

THE MINNESOTA CHIPPEWA TRIBE LAND ORDINANCE #3

WHEREAS, The Constitution of The Minnesota Chippewa Tribe was adopted for the purposes of conserving and developing tribal resources and for promoting the general welfare of the members of the Tribe, (Article I, Section 3) and

WHEREAS, The Constitution of The Minnesota Chippewa Tribe, Article V, Sec. 1, (f), vests in the Tribal Executive Committee powers "to manage, lease, permit, or otherwise deal with tribal lands....."

WHEREAS, The Constitution of the Minnesota Chippewa Tribe, Article VI, Sec. 1, (c) authorizes Band governments "to manage, lease, permit or otherwise deal with tribal lands, interests in lands or other tribal assets, when authorized to do so by the Tribal Executive Committee."

NOW THEREFORE BE IT RESOLVED, that Land Ordinance #3 is hereby adopted and shall govern the assignment, leasing, encumbering, and all other dispositions and uses affecting tribal lands:

Chapter 1 - Revoking all prior laws; jurisdiction.

Section 101 - To the extent they are inconsistent with the terms of this Ordinance, all prior ordinances, resolutions and regulations of the Minnesota Chippewa Tribe are hereby revoked and nullified. In the absence of Band government resolutions, ordinances and regulations, this Ordinance shall govern the occupancy and use of tribal lands.

Section 102 - Each Band government shall retain the inherent authority to protect and manage the use of lands, waters and resources with respect to its Reservation so as to secure the political and economic security of the Band, and the health and welfare of its members. Where the conditions imposed by a provision of this Ordinance are in conflict with a statute, ordinance or regulation of the Band government, this Ordinance authorizes the Band government to follow the provisions of its own law, insofar as such law is not contrary to the political or economic welfare of the Band, and does not directly affect any other Band government without its consent.

Chapter 2 - Definitions.

Section 201 - "Tribe" means The Minnesota Chippewa Tribe, operating under its Constitution adopted pursuant to Section 16 of the Act of June 18, 1934, (48 Stat. 984), as amended.

Section 202 - "Tribal Executive Committee" means the governing body of the Tribe as established by the Constitution of The Minnesota Chippewa Tribe, Art. III, Section 1.

Section 203 - "Band government" means the governments of the White Earth, Leech Lake, Fond du Lac, Bois Forte (Nett Lake), Grand Portage and Mille Lacs Reservations, as established by the Constitution of the Minnesota Chippewa Tribe, Art. III, Section 2, and referred to therein as "Reservation Business Committees."

Section 204-1 - "Tribal Lands" as used herein shall consist of the following: (a) Land restored to tribal ownership for use and benefit of the Minnesota Chippewa Tribe under Section 3 of the Act of June 18, 1934 (48 Stat. 984), 25 U.S.C.A. 463; (b) Lands purchased in trust for the Minnesota Chippewa Tribe under Section 5 of the Act of June 18, 1934 (48 Stat. 985), 25 U.S.C.A. 465; (c) Lands purchased for wild rice camp sites under Section 5 of the Act of June 18, 1934 (48 Stat. 985), 25 U.S.C.A. 465; (d) All unallotted land, Agency and School reserves, old Day School sites, and any and all other land or interest in land heretofore hereafter be acquired by or for the benefit of the Minnesota Chippewa Tribe, and all other land of the Tribe in any portion of Indian Country, as defined in 18 U.S.C. Sec. 1151, including any and all such lands held in fee by the Minnesota Chippewa Tribe.

Section 204-2 - "Tribal lands" include any buildings, fixtures or other permanent improvements not specifically excluded by agreement, and the natural resources situated on any tribal lands.

Section 204-3- "Natural resource" means any resource related to the lands held in fee or trust which would be subject to trust protection when such lands are held in trust for the Band or Tribe by the Federal Government.

Section 205 - "Land Assignment" means the granting of a limited right to occupy or use land for residential or community purposes only. Assignments shall be limited to Tribal members, Tribal groups and Tribal Associations.

Section 206 - "Land Lease" means an agreement of a specified duration between the Minnesota Chippewa Tribe and another party for a specified use of tribal lands.

Section 207 - "Public Use" means a use benefitting an entire reservation or an identifiable group or association of the resident tribal members.

Section 208 - "Secretary of the Interior Approval" means the approval required by Tribal or Federal Law for any actions affecting property held in trust by the United States for the Minnesota Chippewa Tribe.

Section 209 - "Restricted Areas" means any portion of areas of Indian Country, as defined in 18 U.S.C. Sec. 1151, of which a majority of the land is owned in fee by, or held in trust for the benefit of the Minnesota Chippewa Tribe and/or its constituent Bands and members, such lands having been designated under Tribal or Band statute, ordinance or regulation as being for the exclusive use and benefit of the Band and its members in furtherance of, and essential to, the Tribe or Band's self-government and conduct of internal relations, and over which the Band government may exercise exclusive regulatory authority.

Chapter 3 - "Duties and Powers of Tribal Executive Committee and Band Governments"

Section 301 - Pursuant to the Constitution of the Minnesota Chippewa Tribe, all tribal lands shall be managed, conserved and developed so as to promote the general welfare of members of the Tribe.

The Tribal Executive Committee shall retain, subject to the provisions of Sections 302 and 303, the authority to approve, reject or amend all assignments, leases, encumbrances, and other uses of tribal lands. All such decisions shall be final.

Section 302 (a) - Pursuant to the authority contained in the Constitution of the Minnesota Chippewa Tribe, Article V, Section I (f) and Article VI, Section 1 (c), the Band government shall have the option to manage, lease, permit, or otherwise deal with tribal lands within the Band's jurisdiction. Any Band government intending to obtain the benefits of this Section shall allow the Tribal Executive Committee sufficient notice of its intentions so that an orderly transition of records and management responsibility may occur. A Band government may upon thirty (30) days written notice, relinquish any responsibility and authority obtained under this Section.

Section 302 (b) - A Band government may, at its exclusive option, include any and all Tribal lands in a Band designated Restricted Area regardless of whether such lands are included in the provisions of Sec. 302(a).

Section 303 - Any person, group or other entity with an actual interest in the land, who is aggrieved by a decision of a Band government made pursuant to the authority granted under Section 302 may appeal to the Reservation Court of competent jurisdiction, or in the absence of such Court, appeal may be had to the Housing Subcommittee of the Tribal Executive Committee, or other Tribunal designated by the Band government for the purpose of hearing such appeals. Appeals shall be presented by the party appealing. Written notice of appeal specifying the grounds thereof from a Band government decision must be served and filed with the appropriate Court or Tribunal of jurisdiction, the Band government and The Tribal Executive Committee within fifteen (15) calendar days of the decision appealed.

Chapter 4 - "Land Assignments and Escheat"

Section 401 - Band governments may, at their option, choose to use either "Land Assignments", or "Leases" as the means of assigning property rights over Band or Tribal lands on or near the Band's Reservation. Leases shall be the preferred form for land transactions involving Tribal property rights with non-Tribal members.

Section 402 - Land assignments may be made to individual members of the Tribe for residential purposes only, or to tribal or non-profit reservation groups or associations for public use. In no event shall a profit-making activity be construed as a residential or community use.

Section 403 - Land assignments for residential purposes shall not exceed three (3) acres. The Tribal Executive Committee or Band government may for good cause grant a variance to authorize a residential land assignment that exceeds three (3) acres. All land assignments shall be subject to Tribal and Band Zoning and Land Use Ordinances.

Section 404 - Land assignments to tribal or reservation groups or associations for public purposes shall be limited in area in accordance with public purpose served.

Section 405 - Land assignments, may be for a stated period of time and revocable in accordance with the terms and conditions of a land assignment agreement; provided, that land assignments to individual members of the Tribe may be for as long as they shall occupy the land but for no longer than their natural lives.

Section 406 - All land assignment agreements shall be subject to the following restrictions and conditions:

- A. Any land assignment or rights or interests arising thereunder, shall not be reassigned or sold by the assignee.
- B. Any person who is not an enrolled member of the Minnesota Chippewa Tribe shall not be eligible to receive a land assignment, except as provided in Section 405, Subd. (D).
- C. Unless otherwise provided, buildings, improvements or fixtures placed upon Tribal lands pursuant to assignments shall be the separate property of the assignee, permittee or party to the contract, and shall be regarded as personal property regardless of the manner in which the same is affixed to the land. However, the Tribe shall be under no obligation to purchase such building improvements or fixture in the event they are not or cannot be removed.
- D. Preferences in the assignments of land to qualified Indians shall be as follows:

In the event of death of an assignee, and subject to the provisions of 25 U.S.C. Secs. 2201 et. seq., the surviving spouse, if an enrolled member, shall have a right to preference to such assignment, provided a claim for preference is filed in writing with the Tribal Executive Committee or Band Government within ninety (90) days after the death of the assignee. Where the surviving spouse is a non-member and there are minor children, the surviving spouse may be assigned the land until the youngest child reaches the age of majority.

- E. Breach of any terms of an assignment shall be grounds for termination of the assignment.

Section 407 - The Tribal Executive Committee or Band government shall develop a standard form for all land assignments.

Section 408 - In the event of the termination or the expiration of an assignment and the improvements are not removed within the period prescribed in the assignment then they shall become the property of the Tribe or the Band government administering the assignment.

Section 409 - Insofar as title to any allotted lands may escheat to the Tribe by operation of law or through condemnation or consolidation of fractionated interests on such lands, the Tribe shall transfer the title to the land to the Band government of the Reservation on which the land is located.

Chapter 5 - Subdivision, Platting and Public Uses.

Section 501 - Subject to the provisions of Section 102 of this Ordinance, the Band government shall

have power to subdivide or plat lands within the jurisdiction of the Band or within designated Restricted Areas. This includes the power to determine the acreage to be assigned for all purposes, to classify the use of any land, to set aside specific areas and otherwise reserve any and all lands for the benefit of the reservation or the Tribe, as it deems advisable; to classify agricultural and forest lands, to set aside and reserve land for woodlots, community and public use, recreation campgrounds or business sites, or other purposes.

Section 502 - In assigning acreage for either public or private use, the Tribal Executive Committee or the Band government shall take into consideration the amount of land available, the number of applicants, the least amount of acreage required in each case for actual use and shall also consider at all times the general welfare of the Tribe.

Section 503 - Land purchased, acquired or heretofore otherwise designated as wild rice camp, maple gathering camp, or in any other way designated as an area for the benefit and sustenance of the membership of the Minnesota Chippewa Tribe shall be subject, at all times, to the jurisdiction of the the Band government. Such lands shall be administered consistent with the purpose for which the same was reserved by Acts of Congress. However, if the Tribal government with jurisdiction should find it expedient to issue permits for certain portions of such land for residential or other purposes, the granting of such permits shall be in accordance with this Ordinance and shall require any assignee to make available to campers for harvesting, the portion of such campsite not actually occupied or used by the assignee.

Section 504 - A Band government may use its inherent sovereign powers of condemnation over any lands held in trust by the federal government for the benefit of Indians or subject to a restriction on alienation on or near its Reservation, including lands held in trust for the Minnesota Chippewa Tribe, *provided*,

- (A) the Band receives Secretary of the Interior Approval;
- (B) the condemnation is in the public interest; and,
- (C) just compensation and due process is afforded.

For purposes of this Ordinance, just compensation shall be, unless otherwise agreed between the Band and the owner, an amount equal to the fair market value of the land.

Chapter 6 - Leases and Permits

Section 601 - The Tribal Executive Committee or Band government shall prepare standardized forms which shall be used for all land transactions subject to this Section.

Section 602 - No land transactions subject to this Section shall be made for a term longer than ten (10) years, with provision for a ten (10) year extension or renewal, except that upon special application a twenty-five (25) year lease, with provision for twenty-five (25) year extension or renewal, may be granted in order to secure residential or business financing or to meet any other

special needs of a particular applicant. In no instance, however, shall a twenty-five (25) year land transaction be approved unless adequate documentation of the special need accompanies the application and such documentation demonstrates that the longer term will benefit the tribe generally, a specific tribal member, or a specific tribal or reservation group.

Section 603 - Terms and conditions, including payment provisions, of all land transactions subject to this Section shall be determined by The Tribal Executive Committee or, by a Band government administering Tribal Lands pursuant to Section 302 (a). The rental schedule shall be reviewed and adjusted at least once every five (5) years by the Tribal Executive Committee or Band government and said schedule shall be as uniform as possible within the Reservation on which such lands are located.

Section 604 - Land transactions under this Section for residential purposes shall not exceed three (3) acres. The Tribal Executive Committee may for good cause grant a variance to authorize a residential land lease, permit or contract that exceeds three (3) acres. All land leases, permits or contracts shall be subject to Tribal and Band Zoning and Land Use Ordinances.

Chapter 7 - Prior Assignments, Leases, Permits and Contracts.

Section 701 - No prior land transactions under Chapters 3 or 6 shall be affected by the provisions of this Ordinance. They shall remain governed by the laws applicable at the time granted. *Except that*, the provisions for commencing and enforcing an Unlawful Detainer and Writ of Restitution as contained in Sections 1101 and 1102 shall become immediately effective as to all leases permits or contracts affecting Tribal land. Wherever and whenever feasible, prior leases, permits and contracts should be renegotiated so as to conform to this Ordinance, and every effort must be made to ensure that all interests in Tribal land are recorded. No renewal or extension of any current leases or permits shall be granted except in conformity with this Ordinance.

Chapter 8 - Timber Permits and Contracts.

Section 801 - All leases, permits and contracts for the removal of standing timber attached to Tribal land shall be governed by the Band's Forest Management Plan.

Chapter 9 - Rights of Way Over Tribal Land.

Section 901 - All grants of rights-of-way over Tribal lands shall be in accordance with the regulations of the Department of the Interior and the applicable laws, except that all grants for future rights-of-way over Tribal lands shall be subject to the consent and approval of the officer of the Band government.

Chapter 10

Section 1001 - The waters within the bounds of the six member reservations of The Minnesota Chippewa Tribe will be protected from degradation. Sewage and waste disposal systems located on tribal lands will be constructed and/or maintained so as to effect no degradation of the quality of surface or ground waters. Degradation of water quality is defined as the introduction of any material, into any water system where the introduced material is not in conformance with any applicable Reservation Codes. Failure to comply with the regulations outlined in this Section will be grounds for termination of the granted lease, permit assignment or contract.

Chapter 11 - Unlawful Detainer

Section 1101 - In the event of violation of the terms of any land transaction under Chapter 3, or Chapter 4, an Unlawful Detainer action may be brought in the appropriate Reservation Court of competent jurisdiction, or in the absence of such Court, in the Housing Committee of Tribal Executive Committee, or in any other Tribunal designated by the Band Government.

Section 1102- In the event that an Unlawful Detainer is upheld this Chapter, causing a Writ of Restitution to issue, the occupant of the land and/or the record holder of the affected interest shall be notified in writing, by certified mail of the said decision. Said notice shall specify the grounds of the decision. The Band government shall retake possession of the land in any manner not likely to create a disturbance of the peace. If it is determined that peaceful repossession of the land cannot be accomplished, the Band government may, pursue any and all legal remedies, tribal, reservation, state or federal court, including forcible methods to effect the eviction of the unlawful possessor of such land.

Section 1103 - The termination and repossession provisions of this Section shall be made part of every Tribal land transaction and shall specify that these provisions provide the exclusive remedy for any party aggrieved by the termination of a transaction affecting Tribal land.

Section 1104 - The Unlawful Detainer provisions of the Reservation on which the Action is taken and heard shall control. In the absence of such law, the provisions of this Ordinance, and Ordinance 16, shall control.

We do hereby certify that the foregoing Ordinance was duly presented and acted upon by a vote of 8 For, 0 Against, 0 Silent at a Regular Meeting of the Minnesota Chippewa Tribal Executive Committee, a quorum present, held on October 22, 1997, at Onamia, Minnesota.

Norman W. Deschampe
Norman W. Deschampe, President
THE MINNESOTA CHIPPEWA TRIBE

Attest:

Eli O. Hunt
Eli O. Hunt, Secretary
THE MINNESOTA CHIPPEWA TRIBE