

ORDINANCE #5/84, as amended

FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA
BUSINESS LICENSE ORDINANCE

Adopted on June 21, 1984 by Resolution #129/84 of the Reservation Business Committee.

Amended on November 21, 1991 by Resolution #1140/91 of the Reservation Business Committee.

Amended on December 7, 1995, by Ordinance #08/95, adopted by Resolution #1416/95 of the Reservation Business Committee.

Amended on September 22, 2009 by Resolution #1368/09 of the Reservation Business Committee.

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1. TRADE, BUSINESS OR PROFESSIONAL LICENSE--ENTITLES REQUIRED TO OBTAIN

(a) Every entity, including, but not limited to, an individual, a group of individuals, a sole proprietorship, partnership, association, joint venture, or corporation, which, prior to the effective date of this code, was engaged in a trade, business, or profession, or commercial activity of any sort within the exterior boundaries of the Fond du Lac Reservation (hereinafter "Reservation" or Fond du Lac") shall, prior to August 31, 1985, (30 days after approval by the Secretary of Interior) and prior to January 31 of each calendar year thereafter, file with the Fond du Lac Reservation Business Committee (hereinafter "Fond du Lac"), an application for a business license which, upon issuance, shall entitle such entity to engage in the kind(s) of Business activity at the location(s) listed in the application.

(b) Every entity, including but not limited to, an individual, group of individuals, sole proprietorship, partnership, association, joint venture or corporation, intending to engage in a trade, business, profession, or commercial activity of any sort within the exterior boundaries of the Reservation, but which was not engaged in such activity prior to August 31, 1985, shall, prior to commencing business within the exterior boundaries of the Reservation, and prior to January 31 of each calendar year thereafter, file with Fond du Lac, an application for a business license, which, upon issuance shall entitle said entity to engage in the kind(s) of business activity at the location(s) listed in the application.

(c) Each application shall be accompanied by a \$50.00 payment which shall constitute the non-refundable application fee.

(d) (1) No license shall be required:

- (A) of any person engage in the ministry of healing by purely spiritual means or other religious activity;
- (B) of any entity 51% or more owned by the Fond du Lac Reservation Business Committee or the Minnesota Chippewa Tribe;
- (C) of any person under the age of 18 who conducts any activities which grosses less than three thousand dollars (\$3,000) in the prior calendar year;
- (D) of any person who is engaged in the production of the traditional crafts of the Ojibwe in the traditional manner provided the sales of such crafts is less than ten thousand dollars (\$10,000) in the prior calendar year;

(E) of any person who engaged in the harvesting or processing of "Wild Rice" in the traditional manner of the Ojibwe;

(F) of any person who engaged in a business operated entirely from their place of residence which grosses less than three thousand dollars (\$3,000) in the prior calendar year; or

(2) No officer or employee of any government and no individual in private or public employment which is compensated for services performed by him as an employee by his employer, shall, for such employment, be required to obtain a license; in the case of a partnership, association or joint venture, no license shall be required of any partner, associate or joint venture who does not engage in or conduct a trade, business or professional activity of the partnership, association or joint venture on the Reservation.

(e) A copy of the license application form may be obtained during regular business hours at the offices of the Fond du Lac Reservation Business Committee. The license required to be obtained under the provisions of this subsection shall be in addition to all other licenses, fees and permits required by law.

2. PROCEDURES

(a) Within 10 working days after receipt of an application and fee, as provided in Section 1, the Fond du Lac Reservation Business Committee shall issue to said applicant a license to engage in its business activity on the Reservation. Said license shall indicate the kind(s) and locations(s) of business activity for which the entity has been licensed.

(b) Notwithstanding subsection (a) of this section, no license shall be granted to any entity until it has presented proof to the Fond du Lac Reservation Business Committee that it has complied with all tribal requirements established as conditions of commencing business on the Reservation, including, but not limited to, the following:

(1) Pursuant to the Tribe's contract and employment preference code, evidence that the entity has submitted to the appropriate tribal enforcing agency the compliance plans required by those ordinances and has had such plans approved by the enforcing agency(s).

(2) If subject to the corporate code of the Fond du Lac Band of Lake Superior Chippewa has filed the proper documents authorizing it to conduct business as a corporation.

(3) If applicant's business activities on the Reservation involve contracting or subcontracting, no license shall be issued under this Ordinance in the name of a corporation or partnership unless (1) a copy of a certified corporate charter or certified partnership agreement has been filed with the Fond du Lac Registrar's Office, and (2) documentation of the entity's federal employer and state taxpayer identification numbers have been filed with the Fond du Lac Registrar's office.

(c) Notwithstanding subsection (a) of this section, where the Fond du Lac Reservation Business Committee has reason to believe that an entity applying for a license, pursuant to Section 1, shall, if permitted to commence business on the Reservation, present a danger to the political integrity, economic security, health, safety, welfare, or morals of residents of the residents of the Reservation, the Fond du Lac Reservation Business Committee shall, within 10 working days, provide said entity with a written notice setting out the reason it believes the entity presents such a danger and noticing a date for a hearing, said hearing to be held not later than 10 working days after the delivery of said notice. At said hearing the entity shall be given an opportunity to demonstrate that its business activity does not present a danger to the political integrity, economic security, health, safety, welfare, or morals of the residents of the Reservation. The Fond du Lac Reservation business Committee shall establish necessary procedures for said hearing that comply with the requirements of due process. However, the formal rules of evidence shall not apply. If the Executive Director or his authorized delegate of the Fond du Lac Reservation Business Committee finds, by a preponderance of the evidence, that a danger does exist, he shall, within 2 working days, so notify said entity, in writing, stating the reasons for his finding. Said entity may appeal the Director's decision to the tribal court and shall be entitled to an expedited hearing on the matter. If the Director finds there is no danger, he shall cause to issued within 2 working days, a business license to said entity.

3. POSTING

Every entity issued a license pursuant to Section 2 shall post it in a conspicuous place at the business location listed on the license, or, if it lists more than one location, it shall post a notice indicating the location at which the license is posted.

4. DURATION

All licenses issued under this Code shall remain in effect for the duration of the calendar year for which issued unless revoked as provided in this Code or under the provisions of any other Tribal Code and shall expire at Midnight on the 31st day of December of each year. No license may be transferred to any other party.

5. FAILURE TO APPLY FOR LICENSE

(a) An entity doing business on the Reservation which fails to obtain a license as provided for in the Code shall, in addition to being required to immediately obtain such a license and pay the requisite fee, be fined \$50 per day for each day it operated on the Reservation without a license, unless good cause is shown to the Executive Director as to why such a license had not been obtained in a timely manner. If the Executive Director or his authorized delegate becomes aware that an entity is conducting business on the Reservation without a license, he shall deliver, by hand, or by registered mail (return receipt requested), a notice to the entity informing it that it is operating on the Reservation in violation of this code and that it shall, within 2 working days, obtain such a license and pay such fines as are indicated in the letter. However, where the Director has reason to believe that the political integrity, economic security, health, safety, welfare or morals of residents of the Reservation are endangered by the continuation of such business activity, the Director may order such business to terminate all business activity until it has obtained a license.

(b) Any entity doing business on the Reservation without a license which fails to obtain a license within the time period required by the Executive Director or his authorized delegate of the Fond du Lac Reservation Business Committee as provided for in subsection (a) above, or any entity whose license to do business has been revoked by any court or agency of competent jurisdiction pursuant to any provision of this Code or any other Tribal Code, shall immediately cease to carry out business on the Reservation; provided that, upon a showing of good cause, the Executive Director or his authorized delegate of the Fond du Lac Reservation Business Committee or the Tribal Court may grant the entity a reasonable period during which to conclude his business so long as, during that time, the continuation of such business does not endanger the political integrity, economic security, health, safety, welfare, or morals of residents of the Reservation. Where notice to cease business is issued by the Executive Director or his authorized delegate, it shall be sent by certified mail (return receipt requested), or hand delivered by an employee of the Fond du Lac Reservation Business Committee.

6. SANCTIONS

(a) If an entity doing business on the Reservation that has been directed by the Executive Director or his authorized delegate of the Fond du Lac Reservation Business Committee or the Tribal Court to cease doing business on the Reservation, either pursuant to Section 5 of this Code or pursuant to the revocation of its license to do business on the Reservation under any other Tribal Code, fails to comply, the Executive Director or his authorized delegate shall petition the court for a show cause order as to why said business shall not be excluded from the Reservation. Where the Executive Director or his authorized delegate alleges that the business presents a danger to the political integrity, economic security, health, safety, welfare, or morals of residents of the Reservation, the Court shall hold an expedited hearing. If said entity fails to appear or fails to show good cause, the Tribal Court shall order to the Fond du Lac Conservation Department or other authorized Office to take appropriate action:

(1) Where the person or persons engaging in business are not members of the Minnesota Chippewa Tribe, the court shall order the police to physically remove all such persons from the Reservation along with any personal property used in the conduct of said business that can be removed without causing permanent damage to it. For property which cannot be so removed, such as a building, the court shall order, the police shall implement, the incapacitation of said property by padlocking or other means so that it can no longer be used to carry out business.

(2) Where the person or persons doing business in violation of this Code are tribal members they shall be prosecuted for criminal contempt of court and all personal and real property used in the conduct of said business shall be impounded, padlocked, or otherwise incapacitated so that it cannot be used to carry out further business on the Reservation. A corporation, partnership or other entity shall be considered a tribal "member" for purposes of this section only if 51% or more of the entity is owned by tribal members.

(b) An entity may recover all such property incapacitated or impounded under this section by paying to the Tribe the costs incurred by the Tribe in carrying out these legal proceedings as well as a fine not to exceed \$500 per day for each day that has passed since it was ordered by the executive Director or his authorized delegate of the Fond du Lac Reservation Business Committee or the tribal court to obtain the tribal license.

(c) An entity excluded or incapacitated under this provision shall be granted a new license to engage in business activity on the Reservation only if:

(1) no less than six months have passed since the date of the exclusion order and all outstanding fees and fines are paid; and

(2) the entity has paid all costs incurred by the Tribe in carrying out the exclusion or incapacitation order and has paid such fine as the court deems appropriate, but not to exceed \$500,000.00.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, the Executive Director or his authorized delegate of the Fond du Lac Reservation Business Committee or the court may, for good cause, deny such an entity a new license, or may waive or mitigate the provisions of subsections (1) and (2) of this section.

7. AMENDMENT OR RESCISSION

The provisions of this Ordinance may be amended or rescinded by Resolution of the Fond du Lac Reservation Business Committee.

CERTIFICATION

We do hereby certify that the foregoing Ordinance was duly adopted by Resolution #129/84 on June 21, 1984 by a vote of 2 for, 0 against, with a quorum of 3 being present at a Regular Meeting of the Fond du Lac Reservation Business Committee held on June 21, 1984 at Cloquet, Minnesota; and subsequently amended by Resolution #1140/91 on November 21, 1991; Ordinance #08/95 adopted by Resolution #1416/95 on December 7, 1995; and Resolution #1368/09 on September 22, 2009.



Karen R. Diver
Chairwoman



Ferdinand Martineau Jr.
Secretary/Treasurer



Fond du Lac Band of Lake Superior Chippewa
1720 Big Lake Road, Cloquet, MN 55720
Business License Application
For the Calendar Year 2____

Name of Business: _____

Telephone Number: _____

Contact Person's Name: _____

Mailing Address: _____

City/State: _____

Zip Code: _____

e- mail address: _____

1. Form of Business: (Corporation, Partnership, Sole Proprietorship, etc): _____
If corporation or partnership, where registered: _____
(Attach a certified copy of the Articles of Incorporation and/or Partnership Agreement)
2. Type(s) of Business: _____
3. Business location(s) within the boundaries of the Fond du Lac Reservation: _____

4. Description of activities to be conducted by the applicant business within the boundaries of the Fond du Lac Reservation: _____

5. Owner(s) Name and Address: _____ Tribal Member Yes No

Owner(s) Name and Address: _____ Tribal Member Yes No

6. Will the applicant engage in any contracting or subcontracting activity? Yes No

If yes, the applicant must submit a plan to the Executive Director of the Fond du Lac Reservation Business Committee, or his designee, in compliance with the Fond du Lac Tribal Employment Rights Ordinance, FDL Ord. #12/94. Applicant hereby acknowledges that the issuance of a business license is contingent upon its compliance with FDL Ord. #12/94, and failure to remain compliant will result in the revocation of its business license.

Contractors and Subcontractors: Please attach a completed W-9 form (a copy can be downloaded from website: www.irs.gov) and a copy of documentation from the State where your business is registered evidencing the taxpayer identification number issued by said State.