



February 22, 2024

VIA EMAIL

Teresa Kozumplik, Executive Director
Gaming Regulatory Authority
Mille Lacs Band of Ojibwe
700 Grand Avenue
Onamia, MN 56359

Re: Mille Lacs Band of Ojibwe Amended Gaming Ordinance

Dear Ms. Kozumplik:

This letter responds to your request of December 12, 2023 on behalf of the Mille Lacs Band of Ojibwe (“Band”) for the National Indian Gaming Commission (“NIGC”) Chairman to review and approve amendments to the Band’s gaming ordinance (“Ordinance”). The Band adopted the Ordinance through Act 80-23 on December 8, 2023. We understand that these amendments reflect changes in tribal law and ensure consistency with updated NIGC regulations.

Thank you for bringing these amendments to our attention. The amended ordinance is approved as it is consistent with the requirements of IGRA and NIGC’s regulations. If you have any questions, please contact NIGC Staff Attorney Josh Proper at joshua.proper@nigc.gov or (540)-760-3026.

Sincerely,

A handwritten signature in blue ink that reads "E. Sequoyah Simermeyer". The signature is fluid and cursive.

E. Sequoyah Simermeyer
Chairman

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TITLE 15 – GAMING REGULATORY ACT

CHAPTER 1

GAMING REGULATORY ACT

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SUBCHAPTER 1

GENERAL PROVISIONS

Section

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

§ 1. Findings.

The Mille Lacs Band of Ojibwe finds that:

- (a) the Band has a long history of conducting different forms of gaming within our sovereign territory. Prior to entering into treaties with the United States, the Band allowed many traditional forms of gaming;
- (b) gaming on Band lands is a valuable means of generating revenues needed by the Band to enhance economic development and self-sufficiency, promote and strengthen self-governance, increase Band member employment, and fund essential Band social programs and services; and

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

Historical and Statutory Notes

Source:

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

§ 2. Declaration of Purpose.

The express purposes of this chapter are:

- (a) to provide a statutory basis for the regulation of gaming on Band lands to ensure that gaming is shielded from organized crime and other corrupting influences, to ensure that the Band is the primary beneficiary of the gaming operation, and to ensure that gaming is conducted fairly and honestly by both the operator and the player;
- (b) to regulate and control gaming on Band lands for the protection of gaming as a means of promoting economic development, self-sufficiency, and strong tribal government;
- (c) to foster a spirit of cooperation with federal officials in the regulation of gaming;
- (d) to foster a spirit of cooperation with Minnesota officials in the conduct of class III gaming pursuant to any tribal-state gaming compacts;
- (e) to ensure that gaming on Band lands is conducted in conformity with Band law, the IGRA, (25 U.S.C. § 2701 et seq.) and regulations promulgated pursuant thereto, applicable state law, and any tribal-state compacts;
- (f) to ensure that the construction and maintenance of gaming facilities and the operation of all gaming conducted at such facilities is conducted in a manner which adequately protects the environment, public health, and safety; and
- (g) to establish an independent regulatory authority charged with oversight and enforcement of gaming regulatory matters under Band law, with the goal of becoming self-regulating under the IGRA and regulations promulgated thereto.

Historical and Statutory Notes

Source:

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

§ 3. Definitions.

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

- (a) **“Authority”** means the Mille Lacs Band Gaming Regulatory Authority established by this chapter, which may also be known as the Tribal Gaming Commission.
- (b) **“Authority data”** means all information, files, reports, records, correspondence, and other data collected, created, received, maintained, or disseminated by the Authority, regardless of its physical form, storage method, or conditions of use.
- (c) **“Applicant”** means an individual or entity that applies for a Band gaming license or certification.
- (d) **“Background investigation”** has the meaning given in 25 C.F.R. § 556.4.
- (e) **“Band”** or **“Mille Lacs Band”** means the Mille Lacs Band of Ojibwe.
- (f) **“Band gaming laws”** means this chapter and all subsequent amendments thereto, and all Detailed Gaming Regulations promulgated thereunder.
- (g) **“Band lands”** means any land within the jurisdiction of the Band upon which gaming activities pursuant to the IGRA may be conducted.
- (h) **“Board”** means the Board of Directors of the Gaming Regulatory Authority.
- (i) **“Closely associated independent contractor”** means any contractor that shares common ownership, officers, or directors with any management principal or person related thereto.
- (j) **“Chairperson”** means the chairperson of the Board.
- (k) **“Charitable gaming”** means any gaming carried out by an Indian charitable organization on Band lands.
- (l) **“Class I gaming”** means:
 - (1) social games played solely for prizes of minimal value; or
 - (2) traditional forms of Indian gaming when played by individuals in connection with tribal ceremonies or celebrations.
- (m) **“Class II gaming”** means:

- (1) bingo or lotto (whether or not electronic, computer, or other technologic aids are used) when players (A) play for prizes with cards bearing numbers or other designations; (B) cover numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and (C) win the game by being the first person to cover a designated pattern on such cards;
 - (2) pull-tabs, punch boards, tip jars, instant bingo, and other games similar to bingo, if played in the same location as bingo or lotto; or
 - (3) non-banking card games that (A) state law explicitly authorizes, or does not explicitly prohibit, and are played legally anywhere in the state; and (B) players play in conformity with state laws and regulations concerning hours, periods of operation, and limitations on wagers and pot sizes.
- (n) **“Class III gaming”** means all forms of gaming that are not class I or class II gaming, including but not limited to:
- (1) any house banking game, including but not limited to card games such as baccarat, chemin de fer, blackjack (21), and pai gow (if played as house-banking games), and casino games such as roulette, craps, and keno;
 - (2) any slot machines, as defined in 15 U.S.C. § 1171(a)(1), and electronic or electromechanical facsimiles of any game of chance;
 - (3) any sports betting and pari-mutuel wagering, including but not limited to wagering on horse racing, dog racing, or jai alai; and
 - (4) lotteries.
- (o) **“Compliance”** means that any gaming and gaming-related activity regulated by this chapter is conducted in accordance with applicable laws.
- (p) **“Compliance determination”** has the meaning given in § 309 of this chapter.
- (q) **“Confidential data”** means authority data on a person that by Band statute, regulation or order, or by applicable federal law, is not made available to the public. The term includes Confidential Limited Availability Data and Confidential Restricted Availability Data.
- (r) **“Confidential financial information”** means any financial accounting records, ledgers, reports, and audits; and any profit and loss statements, cash flow projections, tax returns, invoices, checks, bank records, or other data on the revenues, expenditures, or financial obligations of a person, other than a gaming enterprise or gaming operation.

- (s) **“Confidential limited availability data”** means confidential data that by Band statute, regulation or order, or by applicable federal law is made accessible to the subject of the data, if any.
- (t) **“Confidential restricted availability data”** means confidential data that is not available to the subject of the data.
- (u) **“Corporate Ventures”** means Mille Lacs Corporate Ventures (formerly known as the Corporate Commission of the Mille Lacs Band of Ojibwe) as established by 16 MLBS § 101 et seq.
- (v) **“Corporate Commissioner”** means the Mille Lacs Band Commissioner for Corporate Affairs.
- (w) **“District Court”** means the District Court of the Mille Lacs Band of Ojibwe established by 5 MLBS § 2.
- (x) **“Detailed Gaming Regulations”** or **“DGR”** means a full and complete set of gambling regulations promulgated by the Authority pursuant to § 306 of this chapter to:
 - (1) ensure effective, independent oversight and regulation of all gaming conducted on Band lands;
 - (2) ensure that persons who hold key positions in the Band’s gaming enterprises and gaming operations are honest, trustworthy, and of good moral character;
 - (3) protect Band assets through implementation of strong, effective financial accounting and internal cash controls;
 - (4) comply with all applicable law, including Band law, federal law, and tribal-state compacts; and
 - (5) clearly define and distinguish the respective duties and powers of casino management and gaming regulation so that they complement one another in such a manner as to maximize the benefits of gaming to the Band and the surrounding non-Indian community.
- (y) **“Director”** means the director of the Office of Gaming Regulation and Compliance as described § 401 of this chapter.
- (z) **“Exclusion list”** means a list prepared pursuant to § 313 of this chapter that contains the names of persons who shall not be permitted in any gaming enterprise and gaming operation.

- (aa) **“Financial information on a gaming enterprise and gaming operation”** includes, but is not limited to, any financial accounting records, ledgers, reports, and audits; and any profit and loss statements, cash flow projections, tax returns, invoices, checks, bank records, or other data on the revenues, expenditures, or financial obligations of a gaming enterprise or gaming operation.
- (bb) **“Gaming”** means an activity in which a person stakes or risks something of value on the outcome of a contest of chance or a future contingent event, not under her or his control or influence, upon an agreement or understanding that the person, or someone else, will receive something of value in the event of a certain outcome, but shall not include a bona fide business transaction.
- (cc) **“Gaming activity”** or **“Gaming activities”** means any class I, class II, or class III gaming activity as defined by the IGRA and conducted by or under the jurisdiction of the Band.
- (dd) **“Gaming Compliance Officer”** means the officer described in § 402(a)(4) of this chapter.
- (ee) **“Gaming contractor”** means any person or entity that supplies gaming devices or other gaming equipment, personnel, or services, including gaming management or consulting services, to any gaming activity or gaming enterprise or gaming operation.
- (ff) **“Gaming enterprise(s)”** means the gaming entities through which the Band conducts, regulates, and secures gaming on Indian lands within the Band’s jurisdiction pursuant to the Indian Gaming Regulatory Act.
- (gg) **“Gaming operation”** means the Grand Casino Mille Lacs, the Grand Casino Hinckley, and any other commercial facility or business operated, in whole or in part, for the conduct of gaming or related to gaming activities within the jurisdiction of the Band.
- (hh) **“Gaming Regulatory Authority”** means the independent agency established herein and designated with responsibility for performing the Band’s regulatory responsibilities and duties under the IGRA, this chapter, and any tribal-state compacts. The Gaming Regulatory Authority is comprised of both the Board and the Office of Gaming Regulation & Compliance.
- (ii) **“Gaming supplier”** means any contractor or other supplier of gaming goods, supplies, materials, equipment, or services to any gaming enterprise or gaming operation, the aggregate annual cost of which to the Band’s gaming enterprises or gaming operation is at least \$25,000.00. The term “gaming supplier” shall be more particularly defined in Detailed Gaming Regulations promulgated by the Authority.
- (jj) **“Hearing examiner”** means an individual employed or contracted with by the Authority for the purpose of conducting a hearing pursuant to this chapter. Such

person shall: (1) be independent of any claimant, Corporate Ventures, any gaming enterprise or gaming operation, and any affiliates of the foregoing; (2) be an attorney in good standing licensed by the Band and any state; and (3) have relevant legal experience.

- (kk) **“Immediate family”** or **“related to”** refers to persons who are the subject individual’s spouse, parents, siblings, and children, either adopted or biological.
- (ll) **“Indian charitable organization”** means any non-profit association or corporation, or unincorporated community group, with a primary purpose of engaging in social, educational, cultural, religious or charitable activities, or a combination thereof within the tribal community.
- (mm) **“Indian Gaming Regulatory Act”** or **“IGRA”** means the Act of October 17, 1988, Public Law 100-497, 25 U.S.C. § 2701 et seq. as amended, and all regulations promulgated pursuant thereto.
- (nn) **“Information on a pending compliance recommendation”** means (1) any data gathered by the Director in connection with an ongoing investigation for which a Compliance Recommendation is required pursuant to § 402(b) of this chapter or (2) any compliance recommendation that has been completed by the Director but not yet finally acted upon by the Authority.
- (oo) **“Information on a pending license application”** means any data submitted by the applicant or gathered by the Director or the Authority in connection with a pending application for a license required by this chapter.
- (pp) **“Key employee”** means:
 - (1) any person who performs one (1) or more of the following functions for a gaming enterprise or gaming operation: (A) bingo caller; (B) counting room supervisor; (C) chief of security; (D) floor manager; (E) pit boss; (F) dealer; (G) croupier; (H) approver of credit; (I) custodian of gaming systems as defined in 25 C.F.R. § 547.2 and similar class III systems, gaming cash or gaming cash equivalents, or gaming system records; or (J) custodian of surveillance systems or surveillance system records;
 - (2) any gaming operation or gaming enterprise employee authorized by the gaming operation or gaming enterprise for unescorted access to secured gaming areas designated as secured gaming areas by the Authority;
 - (3) if not otherwise licensed as a key employee or primary management official, the four (4) persons most highly compensated by a gaming enterprise or gaming operation; and

- (4) any other employee of the gaming enterprise or gaming operation as documented by the tribe as a key employee; or
- (5) any other person as defined in 25 C.F.R. Part 502.14.
- (qq) **“Management principal”** means any person who is an officer or member of the Board or other person defined as a primary management official as defined in 25 C.F.R. § 502.19.
- (rr) **“Member”** means a member of the Gaming Regulatory Authority Board of Directors.
- (ss) **“National Indian Gaming Commission”** or **“NIGC”** means the commission established within the U.S. Department of the Interior under 25 U.S.C. § 2704.
- (tt) **“Net revenues”** means gross gaming revenues of an Indian gaming operation or gaming enterprise less: (1) amounts paid out as, or paid for, prizes; and (2) total gaming-related operating expenses, including all those expenses of the gaming operation or gaming enterprise commonly known as operating expenses and non-operating expenses consistent with professional accounting pronouncements, excluding management fees.
- (uu) **“Non-key employee”** means any person employed by a gaming enterprise or Corporate Ventures, who is not otherwise defined as a key employee or primary management official.
- (vv) **“Office of Gaming Regulation and Compliance”** or **“OGR&C”** means the office charged with the responsibility of, inter alia, regulating gaming activity within the jurisdiction of the Band.
- (ww) **“Person”** means any individual, partnership, corporation, association, business trust, joint stock company, unincorporated association or society, any other business or non-business entity, or the legal representative of such entity.
- (xx) **“Personnel data”** means data on individuals collected because the individual is or was an associate of, or an applicant for employment with, the Authority or acts as an independent contractor therefor.
- (yy) **“Primary management official”** means:
 - (1) the Corporate Commissioner;
 - (2) any person having management responsibility for a management contract;

- (3) any person who has authority to (i) hire and fire employees of a gaming operation or gaming enterprise; or (ii) establish policy for a gaming operation or gaming enterprise;
 - (4) the chief financial officer or a position with duties similar to a chief financial officer;
 - (5) the general manager or a position with duties similar to a general manager; or
 - (6) any other person as defined by 25 C.F.R. Part 502.19.
- (zz) **“Security information”** means authority data the disclosure of which would be likely to substantially jeopardize the security of gaming enterprise or gaming operation information, possessions, associates, guests, or property against theft, tampering, improper use, illegal disclosure, trespass, or physical injury.
- (aaa) **“Trade secret information”** means Authority data, including formula, pattern, compilation, program, device, method, technique, or process that was (1) supplied by the affected person; (2) is the subject of efforts by the affected person to maintain its secrecy; and (3) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic benefit from its disclosure or use.
- (bbb) **“Tribal-state compact”** means an agreement between the Band and the state of Minnesota about class III gaming under 25 U.S.C. § 2710(d).

Historical and Statutory Notes

Source:

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

§ 4. Severability.

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

Historical and Statutory Notes

Source:

Band Act 80-23.

SUBCHAPTER 2

GAMING ACTIVITY

Section

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

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

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

Historical and Statutory Notes

Source:

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

§ 102. Unauthorized Gaming Prohibited.

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

Historical and Statutory Notes

Source:

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

§ 103. Permitted Gaming.

- (a) **Class I gaming.** Class I traditional games are permitted to the extent consistent with tribal custom and practice. The Authority may prohibit and prevent any conduct which is claimed to be class I gaming if it finds that such conduct is not in accordance with tribal customs or practices or violates the IGRA or other applicable law. The

Authority shall consult with a committee of Band Elders to determine which games are consistent with Band custom and practice. These games shall be listed and defined in the Detailed Gaming Regulations

- (b) **Class II and class III gaming.** Class II and class III gaming on Band lands is hereby authorized. The Band has the sole proprietary interest in and responsibility for the conduct of any gaming enterprise or gaming operation.
- (1) **Permitted class II games.** The following class II games are permitted:
- (i) any game of chance which the Authority or the NIGC has determined to be class II in accordance with this chapter; and
 - (ii) any game of chance for which the Authority has promulgated rules and Detailed Gaming Regulations so that such games are conducted in accordance with this chapter.
- (2) **Permitted class III games.** The following class III games are permitted:
- (i) video games of chance licensed and conducted pursuant to any tribal-state compact between Corporate Ventures and the State of Minnesota;
 - (ii) blackjack games licensed and conducted under the terms of any tribal-state compact between Corporate Ventures and the State of Minnesota; and
 - (iii) any other game of chance which is licensed and conducted pursuant to any tribal-state compact and for which the Authority has promulgated rules and Detailed Gaming Regulations in accordance with this chapter.
- (3) **Game classification decisions.** A gaming enterprise or gaming operation may submit to the Authority a request for a determination of whether a particular game qualifies as a class II game or class III game under the IGRA. The Authority must issue a game classification decision with respect to the game promptly after the request.
- (i) In arriving at any gaming classification decision, the Authority may employ the services of a hearing examiner to either make a recommendation for a game classification decision or issue a game classification decision on behalf of the Authority.
 - (ii) The gaming enterprise or gaming operation must reimburse the Authority for any costs incurred in producing the game classification decision, regardless of the outcome.

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

(c) **Community charitable gaming.**

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

Historical and Statutory Notes

Source:

Band Ordinance 44-03, § 6(b).

Band Act 80-23.

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

- (a) **Corporate Ventures authorized.** Corporate Ventures is hereby authorized to negotiate and enter into tribal-state compacts with the State of Minnesota to govern the conduct of class III gaming on Band lands. Such tribal-state compacts and amendments thereto, other than technical amendments as provided in subsection (b) below, shall not be valid until ratified by the Band Assembly pursuant to Titles 3 of Mille Lacs Band Statutes.
- (b) **Technical amendments.** Corporate Ventures may enter into technical amendments pursuant to section 6.12 of the Video Game of Chance Compact or section 7 of the Blackjack Compact or similar section of any subsequent tribal-state compact and such technical amendment shall not require Band Assembly approval as provided in section subsection(a) above. Shareholders shall be delivered copies of any technical amendments at the shareholders' meetings.
- (c) **Regulations to be in compliance with tribal-state compacts.** The Authority shall adopt Detailed Gaming Regulations to provide that such class III gaming is conducted in compliance with the terms and conditions of such tribal-state compact or amendments thereto.

Historical and Statutory Notes

Source:

Band Ordinance 44-03, § 6(c).

Band Act 80-23.

§ 105. Use of Band Lands for Gaming Purposes.

- (a) **Leases.** Leases for all Band lands for gaming activities, or related to gaming activity purposes, shall be in full compliance with all applicable laws of the United States and the Band.
- (b) **Anishinaabeg celebrations.** The use of Band lands for Anishinaabeg celebrations or other social events, which includes traditional gaming as part of the celebration or other social event, shall not be subject to federal, state, or local government approval.

Historical and Statutory Notes

Source:

Band Ordinance 44-03, § 7.

Band Act 80-23.

§ 106. Health, Safety, and Environmental Protection.

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

Historical and Statutory Notes

Source:

Band Ordinance 44-03, § 8.

Band Act 80-23.

§ 107. Prohibited Activities.

- (a) **Minors prohibited.** It shall be unlawful for any adult to allow a person under the age of eighteen (18) years to participate in gaming activities at a gaming enterprise or gaming operation, or for such minor to participate in gaming activities at a gaming enterprise or gaming operation.
- (b) **Cheating prohibited.** It shall be unlawful to conduct or participate in any gaming in a manner which results in cheating, misrepresentation, or other disreputable tactics

which distract from a fair and equal chance for all participants, or otherwise affects the outcome of the game.

- (c) **Sale and consumption of alcoholic beverages.** The sale of alcoholic beverages shall be permitted at any gaming enterprise or gaming operation, if properly licensed pursuant to 18 MLBS § 208 and applicable federal and state law. The sale of alcoholic beverages under this section is subject to special surcharge taxes established by 22 MLBS § 509.
- (d) **Extension of credit prohibited.** Extension of credit in any form shall not be allowed at any gaming enterprise or gaming operation, unless specifically authorized by Mille Lacs Band Statutes and properly licensed pursuant to applicable Band, federal, and state law.

Historical and Statutory Notes

Source:

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

SUBCHAPTER 3

OWNERSHIP AND REVENUES

Section

201. Ownership of Gaming.

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

§ 201. Ownership of Gaming.

The Band shall have the sole proprietary interest in and responsibility for conducting any class II and class III gaming activities authorized by this chapter, except to the extent the Band may contract with and license a person or entity to own, operate, or manage a gaming enterprise or gaming operation pursuant to provisions of the IGRA, any tribal-state compacts, or as otherwise permitted by applicable law.

Historical and Statutory Notes

Source:

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

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

(a) **Band property.**

- (1) All revenues generated from any class II or class III gaming activities conducted by any gaming enterprise or gaming operation are the sole property of the Band, except as provided for under the terms of any agreement made pursuant to the provisions of the IGRA, or as otherwise permitted by Band law.
- (2) Any profits or net revenues from any class II or class III gaming activities conducted by any gaming enterprise or gaming operation shall be deposited into the Band's general treasury. Upon becoming part of the general treasury, such funds shall lose any identity as gaming revenues, except to the extent necessary to identify them as such in order to comply with applicable law.
- (3) No individual Band member shall be deemed to have any interest in such profits or net revenues from any class II or class III gaming activities conducted by any gaming enterprise or gaming operation, provided that the Band may adopt rules for distributing gaming proceeds to Band members on a per capita basis; provided further that such plan must meet the requirements of 25 U.S.C. § 2710 (b)(3). Payments from the general treasury funds to Band members under other Band programs, including those related to health, welfare, education, elderly care, and housing, shall not be deemed "per capita" payments.

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

- (1) to fund Band government operations or programs;
- (2) to provide for the general welfare of the Band and its members;
- (3) to promote Band economic development;
- (4) to donate to charitable organizations recognized by the Band; or
- (5) to help fund operations of local government agencies.

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

Historical and Statutory Notes

Source:

Band Ordinance 44-03, § 10.

Band Act 80-23.

SUBCHAPTER 4

GAMING REGULATORY AUTHORITY

Section

301. Establishment.

302. Board of Directors.

303. Organization.

304. General Powers and Duties of the Authority.

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

306. Detailed Gaming Regulations.

307. Monitoring and Investigation.

308. Licensing.

309. Compliance Determinations.

310. Independent Audits.

311. Enforcement.

312. Limitations on Actions.

313. Excluded Persons.

314. Regulatory Role.

315. Patron Dispute Resolution.

316. Budget.

317. Legal Counsel.

§ 301. Establishment.

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

Historical and Statutory Notes

Source:

Band Ordinance 44-03, § 11(a).

Band Act 80-23.

§ 302. Board of Directors.

- (a) The Authority shall be managed by a Board of Directors to be known as the Authority’s “Board.” At all times there shall be at least one (1) Board Member, to be known as “Member(s),” on the Board from each Band district. The Board shall consist of five (5) Members appointed in the manner and have the terms provided in subsection (b).
- (b) **Appointments process, terms, and oath of office.** Each Member shall be appointed using the following process.
 - (1) The Chief Executive shall nominate two (2) individuals and submit their names to the Secretary-Treasurer. Within ten (10) calendar days after receipt of the nominations by the Secretary-Treasurer, the Secretary-Treasurer shall ratify one (1) of the two (2) nominees to be a Member of the Board. Such Member shall serve until September 1, 2024. Any subsequent appointment, other than to fill a vacancy that occurs prior to the end of a term, shall be for four (4) years.
 - (2) Each District Representative shall nominate two (2) individuals and submit their names to the Chief Executive. Within ten (10) calendar days after receipt of the nominations by the Chief Executive, the Chief Executive shall ratify one (1) of the two (2) nominees to be a Member of the Board. Such Members shall serve until September 1, 2026. Any subsequent appointment, other than to fill a vacancy that occurs prior to the end of a term, shall be for four (4) years.
 - (3) The Secretary-Treasurer shall nominate two (2) individuals and submit their names to the Chief Executive. Within ten (10) calendar days after receipt of the nominations by the Chief Executive, the Chief Executive shall ratify one (1) of the two (2) nominees to be a Member of the Board. Such Member shall serve until September 1, 2024. Any subsequent appointment, other than to fill a vacancy that occurs prior to the end of a term, shall be for four (4) years.
 - (4) If the Chief Executive or the Secretary-Treasurer do not ratify one from any of the nominations sent to them within the time prescribed, then the Band Assembly shall select such Member by majority vote.
 - (5) If any elected official does not submit a nomination within thirty (30) days after a vacancy has occurred, then the Band Assembly shall nominate two (2) individuals by majority vote and submit their names to the Chief Executive for ratification to the Board. The timing and process for such ratification are as stated in sections 11(b)(1)(A) and (D).
 - (6) No member shall take office until swearing to the oath of office pursuant to 2 MLBS § 8.

(c) **Qualifications.**

- (1) Members shall be adults who are of high moral character and integrity; who have a reputation for being honest, fair, and objective; and who are recognized as possessing sound judgment.
- (2) Members may not have been convicted of a felony or any gambling-related offense. All requisite background investigations shall be performed under the direction of the Authority's licensing office.
- (3) No fewer than three (3) Members shall be enrolled members of the Band. There shall be at least one (1) Board Member from each of the Band's three (3) Districts.
- (4) Members may not be employed by any gaming enterprise or gaming operation, nor may they gamble at any gaming enterprise or gaming operation.
- (5) Members shall be subject to the background investigations and standards for primary management officials.

(d) **Board Officers.**

- (1) **Officers.** The Board shall have a Chairperson, Vice-Chairperson, and Secretary.
- (2) **Selection.**
 - (i) **Chairperson.** The Members shall select from among themselves, by majority vote, a Chairperson. The Chairperson shall serve for a period of no longer than two (2) years, unless re-appointed by the Board.
 - (ii) **Vice-Chairperson.** The Members shall select from among themselves, by majority vote, a Vice-Chairperson. The Vice-Chairperson shall serve for a period of no longer than two (2) years, unless re-appointed by the Board.
 - (iii) **Secretary.** The Board may select a Member or an employee of the Authority to act as Secretary of the Board. The Secretary shall serve for a period of no longer than two (2) years, unless re-appointed by the Board. An employee acting as Secretary at the request of the Board is not a Board Member and has no powers of a Member.
- (3) **Board duties.**

- (i) The Chairperson shall preside over meetings of the Board and the Vice-Chairperson shall preside over meetings of the Board in the absence of the Chairperson. The Secretary shall record in writing the minutes of all Board meetings and all official actions taken by the Authority, and shall notify all persons who, under this chapter, require notification of such official actions.
 - (ii) In carrying out any function under the provisions of this chapter, all Members shall be governed by the laws of the Band, general policies of the Authority, and such regulatory decisions, findings, and determinations as the Authority may by law be authorized to make.
 - (iii) Requests or estimates for regular, supplemental, or deficiency appropriations on behalf of the Authority may be submitted to the Band Assembly by the Chairperson with the prior approval of the Board.
 - (iv) The Chairperson shall delegate authority and assign duties to the Director of the Office of Gaming Regulation and Compliance sufficient to aid the Authority in fulfilling its regulatory responsibilities. Such assignment and delegation shall comply with this chapter.
 - (v) Members shall serve part-time; however, the Board shall meet a minimum of once per month or more if necessary to fulfill its duties.
 - (vi) Members shall attend one (1) or more training seminars or courses related to gaming regulation per year during their terms of membership. Such seminars shall be paid by the Authority. Per diem and other travel expenses shall be paid at the rate of a Senior Executive Staff Band employee pursuant to 6 MLBS § 1001 et seq.
- (4) **Vacancies in memberships.**
- (i) The Chairperson shall notify the Band Assembly and the Chief Executive of any vacancy on the Board of Directors at least thirty (30) days prior to the end of a term, or, in circumstances other than the end of a term, immediately upon the knowledge that a vacancy will occur.
 - (ii) If there is a vacancy on the Board, then the vacancy shall be filled in accordance with subsection (b).
 - (iii) Any Member, including the Chairperson, appointed to fill a vacancy shall serve for the remainder of the term left vacant; however, any Member may be re-appointed during this time period pursuant to subsection(b).

- (5) **Disqualifications from Board membership.** The following persons are not eligible to serve as Board Members:
- (i) Band elected officials and commissioners, while serving as such;
 - (ii) current employees of any Band gaming enterprise or gaming operation;
 - (iii) any employee of Corporate Ventures working closely with a Band gaming enterprise or gaming operation in a manner that gives rise to a conflict of interest, as determined by the Board;
 - (iv) gaming contractors, including any principal of a management or other contracting company;
 - (v) persons ineligible to be key employees or primary management officials, as determined by the Authority via regulation; and
 - (vi) persons who are immediate family members of, or who share a residence with, any of the above ineligible persons.
- (6) **Embezzlement, theft, and money-related or honesty-related offenses.** Persons who have been previously convicted of any felony or misdemeanor offense of embezzlement, theft, or any other money-related or honesty-related misdemeanor offense, such as fraud, cannot serve as a Board member.
- (7) **Removal from Board membership.** Members may be removed by a super-majority vote of four (4) out of five (5) members of the Joint Session of the Band Assembly. The determination of the Joint Session is final and unappealable to the District Court.

Historical and Statutory Notes

Source:

Band Ordinance 44-03, § 11(b).

Band Act 80-23.

§ 303. Organization.

(a) **Meetings.**

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

- (2) **Special meetings.** Special meetings of the Board may be called by the Chairperson with a minimum of forty-eight (48) hours written notice to the Board Members, by the Director with a minimum of forty-eight (48) hours written notice to the Chairperson, or by a majority vote of the Board with forty-eight (48) hours written notice to the Chairperson.
 - (3) **Other.** Either regular or special meetings may be called by petition of a majority of a quorum of the Board Members other than the Chairperson upon forty-eight (48) hours written notice to the Chairperson.
 - (4) **Alternative meeting arrangements.** Regular or special meetings may be conducted by telephone, video or web conference, or similar means. The Chairperson must provide the Board Members with forty-eight (48) hours written notice prior to convening any meeting under this subsection.
 - (5) **Consent presumed.** A Member's participation in a meeting described herein without explicit objection will constitute consent to the manner in which such a meeting is conducted.
- (b) **Quorum.** Three (3) Board Members shall constitute a quorum.
- (c) **Voting.**
- (1) All actions of the Board shall be taken by majority vote.
 - (2) The Chairperson shall vote only in the following circumstances:
 - (i) to break a tie; or
 - (ii) if necessary, to constitute a quorum in the absence of other Members.
- (d) **Compensation.**
- (1) **Board meetings.** Members, including the Chairperson, shall be compensated with four hundred dollars (\$400.00) per meeting, not to exceed eight hundred (\$800.00) in one month, except that in the case of a demonstrated emergency, the Chairperson may petition the Secretary-Treasurer for compensation for additional meetings. Mileage and other travel expenses will be compensated on the same terms and conditions as apply to Senior Executive Staff appointees as provided by Band law.
 - (2) **Training.** If Members are not Band government employees and are required to be absent from their employment to attend mandatory training pursuant to subsection (d)(3)(vi), then Members shall be compensated at their previously documented hourly rates of pay for each hour that they are in attendance at such training plus mileage and other travel expenses as stated in paragraph (1)

above. If Members are Band government employees, then absence from employment will not be deducted from their accrued annual leave and they will be paid as if they were at work plus expenses as stated in paragraph (1) above.

Historical and Statutory Notes

Source:

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

§ 304. Powers and Duties of the Authority.

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

Historical and Statutory Notes

Source:

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

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

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

Historical and Statutory Notes

Source:

Band Act 80-23.

§ 306. Detailed Gaming Regulations.

- (a) **Power and duty.** The Authority shall have the power and duty to develop, adopt, and promulgate Detailed Gaming Regulations regarding:
- (1) licensing of gaming enterprises or gaming operation;
 - (2) licensing and background investigations of key employees and primary management officials;
 - (3) licensing and background investigations of gaming suppliers;
 - (4) conducting annual independent audits of all gaming operations or gaming enterprise of the Band;
 - (5) permitted games and the conduct thereof;
 - (6) standards and criteria for gaming machines and for testing machines;
 - (7) audio and video surveillance standards;
 - (8) minimum internal cash, playing card, chip, and token control standards, and procedures for gaming operations or gaming enterprise;
 - (9) procedures for compliance with the Bank Secrecy Act and applicable provisions of the Internal Revenue Code;
 - (10) resolving gaming-related disputes involving patrons and vendors of any gaming enterprise or gaming operation, after exhausting all remedies available at the gaming enterprise or gaming operation;
 - (11) charitable gaming as provided in § 103(c) of this chapter;
 - (12) the prevention and cure of compulsive gambling as provided in subchapter 8 of this chapter;
 - (13) the development and maintenance of a list of excluded persons as provided in § 313 of this chapter;
 - (14) related reporting, record-keeping, auditing, investigation, and enforcement procedures;

- (15) dispute resolution procedures, including OGR&C employee appeals;
 - (16) reasonable fines and other penalties for violations of this chapter, Band gaming laws, the IGRA, any tribal-state compacts, and other applicable law; and
 - (17) other activities as required by law.
- (b) **Rulemaking process.** The Authority shall promulgate Detailed Gaming Regulations authorized by this chapter with or without hearing according to the notice and comment process specified herein.
- (1) **Notice of intent to adopt.** The Authority shall give notice of its intent to adopt a Detailed Gaming Regulation by posting a copy of the notice on the Authority's website; by posting a copy of the notice in the Band Government Center and the Community Centers in Districts I, II, and III; and by delivering a copy of the notice by U.S. mail or other appropriate means to the Chief Executive, the Speaker of the Band Assembly, the Solicitor General, the Corporate Commissioner, and the manager of any gaming enterprise or gaming operation. The notice shall include a copy of the proposed regulation and a description of the nature and effect of the proposed regulation. In addition, the notice shall include the following statements:
 - (i) comments may be submitted on the proposed regulation no later than thirty (30) days from the date of the notice; and
 - (ii) the proposed regulation may be modified if supported by the data and views submitted.
 - (2) **Review; adoption; notice of adoption.** The Authority shall review all comments received during the comment period, shall make such changes to the proposed Detailed Gaming Regulation as it deems reasonable and appropriate, and shall approve the regulation by resolution. The regulation shall not become effective until after the 30-day comment period has concluded. The Authority shall, by official action, set the effective date of the regulation and publish and post copies of a notice of adoption of the regulation in the same manner as for the notice of intent to adopt the regulation. The notice of adoption shall summarize the final regulation and the changes to the proposed regulation, state the effective date, and announce that free copies of the regulation are available from the Authority. In addition, copies of the notice and the final regulation shall be delivered by U.S. mail or other appropriate means to all persons who were sent a copy of the notice of intent.

- (3) **Adoption is a compliance determination.** Approval of any Detailed Gaming Regulation by the Authority shall be considered a compliance determination for purposes of effecting an appeal pursuant to subchapter 6 of this chapter.
- (4) **Detailed Gaming Regulations.** The Authority shall adopt a set of Detailed Gaming Regulations. Any such gaming regulation may be annulled by statute.

Historical and Statutory Notes

Source:

Band Ordinance 44-03, § 11(d)(2).

Band Act 80-23.

§ 307. Monitoring and Investigation.

- (a) **General.** The Authority shall have the power and duty
 - (1) to monitor and investigate all gaming enterprises or gaming operations for compliance with the IGRA, Band gaming laws, any tribal-state compacts, and other applicable law and to undertake such related investigations and enforcement actions as it deems necessary, including but not limited to investigating and evaluating the effectiveness of the Band's gaming regulatory system;
 - (2) to help resolve all gaming-related patron and vendor complaints that have not been resolved by agreement of a complainant and the gaming enterprise or gaming operation;
 - (3) to grant, deny, or suspend licenses, prior to levying fines;
 - (4) to assure compliance with the rules concerning charitable gaming;
 - (5) to assure compliance with compulsive gambling cure and prevention requirements;
 - (6) to develop, maintain, and enforce a list of persons to be excluded from gaming enterprises or gaming operations; and
 - (7) to take any and all other similar action it deems to be necessary or desirable to carry out the powers and duties granted by this section.
- (b) **Scope of investigations and related activities.** Any investigations and related activities, including but not limited to electronic and non-electronic searches of credit histories, arrests, and judgements, and electronic surveillance shall be strictly limited to official Authority duties under law. All such investigations and related activities may be undertaken only after review by legal counsel that the scope and subject of

any such activities complies with this chapter and other applicable law. Individuals who perform investigations and related activities outside the scope of this chapter and other applicable law are subject to immediate dismissal and reasonable fines.

- (c) **Access.** The Authority shall have access to all books, files, records, reports, and other data regarding the operation of all gaming enterprises or gaming operations, whether in written or electronic form, as it deems necessary or desirable to carry out its legitimate regulatory duties as determined by the Authority.
- (d) **Surveillance.** The surveillance department shall be under the control and supervision of the Authority; however, a gaming enterprise or gaming operation shall have access to electronic surveillance output as further defined in the Detailed Gaming Regulations.
- (e) **Cooperation of the gaming enterprises or gaming operations with the Authority.** The Authority may:
 - (1) require associates of any gaming enterprise or gaming operation to compile and provide such data and to testify as to matters within their knowledge concerning the operation of the gaming enterprise or gaming operation; and
 - (2) require the associates of any company that is managing a gaming enterprise or gaming operation on behalf of Corporate Ventures, or any other person within the jurisdiction of the Band, to comply and provide such data and to testify as to matters within their knowledge concerning the operation of the gaming enterprise or gaming operation. The Authority may utilize licensing actions, reasonable fines, and any other enforcement powers vested to the Authority within this section to ensure cooperation.
- (f) **Due process protections.** Nothing in this chapter waives or diminishes any gaming enterprise's or gaming operation's or individual's right to due process and equal protection of the laws.

Historical and Statutory Notes

Source:

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

§ 308. Licensing.

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

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

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

(1) **Notices to applicants.**

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

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

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

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

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

- (iii) Upon enactment of this chapter, the Authority shall notify in writing existing key employees and primary management officials that they shall either:
 - (A) complete a new application form that contains the notice stated in § 308(c)(ii) above; or
 - (B) sign a statement that contains the notice stated in § 308(c)(ii) above and consent to the routine uses described in that notice.
- (iv) If there exist any key employees or primary management officials who have completed forms which did not contain the notice stated in clause (ii) above, then the Authority shall notify in writing such employees and officials that they shall either:
 - (A) complete a new application form that contains a notice regarding false statements; or
 - (B) sign a statement that contains the notice regarding false statements.

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

- (i) full name, other names used (oral or written), Social Security Number(s), birth date, place of birth, citizenship, gender, and all languages (spoken or written);
- (ii) current and the previous five (5) years of business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver’s license numbers;
- (iii) the names and current addresses of at least three (3) personal references, including one (1) personal reference who was acquainted with the applicant during each period of residence listed under clause (ii) above;

- (iv) current business, residence, and all mobile phone numbers;
 - (v) a description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
 - (vi) a description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
 - (vii) the name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
 - (viii) for each felony for which there is an ongoing prosecution or a conviction, the charge, the name, and address of the court involved, and the date and disposition, if any;
 - (ix) for each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within ten (10) years of the date of the application, the name and address of the court involved, and the date of disposition, if any;
 - (x) for each criminal charge (excluding minor traffic charges) whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed pursuant to clauses (viii) or (ix) above, the criminal charge, the name address of the court involved, and the date of disposition, if any;
 - (xi) the name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
 - (xii) a current photograph;
 - (xiii) any other information the Authority deems relevant; and
 - (xiv) fingerprints consistent with procedures adopted by the Band according to 25 C.F.R. § 522.2(g).
- (3) **Background investigations.** The Authority shall perform a background investigation for each primary management official and key employee in the gaming operation or gaming enterprise. The investigation must be sufficient to allow the Authority to make an eligibility determination under this section. The Authority is responsible for conducting the background investigations of primary management officials and key employees. The background

information shall include a review of criminal history records information maintained by the Federal Bureau of Investigations.

(4) **Mandatory licensing procedures.**

- (i) **Fingerprints.** Fingerprints of each applicant for the position of key employee or primary management official will be taken by the OGR&C and sent to either Minnesota Alcohol and Gambling Enforcement or the NIGC for a check of criminal history records maintained by the Federal Bureau of Investigations.
- (ii) **File retention.** When the Authority licenses a primary management official or key employee, the Authority shall maintain the information listed in § 308(c)(2) of this chapter.
- (iii) **Confidentiality of interviewees.** The Authority and its investigators shall keep confidential the identity of each person interviewed in the course of conducting a background investigation.
- (iv) **Investigative reports.**
 - (A) The Authority shall create and maintain an investigative report for each background investigation of a primary management official or key employee.
 - (B) Investigative reports shall include all of the following information:
 - (I) Steps taken in conducting the background investigation;
 - (II) results obtained;
 - (III) conclusions reached; and
 - (IV) the bases for those conclusions.
- (v) **Eligibility determinations.**
 - (A) Before a license is issued to a primary management official or key employee, the Authority shall make a finding concerning the eligibility of that person for receiving a gaming license by reviewing the applicant's prior activities; criminal record, if any; and reputation, habits, and associations.
 - (B) If the Authority, in applying the standards adopted herein, determines that licensure of the person poses a threat to the

public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of gaming, he or she shall not license that person in a key employee or primary management official position.

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

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

- (A) Before issuing a license to a primary management official or key employee, the Authority shall prepare a notice of results of the applicant's background investigation to submit to the NIGC.
- (B) The notice of results must be submitted to the NIGC no later than 60 days after the applicant begins working for any gaming enterprise or gaming operation.
- (C) The notice of results shall include the following information:
 - (I) the applicant's name, date of birth, and Social Security Number;
 - (II) the date on which the applicant began, or will begin, working as a primary management official or key employee;
 - (III) a summary of the information presented in the investigative report, including licenses that have previously been denied, gaming licenses that have been revoked, even if subsequently reinstated, every known criminal charge brought against the applicant within the preceding ten (10) years of the date of the application, and every felony offense of which the applicant has been convicted or any ongoing prosecution; and
 - (IV) a copy of the eligibility determination made in accordance with § 308(c)(4)(v) of this chapter.

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

- (A) All primary management officials and key employees of the gaming operation or gaming enterprise must have a gaming license issued by the Band.
- (B) The Authority is responsible for granting and issuing gaming licenses to primary management officials and key employees.
- (C) The Authority may license a primary management official or key employee applicant after submitting a notice of results of the applicant's background investigation to the NIGC, as required by § 308(c)(4)(vi) of this chapter.
- (D) The Authority shall notify the NIGC of the issuance of a license to a primary management official or key employee within thirty (30) days of issuance.
- (E) The Band shall not employ an individual in a primary management official or key employee position who does not have a license after 90 days of beginning work at the gaming operation or gaming enterprise.
- (F) The Authority must reconsider a license application for a primary management official or key employee if it receives a statement of itemized objections to issuance of such a license from the NIGC and those objections are received within thirty (30) calendar days of the NIGC receiving a notice of results of the applicant's background investigation.
- (G) The Authority shall take the NIGC's objections into account when reconsidering a license application.
- (H) The Authority will make the final decision whether to issue a license to an applicant for a primary management official or key employee position.
- (I) If the Authority has issued a license to a primary management official or key employee before receiving the NIGC's statement of objections, notice and a hearing shall be provided to the licensee, as required by § 308(c)(4)(ix) of this chapter.

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

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

- (I) poses a threat to the public interest;
 - (II) poses a threat to the effective regulation of gaming; or
 - (III) creates or enhances the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of gaming.
- (B) When the Authority does not issue a license to an applicant for a primary management official or key employee position, or revokes a previously issued license after reconsideration, it shall:
- (I) notify the NIGC; and
 - (II) forward copies of its eligibility determination and notice of results of the applicant's background investigation to the NIGC for inclusion in the Indian Gaming Individuals Record System.
- (ix) **Gaming license suspensions and revocations.**
- (A) If, after a license is issued to a primary management official or a key employee, the Authority receives notice from the NIGC that the primary management official or key employee is not eligible for employment, the Authority shall do the following:
- (I) immediately suspend the license;
 - (II) provide the licensee with written notice of the suspension and proposed revocation; and
 - (III) provide the licensee with notice of a time and place for a hearing on the proposed revocation of the license.
- (B) Following a revocation hearing, the Authority shall decide whether to revoke or reinstate the license at issue.
- (C) The Authority shall notify the NIGC of its decision to revoke or reinstate a license within 45 days of receiving notification from the NIGC that a primary management official or key employee is not eligible for employment.

- (x) **Standard for license denial.** If the Authority, in applying the standards of this chapter, determines that employment of a person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, the Authority shall not employ that person as a key employee or primary management official.
- (d) **Licensing a privilege.** Any gaming license, or finding of suitability or approval, which is issued by the Authority, shall be deemed a privilege subject to suspension or revocation.
- (e) **Burden on applicant.** The burden of proving an applicant's qualification to receive any license hereunder is at all times on the applicant. Applicants must accept any risk of adverse public notice, embarrassment, or other action which may result from the application process and expressly waive any claim for damages as a result thereof.
- (f) **Applicant claim of privilege.** An applicant may claim any privilege afforded by law in connection with a gaming license application or investigation, but a claim of privilege with respect to any testimony or evidence pertaining thereto may constitute sufficient grounds for denial, suspension, or revocation.
- (g) **Release of information.** All persons applying for a license shall agree to release all information necessary in order for the Authority to achieve its goals under this chapter, and to furnish such information to the Bureau of Indian Affairs, the NIGC, or such other governmental agency as may be required by law or any tribal-state compacts.
- (h) **License investigations.** The Authority may employ all reasonable means, including engaging outside services and investigators and convening hearings, to acquire the information necessary to determine whether or not a license should be issued, suspended, or revoked. Applicants and licensees shall also agree to release all information necessary in order for the Authority to achieve its goals under this section and to furnish such information to the Authority, the NIGC, or other agency as may be required by law or any tribal-state compacts. In conducting a background investigation, the Authority and its agents shall promise to keep confidential the identity of each person interviewed in the course of the investigation.
- (i) **License fees.** All gaming enterprises or gaming operations or persons applying for a license, or the gaming enterprise or gaming operation associated with the license applicant, shall be required to pay all applicable license fees and costs when due, including a reasonable deposit for costs incurred in obtaining information in connection with the license application, unless specifically waived in advance by the Authority. Estimates of licensing costs shall be provided to applicants within a reasonable period of time after a request is made. The Authority, prior to issuance of

the license, must receive all fees and costs, unless otherwise provided for in advance. Such fees shall be included in the Detailed Gaming Regulations.

- (j) **Appeals.** All customers, vendors, licensees, and persons who have been denied a license, or had their license suspended or revoked, may appeal pursuant to the procedures detailed in this chapter and the Detailed Gaming Regulations.
- (k) **Records retention of terminations.** The Authority shall retain, for no less than three (3) years from the termination date of any employee requiring a gaming license, the following documentation:
 - (1) application for licensing;
 - (2) investigative reports;
 - (3) eligibility determinations; and
 - (4) any appeal records.

Historical and Statutory Notes

Source:

Band Ordinance 44-03, § 11(d)(4).

Band Ordinance 25-13, § I.

Band Act 80-23.

§ 309. Compliance Determinations.

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

Historical and Statutory Notes

Source:

Band Ordinance 44-03, § 11(d)(5).

Band Act 80-23.

§ 310. Independent Audits.

- (a) **General.** The Authority may cause to be conducted independent auditing by a recognized independent accounting firm of each gaming enterprise or gaming operation for compliance with Band gaming laws, the IGRA, and any tribal-state compacts. The results of the audit shall be reported to the Band Assembly, the Chief Executive, and, to the extent required by law, the NIGC or other governmental entity possessing lawful oversight.
- (b) **Annual Audits.** The Authority shall cause to be conducted independent audits of gaming operations or gaming enterprises annually in a manner that conforms to generally accepted auditing standards. Copies of the annual audit of each licensed gaming operation or gaming enterprise, and each audit for supplies, services, or concessions of each gaming operation or gaming enterprise, shall be furnished to the NIGC, the Band Assembly, and the Chief Executive within 120 days after the end of each fiscal year of the gaming operation or gaming enterprise.
- (c) **Contracts.** Contracts related to class II or class III gaming that result in the purchase of supplies, services, or concessions for more than \$25,000.00 in any year, except contracts for professional legal and accounting services, shall be specifically included within the scope of any audit conducted under this section. The Authority may include any other contract of a lesser amount within the audit if the contract is related to class II or class III gaming.

Historical and Statutory Notes

Source:

Band Ordinance 44-03, § 11(d)(6).

Band Act 80-23.

§ 311. Enforcement.

Any enforcement action taken shall be fair and reasonable under the circumstances, shall be proportionate to the violation, and shall be designed to promote the goals of correction and improvement, unless the violation is such that correction and improvement is not possible. Any enforcement action taken by the Authority must be related to its gaming regulatory function. Any such enforcement action shall be considered to be a compliance determination and, as such, is appealable pursuant to subchapter 6 of this chapter. In a manner provided by a Detailed Gaming Regulation, the Authority may hold such hearings, make such findings, and issue such orders as

may be necessary to enforce Band gaming laws, the IGRA, any tribal-state compacts, and other applicable law, including but not limited to:

- (a) revoking or suspending any license issued to an individual, gaming supplier, or gaming enterprise or gaming operation as allowed by this chapter;
- (b) imposing civil fines reasonably proportionate to the activity being punished. Such monies shall be deposited in the Band's general fund. A fine schedule, including minimum and maximum fine amounts, shall be included in the Detailed Gaming Regulations; and
- (c) adding a person to a list of persons excluded from gaming enterprises or gaming operation.

Historical and Statutory Notes

Source:

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

§ 312. Limitations on Actions.

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

- (a) The Authority is not authorized to order the cessation of operations of a gaming enterprise or gaming operation. Such an order for cessation of operations of a gaming enterprise or gaming operation may only occur upon:
 - (1) recommendation by majority vote of the Authority to the Joint Session of the Band Assembly that a gaming enterprise or gaming operation be closed, citing the specific cause for which closure is being recommended and the conditions under which the cause of closure shall be determined remedied, thereby allowing the reopening of the gaming enterprise or gaming operation; and
 - (2) a super-majority vote of four (4) out of five (5) members of the Joint Session of the Band Assembly ordering closure of a gaming enterprise or gaming operation citing the specific cause for which closure is being recommended and the conditions under which the cause of closure shall be determined remedied, thereby allowing the reopening of the gaming enterprise or gaming operation.
- (b) All claims by patrons against a gaming enterprise or gaming operation shall be limited to a maximum recovery of \$10,000.00 per claim and a cumulative limit of \$20,000.00 per patron per year, regardless of the number of claims.

- (c) All claims by vendors or gaming suppliers against a gaming enterprise or gaming operation shall be limited to the amount of the contract between the vendor or gaming supplier and the gaming enterprise or gaming operation that is the subject matter of the claim. However, this provision is subject to the existence of an effective waiver of sovereign immunity pursuant to Mille Lacs Band Statutes. Under no circumstances shall punitive or other damages, costs, and fees be ordered.
- (d) All claims involving denial, suspension, or revocation of a gaming license shall be limited to an award of specific performance of granting or reinstating such license. No monetary award shall be awarded on a license claim.

Historical and Statutory Notes

Source:

Band Ordinance 44-03, § 11(d)(8).

Band Act 80-23.

§ 313. Excluded Persons.

- (a) **Exclusion list; creation; effect.** Subject to the criteria and procedures of this section, the Authority shall establish and maintain an exclusion list. Individuals whose names appear on the exclusion list shall not be allowed to enter any gaming enterprise or gaming operation or participate in any class II or class III gaming operated by any gaming enterprise or gaming operation, whether on behalf of the Band or an Indian charitable organization.
- (b) **Duty to exclude.** It shall be the duty of the Corporate Commissioner and the manager of each gaming enterprise or gaming operation to exclude or eject from a gaming enterprise any person whose name appears on the exclusion list. Any associate of a gaming enterprise or gaming operation who knows or has reason to know that an excluded person has entered or is attempting to enter a gaming enterprise or gaming operation shall be responsible for notifying appropriate staff and taking such other action as is within the scope of the associate's authority and responsibility to exclude or eject such person.
- (c) **Distribution and availability of exclusion lists.** The Authority shall maintain a list of persons to be ejected or excluded from gaming enterprises or gaming operations. It shall be the duty of the manager of each gaming enterprise or gaming operation to inform the Corporate Commissioner in writing of the name of each person who the manager reasonably believes meets the criteria for placement on the exclusion list as established by subsection(d) below. The Corporate Commissioner, in turn, will provide such names to the Director. The list shall be distributed to each gaming enterprise or gaming operation. The list shall be made available to law enforcement agencies if properly subpoenaed or upon request based upon a documented law enforcement need for the list. The following information, to the extent known, shall be provided for each excluded person:

- (1) the full name, date of birth, and all aliases;
 - (2) a physical description;
 - (3) the effective date the person's name was placed on the list;
 - (4) a photograph, if available;
 - (5) the person's occupation and current home and business address;
 - (6) the specific reason for exclusion;
 - (7) the date, if any, exclusion will expire; and
 - (8) such other information as may be deemed necessary by the Director or the Authority.
- (d) **Criteria for exclusion or ejection and placement on an exclusion list.** The Authority may, based upon the recommendation of the Director, or the Director by emergency enforcement order subject to the provisions of § 402(c) of this chapter, place a person on the exclusion list pending a hearing by the Authority if:
- (1) such person has been convicted, in any jurisdiction, of any felony crime that brings into question the person's honesty and integrity, including but not limited to shoplifting, theft, robbery, burglary, embezzlement, conspiracy to commit a crime, or of a gambling-related crime;
 - (2) such person has violated or conspired to violate any provisions of the IGRA, Band gaming laws, any tribal-state compacts, and other applicable law;
 - (3) such person has a notorious or unsavory reputation which would adversely affect public confidence and trust in gaming. The list of which acts constitute such reputation shall be included in the Detailed Gaming Regulations;
 - (4) her or his name appears on any valid and current exclusion list from another jurisdiction and the reason for exclusion from such other jurisdiction would also be likely to cause exclusion from Band gaming enterprises or gaming operation;
 - (5) pursuant to § 706 of this chapter, the person requests to be excluded, by means which allows the Authority to positively identify the person, due to a demonstrable gambling problem.

(e) **Procedure for entry of names.**

- (1) The Director of the Office of Gaming Regulation and Compliance shall investigate all matters concerning whether or not a person should be placed on the exclusion list. Upon a determination that a person satisfies any of the criteria listed in § 313(d) of this chapter, the person shall be deemed a candidate for exclusion and the Director shall prepare and submit a compliance recommendation as to whether the person's name should be added to the exclusion list and forwarded to the Authority for action. Such recommendation shall include the identity of the candidate and the nature and scope of the circumstances or reasons that such person should be placed on the exclusion list. Pursuant to § 402(b)(2) of this chapter, notice of the recommendation must be given to the person who is the subject of the recommendation and that person must be informed of the opportunity to offer oral or written testimony to the Authority concerning the recommendation. All testimony to the Authority shall be provided under oath or sworn affidavit and shall be subject to Band criminal prohibitions against perjury under 24 MLBS § 1204.
 - (2) If the Authority or subsequent review by District Court finds in favor of the candidate or excluded person, then her or his name shall be removed from the excluded list and her or his exclusion shall be terminated as of the date of the action by the Authority or the District Court. If the finding is against the candidate or excluded person, then her or his name shall be placed on the exclusion list. If no hearing is requested, then the person's name may be placed on the exclusion list. The Authority may place a person on the exclusion list either permanently or temporarily. If a person is placed on the exclusion list temporarily, then the Authority shall clearly state the period of time that the person will be on the exclusion list.
- (f) **Removal from the exclusion list.** Any person who has been placed on the exclusion list may petition the Authority in writing, not more frequently than once every six (6) months, that her or his name be removed from the list.
- (g) **Confidential data.** The exclusion list shall be classified as confidential limited availability data.
- (h) **Immediate removal of disorderly persons.** A gaming enterprise or gaming operation may immediately remove and bar re-entry of any person who engages in, or is reasonably believed likely to engage in, disruptive or unruly behavior, or any other behavior which presents a danger to the health, welfare, morals, or the public peace. The manager of the gaming enterprise or gaming operation may seek to have such a removed and barred individual placed on the exclusion list.

Historical and Statutory Notes

Source:

Band Ordinance 44-03, § 11(d)(9).
Band Act 80-23.

§ 314. Regulatory Role.

The Authority is to serve in a regulatory role, not in an operations role, in connection with gaming activities conducted by any gaming enterprise or gaming operation. The scope of the Authority's authority is limited strictly to the powers and duties specifically enumerated in §§ 304 through 313 of this chapter.

Historical and Statutory Notes

Source:

Band Ordinance 44-03, § 11(d)(10).
Band Act 80-23.

§ 315. Patron Dispute Resolution.

The Authority is authorized to promulgate Detailed Gaming Regulations governing patron dispute resolutions.

Historical and Statutory Notes

Source:

Band Act 80-23.

§ 316. Budget.

The Authority shall have budget and expenditure authority independent of gaming operations or gaming enterprise. Funding for the Authority shall be adequate to allow the Authority to perform the task of gaming regulation. Such funding for the Authority shall conform to Band appropriation laws and shall not be reliant on the discretion of any management official of a gaming enterprise or gaming operation who is subject to regulation of the Authority.

Historical and Statutory Notes

Source:

Band Ordinance 44-03, § 11(e).
Band Act 80-23.

§ 317. Legal Counsel.

The Authority is permitted to hire its own legal counsel independent of the Solicitor General. Any legal counsel hired under this provision may advise both the Board and OGR&C.

Historical and Statutory Notes

Source:

Band Act 80-23.

SUBCHAPTER 5

OFFICE OF GAMING REGULATION AND COMPLIANCE; DIRECTOR OF GAMING REGULATION AND COMPLIANCE

Section

401. Establishment; Appointment; Qualifications; Removal and Suspension.

402. Powers and Duties.

403. Regulatory Role.

§ 401. Establishment; Appointment; Qualifications; Removal and Suspension.

- (a) **Establishment.** There is hereby established the OGR&C, which shall be under the management and supervision of the Director, but subject to the ultimate control of the Board.
- (b) **Appointment of the Director.** The Director shall be appointed by the Board by majority vote and shall report to the Board as the Board requires.
- (c) **Qualifications.** The Director shall possess the following qualifications:
 - (1) experience and training in management and regulatory enforcement of sufficient scope, depth, and relevancy to enable her or him to direct the work of the OGR&C;
 - (2) high moral character with no conviction for a felony or any gambling-related offense;
 - (3) freedom from any conflict of interest created by outside business interest or occupation; and
 - (4) licensure as a primary management official.

- (d) **Removal; suspension.** The Director may be removed for cause as manifest by a super-majority vote of four (4) out of five (5) of the Board Members, including the Chairperson. In addition, if the Director is charged in any competent jurisdiction with a felony or any gambling-related crime, the Chairperson shall immediately suspend the Director with or without pay until the charges have been resolved.
- (e) **Vacancy.** If there is a vacancy for any reason, then the Chairperson shall immediately appoint an Interim Director, until the Board convenes to appoint a Director.

Historical and Statutory Notes

Source:

Band Ordinance 44-03, § 12(a).
Band Act 80-23.

§ 402. Powers and Duties.

- (a) **Director.**
 - (1) **Staff.** The OGR&C shall provide staff, administrative, and office support to the Authority. The Director shall appoint one or more gaming compliance officers, to whom he or she may delegate certain duties of the Director, and hire such other employees or consultants as may be necessary to perform the duties as set forth herein. All employee suspensions and terminations are appealable to the Board.
 - (2) **Day-to-day operations.** The Director shall be responsible for the day-to-day operations of the OGR&C, subject to the authority of the Board, including:
 - (i) enforcement of all applicable gaming laws and regulations at all gaming enterprises or gaming operations;
 - (ii) investigations of any matter within the scope of authority of the Authority as described in subchapter 4 of this chapter, including but not limited to performing or causing to be performed background investigations necessary to determine if any applicant for a primary management official, key employee or gaming supplier license required by this chapter, or the Detailed Gaming Regulations adopted by the Authority, meets the applicable licensure criteria;
 - (iii) assisting the Authority in defending all decisions where an adversely impacted license applicant files an appeal to such adverse decision;
 - (iv) investigating and evaluating the effectiveness and efficiency of the Band's gaming regulatory system and recommending changes;

- (v) investigating and monitoring all gaming enterprises or gaming operations for compliance with the IGRA, Band gaming laws, any tribal-state compacts, and other applicable law upon receiving any credible report of a violation of gaming statutes or regulations, or at random or periodic intervals, with or without prior notification to the management or associates of the subject gaming enterprise or gaming operation;
 - (vi) investigating all gaming-related patron and vendor complaints concerning a gaming enterprise or gaming operation that have not been resolved between the complainant and the gaming enterprise or gaming operation after full exhaustion of attempts to amicably settle the matter and make a compliance recommendation to the Authority concerning the matter;
 - (vii) investigating and monitoring all gaming enterprises or gaming operations for compliance with compulsive gambling cure and prevention requirements;
 - (viii) investigating and monitoring for compliance with all rules concerning charitable gaming;
 - (ix) investigating, monitoring, and assisting in all matters concerning the maintenance and enforcement of a list of persons to be excluded from gaming enterprises or gaming operations;
 - (x) at the request of the Authority, assisting the Authority in:
 - (A) the execution of any authorized enforcement actions;
 - (B) the preparation and defense of any appeal taken from any compliance determination; and
 - (C) the preparation of the annual budget which is to be submitted to the Band Assembly for direct appropriation for Authority activities; and
 - (xi) hiring and supervising the gaming compliance officers and other personnel of the OGR&C.
- (3) **Access to data and files of any gaming enterprise or gaming operation.** The Director shall have access to all areas, records, files, and data of any gaming enterprise or gaming operation, and may interview any associate of any gaming enterprise or gaming operation with respect to matters relating to the operation of any gaming enterprise or gaming operation without first

notifying the associate's supervisor or any other employee of any gaming enterprise or gaming operation, and shall have access to the results of background investigations carried out pursuant to subchapter 4 of this chapter or the Detailed Gaming Regulations adopted by the Authority.

- (4) **Gaming compliance officers.** Gaming compliance officers shall be considered key employees for purposes of background investigations and licensing. Gaming compliance officers shall be responsible for performing investigations and otherwise assisting the Director in carrying out the duties specified herein. The Director may delegate to gaming compliance officers any of the Director's powers and duties, except the power to appoint gaming compliance officers.
 - (5) **Security of records and access to offices.** The OGR&C shall take all measures necessary to safeguard and track records. In addition, access to the offices of the OGR&C shall be strictly controlled to assure security and maintain adequate separation of gaming regulation and gaming operations or gaming enterprises.
 - (6) **Agent for service of process.** The Director shall be the designated agent for service of any official determination, order, or notice of violation.
- (b) **Compliance recommendations; notice; time; content.**
- (1) **Compliance recommendation.** The Director shall submit a compliance recommendation to the Board Members and the persons stated in paragraph (2) below, which shall summarize the facts and state whether or not the license should be granted, suspended, or revoked; whether or not the documented practices and procedures satisfy the relevant statutes and regulations; and recommend appropriate corrective, enforcement, or other responsive action.
 - (2) **Notice; time; content.** The Director shall submit the written compliance recommendation within five (5) days to each Board Member, the Corporate Commissioner, the licensee or license applicant if the compliance recommendation involves a license denial, suspension, or revocation, and any vendor or patron who is the subject of a compliance recommendation for each investigation carried out pursuant to § 308(h) of this chapter. The notice shall state that the compliance recommendation will be heard by the Board prior to issuance of a compliance determination pursuant to § 309 of this chapter and contain a copy of the Authority's procedures for issuing of a compliance determination. In addition, the notice shall state that all parties have the right to legal counsel at the party's own expense, the right to appear before the Authority, the right to review the record upon which the initial compliance recommendation was made, and may supplement the record with additional information if deemed relevant by the Board.

- (c) **Emergency enforcement orders.** If the Director finds that there is an immediate threat to Band assets, or that probable cause exists to believe that a crime has been or is about to be committed, the Director may, by emergency order, immediately impose any legitimate regulatory enforcement or corrective action within the scope of the Authority's authority which is proportional to the harm such emergency order seeks to remedy. Emergency orders shall be in writing, and the Director shall immediately forward any such order, along with a supporting compliance recommendation, to the Authority and the Corporate Commissioner in the manner provided by § 313(d) of this chapter. The Authority shall act on any such order and compliance recommendation in the same manner provided by § 313(e) of this chapter, except that it shall convene to consider the order and compliance recommendation within three (3) days of having received the emergency order and supporting compliance recommendation. In any such proceeding, the compliance determination of the Authority shall supersede the Director's emergency order.

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

Historical and Statutory Notes

Source:

Band Ordinance 44-03, § 12(b).
Band Act 80-23.

§ 403. Regulatory Role.

The OGR&C is to serve in a regulatory role, not in an operations role. As such, the scope of the Director's authority is limited strictly to the powers and duties specifically enumerated in subchapter 5 of this chapter and to those powers and duties specifically granted to the Authority in subchapter 4 of this chapter, which have been specifically delegated to the Director by the Authority, including those limitations of actions described in § 312 of this chapter.

Historical and Statutory Notes

Source:

Band Ordinance 44-03, § 12(c).
Band Act 80-23.

SUBCHAPTER 6

APPEALS

Section

501. Who May Appeal.

502. Effecting an Appeal.

503. Procedure on Appeal; Standard of Review.

§ 501. Who May Appeal.

- (a) A Person who has been denied reversal of an adverse compliance recommendation or denied any other relief requested from the Authority may appeal such compliance determination or final enforcement order to the District Court.
- (b) A person who has received a compliance recommendation that recommends a license denial, suspension, or revocation may directly appeal to the District Court. If a person takes such action, then he or she waives any right to receive a compliance determination from the Authority.

Historical and Statutory Notes

Source:

Band Ordinance 44-03, § 13(a).
Band Act 80-23.

§ 502. Effecting an Appeal.

Any appeal shall be filed with the District Court and must be filed within twenty (20) days after the date of the issuance of a compliance determination, final order, or a compliance recommendation that denies, suspends, or revokes a license.

Historical and Statutory Notes

Source:

Band Ordinance 44-03, § 13(b).
Band Act 80-23.

§ 503. Procedure on Appeal; Standard of Review.

- (a) The District Court shall sit without a jury, confine its review to the Authority record, and apply an abuse of discretion standard. The filing of briefs and oral argument must be made in accordance with the Band rules governing civil cases.

- (b) The District Court may affirm the compliance determination or order of the Authority, remand the case for further proceedings, or reverse the compliance determination or order if the substantial rights of the petitioner have been prejudiced because the decision is:
- (1) in excess of the statutory authority or jurisdiction of the Authority;
 - (2) made upon unlawful procedure;
 - (3) unsupported by any evidence; or
 - (4) plainly in error.

Historical and Statutory Notes

Source:

Band Ordinance 44-03, § 13(c).

Band Act 80-23.

SUBCHAPTER 7

DATA PRIVACY

Section

601. General Rule.

602. Confidential Data.

603. Temporary Classification.

604. Information Sharing.

§ 601. General Rule.

All Authority data shall be public unless classified by a Band statute, regulation, or order, or by federal law, as confidential data. The Authority shall adopt and promulgate detailed and thorough rules pursuant to data privacy in its Detailed Gaming Regulations.

Historical and Statutory Notes

Source:

Band Ordinance 44-03, § 14(a).

Band Act 80-23.

§ 602. Confidential Data.

- (a) **Confidential limited availability data.** Confidential limited availability data shall consist of background investigations information, confidential financial information, compliance recommendations information, personnel data, and whether or not a person is on the exclusion list.
- (1) Background investigation information shall be available only in a case where information revealed through a background investigation is, in whole or in part, the basis for an adverse decision regarding a license applicant or license renewal. The information contained in such background investigation shall be made available to the license applicant or the person seeking license renewal if so requested.
 - (2) Compliance recommendations information shall be available only to the extent that the Authority adopts a compliance recommendation or accepts the record developed by the Director supporting a compliance recommendation. All information accepted or relied upon in such a manner shall be public.
 - (3) The availability of information regarding whether a person is on the exclusion list is limited to the receipt of such information by the person who is on the exclusion list or her or his agent pursuant to 25 C.F.R. § 515.8.
- (b) **Confidential restricted availability data.** Confidential restricted availability data shall consist of financial information on a gaming enterprise or gaming operation, information on a pending compliance recommendation, information on a pending license application, security information, and trade secret information.

Historical and Statutory Notes

Source:

Band Ordinance 44-03, § 14(b).

Band Act 80-23.

§ 603. Temporary Classification.

- (a) **Authority.** The Authority may, on its own motion or at the request of the Director, temporarily classify Authority data as confidential data if it determines that:
- (1) the data for which the temporary classification is sought has been treated as private or confidential by Corporate Ventures or other agencies of the Band or by the federal government; or
 - (2) a compelling need exists for immediate temporary classification, which, if not granted, could adversely affect the public interest or the health, safety, or well-being of the subject of the data.

- (b) **Ratification.** No later than July 1 of each year, the Authority shall submit all temporary classifications then in effect to the Corporate Commissioner for review. The Corporate Commissioner may comment on the classification and the Authority shall consider the comments of the Corporate Commissioner in reaching its decision. If the Corporate Commissioner fails to act by July 1 of the year following the submission of a temporary classification hereunder, then the classification shall thereupon expire.

Historical and Statutory Notes

Source:

Band Ordinance 44-03, § 14(c).
Band Act 80-23.

§ 604. Information Sharing.

The Authority may, on its own motion or at the request of the Director, share information with any regulatory agency of another gaming jurisdiction or any law enforcement agency where it is determined that sharing such information is in the best interest of the Band, where the agency with whom the information is to be shared assures that the shared information will remain confidential, if the other gaming jurisdiction agrees to share such information with the Band, and if sharing the information is not contrary to any applicable law.

Historical and Statutory Notes

Source:

Band Ordinance 44-03, § 14(d).
Band Act 80-23.

SUBCHAPTER 8

COMPULSIVE GAMBLING

Section

- 701. Policy.**
- 702. Program Content and Responsibility.**
- 703. Counseling Resources; Referrals.**
- 704. Associate Training.**
- 705. Patron Information and Education.**
- 706. Exclusion.**

§ 701. Policy.

Although gambling is an enjoyable form of entertainment for most people, the Band recognizes that some people may have difficulty keeping their gambling within reasonable limits. The Band is committed to helping these people to deal constructively with their actual or potential gambling problems, and in furtherance of this goal it has established the Mille Lacs Problem Gambling Prevention Program described in this section.

Historical and Statutory Notes

Source:

Band Ordinance 44-03, § 15(a).
Band Act 80-23.

§ 702. Program Content and Responsibility.

- (a) The Problem Gambling Prevention Program shall consist of the following elements:
 - (1) a referral system;
 - (2) associate training;
 - (3) patron information and education; and
 - (4) exclusion.
- (b) The Director, in consultation with the Corporate Commissioner subject to the review and approval of the Authority, shall develop and update as necessary a Problem Gambling Prevention Program. The Corporate Commissioner, subject to the oversight of the Director, shall implement the program in all gaming enterprises or gaming operations.

Historical and Statutory Notes

Source:

Band Ordinance 44-03, § 15(b).
Band Act 80-23.

§ 703. Counseling Resources; Referrals.

The referral system of the Problem Gambling Prevention Program shall be based on a current, computerized directory of organizations and individuals that have a reputation for providing effective assistance for individuals with gambling problems. The system shall include a process for referring patrons who seek help with such problems to resources listed in the directory and for encouraging them to take advantage of such resources.

Historical and Statutory Notes

Source:

Band Ordinance 44-03, § 15(c).

Band Act 80-23.

§ 704. Associate Training.

Problem Gambling Prevention Training shall be provided to all casino associates who have regular contact with patrons. This training program, which shall be provided as part of the associate orientation program and require subsequent periodic in-service refreshers, shall include but not be limited to the following:

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

Historical and Statutory Notes

Source:

Band Ordinance 44-03, § 15(d).

Band Act 80-23.

§ 705. Patron Information and Education.

- (a) **Generally.** Patrons shall be provided information on the Problem Gambling Prevention Program by signs and in promotional materials as provided in this section.
- (b) **Signs.** Signs that clearly and in plain language inform patrons about how to obtain assistance in dealing with gambling problems shall be prominently posted at the following locations in each gaming enterprise or gaming operation:
 - (1) at each entrance and exit;
 - (2) at any check cashing facility within the gaming enterprise or gaming operation;
 - (3) near any ATM cash machines at the gaming enterprise or gaming operation; and
 - (4) any other locations as determined by the Corporate Commissioner.

- (c) **Promotional material.** The Problem Gambling Prevention Program shall contain guidelines and suggestions for including messages about responsible gambling, the need for assistance to address problem gambling behavior, and the sources of such assistance. The Director shall monitor the promotional materials and campaigns of each gaming enterprise or gaming operation to ensure that such messages are being included to the extent appropriate and, in cooperation with the Corporate Commissioner, take such action as may be necessary to correct any deficiencies in this regard.

§ 706. Exclusion.

At the request of a patron who states that he or she may have a gambling problem, or at the request of an immediate family member of a patron who alleges that the patron has a gambling problem, the patron's name may be added to the exclusion list established pursuant to § 313(e).

Historical and Statutory Notes

Source:


Band Ordinance 44-03, § 15(e).

Band act 80-23.

**Act 80-23
(Band Assembly Bill 20-04-80-23)**

Introduced to the Band Assembly on this
Sixth day of December in the year .
Two thousand twenty-three.

Passed by the Band Assembly on this
Sixth day of December in the year
Two thousand twenty-three.


Sheldon Boyd, Speaker of the Assembly

APPROVED

Date: December 8, 2023


Melanie Benjamin, Chief Executive

OFFICIAL SEAL OF THE BAND

