

Ordinance 62-21

An Ordinance repealing Titles 12, 13, and 14 of Mille Lacs Band Statutes (“MLBS”) and reenacting them in a revised Title 12, entitled “Community Development.”

The District III Representative introduced the following Bill on the 18th day of August, 2021.

Section 1: Repealing Title 12 - Housing

Title 12 of Mille Lacs Band Statutes, entitled “Housing,” is hereby repealed.

Section 2: Repealing Title 13 - Utilities

Title 13 of Mille Lacs Band Statutes, entitled “Utilities,” is hereby repealed.

Section 3: Repealing Title 14 – Capital Improvements

Title 14 of Mille Lacs Band Statutes, entitled “Capital Improvements,” is hereby repealed.

Section 4: Enacting a Revised Title 12 – Community Development.

TITLE 12 – COMMUNITY DEVELOPMENT

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

CHAPTER 1

COMMISSIONER OF COMMUNITY DEVELOPMENT

Section

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

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

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

- (a) to provide an effective and efficient system of administration to plan, direct and evaluate the functions of Community Development, Public Works, Facilities Management Transportation and the Housing Department;
- (b) to provide technical assistance to the Chief Executive, Band Assembly and other departments of the Mille Lacs Band as requested and to recommend or initiate any appropriate action as required with respect to such matters;
- (c) to provide information to Band members and other members of the public on programs and services of the various departments under the jurisdiction of the Commissioner of Community Development;
- (d) to conduct investigations in order to ensure appropriate resolution of complaints of Band members as well as the general public and order specific actions when justified not inconsistent with other applicable law;
- (e) to supervise employees, assign or delegate tasks, define levels of expected performance, and evaluate the performance of department heads and staff not inconsistent with other applicable law;
- (f) to prepare and recommend operating and capital improvement budgets for the Band, including but not limited to construction and maintenance projects as well as equipment acquisition and replacement;
- (g) to oversee the Debris Clearance and Restoration portion of an Emergency Operation Plan and coordinate responsibilities for a Blizzard Emergency Preparedness Plan;
- (h) to develop, oversee and chair Community Development Committees;
- (i) to develop and coordinate a Facilities Management Plan on behalf of the Mille Lacs Band of Ojibwe, and direct the maintenance of all Band Facilities not inconsistent with other applicable law;
- (j) to negotiate contracts on behalf of the Mille Lacs Band of Ojibwe and when authorized to do so by Band Statute to enter into such contracts not otherwise inconsistent with other applicable law;
- (k) to inspect and ensure the safety of all buildings and facilities within the jurisdiction of the Mille Lacs Band of Ojibwe and to condemn the same when appropriate;

- (l) To acquire through gift, lease, purchase, in the name of the Band, lands or any interest in lands deemed suitable for the future interests of the Band;
- (m) to obtain through grant proposals funds that may be available to meet the housing and community needs of the Band;
- (n) to ensure that all contractors and/or any sub-contractor comply with minimum wage and maximum hours of labor or any attached conditions as stipulated in any agreement relating to a federal, state or agency financial assistance housing program;
- (o) to develop a Strategic Housing Plan that meets the Band's Housing vision and mission and ensure that the Housing Board approves the same with ratification by Band Assembly before implementation;
- (p) to develop Housing Policies that meets the Band's Housing vision and mission and ensure that the Housing Board approves the same with ratification by Band Assembly;
- (q) to join or cooperate with any other public housing agency or agencies operating under the laws or ordinance of a state or another tribe for the purpose of financing, planning, undertaking, owning, constructing, operating or contracting with respect to a housing project(s) serving Band Members;
- (r) to lease property from the Band and others, for such periods as are authorized by law, and to hold and manage or to sublease the same;
- (s) to serve Band members through home loans, renovation loans or any new housing program loan as stipulated by loan agreement; and
- (t) to purchase insurance from any stock or mutual company for any property or against any risk or hazards.

§ 2. Term of Office.

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

CHAPTER 2

PUBLIC WORKS COMMISSION

Subchapter

1. General Provisions

Section

101

2. <u>Bylaws</u>	<u>201</u>
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SUBCHAPTER 1

GENERAL PROVISIONS

Section

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

§ 101. Charter.

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

§ 102. Board of Supervisors.

- (a) The governing body of the Public Works Commission shall be a five member Board of Supervisors, with each member having the title of Supervisor and one

vote at regular and special meetings. The Board shall ensure accurate record keeping of all meetings and all transcripts thereof. Such records shall be prima facie evidence of the facts therein stated.

- (b) The Public Works Administrator shall be the Chair of the Board of Supervisors and ensure the lawful operation of the Commission. The Director of Operations for Public Works shall also be a member of the Board. The Chief Executive shall nominate three individuals from the Band membership as Supervisors who shall be confirmed by the Band Assembly. The terms of office shall be perpetual.
- (c) Any Supervisor may be removed from office for just cause as determined by 4 MLBS § 15(g).
- (d) In exercising any powers granted in this chapter, no Supervisor shall be immune from any liability which arises from the willful, knowledgeable and unacceptable performance of their duties.

§ 103. Regulation and Maintenance of Utilities.

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

§ 104. Construction and Operation of Utilities.

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

§ 105. Licenses and Permits.

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

§ 106. Bylaws.

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

§ 107. Public Works Association.

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

§ 108. Rates, Charges, and Fees.

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

§ 109. Failure to Submit Payment.

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

§ 110. Employees.

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

§ 111. Service Contracts.

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

§ 112. Obligations.

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

manner, amount and form and shall bear interest at the rate or rates set by the Commission. Each such obligation must be approved by the Band Assembly prior to its issuance.

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

§ 113. Vesting of Property Upon Dissolution.

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

§ 114. Uniform System of Records and Accounting.

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

§ 115. Administrative Regulations.

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

§ 116. Meetings.

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

SUBCHAPTER 2

BYLAWS

Section

121. **Establishment of Bylaws.**
122. **Name and Offices.**
123. **Fiscal Year.**
124. **Public Works Association Membership.**
125. **Association Meetings.**
126. **Management of Commission Affairs.**
127. **Appointment and Terms of Board.**
128. **Vice-Chair and Secretary of Board.**
129. **Compensation of Supervisors.**
130. **Board Meetings.**
131. **General Power of Board.**
132. **Removal of Supervisors from Office.**
133. **Powers and Duties of Chair.**

134. Powers and duties of Vice-Chair; Vacancy in Office of Chair.
135. Powers and Duties of Secretary.
136. Signatures.
137. Accounting System.
138. Rates and Charges for Utility Services.
139. Alteration, Amendment, or Repeal of Bylaws.
140. Sovereign Immunity.

§ 121. Establishment of Bylaws.

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

§ 122. Name and Offices.

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

§ 123. Fiscal Year.

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

§ 124. Public Works Association Membership.

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

§ 125. Association Meetings.

- (a) The annual meeting of the Association shall be held at the Government Center, HCR 67, Vineland, Minnesota, County of Mille Lacs, on the second Thursday of October of each year. The meeting shall be called for the purpose of receiving the annual

reports of Supervisors and the transaction of other business. This section shall constitute sufficient notice of the annual meeting.

- (b) Special meetings of the Association may be called at any time by the Chair of the Board or upon written petition to the Chair signed by 20% of the membership of the Association. The purpose of every special meeting shall be stated in the notice thereof, and no business shall be transacted except as is specified in the notice. A written notice of the special meeting shall be posted in public places at least ten (10) days prior to the meeting, and shall include the nature, time, place and purpose of the meeting.
- (c) At least twenty-five (25) voting members of the Association present at a duly called meeting shall constitute a quorum for the transaction of Association business. In the event that a quorum is not present, informational packages shall be mailed to the membership.
- (d) Robert's Rules of Order shall govern at all meetings of the Association. All meetings of the Association held for the purpose of taking any action within the authority of the Association shall be open to the public, except that the public or any person may be excluded from a meeting for unduly interfering with the orderly conduct of business, in matters relating to personnel, in matters adjudicatory in nature, or in matters concerning purchases that can be made only from one source.

§ 126. Management of Commission Affairs.

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

§ 127. Appointment and Terms of Board.

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

§ 128. Vice-Chair and Secretary of Board.

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

§ 129. Compensation of Supervisors.

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

§ 130. Board Meetings.

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

§ 131. General Power of Board.

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

§ 132. Removal of Supervisors from Office.

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

§ 133. Powers and Duties of Chair.

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

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

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

§ 135. Powers and Duties of Secretary.

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

§ 136. Signatures.

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

§ 137. Accounting System.

- (a) An accounting system shall be established as prescribed by 13 MLBS § 14, and include the implementation of Attachment P of OMB Circular A-102;
- (b) If the Commission shall at any time receive by way of grant any property of any Federal, State, Tribal or private agencies, the Board shall use the uniform system of records and accounting as prescribed in 13 MLBS § 14.

§ 138. Rates and Charges for Utility Services.

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

§ 139. Alteration, Amendment or Repeal of Bylaws.

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

§ 140. Sovereign Immunity.

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

SUBCHAPTER 3

RULES AND REGULATIONS

Section

- 141. **Compliance with Bylaws.**
- 142. **Application for Service.**
- 143. **Water Service Generally.**
- 144. **Multiple Water Services.**
- 145. **Transfer of Water Prohibited.**
- 146. **Connection with Private Water System; Inspection.**

- 147. Extension of Main and Service Lines.
- 148. Maintenance of Water Lines.
- 149. Maintenance of Sewer System; Liability for Property Damage.
- 150. Sewer Service Charge.
- 151. Billing for Water and Sewer Services.

§ 141. Compliance with Bylaws.

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

§ 142. Application for Service.

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

§ 143. Water Service Generally.

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

§ 144. Multiple Water Services.

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

§ 145. Transfer of Water Prohibited.

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

§ 146. Connection with Private Water System; Inspection.

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

§ 147. Extension of Main and Service Lines.

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

§ 148. Maintenance of Water Lines.

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

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

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

§ 150. Sewer Service Charge.

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

§ 151. Billing for Water and Sewer Services.

Members shall be billed monthly for water and sewer services based upon approved rate schedules. Billing for water and sewer services shall be as provided for in 13 MLBS §§ 401, 402.

SUBCHAPTER 4

PLAN OF OPERATION

Section

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

§ 161. Operating Guidelines.

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

§ 162. Purpose of Commission.

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

§ 163. Address of Commission.

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

§ 164. Responsibilities of Commission.

(a)

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

pumping stations, mainlines and manholes, and service lines to the property lines only.

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

§ 165. Maintenance Services.

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

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

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

§ 166. Amendment of Plan of Operation.

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

SUBCHAPTER 5

POLICIES

Section

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

§ 181. Billing and Payment Policy.

- (a) Billing for water and sewage services shall be done jointly. In instances where a member receives only one service, the member shall only be billed for that service. Each bill shall be based upon the usage of water and sewage services under an applicable rate schedule. The schedule shall provide for a minimum monthly service charge, regardless of usage, in addition to rates for water and sewage services in excess of the minimum monthly service charge.
- (b) Bills shall be sent to members by the sixth business day of each month for services rendered the previous month, and shall be due and payable at the location indicated on the face of the bill ten days thereafter. Unpaid bills shall become delinquent five days after the due date. The Commission shall then have three days in which to notify the member, either personally or by certified mail, that they are delinquent and subject to a penalty and disconnection of water and sewage service unless their account is paid in full. The member shall have two days after the mailing of notice or personal notification to pay the bill in full without penalty. Thereafter, the Commission may impose a twenty-five dollar (\$25.00) penalty, in addition to any other amounts due or chargeable, and may disconnect services at the member's expense.

- (c) Bills not paid by the due date shall be subject to a fifteen percent (15%) late charge on the unpaid balance in addition to any other service charges or penalties.
 - (d) A minimum reconnection fee of twenty-five dollars (\$25.00) shall be charged for disconnected service. However, should the actual cost of reconnection exceed twenty-five dollars (\$25.00), the member shall be charged the actual cost. Any service which has been disconnected, whether due to delinquency or any other reason, shall be reconnected only upon payment of any past due amount and the reconnection fee.
 - (e) Partial payments may be accepted, but shall not relieve the member of the responsibility for paying bills by their due date, nor does it extend the due or delinquent date.
 - (f) Advance payments may be accepted and credited to the member's account monthly until exhausted.
 - (g) All returned checks shall result in a delinquent account, if the check is not redeemed by the due date stated on the applicable bill. In the event that a returned check is not redeemed by the due date, the delinquent account procedures listed in subsection (b) shall apply.
 - (h) All members who issue a dishonored check shall be charged a fee of fifteen dollars (\$15.00) to reimburse the additional administrative expenses associated with ensuring payment on these items.
 - (i) The minimum monthly service charge shall be increased from six dollars (\$6.00) to eight dollars (\$8.00) for combined water and sewage services. In the event that a member only receives one service, the member shall only be assessed half the minimum monthly service charge.
- (1) Notwithstanding any provision of this section to the contrary, members who have attained the age of fifty-five or who qualify for services from the Elderly Nutrition Program, irrespective of age, shall be exempt from any increase in the minimum monthly service charge above the amount assessed as of January 1, 1985.
 - (2) Notwithstanding any provision of this chapter to the contrary, members who have attained the age of fifty-five or who qualify for services from the Elderly Nutrition Program shall be exempt from the payment of all service fees if they have a gross monthly income of less than three hundred dollars (\$300.00). Verification of income shall be certified by the Contracting Officer of the Food Commodity Program or provided by the member seeking this exemption.

§ 182. Billing and Collection Policies.

Billing and collection policies shall be as follows:

- (a) the Commission shall maintain a complete and up-to-date record of all members served by those systems operated by the Commission. Additions and deletions to the records shall be made as soon as the Commission learns of the changes;
- (b) the Commission shall ensure that each member is billed for services in accordance with 13 MLBS § 401 and this Section;
- (c) members may make payments by cash or check or money order, payable to the Commission, by mailing payments to the Commission's office at the Mille Lacs Government Center or personally delivering payments thereto. Members shall receive a receipt for payments personally made at the Government Center;
- (d) members who live in buildings managed by the Housing Authority or other tribal enterprises shall include monthly water and sewage payments along with their rent or house payment. The agency collecting the payments shall then pay the Commission for services to all of its housing occupants. The agency shall receive a receipt for this payment; and
- (e) members requesting a new service, reconnection, plumbing repairs, or pumping of a septic tank shall make arrangements with the Director of Operations for Public Works for payment prior to receiving the services. Normally, such charges shall be due on the next month's bill.

§ 183. Enforcement Policies.

Enforcement policies shall be as follows:

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

§ 184. Bookkeeping and Handling of Funds Policies.

Bookkeeping and handling of funds policies shall be as follows:

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

§ 185. Management Policies.

Management policies shall be as follows:

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

§ 186. Public Service.

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

CHAPTER 3

CAPITAL IMPROVEMENTS AUTHORITY

Section

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

§ 201. Establishment.

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

§ 202. Board of Commissioners.

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

Treasurer, and any member may hold two of these positions. In the absence of the Chair, the Vice-Chair shall preside, and in the absence of both the Chair and the Vice-Chair, the Secretary shall preside.

§ 203. Removal of Board Members.

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

§ 204. Compensation.

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

§ 205. Quorum.

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

§ 206. Records of Board Meetings and Actions.

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

§ 207. Financial Records and Reports.

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

§ 208. Meetings.

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

§ 209. Enumerated Powers.

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

- (a) to adopt and use an official seal;
- (b) subject to Band Assembly approval, to enter any contracts or agreements with any governmental agency, Federal, State, local or tribal, or with any person, partnership, corporation or Indian tribe; and to agree to any conditions attached to Federal or State financial assistance;
- (c) to lease property from the Band and others for such periods and to hold and manage or to sublease the same;
- (d) to borrow or lend money, to guarantee the obligations of other tribal entities of the Band, and to issue evidences of indebtedness in accordance with 14 MLBS § 10;
- (e) subject to Band Assembly approval, to pledge the assets and receipts of the Authority as security for debts;
- (f) subject to Band Assembly approval, to acquire, construct, sell, lease as lessor or lessee, exchange, transfer or assign real or personal property or interests therein;
- (g) to purchase land or interests in land or take the same by gift, and to lease land or interests in land to the extent provided by law;
- (h) to prudently invest such funds as are not required for immediate disbursement;
- (i) to establish and maintain such bank accounts as may be necessary or convenient;
- (j) to employ such officers and employees, permanent or temporary, as the Authority may require, and to delegate to such officers and employees such powers and duties as the Board deems proper;
- (k) to adopt bylaws which shall be submitted to the Band Assembly for approval; and
- (l) to take such further actions as are necessary to carry out the purposes as described in 14 MLBS § 1.

§ 210. Borrowing.

- (a) Subject to the limitations set forth in this Section, the Authority shall have the power to borrow money and incur indebtedness, or to guarantee the indebtedness of another agency, instrumentality or entity of the Band, by issuing its obligations, in its own name or in the name of and on behalf of the Mille Lacs Band of Chippewa Indians,

for purposes of acquiring, constructing, maintaining, managing and improving any public improvements within the territorial jurisdiction of the Band consistent with the purposes of the Authority. Such obligations shall be issued and sold in such manner and shall be in the amount and form and bear interest at the rate or rates set by the Authority. Each obligation must be approved by the Band Assembly prior to its issuance.

(b)

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

- (i) from revenues, income, receipts and profits derived by the Authority from projects operated by it whether or not the projects were financed in whole or in part with the proceeds of such obligations;
- (ii) from all or any part of the revenues of any business conducted by the Corporate Commission and allocated to the Authority by the Band Assembly;
- (iii) from the proceeds of evidences of indebtedness issued and sold by the Authority which are payable solely from any of such revenues, income, receipts and profits; or
- (iv) from federal or state grants or other money received by the Authority which are available therefor.

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

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

- (d) The Authority, with the approval of the Band Assembly, may provide for the refunding of any obligation of the Authority through the issuance of other obligations of the Authority, entitled to rights and priorities similar in all respects to those held by the obligations that are refunded.
- (e) In connection with the issuance of any such obligation, the Authority is authorized to waive its sovereign immunity from suit should an action be commenced to enforce the terms of the obligation, and to consent to the jurisdiction of the courts of the United States of America or the State of Minnesota in connection with any such action; provided that the Authority is without power to waive the sovereign immunity of the Mille Lacs Band of Chippewa Indians, to consent to the jurisdiction of any court over the Band, or to consent to the levy of any judgment, lien or attachment upon any property or income of the Authority, the Band or any other organization or instrumentality of the Band other than that specifically pledged pursuant to subsection (c).

§ 211. Sovereign Immunity.

- (a) As an instrumentality of the Mille Lacs Band of Chippewa Indians, the Authority shall be clothed by federal and tribal law with all the privileges and immunities of the Band, except as specifically limited by this chapter, including sovereign immunity from suit in any state, federal or tribal court. Nothing contained in this chapter shall be deemed or construed to be a waiver of sovereign immunity by the Authority from suit, which may be waived only in accordance with this chapter.
- (b) Sovereign immunity of the Authority may be waived only by formal resolution of the Board of Commissioners.
- (c)
 - (1) Waivers of sovereign immunity are disfavored and shall be granted only when necessary to secure a substantial advantage or benefit to the Authority. Any waiver of sovereign immunity shall be specific and limited as to:
 - (i) duration;
 - (ii) the grantee;
 - (iii) the particular transaction;
 - (iv) definite property or funds, if any, of the Authority;
 - (v) a particular court having jurisdiction pursuant thereto; and
 - (vi) the law that shall be applicable thereto.

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

§ 212. Assets and Liabilities of the Authority

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

CHAPTER 4

HOUSING DEPARTMENT

Section

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

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

§ 301. Purposes and Findings.

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

§ 302. Definitions.

- (a) “Band” means the Mille Lacs Band of Ojibwe Indians.
- (b) “Band Assembly” means the legislative branch of the Mille Lacs Band of Ojibwe Indians.
- (c) “Band Member” means an enrolled person of the Mille Lacs Band of Ojibwe Indians.

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

§ 303. Housing Department.

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

§ 304. Executive Director.

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

§ 305. Housing Board.

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

- (b) Powers and Duties.
 - (1) To advise the Commissioner of Community Development and make recommendations on various housing matters relating to the Band's Housing vision and mission.
 - (2) To acknowledge Band members' housing needs and communicate concerns to the Executive Director of the Housing Department.
 - (3) To approve an annual Strategic Housing Plan with ratification by the Band Assembly.
 - (4) To ensure that the Housing Policies conform to the Band's Housing vision and mission and that Community Development and the Housing Department comply with the Housing Policies.
 - (5) To maintain a fair and equitable service level to all Band members.
 - (6) To approve home loans, renovation loans or other housing program loans that may be developed by the Housing Department.
 - (7) To approve foreclosures in circumstances where a mortgagor defaults on their housing loan for a period of more than six (6) months.
 - (8) To approve new Housing programs and Housing Policies developed by the Housing Department with ratification by the Band Assembly.
 - (9) To approve Housing Meeting Minutes from the previous meeting and forward a copy to Band Assembly within ten (10) business days.
 - (10) To approve any housing grants if such regulations require it.
 - (11) To approve the quarterly reports developed by the Commissioner of Community Development and the Housing Department.
 - (12) To maintain confidentiality of all housing client matters.

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

§ 306. Board Member Selection Process.

- (a) This section establishes the rules for selection of Housing Board members, the number of Board members to be appointed and the term length of each Board member. The rules are as follows:
- (1) The Housing Board is hereby organized and designated as a subdivision of the Housing Department of the Mille Lacs Band of Ojibwe Indians.
 - (2) The Housing Board shall be composed of seven (7) persons.
 - (3) Each Housing Board member must be an enrolled Band member of the Mille Lacs Band of Ojibwe Indians and at least eighteen (18) years of age.
 - (4) No person shall be barred from serving on the Board because he or she is a tenant or homebuyer. However, such Board member shall not participate in or be present at any portion of a meeting concerning any matter that involves his or her individual rights, obligations or status as a tenant or homebuyer.
 - (5) The Chief Executive shall select two (2) individuals and the Speaker of the Assembly shall nominate one (1) of the two to the Band Assembly for confirmation to the Housing Board. This Housing Board member shall serve until June 30, 2007. Thereafter, this position shall be eligible for appointment to a four (4) year term beginning on June 30, 2007.
 - (6) The Speaker of the Assembly shall select two (2) Elders and the Chief Executive shall nominate one of the two to the Band Assembly for confirmation to the Housing Board. This Housing Board member shall serve until June 30, 2006. Thereafter, this position shall be eligible for appointment to a four (4) year term beginning on June 30, 2006.
 - (7) The District I Representative shall select two (2) individuals and the Chief Executive shall nominate one of the two to the Band Assembly for confirmation to the Housing Board. This Board Member shall serve until June 30, 2007. Thereafter, this position shall be eligible for appointment to a four (4) year term beginning on June 30, 2007.
 - (8) The District II Representative shall select two (2) individuals and the Chief Executive shall nominate one of the two to the Band Assembly for confirmation to the Housing Board. This Board Member shall serve until June 30, 2006. Thereafter, this position shall be eligible for appointment to a four (4) year term beginning on June 30, 2006.

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

§ 307. Process to Fill Vacant Board Positions.

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

§ 308. Officers.

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

§ 309. Meetings.

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

§ 310. Quorum.

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

§ 311. Removal of Board Members.

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

§ 312. Housing Board Bylaws.

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

§ 313. Transfer of Ownership Interests.

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

CHAPTER 5

NATIVE AMERICAN VETERAN DIRECT LOAN PROGRAM

Section

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

§ 401. Findings and Determinations.

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

§ 402. Application of Chapter.

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

§ 403. Purpose to Provide Additional Remedies.

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

§ 404. Public Policy of Band.

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

§ 405. Definitions.

- (a) "Band" shall refer to the Non-Removable Mille Lacs Band of the Mille Lacs Indian Reservation as defined in the Minnesota Chippewa Tribal Constitution and the statutes of the Non-Removable Mille Lacs Band.
- (b) "Lease" shall mean the lease of trust property for which a Leasehold Mortgage, as defined in this section, has or will be given.
- (c) "Leasehold Mortgage" shall mean the mortgage of a lease of trust property given to secure a loan made under the VA Native American Direct Loan Program and 38 U.S.C. 3761 et seq.

- (d) **"Leasehold Mortgage Foreclosure Proceeding"** shall mean a proceeding in the Court of Central Jurisdiction:
- (1) To foreclose the interest of the Mortgagor(s), and each person or entity claiming through the Mortgagor(s), in a Lease for which a Mortgage has been given under the VA Native American Direct Loan Program and 38 U.S.C. 3761 et seq.; and
 - (2) To assign such Lease to the Secretary or the Secretary's assignee.
- (e) **"Lessor"** shall mean the beneficial or equitable owner of trust or otherwise restricted property under a Lease for which a Mortgage, as defined in this section, has been given, or the heir(s), successor(s), executor(s), administrator(s), or assign(s) of such Lessor.
- (f) **"Mortgagee"** shall mean the mortgagee under any Leasehold Mortgage as defined in this section or the successor(s) interest of any such mortgagee, including the Secretary as defined in this section, or the Secretary's assignee under any such mortgage.
- (g) **"Mortgagor"** shall mean any Mille Lacs Band member who has executed a Leasehold Mortgage as defined in this section, or any member heir(s), successor(s), executor(s), administrator(s) or assign(s) of the Mille Lacs Band or any member.
- (h) **"Nuisance"** shall mean the maintenance on real property of a condition which:
- (1) Unreasonably threatens the health or safety of the public or neighboring land users; or
 - (2) Unreasonably and substantially interferes with the ability of neighboring property users to enjoy the reasonable use and occupancy of their property.
- (i) **"Recording Clerk"** shall mean the person designated by the Mille Lacs Band to perform the recording functions required by this chapter or any deputy or designee of such person.
- (j) **"Secretary"** shall mean the Secretary of the United States Department of Veterans Affairs (VA) or designee.
- (k) **"Subordinate Lienholder"** shall mean the holder of any lien, including a subsequent mortgage, perfected subsequent to the recording of a Leasehold Mortgage under this chapter (except the Mille Lacs Band with respect to a claim for a tribal leasehold tax).
- (l) **"Tenant"** shall mean any person who occupies real property under a lease, rental agreement or other agreement with a lessor as defined in this section.

- (m) "Tribal Court" shall mean the Court of Central Jurisdiction as established by the laws of Mille Lacs Band of Ojibwe to exercise the powers and functions of a court of law.
- (n) "Unlawful Detainer Action" shall be a suit brought before the Court of Central Jurisdiction to terminate a tenant's interest in real property and/or to evict any person from occupancy of real property.
- (o) "Waste" is spoil or destruction by a tenant of land, buildings, gardens, trees or other improvements which result in substantial injury to the lessor's interest in the property.
- (p) "Writ of Restitution" is an order of the Tribal Court:
 - (1) Restoring an owner or lessor or the Secretary to possession of real property and.
 - (2) Evicting a tenant or other occupant therefrom.

§ 406. Priority.

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

§ 407. Recording System.

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

§ 408. Filing.

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

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

(b)

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

MILLE LACS BAND OF OJIBWE

MILLE LACS RESERVATION: ss.

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

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

Signature

Title

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

§ 409. Log.

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

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

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

§ 410. Public Inspection and Copying.

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

§ 411. Leasehold Mortgage Foreclosure Proceedings.

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

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

§ 412. Service of Process and Procedures.

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

§ 413. Cure of Default.

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

§ 414. Entry of Judgment.

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

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

§ 415. Unlawful Detainer.

- (a) The provisions of this section shall apply to all persons and property subject to the governing authority of the Mille Lacs Band as established by the Laws of the Non-Removable Mille Lacs Band.
- (b) A tenant or other occupier of land shall be guilty of unlawful detainer if such person shall continue in occupancy of real property under any of the following situations:
 - (1) Without the requirement of any notice:
 - (i) After the expiration of the term of the lease or other agreement; or
 - (ii) If such person has entered onto or remains on the real property of another without the permission of the owner and without having any substantial claim of a lease or title of the property; or

- (iii) After the Housing Department has terminated such person's tenancy pursuant to procedures providing such person a hearing before the Housing Authority involved; or
 - (iv) After the interest of such person in a lease has been foreclosed in a leasehold mortgage foreclosure proceeding in the Tribal Court.
- (2) After having received 30 days' notice, the tenant or occupier shall remain in possession of the property contrary to the terms of the notice as follows:
- (i) When such person has received notice:
 - (A) That he or she is in default in the payment of rent; and
 - (B) Requiring him or her, to either pay the rent or surrender possession of the occupied property; and such person has remained in possession after receipt of such notice without either surrendering possession of the property or paying the rent; or
 - (ii) When the lease of the property is for an indefinite time, with rent to be paid monthly or by some other period, and the lessor has given notice of termination of the tenancy at least 30 days prior to the end of such month or period; or
 - (iii) When such person shall continue to fail to keep or perform any condition or covenant of the lease or agreement under which the property is held after he has been given notice to surrender the property; or
 - (iv) When such person continues to commit or to permit waste upon or maintain a nuisance upon the occupied property after having been given notice, to either cease such waste or maintenance of nuisance or to surrender the property.

§ 416. Procedures for Service of Notice.

- (a) Notices required or authorized in 12 MLBS § 115 shall be given in writing by either:
 - (1) Delivering a copy personally to the tenant or occupier or to any adult members of his or her family residing on the premises; or
 - (2) Posting said notice in a conspicuous place near the entrance to said premises, and by sending an additional copy to the tenant or occupier by certified mail, return receipt requested, properly addressed, postage prepaid.

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

§ 417. Complaint and Summons.

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

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

§ 418. Service of Summons and Complaint.

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

§ 419. Writ of Restitution.

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

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

§ 420. Judgment.

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

§ 421. Continuance in Cases Involving Secretary.

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

§ 422. Enforcement.

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

Ordinance 62-21
(Band Assembly Bill 19-04-62-21)

Introduced to the Band Assembly on this
Eighteenth day of August in the year
Two thousand twenty-one.


Passed by the Band Assembly on this
Eighteenth day of August in the year
Two thousand twenty-one.



Sheldon Boyd, Speaker of the Assembly

APPROVED

Date: August 18, 2021


Melanie Benjamin, Chief Executive

OFFICIAL SEAL OF THE BAND