of the Board of Directors or other person defined as a Primary Management Official as defined in 25 CFR Part 502.19.

**(oo)** "Net Revenues" means gross gaming revenues of an Indian gaming operation less:

- (a) Amounts paid out as, or paid for, prizes; and
- (b) Total gaming-related operating expenses, excluding management fees.

**(pp)** "Non-Key Employee" means any person employed by a Gaming Enterprise or the Corporate Commission, who is not otherwise defined as a Key Employee or Primary Management Official.

**(qq)** "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.

**(rr)** "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.

**(ss)** "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 the OGR&C, or acts as an independent contractor therefor.

**(tt)** "Primary Management Official" means any person as defined in 25 CFR Part 502.19 and any other persons who, at the discretion of the Authority, may be included under the definition of "Primary Management Official" and become subject to such requirements.

**(uu)** "Security Information" means Authority Data the disclosure of which would be likely to substantially jeopardize the security of Gaming Enterprise information, possessions, associates, guests or property against theft, tampering, improper use, illegal disclosure, trespass or physical injury.

(vv) "Trade Secret Information" means Authority Data, including formula, pattern, compilation, program, device, method, technique, or process (1) that was supplied by the affected Person; (2) that is the subject of efforts by the affected Person to maintain its secrecy; and (3) that 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.

**Section 5. GENERAL PROHIBITION ON GAMING ACTIVITIES; VIOLATIONS PUNISHABLE.** All Gaming Activity on Band Lands shall be conducted in compliance with this Act and any Gaming Activities not authorized by this Act or by regulations promulgated pursuant to this Act by the Authority is prohibited. Any violations of this Act shall be punishable through means adopted by this Act, the Authority and as otherwise provided by Band law.

**Section 6. UNAUTHORIZED GAMING PROHIBITED; PERMITTED GAMING; TRIBAL-STATE COMPACTS AUTHORIZED.**

(a) **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 Act.

(b) **Permitted Gaming.**

(1) **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 Initial Detailed Gaming Regulations.

(2) **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.

(A) **Permitted Class II Games.**

(i) Any game of chance which the Authority and/or the National Indian Gaming Commission has determined to be class II; and

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

**(B) Permitted Class III Games.**

**(i)** Video Games of Chance licensed and conducted pursuant to the Compact between the Commission and the State of Minnesota;

**(ii)** Blackjack Games licensed and conducted under the terms of the compact between the Commission and the State of Minnesota; and

**(iii)** Any other game of chance which is licensed and conducted pursuant to the Compact and for which the Authority has promulgated rules and regulations.

**(3) Community Charitable Gaming.**

**(A) 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 so as to promote the general health and safety of the Band and to assure that such gaming is operated honestly, with high integrity, and in accordance with the highest standards.

**(B) Allowable Games.** Indian Charitable Organizations may operate the games of pull-tabs and bingo for the purposes set forth in section 6(b)(3)(A) above.

**(c) Tribal-State Compacts for Class III Gaming Authorized.**

**(1) Corporate Commission Authorized.** The Commission is hereby authorized to negotiate and enter into class III Gaming Compacts with the State of Minnesota to govern the conduct of class III Gaming on Band Lands. Such Compacts and amendments thereto, other than technical amendments as provided in section 6(c)(2) below, shall not be valid until ratified by the Band Assembly pursuant to 3 MLBSA section 2 (f).

**(2) Technical Amendments.** The Commission 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 Compact



and such technical amendment shall not require Band Assembly approval as provided in section 6(c)(1) above; however, the shareholders at the shareholders meetings shall be delivered copies of any technical amendments.

**(3) Regulations to be in compliance with Compacts.** The Authority shall adopt regulations to provide that such class III Gaming is conducted in compliance with the terms and conditions of such Compact or amendments thereto.

**Section 7. 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) Indian celebrations.** The use of Band Lands for Indian 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.

**Section 8. 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 Act, 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 concerning such.

**Section 9. 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 Act, except to the extent the Band may contract with and license a person or entity to own, operate, or manage a Gaming Enterprise pursuant to the provisions of IGRA, any Compacts, or as otherwise permitted by applicable law.

**Section 10. 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 are the sole property of the Band, except as provided for under the terms of any agreement made pursuant to the provisions of 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 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 tribal 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, 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. section 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 Band Revenues.** Net revenues derived from any class II or class III Gaming Activities conducted by any Gaming Enterprise 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 Mille Lacs Band and its members;
- (3) To promote Band economic development; and
- (4) To donate to charitable organizations recognized by the Band.

(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, unless the distribution plan is approved by the Secretary of Interior pursuant to 25 U.S.C. section 2701 et seq. and the payments are made in accordance with such approved plan.

**Section 11. GAMING REGULATORY AUTHORITY; ESTABLISHMENT; BOARD OF DIRECTORS; ORGANIZATION; POWERS AND DUTIES.**

(a) **Establishment.** There is hereby established as an agency of the Mille Lacs Band of Ojibwe the “Gaming Regulatory Authority” (hereinafter the “Authority”), which has the power and duty to regulate Gaming matters for the Band as authorized by Band law.

(b) **Board of Directors.** 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 Board Member, to be known as “Member(s),” on the Board from each District. The Board shall consist of five (5) Members appointed in the manner and have the terms provided in section 11(b)(1).

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

**(A)** The Chief Executive shall nominate (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 August 1, 2004. Any subsequent appointment, other than to fill a vacancy that occurs prior to the end of a term, shall be for four years.

**(B)** 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 nominees to be a Member of the Board. Such Members shall serve until August 1, 2006. Any subsequent appointment, other than to fill a vacancy that occurs prior to the end of a term, shall be for four years.

**(C)** 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 August 1, 2004. Any subsequent appointment, other than to fill a vacancy that occurs prior to the end of a term, shall be for four years.

**(D)** 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.

**(E)** If any person 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).

**(F)** No member shall take office until swearing to the oath of office pursuant to 2 MLBSA section 8.

**(2) Qualifications.**

**(A)** Members 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.

(B) Members may not have been convicted of a felony or any gambling-related offense.

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

(D) Members may not be employed by any Gaming Enterprise, nor may they gamble at any Gaming Enterprise.

(E) Members shall be subject to the Background Investigations and standards for Primary Management Officials.

**(3) Board Officers, Selection, Duties, Vacancies, Disqualification, Removal.**

**(A) Officers.**

The Board shall have a Chairperson, Vice-Chairperson, and a Secretary.

**(B) Selection.**

(i) Chairperson. The Chair of the Authority shall be determined by a majority vote of the Joint Session of the Band Assembly from one of the current Members, or, if there is a vacancy, the individual who is appointed to fill such vacancy.

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

(iii) Secretary. The Board may select a Member or an employee of the Authority to act as Secretary of 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.

**(C) 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 by this Act 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, supplement, 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 Business Regulation and Compliance sufficient to aid the Authority in fulfilling its regulatory responsibilities. Such assignment and delegation shall comply with this Act.

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

(vi) Members shall attend one 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.

**(D) 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 the same manner as the vacating Member was originally appointed.

(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 section 11(b)(1) of this Act.

**(E) Disqualifications from Board Membership.**

The following persons shall not serve as Board Members:

- (i) persons in the employ of, or holding any office in or having any business relation with, any business engaged in selling or manufacturing any gaming products or services;
- (ii) persons who own stocks or bonds in any business engaged in selling or manufacturing any gaming products or services;
- (iii) persons having any pecuniary interest whatsoever in any business engaged in selling or manufacturing any gaming products or services;
- (iv) persons having any interest in any business engaged in commerce with or employed by the Corporate Commission. A Member may be engaged in other businesses, vocations, or employment, which do not create a conflict of interest with their duties;
- (v) persons related to any Gaming Contractor licensed by the Authority, including any principal thereof or Closely Associated Independent Contractor; and
- (vi) the Chief Executive or members of the Band Assembly.

**(G) Removal from Membership.**

Member may be removed by a super-majority vote of four (4) out of five (5) members of the Joint Session of the Band Assembly. The determination of the Joint Session is final and unappealable to the Court of Central Jurisdiction.

**(c) Organization.**

**(1) Meetings.**

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

**(B) 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.

**(C) 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.

(2) **Quorum.** Three (3) members of the Board shall constitute a quorum.

(3) **Voting.**

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

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

(i) to break a tie; and

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

(4) **Compensation.**

(A) **Board Meetings.** Members, including the Chairperson, shall be compensated with two-hundred and fifty dollars (\$250) per meeting, not to exceed five hundred dollars (\$500) 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.

(B) **Training.** If Member are not Band government employees and are required to be absent from their employment to attend mandatory training pursuant to 11(b)(C)(3)(vi), then Members shall be compensated at their previously documented hourly rate of pay for each hour that they are in attendance at such training plus mileage and other travel expenses as stated in (A) 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 (A) above.

(d) **Powers and Duties of the Authority.**

(1) **General.** The Authority shall be responsible for ensuring that all Gaming Activities on Band Lands are carried out in compliance with the Indian Gaming Regulatory Act, Band Gaming Laws, the Compacts and other applicable law. To this end, the Authority shall exercise regulatory, not operational authority over any Gaming Enterprise and Charitable Gaming. All management and operational authority over any Gaming Enterprise shall remain with the Corporate Commission separate and distinct from the Authority. The Office of Gaming Regulation and Compliance shall provide staff and administrative support, and office space and equipment, which shall be separate and not under the authority of the Corporate Commission. 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 Act; however, it shall not hire employees of the Office of Business Regulation and Compliance. In addition, as an agency of Band government, the

Authority shall comply with all Band laws, including the Procurement Act, 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 Act and other Band Gaming Laws.

**(2) Regulations.**

**(A) Power and duty.** The Authority shall have the power and duty to develop, adopt and promulgate regulations regarding:

- (i)** licensing of Gaming Enterprises;
- (ii)** licensing and Background Investigations of Key Employees and Primary Management Officials;
- (iii)** licensing and Background Investigations of Gaming Suppliers;
- (iv)** conducting annual independent audits of all gaming operations of the Band;
- (v)** permitted games and the conduct thereof;
- (vi)** standards and criteria for gaming machines and for testing machines;
- (vii)** audio and video surveillance standards;
- (viii)** minimum internal cash, playing card, chip and token control standards and procedures for gaming operations;
- (ix)** procedures for compliance with the Bank Secrecy Act and applicable provisions of the Internal Revenue Code;
- (x)** resolving gaming related disputes involving patrons and vendors of any Gaming Enterprise, after exhausting all remedies available at the Gaming Enterprise;
- (xi)** Charitable Gaming as provided in section 6(b)(3) of this Act;
- (xii)** the prevention and cure of compulsive gambling as provided in section 16 of this Act;
- (xiii)** the development and maintenance of a list of excluded Persons as provided in section 11(d)(9) of this Act;



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

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

(xvi) reasonable fines and other penalties for violations of this Act, Band gaming laws, the IGRA, the Compacts and other applicable law; and

(xvii) other activities as required by law.

**(B) Rulemaking Process.** The Authority shall promulgate the regulations authorized by section 11(d)(2) with or without hearing according to the notice and comment process specified herein.

**(i) Notice of intent to adopt.** The Authority shall give notice of its intent to adopt a regulation by posting a copy of the notice in the Band Government Center and the Community Centers in Districts 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 Commissioner for Administration; the Corporate Commissioner; and the manager of any Gaming Enterprise. 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 thirty 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, adoption, notice of adoption.** The Authority 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. 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.

**(iii) Adoption is a compliance determination.** Approval of any regulation by the Authority shall be considered a Compliance Determination for purposes of effecting an appeal pursuant to section 13 of this Act.

**(C) Initial Detailed Gaming Regulations.** The Authority shall adopt a set of Initial Detailed Gaming Regulations within 180 days after the first meeting of all of the members of the first Authority Board. Upon approval by the Band Assembly, such regulations shall supersede those currently codified at 15 App. section 1.001 through section 18.004 of the MLBSA. The Initial Detailed Gaming Regulations shall adopted pursuant to section 11(d)(2)(B), except that the Joint Session of the Band Assembly may act to annul such regulations in whole or in part within sixty (60) days of receipt by the Joint Session. Thereafter, any gaming regulation may be annulled by statute. The regulations currently codified will remain in effect until the sixty-day annulment period has lapsed, or for regulations annulled by the Joint Session, until the Joint Session has granted final approval.

**(3) Monitoring and Investigation.**

**(A) General.** The Authority shall have the power and duty to monitor and investigate:

**(i)** all Gaming Enterprises for compliance with the IGRA, Band Gaming Laws, the 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 Mille Lacs Band gaming regulatory system;

**(ii)** to help resolve all gaming related patron and vendor complaints that have not been resolved by agreement of a complainant and the Gaming Enterprise;

**(iii)** prior to levying fines, granting, denying or suspending licenses;

**(iv)** to assure compliance with the rules concerning Charitable Gaming;

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

(vi) to develop, maintain and enforce a list of Persons to be excluded from Gaming Enterprises;

(vii) and 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 Act and other applicable law. Individuals who perform investigations and related activities outside the scope of this Act 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, whether in written or electronic form, as it deems necessary or desirable to carry out its legitimate regulatory duties.

**(D) Surveillance.** The Surveillance Department shall be under the control and supervision of the Authority; however, a Gaming Enterprise shall have access to electronic surveillance output as further defined in the Detailed Gaming Regulations.

**(E) Cooperation of the Gaming Enterprises with the Authority.**

The Authority may:

(i) require associates of any Gaming Enterprise to compile and provide such data and to testify as to matters within their knowledge concerning the operation of the Gaming Enterprise; and

(ii) require the associates of any company that is managing a Gaming Enterprise on behalf of the Corporate Commission, 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.

**(4) Licensing.**

**(A) General.** The Authority shall promulgate regulations for granting, suspending, and revoking licenses, which are consistent with Band law, the IGRA, and the Compacts regarding matters of licensure.

**(B) Minimum Licensing Requirements.** It is the policy of the Band that all Gaming Activities and Enterprises 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. parts 556 and 558 which are hereby incorporated into this Act, unless otherwise superceded pursuant to an agreement with the NIGC. No license shall be issued that would place the Band in violation of applicable law or the Compacts.

**(C) Mandatory Licensing Application Provisions and Procedures**

(i) Notices to applicants.

(a) 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 employed in a gaming operation. The information will be used by 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 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 hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to hire you in a primary management official of key employee position.*

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

(b) 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 any applicant. *A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment (U.S. Code, title 18, section 1001).*

(c) If there exists any key employees or primary management officials who have filled out forms which did not contain the notice stated in (b) above, then the Authority shall notify in writing such employees and officials that they shall either:

(I) Complete a new application form that contains a notice regarding false statements; or

(II) Sign a statement that contains the notice regarding false statements.

(ii) 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. section 556.4(a)(1)-(14).

(a) Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);

(b) Currently and for the previous 5 years: business and employment positions held, ownership interests in those businesses and residence addresses, and drivers license numbers;

(c) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (2) of this section;

(d) Current business and residence telephone numbers;

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

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

(g) 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;

(h) 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;

(i) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within 10 years of the date of the application, the name and address of the court involved and the date and disposition;

(j) For each criminal charge (excluding minor traffic charges) whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to paragraph (8) or (9) of this section, the criminal charge, the name and address of the court involved and the date and disposition;

(k) 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;

(l) A photograph;

(m) Any other information the Authority deems relevant; and

(n) Fingerprints consistent with procedures adopted by the Band according to 25 C.F.R. section 522.2(h).

(iii) Mandatory Licensing Procedures

(a) Fingerprints. Fingerprints of each applicant for the position of key employee or primary management official will be taken by the Mille Lacs Department of Justice and sent to Minnesota Gambling Enforcement in accordance with the Tribal-State Compact. Minnesota Gambling Enforcement will send the fingerprint cards to the FBI for a check of criminal history records information maintained by the FBI and return the results back to the Band.

(b) Reporting to the NIGC

(I) When the Band employs a primary management official or a key employee, the Band shall forward to the Commission a completed application containing the information listed under section 556.4(a)(1)-(13) of 25 C.F.R.

(II) Before issuing a license to a primary management official or to a key employee, a tribe shall forward to the Commission an investigative report on each background investigation. An investigative report shall include all of the following:

1. Steps taken in conducting a background investigation;
2. Results obtained;
3. Conclusions reached; and
4. The bases for those conclusions.

(III) When the Band forwards its report to the Commission, it shall include a copy of the eligibility determination made under 25 C.F.R. part 558.2.

(IV) If the Band does not license an applicant

1. The Band shall notify the Commission; and
2. May forward copies of its eligibility determination under 25 C.F.R. part 558.2 and investigative report (if any) under 25 C.F.R. part 556.5(b) to the Commission for inclusion in the Indian Gaming Individuals Record System.

(V) When a key employee of a primary management official begins work at a gaming operation the Band shall:

1. Forward to the Commission a completed application for employment that contains the notices

and information listed in 25 C.F.R. parts 556.2, 556.3, and 556.4; and

2. Conduct a background investigation under 25 C.F.R. part 556 to determine the eligibility of the key employee or primary management official for continued employment in a gaming operation.

(VI) Upon completion of a background investigation and a determination of eligibility for employment in a gaming operation under 25 C.F.R. 558.3(a)(2), the Band shall forward a report under 25 C.F.R. 556.5(b) to the Commission within 60 days after an employee begins work or within 60 days of the Chairman's approval of an ordinance under 25 C.F.R. part 523. A gaming operation shall not employ a key employee or primary management official who does not have a license after 90 days.

(VII) During a 30-day period beginning when the Commission receives a report submitted under 25 C.F.R. 558.3(b), the Chairman may request additional information from a tribe concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30-day period until the Chairman receives the additional information.

(c) Granting a gaming license

(I) If, within the 30-day period described in 25 C.F.R. 558.3(c) of this part, the Commission notifies the Authority that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the Band has provided an application and investigative report to the Commission pursuant to 25 C.F.R. parts 558.3(a) and (b), the Band may go forward and issue a license to such applicant.

(II) If, within the 30-day period described in 25 C.F.R. part 558.3(c), the Commission provides the Authority with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the tribe has provided an application and investigative report to the Commission pursuant to 25 C.F.R. parts



558.3(a) and (b), the Authority shall reconsider the application, taking into account the objections itemized by the Commission. The Authority shall make the final decision whether to issue a license to such applicant.

(d) License Suspension

(I) If, after the issuance of a gaming license, the Commission receives reliable information indicating that a key employee or a primary management official is not eligible for employment under 25 C.F.R. part 558.2, the Commission shall notify the Authority that issued a gaming license.

(II) Upon receipt of such notification under (I) of this section, the Authority shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

(III) The Authority shall notify the licensee of a time and a place for a hearing on the proposed revocation of a licensee.

(IV) After a revocation hearing, the Authority shall decide to revoke or to reinstate a gaming license. The Authority shall notify the Commission of its decision.

(e) Standard for license denial

(I) If the Authority, in applying the standards adopted in this ordinance, 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 in a key employee or primary management official position.

**(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 his Act, and to furnish such information to the Bureau of Indian Affairs, the National Indian Gaming Commission, or such other governmental agency as may be required by law or the Compact.

**(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 National Indian Gaming Commission or other agency as may be required by law or the Compact. 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 persons applying for a license or the gaming enterprise 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 issuing of the license must receive all fees and costs; unless otherwise provided for in advance. Such fees shall be included in the Initial 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 Act and the Detailed Gaming Regulations.

**(5) Compliance Determinations.** The Authority shall convene to consider a Compliance Recommendation within ten (10) days of its receipt from the Director as required by section 12(b)(2), unless, only for issues of licensing, the Authority has received notice of intent to appeal directly to the Court of Central Jurisdiction 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 reaching 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.

**(6) Independent Audits.** Annual outside auditing by a recognized independent accounting firm shall be conducted of each Gaming Activity for compliance with Band gaming laws, the IGRA, and the Compacts, and the results thereof reported to the Chief Executive, the Band Assembly, and to the extent required by law, the Bureau of Indian Affairs and the National Indian Gaming Commission or another entity. In addition, such audits shall include all contracts related to class II or III gaming, which are in excess of \$25,000, and any other contract of a lesser amount at the discretion of the Authority.

**(7) 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 section 13 of this Act. In a manner provided by 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, the 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 as allowed by this Act;

**(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 Initial Detailed Gaming Regulations; and

(C) adding a Person to a list of Persons excluded from Gaming Enterprises.

**(8) Limitations on Actions.** Any enforcement action of Authority or order of the Court of Central Jurisdiction 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. Such an order for cessation of operations of a Gaming Enterprise may only occur upon:

(i) recommendation by majority vote of the Authority to the Joint Session of the Band Assembly that a Gaming Enterprise 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; and

(ii) 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 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.

(B) All claims by patrons against a Gaming Enterprise shall be limited to a maximum recovery of \$10,000 per claim and a cumulative limit of \$20,000 per patron per year regardless of the number of claims.

(C) All claims by Vendors or Gaming Suppliers against a Gaming Enterprise shall be limited to the amount of the contract between the Vendor or Gaming Supplier and the Gaming Enterprise 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 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.

**(9) 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 participate in any class II or class III Gaming operated by any Gaming Enterprise whether on behalf of the Band or an Indian Charitable Organization.

**(B) Duty to Exclude.** It shall be the duty of the Commissioner and the manager of each Gaming Enterprise to exclude or eject from a Gaming Enterprise any Person whose name appears on the Exclusion List. Any associate of a Gaming Enterprise who knows or has reason to know that an excluded Person has entered or is attempting to enter a Gaming Enterprise 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. It shall be the duty of the manager of each Gaming Enterprise to inform the 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 (D) below. The Commissioner, in turn, will provide such names to the Director. The list shall be distributed to each Gaming Enterprise. 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:

- (i) the full name, date of birth, and all alias;
- (ii) a physical description;
- (iii) the effective date the Person's name was placed on the list;
- (iv) a photograph, if available;
- (v) the Person's occupation and his current home and business address;
- (vi) the specific reason for exclusion;
- (vii) the date, if any, exclusion will expire; and
- (viii) 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 section 12(b)(3), place a Person on the Exclusion List pending a hearing by the Authority if:

- (i) such Person has been convicted of a felony in any jurisdiction, any 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;
- (ii) such Person has violated or conspired to violate any provisions of the Indian Gaming Regulatory Act, Band Gaming Laws, the Compacts and other applicable law;
- (iii) 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 Initial Detailed Gaming Regulations;
- (iv) his or her 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;
- (v) pursuant to section 15(f), 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.**

(i) The Director of the Office of Business 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 Section 11(d)(9)(D) 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 section 12(b)(2)(B), 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.

(ii) If the Authority or subsequent review by Court of Central Jurisdiction finds in favor of the candidate or excluded Person, then his or her name shall be removed from the excluded list and his or her exclusion shall be terminated as of the date of the action by the Authority or the Court of Central Jurisdiction. If the finding is against the candidate or excluded Person, then his or her name shall be placed on the Exclusion List. If no hearing is requested, then the Person's name shall 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 annually, that his or her 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 may immediately remove and bar re-entry of any Person who engages in, or is reasonably believed likely to engage in, disruptive, unruly, or any other behavior which presented a danger to the health, welfare, morals, or the public peace. The manager of the Gaming Enterprise may seek to have such a removed and barred individual placed on the Exclusion List.

(10) **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. The scope of the Authority's authority is limited strictly to the powers and duties specifically enumerated in section 11(d) of this Act.

(e) **Budget.** The Authority and the Office of Gaming Regulation and Compliance (OGR&C), as established in section 12 below, shall have budget and expenditure authority independent of gaming operations. Funding for the Authority and OGR&C shall be adequate to allow the Authority and OGR&C to perform the task of gaming regulation. Such funding for the Authority and OGR&C shall conform to Band appropriation laws and shall not be reliant on the discretion of any management official of a Gaming Enterprise who is subject to regulation of the Authority.

**Section 12. OFFICE OF GAMING REGULATION AND COMPLIANCE (OGR&C);  
DIRECTOR OF GAMING REGULATION AND COMPLIANCE.**

**(a) Establishment; Appointment; Qualifications; Removal and Suspension.**

**(1) Establishment.** There is hereby established the Office of Gaming Regulation and Compliance (“OGR&C”) which shall be under the management and supervision of the Director, but subject to the ultimate control of the Authority Board.

**(2) 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.

**(3) Qualifications.** The Director shall possess the following qualifications:

**(A)** experience and training in management and regulatory enforcement of sufficient scope, depth and relevancy to enable him/her to direct the work of the OGR&C;

**(B)** high moral character with no conviction for a felony or any gambling-related offense;

**(C)** freedom from any conflict of interest created by outside business interest or occupation; and

**(D)** licensure as a Primary Management Official.

**(4) 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.

**(5) Vacancy.** If there is a vacancy for any reason, then the Chairperson shall immediately appoint a Interim Director, until the Board convenes to appoint a Director.

**(b) Powers and Duties.**

**(1) Director.**

**(A) 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 Authority Board.

**(B) 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;
- (ii) investigations of any matter within the scope of authority of the Authority as described in section 11 of this Act, 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 Act, or the 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 Mille Lacs Band gaming regulatory system and recommending changes;
- (v) investigating and monitoring all Gaming Enterprises for compliance with the IGRA, Band Gaming Laws, the 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;
- (vi) investigating all gaming related patron and vendor complaints concerning a Gaming Enterprise that have not been resolved between the complainant and the Gaming Enterprise 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 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;
- (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;

**(C) Access to data and files of any Gaming Enterprise.** The Director shall have access to all areas, records, files and data of any Gaming Enterprise, and may interview any associate of any Gaming Enterprise with respect to matters relating to the operation of any Gaming Enterprise without first notifying the associate's supervisor or any other employee of any Gaming Enterprise, and shall have access to the results of Background Investigations carried out pursuant to section 11 of this Act or the gaming regulations adopted by the Authority.

**(D) 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.

**(E) 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.

**(2) Compliance Recommendations, notice, time and content.**

**(A) Compliance Recommendation.** The Director shall submit a Compliance Recommendation to the Board Members and the persons stated in (B) 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.

**(B) 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 section 11(d)(4)(G) of this Act. The notice shall state that the Compliance Recommendation will be heard by the Authority Board prior to issuance of a Compliance Determination pursuant to section 11(d)(5) 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 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.

**(3) 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 and/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 section 11(d)(9)(D) of this Act. The Authority shall act on any such order and Compliance Recommendation in the same manner as provided in section 11(d)(9)(E) of this Act, 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.

(c) **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 section 12 of this Act and to those powers and duties specifically granted to the Authority in section 11 of this Act, which have been specifically delegated to the Director by the Authority, including those limitations of actions described in section 11(d)(8) of this Act.

### Section 13. APPEALS.

(a) **Who may Appeal.**

(1) 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 Court of Central Jurisdiction.

(2) A Person who has received a Compliance Recommendation that recommends a license denial, suspension, or revocation may directly appeal to the Court of Central Jurisdiction. If a person takes such action, then he or she waives any right to receive a Compliance Determination from the Authority.

(b) **Effecting an Appeal.** Any appeal shall be filed with the Court of Central Jurisdiction 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.

(c) **Procedure on Appeal; Standard of Review.**

(1) The Court of Central Jurisdiction 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.

(2) The Court of Central Jurisdiction may affirm the Compliance Determination or order of the Authority, or it may 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:

- (i) in excess of the statutory authority or jurisdiction of the Authority;
- (ii) made upon unlawful procedure;
- (iii) unsupported by any evidence; or
- (iv) plainly in error.

**Section 14. DATA PRIVACY.**

(a) **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 Initial Detailed Gaming Regulations.

(b) **Confidential Data.**

(1) **Confidential Limited Availability Data.** The following Authority Data shall be Confidential Limited Availability Data under these restrictions:

(i) Background Investigations Information; 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;

(ii) Confidential Financial Information;

(iii) Compliance Recommendations Information; 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 so accepted or relied upon shall be public;

(iv) Personnel Data; and

(v) whether or not a Person is on the Exclusion List; however, limited only to the receipt of such information by the Person who is on the Exclusion List or his/her agent pursuant to 25 C.F.R. section 515.8.

(2) **Confidential Restricted Availability Data.** The following Authority Data shall be Confidential Restricted Availability Data under these regulations:

(i) Financial Information on a Gaming Enterprise;

(ii) Information on a Pending Compliance Recommendation;

(iii) Information on a Pending License Application;

(iv) Security Information; and

(v) Trade Secret Information.

(c) **Temporary Classification.**

(1) **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:

(i) the data for which the temporary classification is sought has been treated as private or confidential by the Corporate Commission or other agencies of Mille Lacs Band Government or by the federal government; or

(ii) 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.

(2) **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.

(d) **Information Sharing.**

(1) **Authority.** 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.

**Section 15. COMPULSIVE GAMBLING**

(a) **Policy.** While gambling is an enjoyable form of entertainment for most people, the Mille Lacs Band recognizes that some people may have difficulty with 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.

(b) **Program Content and Responsibility.** 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. The Director, in consultation with the Commissioner of Corporate Affairs subject to the review and

approval of the Authority, shall develop and update as necessary a Problem Gambling Prevention Program. The Commissioner, subject to the oversight of the Director, shall implement the program in all Gaming Enterprises.

(c) **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.

(d) **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:

- (1) a description of the Problem Gambling Prevention Program;
- (2) the nature, extent and effects of compulsive gambling;
- (3) how to recognize the warning signs of potential and actual gambling problems; and
- (4) techniques for intervening constructively with problem gamblers.

(e) **Patron Information and Education.** Patrons shall be provided information on the Problem Gambling Prevention Program by signs and in promotional materials as provided in this section.

(1) **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:

- (A) at each entrance and exit;
- (B) at any check cashing facility within the Gaming Enterprise;
- (C) near any ATM cash machines at the Gaming Enterprise; and
- (D) any other locations as determined by the Commissioner of Corporate Affairs.

(2) **Promotional Material.** The Problem Gambling Prevention Program shall contain guidelines and suggestions for including messages about responsible gambling, the need to get help for problem gambling behavior, and the sources of such help. The Director shall monitor the promotional materials and campaigns

of each Gaming Enterprise to ensure that such messages are being included to the extent appropriate and, in cooperation with the Commissioner take such action as may be necessary to correct any deficiencies in this regard.

(f) **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 section 11(d)(9)(D).

#### **Section 16. 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 for such minor to participate in Gaming Activities at a Gaming Enterprise.

(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 not be allowed at any Gaming Enterprise, unless specifically authorized by Band Statute and properly licensed pursuant to applicable Band, federal, and state law.

(d) **Extension of credit prohibited.** Extension of credit in any form shall not be allowed at any Gaming Enterprise, unless specifically authorized by Band Statute and properly licensed pursuant to applicable Band, federal, and state law.


**Section 17. SEVERABILITY.** If any provision or application of this Act 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 provision of this Act.



Ordinance 44-03


Introduced to the Band Assembly on this  
Nineteenth day of August in the year  
two thousand three.

Passed by the Band Assembly on this  
Nineteenth day of August in the year  
two thousand three.

  
\_\_\_\_\_  
Herb Weyaus, Speaker of the Assembly

APPROVED

Date: August 19, 2003

  
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Melanie Benjamin, Chief Executive

**OFFICIAL SEAL OF THE BAND**