

FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA

ORDINANCE #02/10, AMENDED

NAME CHANGE FOR FOND DU LAC BAND MEMBERS

Adopted by Resolution #1105/10 of the Fond du Lac Reservation Business Committee on March 16, 2010.

Amended by Resolution #1378/11 of the Fond du Lac Reservation Business Committee on November 15, 2011.

Amended by Resolution #1120/13 of the Fond du Lac Reservation Business Committee on April 10, 2013.

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CHAPTER 1

AUTHORITY, PURPOSE AND SCOPE

Section 101 Authority

This Ordinance is enacted by the Fond du Lac Reservation Business Committee pursuant to the inherent sovereign authority of the Fond du Lac Fond du Lac Band of Lake Superior Chippewa, as reserved under the Treaty of LaPointe, 10 Stat. 1109, and as recognized under Section 16 of the Indian Reorganization Act, 25 U.S.C. § 476; Article VI of the Revised Constitution of the Minnesota Chippewa Tribe; Section 106 of the Fond du Lac Civil Code, FDL Ord. #04/02; and under the common law of the United States.

Section 102 Findings and Purposes

The Fond du Lac Reservation Business Committee finds that there is a need to establish a Band law authorizing and governing name changes within the Fond du Lac Reservation for enrolled members of the Fond du Lac Band.

Section 103 Reservation of Rights

The Reservation Business Committee reserves the right to amend or repeal all or any part of this Ordinance at any time. There shall be no vested private right of any kind created by this Ordinance. All the rights, privileges, or immunities conferred by this Ordinance or by acts done pursuant thereto shall exist subject to the powers of the Fond du Lac Band. Nothing in this Ordinance shall be construed to constitute a waiver of the sovereign immunity of the Fond du Lac Band or a consent to jurisdiction by any government or forum not expressly authorized to exercise jurisdiction under this Ordinance.

CHAPTER 2

DEFINITIONS AND INTERPRETATION

Section 201 **Definitions**

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

- (a) **"Band"** means the Fond du Lac Band of Lake Superior Chippewa.
- (b) **"Court Clerk"** or **"Clerk"** shall mean the Clerk of the Tribal Court.
- (c) **"Judge"** shall mean the presiding judge of the Fond du Lac Tribal Court.
- (d) **"Reservation Business Committee or "RBC"** means the governing body of the Fond du Lac Band of Lake Superior Chippewa.
- (e) **"Tribal Court"** or **"Court"** shall mean the Tribal Court of the Fond du Lac Band of Lake Superior Chippewa."

Section 201 **Interpretation**

The provisions of this Ordinance shall be interpreted in a manner which gives plain effect to its terms and purposes, and to avoid unnecessary conflicts of law.

CHAPTER 3
PROCESS FOR ESTABLISHING A NAME CHANGE

Section 301 Requirements for a Petition to Obtain a Change of Name

- a. All applications for Change of Name must be made to the Tribal Court by petition signed by the applicant. If the petition is for a person under 18 years of age, it must be signed by one (1) of the parents or, if the parents are deceased or have been deprived of custody by a court of competent jurisdiction, by the minor's legal guardian.
- b. The petition shall include the following:
- (1) Place of birth and residence;
 - (2) Present name;
 - (3) Name proposed;
 - (4) Reason for the Change of Name;
 - (5) If neither parent is living, the petition shall also name the nearest known relatives of the first degree and their place of residence;
 - (6) If the person is under 18 years of age, and the petition is signed by only one parent, it must include the address, if known, of the other parent;
 - (7) The petition shall also state whether the person has petitioned and been granted a Change of Name, by the Tribal Court, within the past twelve (12) months; and
 - (8) The petition shall include a statement that the name change is not being sought with fraudulent intent.
- c. The petition must be accompanied by at least one of the following in order to verify the applicant's age:
- (1) Certified copy of a birth certificate;
 - (2) Valid driver's license;
 - (3) Unexpired passport;

- (4) A certified copy of a baptismal certificate;
- (5) Tribal Identification Card; or
- (6) If none of the above is available, an affidavit witnessed by the Band Enrollment Officer attesting to the applicant's age.

The Court shall collect a fifty dollar (\$50.00) fee for the filing of a petition.

- d. The Clerk of the Court shall direct the applicant to serve a copy of the Notice of Name Change on any former spouse to whom an obligation exists under a Decree of Divorce. Additionally, in the case of a minor, if any of the child's parents or legal guardians did not sign the application, the applicant must serve a copy of the Notice of Name Change on the non-signing parents and legal guardians at least four (4) weeks before the hearing scheduled pursuant to Section 305. Proof of service shall be filed with the Court in accordance with the Fond du Lac Civil Code, FDL Ord. #04/92.

Section 302 Order Granting Petition

- a. After the filing of the petition, proof of service and verifying the age of the applicant, the Tribal Court shall issue an Order granting the request for a Change of Name, unless:
 - (1) The notice appears faulty;
 - (2) The Court has reason to believe the name change is being sought with fraudulent intent; or
 - (3) An objection is filed under Section 306.
- b. The Clerk of Court shall cause notice of the name change to be published in the next edition of the Fond du Lac Band newspaper.

Section 303 Notice to the Band Enrollment Office

Upon issuance of the Order, the Clerk of Court shall submit a certified copy to the Band Enrollment Office to be placed in the Band member's file. The Enrollment Office shall change the name on the file to the new name of the Band member, and shall also notify the Minnesota Chippewa Tribe Enrollment Officer of such change. New tribal identification cards shall be issued and the Band member shall surrender all old Band or tribal identification cards.

Section 304 Faulty Notice

The Tribal Court may order any correction in a Notice of Proposed Change of Name and any addition to a list of creditors to be notified that it may deem necessary. If the Court has reason to believe that any creditor has not been notified, it may order the applicant to file a credit report with the Court at the applicant's expense. In the event the Tribal Court orders corrections or additions, the notice period shall begin upon the applicant's sending to the Court copies of the corrected notice or proof of service.

Section 305 Minors: Order to Show Cause

- a. When a petition is filed on behalf of a minor Band member, the Court shall issue an Order reciting the filing of the petition, the name of the person for whom filed and the proposed name. The Order shall direct any parent, guardian or relative of the first degree interested in the matter to appear before the Court, at a time and place specified not less than four (4) nor more than eight (8) weeks from the date of the Order, to show cause why the petition for Change of Name should not be granted.
- b. If the parents are deceased, or have not consented to the Change of Name, the person shall cause a copy of the Order to Show Cause to be published in the Fond du Lac newspaper and/or such other newspaper of general circulation as the Court shall prescribe. Proof must be made to the satisfaction of the Court of such publication at the time of the hearing.

Section 306 Hearing

A petition filed on behalf of a minor shall be heard at such time as established by the Tribal Court. Objections may be filed by any interested person specified in Section 305(a). At the hearing, the Court may examine under oath, the minor child, petitioner, objectors, or others who have demonstrated an interest in the petition. The Court may exclude from any conference with the child, all other persons except a representative of the parents or legal guardian if it finds that to do so would be in the best interests of the child.

The Court shall then issue an Order Changing the Name or dismissing the application, as deemed just and proper based on evidence presented. In all cases, the Court shall act in the best interests of the minor.

Section 307 Automatic Change of Name

An adult Band member may change their married name back to their birth name at any time. No hearing, service of process, or publication is required. The Court shall issue an Order granting the request upon filing of the application.

0Section 308 Frequency

The Tribal Court shall grant no more than one (1) Change of Name to a Band member within any two (2) year period.

CHAPTER 4
EFFECTIVE DATE; AMENDMENTS; SEVERABILITY

Section 401 Effective Date

The provisions of this Ordinance shall become effective thirty (30) days from adoption by the Reservation Business Committee.

Section 402 Amendment or Recission

The Reservation Business Committee may amend this Ordinance as it deems necessary to protect the public health, safety and welfare of the Fond du Lac Reservation. The provisions of this Ordinance may be amended by resolution of the Reservation Business Committee.

Section 403 Severability

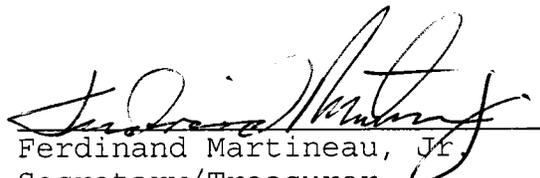
If any section, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance will not be affected thereby.

CERTIFICATION

We do hereby certify that the foregoing Ordinance #02/10 was duly presented and adopted by Resolution #1105/10 by a vote of 4 for, 0 against, 0 silent, with a quorum of 5 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on March 16, 2010 on the Fond du Lac Reservation; and subsequently amended by Resolution #1378/11 on November 15, 2011, and by Resolution #1120/13 on April 10, 2013.



Karen R. Diver
Chairwoman



Ferdinand Martineau, Jr.
Secretary/Treasurer