



Victoria A. Doud
Lac du Flambeau Band of Lake Superior Chippewa Indians
PO Box 67
Lac du Flambeau, WI 54538

Dear Ms. Doud:

This letter responds to your request to review and approve the amendment to the Lac du Flambeau Tribe's (Tribe) tribal gaming ordinance submitted on November 29, 2001. The amendment to the ordinance was adopted by the Tribe by Resolution No. 595(01) on October 22, 2001. This letter constitutes approval under the Indian Gaming Regulatory Act (IGRA).

Under the IGRA and the regulations of the NIGC, the Chairman is directed to review ordinances and amendments with respect to the requirements of the IGRA and the implementing regulations.

Thank you for submitting the amendment to the tribal gaming ordinance of the Lac du Flambeau Tribe. The NIGC staff and I continue to look forward to working with you and the Tribe in implementing the IGRA.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Montie R. Deer".

Montie R. Deer
Chairman

RESOLUTION NO. 595(01)

- WHEREAS,** the Lac du Flambeau Band of Lake Superior Chippewa Indians (Tribe) is a federally-recognized Indian Tribe, organized under a Constitution and By Laws, pursuant to the Act of June 18, 1934, 48 Stat, 984, 25 U.S.C., § 476, as amended; and
- WHEREAS,** pursuant to Article III, §1 of the Constitution, the governing body of the Tribe is the Tribal Council; and
- WHEREAS,** the Tribal Council, pursuant to authority under Article VI, Section 1 of its Constitution, and pursuant to the Indian Gaming Regulatory Act of 1988 (25 U.S.C., 2701, et seq.), adopted a Gaming Control Ordinance, ("Ordinance") which was approved by the Secretary on February 9, 1988, with approved amendments in 1989, 1991, 1993, 1994, 1995, 1996, 1999, and 2000; and
- WHEREAS,** the Ordinance provides for the Tribal Council to assume the responsibilities of the Gaming Commission, under Chapter 43.803 of the Ordinance; and
- WHEREAS,** it is in the best interests of the Tribe to amend the Gaming Control Ordinance to separate the duties and responsibilities of the Tribal Council from the duties and responsibilities of the Gaming Commission; and
- WHEREAS,** the Tribal Council has amended Chapter 43 of its Gaming Control Ordinance to establish a Gaming Commission outside the body of the Tribal Council to assume the duties and responsibilities delegated under this Chapter, (copy attached); now, therefore be it
- RESOLVED,** by this Council, in Special Session assembled, hereby approves the amendments to Chapter 43 of its Gaming Control Ordinance and respectfully requests the National Indian Gaming Commission to review the same for approval, pursuant to 25 U.S.C., §2710.

CERTIFICATION

I, the undersigned, as Secretary of the Lac du Flambeau Band of Lake Superior Chippewa Indians, a tribal government operating under a Constitution adopted pursuant to Section 16 of the Indian Reorganization Act, 25 U.S.C., s. 476, do hereby certify that the Tribal Council of the Band is composed of twelve members, of whom eight constituting a quorum, were present at a Special Meeting, duly called, noticed, convened and held on the 22nd day of October, 2001, and that the foregoing resolution was duly adopted at said meeting by an affirmative vote of seven members, none against, none abstaining, and that the said resolution has not been rescinded or amended in any way.



Glory Allen, Secretary Pro Tem
Lac du Flambeau Band of Lake
Superior Chippewa Indians

For insertion into Chapter VIII – Gaming Control Ordinance,
Section 43.803.

Lac du Flambeau Band of Lake Superior Chippewa Indians

GAMING COMMISSION SECTION 43.803

Chapter VIII CLASS III GAMING

(1) There is hereby established within the Lac du Flambeau Chippewa Tribe a Tribal Gaming Commission, which shall have the powers and duties specified in this Section 43.803 for the purpose of regulating and policing the conduct of Class II and Class III casino-style gaming operations on the Lac du Flambeau Chippewa Reservation and on any offsite gaming facilities owned and operated by the Tribe (Tribal Gaming Establishments), pursuant to this Ordinance, the Tribal Constitution and By-laws, the Tribal/State Compact, the Indian Gaming Regulatory Act, (25 U.S.C. §2701, *et. seq.*) (“IGRA”) and rules and regulations promulgated thereunder

(2) All actions of the Gaming Commission shall have immediate effect, unless otherwise specified by the Gaming Commission, and shall be reported to the Tribal Council pursuant to Section (14)f.(i) herein. To ensure the Commission’s activities are conducted pursuant to the specific authorities and responsibilities delegated herein, the Tribal Council shall review monthly the Gaming Commission reports submitted pursuant to Section (14)f.(i) herein. The Tribal Council shall immediately provide notice to the Commission of any action that is deemed taken outside the scope of its regulatory and enforcement authority and direct such action be reversed or revised accordingly.

(3) The Gaming Commission shall be comprised of three members appointed by the Tribal Council or its designee. Each Commissioner shall serve a term of three years, subject to (3)(a) herein, and provided that the initial terms for appointment of the Commissioners shall be staggered, with one Commissioner being appointed as a Secretary to serve a three-year term, one Commissioner being appointed as the Chairperson to serve a two-year term, and one Commissioner being appointed as the Vice-chairperson to serve a one-year term. The Council may, by resolution, select such other officers, as it may deem appropriate.

(a) Each Commissioner shall be subject to a six-month introductory period, during which time each will undergo the training necessary to satisfactorily fulfill the duties specified in this Chapter VIII and this Ordinance. At the end of the six-month period, the work performance of each Commissioner shall be evaluated by an independent Commission panel appointed by the Tribal Council. Such panel shall be entitled the Gaming Commission Performance Review Panel, which shall be comprised of individuals knowledgeable and experienced in the field of gaming, the structure and operations of gaming commissions, and gaming enterprises. The evaluations of each Commissioner shall be submitted to the Tribal Council for a final decision within five (5) days as to whether such Commissioner is fit and capable of performing the duties and

responsibilities specified in this Chapter VIII and this Ordinance. The Tribal Council shall make a decision within five (5) days of receipt of such recommendation.

(4) The Commissioners shall have thorough knowledge of the gaming industry and the laws and rules of the National Indian Gaming Commission and the Tribe governing such games. Commissioners are prohibited from being otherwise employed by Class II or Class III Tribal Gaming Establishments and from participating in any gaming in Tribal Gaming Establishments.

(5) The Gaming Commission shall hold one regularly-scheduled meeting per month. The Chairperson shall call and conduct Commission meetings. The Secretary shall maintain all minutes and records of the Gaming Commission and provide such minutes and records that are non-licensing related to the Tribal Council on a regular and timely basis, subject to Section 14.f.(i) herein.

(6) The primary responsibility of the Commission shall be to enforce this Ordinance and provide direction to the Internal Audit Department and the Licensing and Review Department. The applicable provisions of the Tribal Constitution and by-laws, as amended, and this Ordinance, shall govern the conduct of business of the Gaming Commission.

(7) Each Commissioner shall be compensated at the rate determined by resolution of the Tribal Council.

(8) The Commission shall comply with the Lake of the Torches Policy prohibiting nepotism amongst Commissioners and casino employees, casino suppliers and casino vendors.

(9) A commissioner shall:

- a) be of good moral character;
- b) never have been convicted or entered a plea of *nolo contendere* to, or is under indictment for, any felony or any gaming offense under the laws of Wisconsin or any other state, or the United States, or any crime under the laws of the Tribe, or to any misdemeanor involving dishonesty or moral turpitude;
- c) conduct him or herself so as to protect the effective regulation and control of gaming;
- d) avoid any activity that may enhance the dangers of unsuitability, unfair, or illegal practices, methods, or activities in the conduct of gaming;
- e) not have any direct or indirect financial interest in any gaming operation owned and/or operated, or in some manner controlled by the Tribe. For purposes of this Chapter VIII, a direct or indirect financial interest does not apply to the receipt of

per capita payments or an employer/employee relationship with the Tribe or with any of its enterprises.

- f) not accept gratuities or any other thing of value from any Licensee, vendor, or Applicant.
- g) not use one's official title to conduct personal business;
- h) not use one's position to coerce, threaten, or intimidate a person or group in order to provide a financial benefit or other personal gain to oneself or another person with whom one has family, business, or financial ties, or any other purpose.
- i) not make public any subject matter of a confidential or proprietary nature received in connection with the Commission duties herein, including, but not limited to matters discussed during Commission meetings, and matters protected as confidential under federal, State, or Tribal law or procedure.
- j) conduct him or herself so as to protect the integrity of the Tribe and its gaming operations.

(10) A Commissioner may be immediately removed, pursuant to the procedures set forth in Section (15) herein, by the Tribal Council for neglect of duty, malfeasance (unlawful act by a public official), misfeasance, (the doing of a lawful act in an unlawful or improper manner), misconduct (unlawful or dishonest management, willful, improper behavior), for any conduct that threatens the honesty or integrity of the Gaming Commission or the Tribal gaming enterprises, or otherwise violates the letter of intent of this Code, the Compact, IGRA, the regulations promulgated thereunder, the affirmative duties and prohibitions under Section (9) herein, or any other applicable law.

(11) Before entering upon the discharge of the duties of his or her position, each Commissioner shall have successfully passed a background investigation and shall be bondable. Whenever the Tribal Council determines that the bond of any Commissioner has become, or is likely to become, invalid or insufficient, the Tribal Council shall require such Commissioner forthwith to renew his or her bond, which shall be approved by the Tribal Council. The cost of any bond given under this Section shall be deemed to be a part of the necessary expenses of the Commission included as a specific line item in such budget.

(12) Any Commissioner who fails to take comply with subsection (11) herein and fails to be bondable within 30 days from the date of his or her appointment, or who fails to renew his or her bond with 30 days after it is demanded by the Tribal Council, shall be guilty of neglect of duty and may be removed by the Tribal Council.

(13) The Commission shall employ or retain such personnel as may be necessary to carry out the functions of the Commission with the approval of the Tribal Council, which personnel consists of the Internal Audit Department and the Licensing and Review Department. No person shall be appointed or continue serving as a Commissioner if he or she has any

personal, business, or legal relationship that a reasonable person would deem a conflict of interest with his or her duties and responsibilities as a Commissioner. Any employee violating these any of these prohibitions shall be subject to removal.

(14) The Commission shall have general responsibility for the implementation of this Ordinance subject to approval of the Tribal Council. Its duties include, without limitation, the following:

- a. To conduct all hearings pertaining to civil violations of this Ordinance and rules and regulations promulgated hereunder;
- b. To promulgate such rules and regulations as in its judgment may be necessary to protect or enhance the credibility and integrity of gaming operations authorized by this Ordinance and the regulatory process hereunder; subject to Tribal Council approval.
- c. To provide for the assessment and collection of fees to defray the operational expenses of the Commission and to assess and collect penalties and fines for the obligation of provisions of this Ordinance and the rules and regulations promulgated hereunder. All such fees, fines and penalties shall be deposited into a segregated fund, with restrictions as deemed appropriate by the Tribal Council.
- d. To ensure, through its designated representatives that gaming operations are conducted pursuant to this Ordinance and pursuant to the existing Minimum Internal Control Standards, receiving and responding to complaints from the public, and conducting such other investigation into the conduct of the gaming activities and operations as the Commission deems necessary and proper;
- e. The Tribal Council shall review and rule upon any complaint by a manager or supervisor regarding any investigative procedures of the Commission which may be unnecessarily disruptive of gaming operations. However, the need to inspect and investigate shall be presumed at all times. The disruption of the gaming operations shall be proven by clear and convincing evidence, and establish that:
 - i. The procedures had no reasonable law enforcement purposes; and
 - ii. The procedures were so disruptive so as to unreasonably inhibit gaming operations.
- f. To hold one regularly-scheduled meeting each month. In addition, the Commission Chairman, or two Commissioners, upon 72 hours written notice to each member, may call special meetings.
 - i. The Commission shall keep a complete and accurate record of all of its meetings, which records, non-licensing related, shall be provided to the Tribal Council on a monthly basis, or at such other times as may be required by the Tribal Council. Records detailing the number and types of license issued during the previous month and the number and reasons for license denials, suspensions or revocations,

however, shall be provided to the Tribal Council. A summary of Commission expenditures incurred during the previous month shall also be included in the monthly report to the Tribal Council.

- ii. A majority of the Commission shall constitute a quorum for the transaction of any business for the performance of any duty, or for the exercise of any power which this Ordinance requires the Commissioners to transact, perform, or exercise en banc.
- g. Upon order of the Commission, one of the Commissioners or an administrative law judge designated by the Commissioner, may conduct an adjudicative hearing regarding licensing, suspension, or any other duly-authorized corrective action of the Commissioner, any may make recommendations to the Commission. Such hearings shall be conducted pursuant to rules established by the Commission and approved by the Tribal Council.
 - i. The Commissioner or administrative law judge conducting such hearing shall have all powers and rights granted to the Commission in this Section 43.803 and the rules promulgated hereunder.
 - ii. The record made at the time of the hearing shall be reviewed by the Commission, or a majority thereof, and the findings and decision of the majority of the Commission shall constitute the Order of the Commission in such case.
- h. To maintain records which are separate and distinct from the records of any other Tribal Commission or Tribal gaming facility. Such records shall be available for inspection, as authorized by the Tribal Constitution and By-Laws and this Section 43.803, and shall accurately reflect all Commission proceedings, except that all records of the Commission relating to the licensing and investigation of individuals and information regarding the number and reasons for license denials, suspensions, or revocations, shall be protected from public disclosure, except that records detailing the number and types of licenses shall be included in the records available for inspection by the Tribal Council.
- i. To file a written annual report with the Tribal Council on or before June 1st of each year and such additional reports as the Tribal Council may require. The annual report shall include a statement of receipts and disbursements by the Commission, actions taken by the Commission, and any additional information and recommendations which the Commission may deem consistent with this Section 43.803 or which the Tribal Council may require.
- j. To develop rules and regulations under which all Class II and Class III gaming within Tribal Gaming facilities shall be conducted, including, but not limited to rules and standards for the investigation and licensure of gaming suppliers, vendors, Key Employees, Primary Management Officials, as defined under Section 43.802 of this Ordinance, of Tribal gaming facilities, including an appropriate licensing fee schedule, subject to Tribal Council approval. Such rules and regulations shall be interpreted so as to provide for direct cooperation with the Chief Executive Officer to ensure the

prevention of practices detrimental to the public interest and for the best interests of honest casino-style gambling. Such rules and regulations shall be subject to Tribal Council approval.

- k. To investigate alleged violations of this Ordinance or the rules of the Commission and to take appropriate corrective action, pursuant to such rules, against a licensee for a violation, or institute appropriate legal action for enforcement, or both.
- l. To require that all records of any licensee pertaining to any gaming or the supplying of any material or devices for any gaming conducted pursuant to this Ordinance, shall be kept in such a manner as to be immediately accessible to the Commission, but protected from public disclosure.
- m. To require that any licensee involved in the management of gaming operations through an outside consulting firm or the supplying of gaming devices submit to the Commission full financial statements, list of stockholders and other persons or entities having any interest in the gaming activities of each licensee, and any other information the Commission considers necessary in order to effectively administer this Ordinance and all rules, regulations, orders, and final decisions promulgated thereunder.
- n. To issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records and other pertinent documents, and to administer oaths and affirmations to the witnesses, when, in the judgment of the Commission, it is necessary to do so. Such orders may be enforced through suspension or revocation of licensure or permits or by petition to the tribal court that the person so ordered be held in contempt of court for non-compliance.
- o. To suspend, revoke, or restrict licenses, or to require the removal of a licensee or an employee of a licensee from a Tribal gaming facility for a violation of this Ordinance or a Commission rule or order or for engaging in a fraudulent criminal practice, and to impose civil penalties of up to \$5,000 against individuals and up to \$10,000, or an amount equal to the daily gross receipts, whichever is larger, against licensees. Such actions shall be subject to due process of law and proper administrative procedures developed by the Commission and approved by the Tribal Council
- p. To eject or exclude or authorize the ejection or exclusion of any person from Tribal gaming facilities where such person is in violation of this Ordinance, rules and regulations promulgated thereunder, or final orders of the Commission, or where such person's conduct or reputation is such that his or her presence within the Tribal gaming facilities may call into question the honesty and integrity of the gaming operations or interfere with the orderly conduct thereof, subject to approval of the Tribal Council. Such authority to eject or exclude, or authority to eject or exclude, shall not be interpreted as to prohibit the Chief Executive Officer from authorizing such ejection or exclusion pursuant to his or her delegated authority.

- q. To establish minimum levels of insurance to be maintained by licensees, subject to approval of the Tribal Council.
- r. To take any other action deemed necessary or appropriate to enforce this Ordinance and rules and regulations promulgated hereunder.
- s. To seek and receive assistance of the Wisconsin Department of Justice or other appropriate state agencies and the Federal Bureau of Investigation or other appropriate federal agencies in conducting background investigations of vendors, suppliers, Key Employees, or Primary Management Officials, and applicants in fulfilling its responsibilities under this Ordinance. Costs incurred by a state or federal agency as a result of such assistance shall be paid by the Commission.
- t. To prepare, for submission to the Tribal Council and the Casino(s), an annual budget by June 1st of each year, which review and approval shall be conducted pursuant to Article IX of the Tribe's Constitution.
- u. Discrepancies shall be handled through procedures adopted by Tribal Council resolution in a document entitled "Conducting a Gaming Commission Observation."
- v. To review the policies and procedures to ensure compliance with IGRA, the System of Internal Controls, the Tribal Minimum Control Standards, this Gaming Control Ordinance, the Tribal/State Gaming Compact, and the rules promulgated thereunder.
- w. Review drug testing results for purposes of conducting background investigations for the issuance and renewal of gaming licenses authorized under this Ordinance. For purposes of this Ordinance, "drug testing results" shall only include that specific test result necessary to make a licensing decision.
- x. To fulfill all duties of the "Tribal Official" as identified in the Tribal/State Gaming Compact and the Tribal Minimum Control Standards; and,
- y. To facilitate all correspondence to and from the State and federal gaming regulatory agencies regarding regulations and licensing.
- z. To maintain and keep a current record of new developments in the area of Indian gaming.
- aa. To obtain and publish a summary of federal revenue laws relating to gaming and to ensure compliance with the same.
- bb. To consult with and make recommendations to the Tribal Council regarding changes in tribal gaming laws and policies.
- cc. Upon prior explicit approval of the Tribal Council, to employ such advisors as it may deem necessary. Advisors may include, but shall not be limited to, law enforcement

specialists, gaming professionals, the Tribe's general or special counsel, and the Tribe's accountants.

(15) Any Commissioner, after the six-month review period pursuant to Section (3)(a) herein, may be removed or suspended for serious inefficiency, neglect of duty, malfeasance, (unlawful act by a public official), malfeasance, (the doing of a lawful act in an unlawful or improper manner), misconduct (unlawful or dishonest management, willful, improper behavior), or for any conduct that threatens the honesty or integrity of the Gaming Commission or the Tribal gaming enterprises, or otherwise violates the letter or intent of this Code. Such removal or suspension shall be by an affirmative, majority vote of the Tribal Council members voting at a regular or duly-called special meeting of that body. Such removal or suspension shall be pursuant to written procedures adopted by the Tribal Council.

A member or employee of the Tribe, upon submission in writing to the Secretary of the Tribal Council a petition for removal, stating the grounds and evidence supporting such action, may recommend such removal or suspension upon a majority vote of the Tribal Council. Upon receipt of a petition for removal by a Tribal member or employee, the Secretary shall submit such petition to the Tribal Council, at a duly-called meeting, for a decision as to whether such petition satisfies the requirements of this subsection. Any Commissioner being considered for removal or suspension may be suspended with or without pay by the Tribal Council pending final determination of such removal or suspension.

Such removal or suspension actions shall be consistent with due process, including a ten-day notice in writing to such Commissioner stating the grounds and evidence supporting such action and the date, time, and location of the hearing scheduled to decide such action. At any such hearing, the Commissioner shall have the opportunity to be heard in person or by counsel and to present witnesses on his or her behalf. If the Tribal Council determines that immediate removal of a Commissioner is necessary to protect the interests and integrity of the Tribe's gaming enterprises, the Tribal Council may immediately remove the Commissioner.

The Tribal Secretary shall keep a written record of all removal proceedings, together with the charges and findings of the Tribal Council. The decision of the Tribal Council upon the removal or suspension of a Commissioner shall be final.

(16) If any Commissioner shall die, resign, be removed, have his or her term expire, or for any reason be unable to serve as a Commissioner, the Council shall declare such position vacant and shall appoint another person to fill that position. Such appointment shall be made within thirty (30) days of such vacancy. The term of each person appointed to replace a Commissioner, for reasons other than unexpired term, shall be for the balance of any unexpired term for such position.