

**FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA**

**ORDINANCE #04/10, AS AMENDED**

**MARRIAGE, DOMESTIC PARTNERSHIP & DIVORCE**

Adopted by Resolution #1109/10 of the Fond du Lac Reservation Business Committee on March 16, 2010.

Amended by Resolution #1147/10 of the Fond du Lac Reservation Business Committee on April 15, 2010.

Amended by Resolution #1221/10 of the Fond du Lac Reservation Business Committee on June 15, 2010.

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## TABLE OF CONTENTS

CHAPTER 1	AUTHORITY, FINDINGS, PURPOSE . . . . .	1
CHAPTER 2	DEFINITIONS . . . . .	2
CHAPTER 3	MARRIAGES . . . . .	3
CHAPTER 4	DOMESTIC PARTNERSHIPS. . . . .	6
CHAPTER 5	DIVORCES . . . . .	9
CHAPTER 6	EFFECTIVE DATE, AMENDMENTS, SEVERABILITY	13
	CERTIFICATION . . . . .	13

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CHAPTER 1

AUTHORITY, PURPOSE AND SCOPE

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**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 laws authorizing and governing marriages, domestic partnerships, and divorces within the Fond du Lac Reservation where at least one of the parties is an enrolled member 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.

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## CHAPTER 2

### DEFINITIONS AND INTERPRETATION

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#### 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) **"Band lands"** means any lands owned in trust or in fee by the Fond du Lac Band over which the Band possesses regulatory authority.
- (c) **"Court Clerk"** or **"Clerk"** shall mean the Clerk of the Tribal Court.
- (d) **"Defendant"** shall mean the person or persons that the Plaintiff has filed suit against.
- (e) **"Dissolution or Divorce"** shall mean the termination of a marriage.
- (f) **"Judge"** shall mean the presiding judge of the Fond du Lac Tribal Court.
- (g) **"Reservation"** means the Fond du Lac Reservation.
- (h) **"Reservation Business Committee or "RBC"** means the governing body of the Fond du Lac Band of Lake Superior Chippewa.
- (i) **"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.

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**CHAPTER 3  
MARRIAGES**

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**Section 301      Recognition of Marriages Performed in Other Jurisdictions**

The Fond du Lac Band of Lake Superior Chippewa shall recognize as valid and binding any marriage between two persons which is formalized or solemnized in compliance with the laws of the place of formalization or solemnization.

**Section 302      Issuance of License**

The Clerk of the Tribal Court shall be authorized to issue a license to marry any two people, one of whom is a member of the Fond du Lac Band, within the Band's jurisdiction, where both persons are at least 18 years of age or, if either person is 16 or 17 years of age, with the signed and sworn consent of his or her custodial parent(s). The fee for issuance of a marriage license shall be fifty (\$50.00) dollars. The license shall remain valid for 30 days after issuance. The Clerk shall maintain records of the issuance of the marriage licenses and certificates of marriage as permanent records of the Band.

**Section 303      Qualifications, Application & Issuance of License**

a. The application for a marriage license from the Fond du Lac Band shall contain the following:

- (1) The names and addresses of the parties to be married;
- (2) The Band membership status and tribal enrollment number of the parties who are members of the Fond du Lac Band;
- (3) The name, address, and legal authority of the person who will perform the marriage ceremony; and
- (4) The full names the parties will have after marriage.

The application must be sworn to by both parties to be married.

The Clerk of Court shall charge an application fee of fifty dollars (\$50.00) for the marriage license.

b. The marriage may be performed by the Chairperson of the Fond du Lac Band, a judge of a Fond du Lac Tribal Court, an Indian traditional practitioner or spiritual leader or member of the

clergy who is so recognized by the parties making such application.

- c. Subsequent to the performance of a marriage and within ten (10) days thereof, two fully executed and conformed copies of the marriage license, executed by two witnesses to the ceremony and the person who conducted the ceremony, shall be returned to the Clerk of Court. The Clerk of Court shall permanently maintain a record of the marriage.
- d. The Clerk of Court shall, within three days, examine the application for a marriage license and the said license and certification of the person performing the marriage to ensure that the information appearing thereupon is proper and in accordance with the provisions of the license and this Ordinance. Upon a determination that the materials are in proper form and there has been compliance with the terms of the license and the provisions of this Ordinance, the Clerk of Court shall cause a Certificate of Marriage to be issued by the Tribal Court over his or her signature.
- e. The parties to such marriage may obtain a certified copy of the marriage license or a certified copy of the Certificate of Marriage if they should desire, and such documents shall be issued by the Clerk of the Court for a fee of five (\$5.00) dollars.
- f. The Clerk of Court shall permanently maintain records of all marriages licensed under this Chapter.

**Section 304      Prohibited Marriages**

The following marriages are prohibited:

- a. A marriage entered into before the dissolution of an earlier marriage of one of the parties becomes final;
- b. A marriage between an ancestor and a descendant, or between a brother and a sister, whether the relationship is by the half or the whole blood or by adoption;
- c. A marriage between an uncle and a niece, between an aunt and a nephew, or between first cousins, whether the relationship is by the half or the whole blood, except as to marriages permitted by the established customs of aboriginal cultures;  
or
- d. A marriage involving a party under legal guardianship.

**Section 305      Annulments**

Any marriage performed under this Chapter may be annulled by consent of the parties if evidenced by mutually executed petition where such petition is filed with the Tribal Court within 20 days of the performance of said marriage. Upon the timely filing of such petition, the Court shall issue a certificate of annulment within 10 calendar days.

**Section 306      Name Changes**

- a. Upon entering into a marriage, either party to the marriage may request a name change. A party may change his or her first and last name. The new last name need not be the other party's last name or a combination of the parties' last names.
- b. The parties to the marriage shall request any name changes by indicating their new names on their marriage application. A person seeking a name change must affirm that the name change is not being sought with fraudulent intent. The name change shall be granted unless there is reason to believe the name change is being sought with fraudulent intent. The name change shall be effective when the Certificate of Marriage is issued.
- c. If either party to the marriage obtains a name change, 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.
- d. If a Band member changes his or her name upon entering a marriage, the Clerk of Court shall provide notice to the Band Enrollment Office. The Clerk of Court shall submit a certified copy of the marriage license and Certificate of Marriage 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.

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**CHAPTER 4**  
**REGISTRATION OF DOMESTIC PARTNERSHIPS**

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**Section 401**      **Purposes**

The Reservation Business Committee recognizes that the concept of familial relationships may extend beyond traditional marital and blood relationships. This expanded concept is intended to accommodate the relationship of two (2) non-married but committed adult partners in order to provide such persons the opportunity to declare themselves as domestic partners, and to enable employers to voluntarily provide equal treatment in employment benefits for such partners and their dependents.

**Section 402**      **Definition of Domestic Partners**

Domestic partners are two (2) adults who:

- a. Are not related by blood or adoption closer than permitted under marriage laws of the state;
- b. Have entered into a committed interdependent relationship;
- c. Are competent to enter into a contract;
- d. Have no other domestic partner with whom the household is shared, or with whom the adult person has another domestic partner;
- e. Are jointly responsible to each other for the necessities of life; and
- f. For purposes of this Chapter, and only to the extent of the rights and responsibilities established therein, the term "domestic partnership" shall include two (2) adults who have a currently-registered domestic partnership with a governmental body pursuant to applicable law authorizing such registration. The term "domestic partnership" shall be construed liberally to include unions, regardless of title, in which two (2) adults are committed to one another in the same manner as married persons are traditionally committed, or in a relationship that is legally recognized as a contract of lawful marriage in another local, state, or foreign jurisdiction.



**Section 403      Registration of Domestic Partners**

- a. The Clerk of Court shall accept an application to register as domestic partners from persons who state in such application that they meet the definition of domestic partners set out in Section 402. Subsequent changes in address shall be promptly reported to the Clerk.
- b. The Clerk of Court shall charge an application fee of fifty dollars (\$50.00) for the registration of a domestic partnership and shall charge a reasonable fee per document for providing certified copies of registrations, amendments or notices of termination. There shall be no charge for filing amendments or notices of termination.
- c. The Clerk of Court shall provide each domestic partner with a registration certificate. The registration certificate shall not be issued prior to the third working day after the date of application.
- d. This application and certificate may be used as evidence of the existence of a domestic partners relationship.
- e. The Clerk of Court shall keep a record of all registrations of domestic partnership, amendments to registrations and notices of termination received by the Clerk. The records shall be maintained so that amendments and notices of termination are filed with the registration of domestic partnership to which they pertain.
- f. The application and amendments thereto, the registration certificate, and termination notices shall constitute confidential data within the meaning of the Data Management & Records Management Policy of the Fond du Lac Band.

**Section 404      Amendments**

The Clerk of Court may accept amendments for filing from persons who have domestic partnership application on file, except amendments which would change the identity of the partners.

**Section 405      Termination of Domestic Partnership**

- a. Either person in a domestic partnership may initiate termination of the domestic partnership relationship, by written notification to the Clerk of Court. The Clerk shall promptly notify the other partner at the address of record by certified mail.

- b. A domestic partnership registration terminates when the earlier of the following occurs: (1) One of the partners dies; or (2) Forty-five (45) days after one partner sends the other a written notice of termination that he or she has terminated the partnership by filing a notice of termination with the Clerk of Court; or (3) Forty-five (45) days after the Clerk notified the non-filing partner of the filing of any notice of termination.
  
- c. If any of the criteria under Section 402 ceases to exist the parties shall be ineligible for any benefits based upon the domestic partnership unless otherwise provided by law or the employer.

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**CHAPTER 5**  
**DIVORCES**

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**Section 501      Requirements for Dissolution of Marriage**

A marriage may be dissolved or terminated by the Fond du Lac Tribal Court only when all the following conditions are met:

- a. One spouse is a member of the Fond du Lac Band;
- b. Irreconcilable differences have caused the breakdown of the marriage and the marriage should be dissolved;
- c. There are no children of the marriage, natural or adopted, and no spouse (to the best of her knowledge) is pregnant; or a written agreement has been filed resolving all issues of child custody, support and visitation;
- d. [RESERVED];
- e. No unpaid obligations totaling \$25,000 have been made or assumed by either or both persons after the date of the marriage, except the unpaid balance of a mortgage, an automobile loan or a student loan;
- f. The parties sign a written agreement regarding the division of personal property, assets acquired during the marriage and debts incurred during the marriage;
- g. Both parties have waived any right to spousal support; and
- h. If a spouse is neither a tribal member nor a resident of the reservation, that spouse has consented to the jurisdiction of the Tribal Court, waiving the right to contest the jurisdiction of the Tribal Court to enter a final judgement.

**Section 502      Filing of Joint Petition; Content and Form**

The proceeding for the Dissolution of Marriage shall commence by filing a joint petition with the Clerk of Court. The petition shall be signed and verified under oath by both spouses, and shall state that as of the date of its filing each requirement in Section 401 except for (f)(2) has been met. The Petition shall state the mailing address of both spouses, and shall also state whether or not a spouse chooses to have the spouse's maiden or former name restored. If so, the spouse shall state the name to be restored.

**Section 503      Counseling**

Upon the filing of the petition, the Clerk shall notify both spouses of the availability of marital counseling through the Band's Behavioral Health Department.

**Section 504      Revocation of Joint Petition; Termination of Proceeding; Notice; Filing and Copies to Other Spouse**

- a. At any time prior to filing an application for entry of final judgment, either spouse may revoke the joint petition and terminate the dissolution.
- b. The revocation shall be completed by filing a Notice of Revocation with the Court.
- c. The revoking spouse shall serve a copy of the Notice of Revocation on the other spouse.

**Section 505      Appearance; Entry of Final Judgment; Waiting Period; Notice**

Not more than 90 days from the date of filing the Joint Petition for Dissolution of Marriage, one or both spouses may appear in Tribal Court and an application for final judgment shall be entered. The Court shall enter a final judgment, provided, the agreement for property division, and any child support, that appears to be fair. The final judgment shall return both spouses to the status of single, and shall permit either party to marry after the judgment has been entered. The Clerk, after collecting the fee, shall send a Notice of Entry of Final Judgment to each person at their last known address.

**Section 506      Final Judgment as Final Decree**

When entered, the Final Judgment shall document a final decree of the rights and obligations of both parties regarding property rights and child custody, support, and visitation as agreed, and shall document a waiver of the respective right to spousal support.

**Section 507      Petition to Set Aside Final Judgment**

- a. A final judgment entered shall not influence nor bar the rights of either party to petition the Court to set aside or

amend the final judgment for fraud, duress, accident, mistake, or other grounds recognized as reasonable under Tribal Law.

- b. The Court shall retain jurisdiction of a case for one (1) year following the entry of final judgment in all matters except the status of the marriage, where proof exists that the parties did not meet all requirements when the petition was filed.

**Section 508      No Representation By Legal Counsel**

Notwithstanding any provisions of tribal law to the contrary, attorneys are not permitted to represent a party to a divorce in any aspect of a divorce case in Tribal Court. Either party may, however, consult with an attorney regarding their decision to utilize the process available under this Chapter.

**Section 509      Brochure Describing Proceedings; Content, Form and Distribution**

The Court shall develop and print a brochure describing the requirements, nature and effect of the proceedings. The brochure shall be distributed by the Court and shall state in clear English the following:

- a. That either party may consult an attorney regarding the dissolution of the marriage, and the services of an attorney may be obtained through a lawyer referral service, independent legal services or legal aid organization; however, that an attorney cannot be used in preparation of a divorce or appear in court to represent a party to a divorce;
- b. A short summary of the provisions and procedures established by this Ordinance;
- c. That neither spouse can receive any spousal support from the other;
- d. A statement in **boldface type** that with the entry of a final judgment all rights and obligations of both parties, including property and spousal support rights, will be permanently ended without right of appeal, except that either person may petition the Court to set aside the final judgment for fraud, duress, accident, mistake or other grounds recognized under tribal law;

- e. Neither person may remarry until the final judgment dissolving the marriage has been filed and entered by the Clerk; and
- f. Such other matters as the Judge decides.

**Section 510      Fees**

The Court shall collect a fifty dollar (\$50.00) fee for the filing of a dissolution, distribution of the brochure and other costs the Court may incur in processing the case.

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**CHAPTER 6**  
**EFFECTIVE DATE; AMENDMENTS; SEVERABILITY**

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**Section 601**      **Effective Date**

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

**Section 602**      **Amendment or Recission**

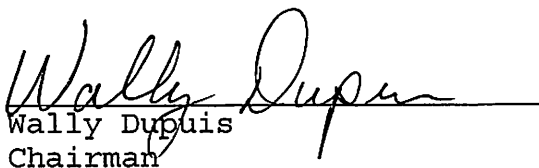
The Reservation Business Committee may amend this Ordinance as it deems necessary to protect the public health, safety and welfare of the Fond du Lac Reservation. The provisions of this Ordinance may be amended by resolution of the Reservation Business Committee.

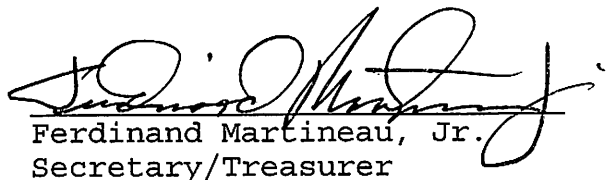
**Section 603**      **Severability**

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 #04/10 was duly presented and adopted by Resolution #1109/10 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 #1147/10 on April 15, 2010; by Resolution #1221/10 on June 15, 2010; and by Resolution #1312/11 on September 20, 2011; by Resolution #1118/13 on April 10, 2013; by Resolution #1263/14 on July 16, 2014; by Resolution #1070/15 on March 11, 2015; by Resolution #1126/15 on April 29, 2015; by Resolution #1210/15 on July 8, 2015; and by Resolution #1015/16 on January 13, 2016.

  
Wally Dupuis  
Chairman

  
Ferdinand Martineau, Jr.  
Secretary/Treasurer