

FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA

JUVENILE TOBACCO USE

ORDINANCE #02/08

Adopted pursuant to Resolution #1175/08 of the Fond du Lac Reservation Business Committee on July 29, 2008.

Amended pursuant to Resolution #1106/19 of the Fond du Lac Reservation Business Committee on April 30, 2019.

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**CHAPTER 1
AUTHORITY AND PURPOSE**

Section 101 Authority

This Ordinance is enacted pursuant to the inherent sovereign authority of the Fond du Lac Reservation Business Committee, as the governing body of the Fond du Lac Band of Lake Superior Chippewa, as recognized under Section 16 of the Indian Reorganization Act of 1934, 25 U.S.C. § 476, Section 201(2) of the Indian Civil Rights Act of 1968, 25 U.S.C. §1301(2), Article VI of the Revised Constitution of the Minnesota Chippewa Tribe, and under the common law of the United States of America.

Section 102 Findings, Purpose and Scope

- a. The Reservation Business Committee finds that:
- (1) Many persons under the age of 18 purchase or otherwise possess and use tobacco products and tobacco-related devices on the Fond du Lac Reservation;
 - (2) Studies have shown that most smokers begin smoking before they have reached age 18, and that those persons who reach age 18 without having started smoking are significantly less likely to begin smoking; and
 - (3) Smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on the community and all levels of government.
- b. For these reasons, it is the public policy of the Fond du Lac Band to discourage, and to take reasonable measures towards the prevention of, the use of tobacco products by minors on the Fond du Lac Reservation.
- c. This Ordinance is accordingly intended to regulate possession and use of tobacco, tobacco products, tobacco-related devices, and electronic delivery devices by minors on the lands

of the Fond du Lac Band, and to protect minors against the serious effects associated with the use of tobacco, tobacco products, and tobacco related devices.

Section 103 Reservation of Rights

Nothing in this Ordinance, nor any action hereunder, shall operate as a waiver of the sovereign immunity of the Fond du Lac Band or as a consent to jurisdiction by any court or agency for any matter arising under law or equity with respect to the subject matter herein.

CHAPTER 2
DEFINITIONS & INTERPRETATION

Section 201 **Definitions**

The following definitions shall apply in the meanings and interpretation of the provisions of this Ordinance:

- a. “Band lands” or “Lands of the Fond du Lac Band” means, for the purposes of this Ordinance:
 - (1) Any lands which are held in trust or other restricted status by the United States for the benefit of the Fond du Lac Band or its members;
 - (2) Any lands which are held in trust or other restricted status by the United States for the benefit of the Minnesota Chippewa Tribe or its members which lie within the boundaries of the Fond du Lac Reservation; and
 - (3) Any lands which are held in fee by the Fond du Lac Band or any political subdivision of the Band.

- b. “Electronic delivery device” means any product containing or delivery nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product. Electronic delivery device includes any component part of a product.

- c. “Fond du Lac Band” or “Band” means the Fond du Lac Band of Lake Superior Chippewa.

- d. “Law Enforcement Officer” means any law enforcement officer authorized to enforce the actions arising out of the operation of this Ordinance, including any police, conservation, or animal control officer of the Fond du Lac Band.

- e. “Minor” shall mean any person under the age of 18.

- f. “Reservation Business Committee” means the duly elected governing body of the Fond du Lac Band.

- g. “Retail establishment” shall mean any place of business where tobacco, tobacco

products, or tobacco-related devices are available for sale to the general public. Retail establishments shall include, but not be limited to, grocery stores, convenience stores, and restaurants.

- h. “Sale” shall mean any transfer of goods for money, trade, barter, or other consideration.
- i. “Tribal Court” means the Court of the Fond du Lac Band Section 202. Interpretation The provisions of this Ordinance shall, to the greatest extent possible, be interpreted and implemented in a manner which is consistent with other applicable laws, regulations and procedures of the Fond du Lac Band as established by the Reservation Business Committee.

CHAPTER 3
PROHIBITIONS AND REQUIREMENTS

Section 301 Prohibitions on Possession, Use or Procurement of Tobacco Products

Unless otherwise provided, the following acts shall be a violation of this Ordinance:

- a. Illegal Possession. It shall be a violation of this Ordinance for any minor to have in his or her possession any tobacco, tobacco product, tobacco-related device, or electronic delivery device on lands of the Fond du Lac Band.
- b. Illegal Use. It shall be a violation of this Ordinance for any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, tobacco-related device, or electronic delivery device on lands of the Fond du Lac Band.
- c. Illegal Procurement. It shall be a violation of this Ordinance for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, tobacco-related device, electronic delivery device on lands of the Fond du Lac Band.

Section 302 Prohibition on the Use of False Identification for the Purpose of Procuring Tobacco Products

It shall be a violation of this Ordinance for any minor, in attempting to procure tobacco products on lands of the Fond du Lac Band, to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

CHAPTER 4 ENFORCEMENT

Section 401 Enforcement Authority; Jurisdiction of Fond du Lac Tribal Court

The provisions of this Ordinance may be enforced by any law enforcement officer of the Fond du Lac Band, or by any other person who is duly authorized by Resolution of the Reservation Business Committee. The prosecution of violations of this Ordinance shall be subject to original jurisdiction of the Fond du Lac Tribal Court.

Section 402 Notice

Upon discovery of a suspected violation of this Ordinance, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator, and parent or guardian, of the date and time of appearance before the Tribal Court.

Section 403 Continued Violation

Each violation of this Ordinance, and every day in which a violation occurs or continues, shall constitute a separate offense.

Section 404 Penalties

A minor found in unlawful possession of, or who unlawfully purchase or attempt to purchase tobacco, tobacco products, tobacco-related devices, or electronic delivery devices shall be subject to the following restitutions or sanctions of the Tribal Court:

Section 405 Exceptions and Defenses

Nothing in this Ordinance shall prevent the possession or use of tobacco, tobacco products, tobacco-related devices, or electronic delivery device by a minor as part of or for recognized religious, spiritual, or cultural reasons.

Section 406 **Failure to Appear**

Any individual who has been duly served in accordance with this Ordinance and fails to appear before the Tribal Court without just cause shall be subject to a default judgment, provided that he or she is found guilty of the charge upon which he or she was originally cited.

CHAPTER 5
EFFECTIVE DATE; AMENDMENTS; SEVERABILITY

Section 501 **Effective Date**

The provisions of this Ordinance shall become effective sixty (60) days from adoption by the Reservation Business Committee.

Section 502 **Additional provisions and requirements**

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.

Section 503 **Severability**

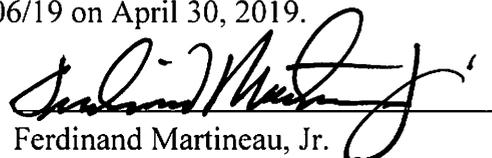
If any section, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance will not be affected thereby.

CERTIFICATION

We do hereby certify that the foregoing Ordinance #02/08 was duly presented and adopted by Resolution #1175/08 by a vote of 4 for, 0 against, 0 silent, with a quorum of being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on July 29, 2008 on the Fond du Lac Reservation; amended by Resolution #1106/19 on April 30, 2019.



Kevin Dupuis
Chairman



Ferdinand Martineau, Jr.
Secretary/Treasurer