



MAY - 3 2004

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

Dear Ms. Doud:

This letter is in response to your request that the National Indian Gaming Commission (NIGC) review and approve the Resolution to Amend the Lac du Flambeau Band of Lake Superior Chippewa Indian's (Tribe) Gaming Ordinance, Resolution No. 16(04) (Ordinance Amendment), adopted January 26, 2004. This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA). We note that the amendment relates to the Tribe's revenue allocation plan. We understand that the Tribe has submitted the change to the Department of the Interior, as required, and that before the plan may be implemented, it requires the approval of the Secretary, 25 U.S.C. §2710(b)(3)(B). The Amended Ordinance is approved for gaming only on Indian lands, as defined in the IGRA, over which the Lac du Flambeau Band of Lake Superior Chippewa Indians exercises jurisdiction.

Thank you for submitting the Ordinance Amendment for review and approval. The NIGC staff and I look forward to working with you and the Lac du Flambeau Band of Lake Superior Chippewa Indians on future gaming issues. Please be advised that future ordinance submissions should be address to the NIGC's D.C. office instead of the field office.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Philip N. Hogen", is written over the "Sincerely yours," text.

Philip N. Hogen  
Chairman

cc: Carol Brown, Esq.

FEB 02 2004

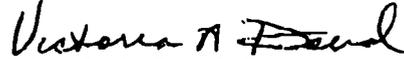
## RESOLUTION NO. 16(04)

FEB 23 2004  
Region IV, St Paul MN

- 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 1988i (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 wishes 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** it is in the best interests of the Tribe to codify guidelines for suspension and revocation of employee gaming licenses in accordance with the principles set forth in the Gaming Control Ordinance;
- WHEREAS** Chapter 43.1001, Per Capital Distribution Ordinance, provides for per capital payments to be made on an annual basis, pursuant to authorization by the Tribal Council; and,
- WHEREAS** it is in the best interests of the Tribe to allow for more than an annual payment, subject to the discretion of the Tribal Council and pursuant to budgetary review under Section 43.1003 of the Ordinance; and,
- WHEREAS** the Tribal Council has amended Chapter 43.803 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; and,
- WHEREAS** the Tribal Council has further amended Chapter 43 to provide guidelines for suspension and revocation of employee gaming licenses in accordance with the principles set forth in the Ordinance; and,
- WHEREAS** the Tribal Council has further amended Chapter 43.1006(1) to provide discretionary power to the Tribal Council to authorize more than an annual per capita payment subject to Section 43.1003(1) therein; now therefore be it
- RESOLVED,** by this Council, in regular session assembled, hereby approves the amendments to Chapter 43, Gaming Control Ordinance, outlined above, (copy attached) and respectfully requests the National Indian Gaming Commission to review the same for approval, pursuant to 25 U.S.C. §2710; and be it further
- RESOLVED,** that Resolution No. 456(03) is rescinded in its entirety and this resolution has been reenacted due to the requirement to submit Gaming Ordinance Amendments within a 15-day time frame.

**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 eleven constituting a quorum, were present at a Regular Meeting, duly called, noticed, convened, and held on the 26<sup>th</sup> of January, 2004 and that the foregoing resolution was duly adopted at said meeting by an affirmative vote of ten members, none against, none abstaining, and that the said resolution has not been rescinded or amended in any way.

  
Victoria A. Doud, Secretary  
Lac du Flambeau Band of Lake  
Superior Chippewa Indians

N.I.G.C.  
FEB 28 2004  
Region IV, St Paul MN

TRIBAL CODE

CHAPTER 43

GAMING CONTROL ORDINANCE

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HISTORY NOTE:

Current Ordinance

Adopted January 4, 1988, Resolution No. 7(88). Secretarial approval February 9, 1988. Effective as to members January 4, 1988; as to non-members, February 9, 1988.

Amendments: Sec. 43.501(3) amended January 30, 1989, Resolution No. 51(89). Secs. 43.113(1) - (4) amended November 13, 1989, Resolution No. 392(89).

Chapter VIII added November 15, 1991, Resolution No. 357(91) Approved July 7, 1992, by authority of Bureau of Indian Affairs.

Chapter VIII amended April 26, 1993, Resolution No. 112(93).

Chapter IX added September 27, 1993, Resolution No. 322(93). Approval by National Indian Gaming Commission dated November 29, 1993.

Ordinance with amendments approved and published in Federal Register, Vol.59, No. 11, Tuesday, January 18, 1994.

Chapter X added August 16, 1994, by referendum approval following authorization for referendum, Resolution No. 298(94), Bureau of Indian Affairs approval dated November 8, 1994.

Section 43.803 amended February 27, 1995, Resolution No. 87(95).

Sections 43.110 amended renumbered, 43.111, 43.112 deleted, 43.113 deleted, 43.201, 43.205, 43.301, 43.401, 43.402, Chapter V deleted, Chapter VI deleted, 43.701, 43.701, 43.702, 43.803, and 43.805 amended January 8, 1996, Resolution No.(4)96.

Chapter X amended February 26, 1996, Resolution No. 63(96).

Section 43.1004(1) deletion pertaining to relinquished members and Section 43.1007 amends withholding any applicable federal taxes, amended September 23, 1996, Resolution No. 368(96). Approved by Bureau of Indian Affairs dated October 25, 1996.

Addendum #1, Chapter 43.10 Special One Time July 30, 1999 Per Capita Distribution, Resolution No. 230(99), 05/24/99. Approved by Bureau of Indian Affairs dated July 6, 1999.

Section 43.1002(5) added and renumbering (6), (7), (8), (9), (10) and adopting Section 43.1006 (2) and renumbering (3) by Resolution No. 173(00), April 14, 2000.

Section 43.803, rewrote and replaced Chapter VIII, Gaming Commission, Resolution No. 595(01), October 22, 2001. Approval by National Indian Gaming Commission January 14, 2002.

Prior Ordinances

Tribal Bingo Ordinance No. 1 adopted July 7, 1980, Resolution No. 234(80). Amended April 13, 1981, Resolution No. 70(81). Rescinded May 18, 1981, Resolution No. 89(81).

Interim Bingo Ordinance adopted June 1, 1981, Resolution No. 96(81).

Tribal Bingo Control Ordinance adopted August 3, 1981, Resolution No. 175(81). Repealed by subsequent ordinance February 27, 1984.

Bingo and Raffle Control Ordinance adopted February 27, 1984, Resolution No. 98(84). Amended July 23, 1984, Resolution No. 248(84); January 28, 1985, Resolution No. 42(85); December 16, 1985, Resolution No. 463(85); June 9, 1986, Resolution No. 207(86); June 9, 1986 Resolution 208(86); August 18, 1986, Resolution No. 304(86); March 9, 1987, Resolution No. 66(87); March 30, 1987, Resolution No. 92(87). Repealed by Sec. 43.108 of the current ordinance.

Cases:

Oneida Tribe of Wisconsin v. Wisconsin, 518 F. Supp. 712 (W.D. Wis. 1981) Tribes may conduct bingo free from state regulation.

Lac du Flambeau Band v. Williquette, 629 F. Supp. 689(W.D. Wis. 1986) Pull tabs are raffles, and Tribe may sell them under its ordinance free of state regulations.

TRIBAL CODE

CHAPTER 43

GAMING CONTROL ORDINANCE

CHAPTER I: GENERAL PROVISIONS

43.101 TITLE.

This ordinance shall be known as the Gaming Control Ordinance.

43.102 AUTHORITY.

This ordinance is enacted pursuant to Article VI, Section (n) of the Constitution and Bylaws of the Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin.

43.103 PURPOSE.

The purpose of this ordinance is to regulate the conduct of gaming conducted on the Lac du Flambeau Indian Reservation.

43.104 EFFECTIVE DATE.

This ordinance shall be effective on date of enactment by the Lac du Flambeau Tribal Council.

43.105 ABROGATION AND GREATER RESTRICTIONS.

Where this ordinance imposes greater restrictions than those contained in other tribal ordinances, the provisions of this ordinance shall govern.

43.106 INTERPRETATION.

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Tribe and shall not be deemed a limitation or repeal of any other Tribal power or authority.

43.107 SEVERABILITY AND NON-LIABILITY.

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 shall not be affected thereby. The Tribe asserts there is no liability on the part of the Lac du Flambeau Band of Lake Superior Chippewa Indians, its agencies or employees for damages that may

occur as a result of reliance upon, and conformance with this Ordinance.

#### 43.108 REPEALER.

The Bingo and Raffle Control Ordinance, Revised 7/23/84, all amendments thereto, and all prior ordinances or resolutions regulating bingo are hereby repealed in their entirety. All other ordinances or provisions thereof inconsistent with or in conflict with this ordinance are hereby repealed to the extent of the inconsistency only.

#### 43.109 GENERAL DEFINITIONS.

Words used in the present tense include the future; the singular includes the plural; and the plural includes the singular. The word "shall" is mandatory and the word "may" is permissive.

#### 43.110 SPECIFIC WORDS AND PHRASES

For the purposes of this ordinance, the following definitions shall be used:

(1) "Act" means the Indian Gaming Regulatory Act, Public Law 100--497, 25 U.S.C. ss. 2701 et seq.

(2) "Bingo" means a game of chance in which up to 75 numbered objects are available for random selection on numbered balls.

(3) "Bingo occasion" means a single gathering or session at which a series of successive bingo games is conducted.

(4) "Bingo supplies and equipment" means all cards, boards, sheets, markers, tables, pads or other supplies, devices or other equipment designed for use in the conduct or play of bingo.

(5) "Casino Executive Officer" means the person hired by the Tribe to conduct, organize and supervise all Class II and Class III gaming on the reservation.

(6) "Chairman" means the Chair of the Lac du Flambeau Tribal Gaming Commission established pursuant to this Ordinance.

(7) "Class III gaming" means Class III gaming as defined in accordance with the Act, 25 U.S.C. s. 2703(8).

(8) "Commission" means the Lac du Flambeau Tribal Gaming Commission established by this chapter of the Gaming Ordinance.

(9) "Compact" means the Tribal-State Compact between the Lac du Flambeau

Band of Lake Superior Chippewa Indians and the State of Wisconsin, in accordance with the Indian Gaming Regulatory Act, under which Class III Gaming may be conducted on Indian lands over which the Tribe has jurisdiction.

(10) "Conduct" or "Conducted" means as to bingo, the drawing of the members and the announcement and visual display of the number on each member so drawn; as to raffles, the selling and drawing of raffle tickets. The marking of a bingo card by a player shall not be considered an essential element of the conduct of a bingo game.

(11) "Executive Director" means the Executive Director of the Lac du Flambeau Gaming Commission regulating Class III Gaming.

(12) "Gaming" or "gambling" means any gaming or gambling activity, including accepting, recording or registering bets, or carrying on a policy game or any other lottery, or playing any game of chance, for money or other thing of value, including but not limited to pool-selling, bookmaking, maintaining slot machines, roulette wheels, or dice tables, wheels of fortune, card games or video gaming devices.

(13) "Gaming facilities" means any site, room, or rooms in which Class III gaming is conducted.

(14) "Lottery" means an enterprise wherein for a consideration the participants are given an opportunity to win a prize, the award of which is determined by chance, even though accompanied by some skill, but does not include bingo or raffles as defined by this ordinance.

(15) "Member" means a person enrolled in the Tribe.

(16) "Member business" means any member-owned commercial or business activity, whether a sole proprietorship, joint venture, partnership or corporation, established or organized for the purpose of profit; provided, that such member ownership and control shall constitute no less than 51 percent of the enterprise.

(17) "National Indian Gaming Commission" means the National Indian Gaming Commission established pursuant to 25 U.S.C. s. 2704.

(18) "Net Revenues" means gross revenues of a Class III gaming activity less amounts paid out as, or paid for, prizes and total operating expenses including debt service but excluding management fees paid to a management contractor within the meaning of 25 U.S.C. s. 2711(c).

(19) "Ordinance" means this Lac du Flambeau Chippewa Tribal Gaming Ordinance.

(20) "Premises" means any building, room, hall, enclosure, tent or outdoor area

in which Class II or Class III gaming is conducted.

(21) "Raffle" means a game of chance in which tickets are sold and a drawing for prizes is held, or in which the ticket is drawn by the purchaser and a determination of prize made based upon the ticket drawn.

(22) "Reservation" means the land and waters within the exterior boundaries of the Lac du Flambeau Indian Reservation.

(23) "State" means the State of Wisconsin.

(24) "Tribal Council" means the governing body of the Tribe elected pursuant to the Tribe's Constitution and Bylaws.

(25) "Tribal Court" means the Lac du Flambeau Tribal Court.

(26) "Tribal Organization" means any organization duly recognized by the Tribe.

(27) "Tribe" means the Lac du Flambeau Band of Lake Superior Chippewa Indians.

#### 43.111 Casino Executive Officer.

(1) There is hereby established the position of Casino Executive Officer.

(2) The Casino Executive Officer shall be selected by the Tribal Council in accordance with the Personnel Policies and Procedures, and shall be supervised by the Tribal Administrator.

#### 43.112 **DELETED**

#### 43.113 **DELETED**

### CHAPTER II: BINGO

#### 43.201 GENERAL OPERATIONAL PROVISIONS.

(1) **DELETED.** See §43.902 and 43.903.

(2) Bingo/Class II gaming shall be conducted only on Tribal premises.

(3) Purchase of a bingo card shall entitle each purchaser to a place on the Tribal premises where bingo is conducted with sufficient room in which to work the bingo card.

(4) The Casino Executive Officer may, in his/her discretion, limit the number

of persons allowed to be present at or to purchase bingo cards at any one bingo occasion.

(5) **DELETED**

(6) **DELETED**

(7) **DELETED**

(8) **DELETED**

(9) No person under the age of 18 shall purchase or make use of a bingo card for any bingo game or otherwise play a bingo game conducted pursuant to this ordinance unless accompanied on tribal premises by such person's parent or guardian. No person under the age of 8 shall be allowed in the Tribal premises in which bingo is conducted during a bingo occasion.

(10) No alcoholic beverages or illegal drug shall be allowed in the tribal bingo hall during a bingo occasion. Any person found possessing or using alcoholic beverages or illegal drugs during bingo occasions conducted on tribal premises shall be removed from the premises and barred from further bingo occasions. No alcoholic beverages may be brought onto such premises by patrons.

(11) Bingo operations shall be advertised by whatever lawful methods the Casino Executive Officer deems suitable and appropriate to attract a maximum number of players, consistent with the budget approved by the Tribal Council.

(12) **DELETED**

(13) Bingo cards shall be sold or rented by the Casino Executive Officer in the first instance only on the premises at which the bingo occasion is being conducted. The Casino Executive Officer shall keep an accurate, separate count of the number of bingo cards which are sold, rented, or used.

(14) No person employed in the operation of a Tribal bingo occasion shall be permitted to purchase bingo cards for that occasion or participate in any other way as a player during that bingo occasion.

(15) Nothing herein shall prevent the broadcast or televising of Tribal bingo occasions. The Casino Executive Officer is hereby authorized to enter into a contract for the broadcast or televising of Tribal bingo occasions, provided that any such contract shall be approved by resolution of the Tribal Council before taking effect.

#### 43.202 PRIZES.

(1) The amount and nature of prizes is offered shall be determined for each

bingo occasion by the Casino Executive Officer; provided, that the prizes offered shall be commensurate with the generally accepted odds in bingo operations.

(2) Either cash prizes or merchandise prizes shall be allowed. If a merchandise prize is offered, its stated value shall be the current retail price. No merchandise prize shall be redeemable or convertible into cash, either directly or indirectly, by the Tribe.

(3) Prizes of alcoholic or fermented malt beverages, securities, or interests in real property are prohibited.

#### 43.203 METHOD OF CONDUCT.

(1) The Casino Executive Officer shall determine the type of game and prize for each game conducted during a bingo occasion. The particular arrangement of numbers required on a bingo card in order to win and the amount of the prize for the game shall be clearly described and audibly announced to the players immediately before each game.

(2) Each bingo game shall be conducted in such a manner that the results are random and each person purchasing a card or playing a game is afforded an equal opportunity to win, and all equipment and supplies used in the conduct of each game shall be designed and used in such a manner as to secure such result.

(3) The objects to be drawn shall be as near the same size, shape, weight, balance, and all other relevant characteristics as is practicable so that at all times during the conduct of bingo each object possesses the capacity for equal agitation with any other object within the receptacle.

(4) Up to seventy-five (75) objects shall be used for the conduct of each game. All the numbered objects, and only the numbered objects, shall be present in the receptacle at the beginning of each bingo game. When bingo is played with cards, 75 consecutively numbered objects shall be used.

(5) The number on each object drawn shall be announced in a manner clearly audible to the persons present during the conduct of the game and shall be visually displayed as well.

(6) Once removed from the receptacle during the conduct of a game, no object shall be returned to the receptacle until after the conclusion of that game.

(7) The receptacle and the caller shall be visible to the majority of persons during the conduct of a game at all times.

(8) The Casino Executive Officer may provide for the play of bingo at bingo occasions by means of table games such as "bingo-lette", "bingo-jack", or similar table games using up to 75 numbered bingo balls previously described. These table games may

be played at the tribal bingo hall or such other tribal premises as the Casino Executive Officer shall deem appropriate.

#### 43.204 WINNERS.

(1) The winner of a bingo game played with the use of bingo cards shall be person in possession of the bingo card with the numbers on it arranged in the manner announced for that game achieved with the least number of objects drawn.

(2) The bingo winner for each game shall be determined on the same day on which the bingo occasion is conducted. Each prize shall be awarded within one week of the bingo occasion for which the prize was offered.

(3) The numbers appearing on the winning card at the time a winner is determined shall be verified in the immediate presence of at least one disinterested person.

(4) At the time a winner is determined, any person may call for verification of all numbers and of the objects remaining in the receptacle not drawn. Such verification shall be made in the presence of the Casino Executive Officer or his/her designee and at least one disinterested person.

(5) When more than one person is found to be the winner of a bingo game, a cash prize shall be divided equally among the winners to a minimum cash prize of five dollars. When equal division of a merchandise prize is not possible, identical substitute prizes whose aggregate retail value is approximately equal to that of the designated prize shall be awarded.

(6) Winners of bingo table games shall be determined and prizes awarded according to the rules of the game established by the Casino Executive Officer.

#### 43.205 TRIBAL ORGANIZATION BINGOS.

(1) The Tribal Council may in their discretion authorize a fund-raising bingo occasion to be conducted by a Tribal organization at the tribal bingo hall on a date when a tribal bingo occasion is not being conducted.

(2) The Tribal Council may impose such rules, terms or conditions upon the conduct of such bingo occasion as they deem necessary or appropriate, including the charging of a fee for the use of the tribal bingo hall.

(3) Bingo games conducted by tribal organizations pursuant to this section shall be limited to bingo games played with bingo cards. No bingo table games or other forms of bingo shall be allowed.

CHAPTER III: RAFFLES

43.301 GENERAL OPERATIONAL PROVISIONS.

(1) All raffles shall be conducted under the management, supervision and control of the Casino Executive Officer. Raffles may be conducted and raffle tickets sold by tribal gaming employees at licensed premises and at such other times and places as directed by the Casino Executive Officer.

(2) **DELETED**

(3) Raffles shall be conducted and raffle tickets shall be sold only on tribal premises.

(4) Only a cash payment shall be accepted for the purchase of a raffle ticket.

(5) The Casino Executive Officer shall purchase such supplies and equipment as is necessary for the operation of raffles and consistent with the budget approved by the Tribal Council. All equipment and supplies used in the conduct of raffles shall be owned by the Tribe.

(6) The Casino Executive Officer may, with the concurrence of the Tribal Council, authorize a Tribal organization to hold a raffle, upon such terms and conditions as the Casino Executive Officer may deem appropriate. Raffle tickets used for such occasions shall be purchased by the Casino Executive Officer and shall be readily distinguishable from raffle ticket used in Tribal raffles.

(7) **DELETED**

(8) No person under the age of 18 shall be allowed to purchase a raffle ticket.

(9) Raffles shall be advertised by whatever lawful methods the Casino Executive Officer deems suitable and appropriate, consistent with the budget approved by the Tribal Council.

(10) No person employed in the operation of a raffle or of a bingo occasion during which a raffle is being conducted shall be permitted to purchase a raffle ticket for such raffle.

43.302 PRIZES.

(1) The amount and nature of prizes offered for raffles shall be determined for each raffle by the Casino Executive Officer, provided that the prizes offered shall be commensurate with the odds generally accepted for raffle operations.

(2) Either cash prizes or merchandise prizes shall be allowed. If a merchandise prize is offered, its stated value shall be the current retail price. No merchandise prize shall be redeemable or convertible into cash, either directly or indirectly, by the Tribe.

(3) Prizes of alcoholic or fermented beverages, securities or interests in real property are prohibited.

#### 43.303 TYPES OF RAFFLES.

Two types of raffles may be conducted:

(1) Raffles in which tickets are sold to individuals, placed in a container, and drawn to determine the winner; and

(2) Raffles in which a fixed number of tickets, some of which indicate the winners, are sold to and drawn by the purchaser.

#### 43.304 TYPES OF TICKETS.

Two types of raffle tickets shall be used:

(1) For raffles described in Section 43.303(1), the tickets shall be identical in form and contain the name and address of the Tribe or sponsoring organization, the price of the ticket, the date and place of the drawing, and a place for the purchaser's name and address.

(2) For raffles described in Section 43.303(2), raffle tickets shall be purchased in lots, with a fixed number of tickets and winning tickets in each lot, shall be of similar outward appearance, and shall have concealed within them indicia of winning which may be revealed by manipulation of the ticket after purchase.

#### 43.305 PLAY OF RAFFLES.

(1) The Casino Executive Officer shall determine the type of raffle and the prize or prizes for each raffle, which shall be clearly described and available to raffle ticket purchasers at the time of purchase. For raffles described in Section 43.303(2), the odds per lot of tickets shall also be available.

(2) Each raffle shall be conducted in such a manner that the results are random and each person purchasing a ticket is afforded an equal opportunity to win, and all equipment and supplies used in the conduct of each raffle shall be designed and used in such a manner as to secure such a result.

(3) Winner shall be determined according to the type of raffle and the rules of each raffle set by the Casino Executive Officer. The purchaser of a ticket need not be

present at the drawing to win a prize. Each prize shall be awarded within **one** week of the raffle.

(4) All raffle drawings shall be held in public.

(5) All prizes shall be awarded.

#### CHAPTER IV: LOTTERIES

##### 43.401 GENERAL OPERATIONAL PROVISIONS.

(1) All lotteries shall be conducted under the management, supervision and control of the Casino Executive Officer.

(2) **DELETED**

(3) Lotteries shall be conducted and lottery chances shall be sold only on tribal premises.

(4) Only cash payment may be accepted as consideration for a lottery chance.

(5) The Casino Executive Officer shall purchase such supplies and purchase or lease such equipment as may be necessary for the operation of lotteries and is consistent with the budget approved by the Tribal Council.

(6) The Casino Executive Officer shall have the exclusive management of all lotteries within the reservation. No other person, firm, corporation, consultant or similar entity shall participate in the management of any lottery.

(7) No person under the age of 18 shall be allowed to participate in any lottery.

(8) Lotteries may be advertised by whatever lawful methods the Casino Executive Officer deems suitable and appropriate, consistent with the budget approved by the Tribal Council.

(9) No person employed in tribal gaming shall participate in any lottery conducted by the Tribe.

##### 43.402 TYPES OF LOTTERIES.

Lotteries may be conducted by means of tickets or coupons sold to individuals for which a drawing is held to determine the winners or for which winners are determined on some other random basis.

##### 43.403 PLAY OF LOTTERIES.

(1) The Casino Executive Officer shall determine the types of lotteries which shall be conducted. The rules of each games and the prize of prizes available shall be clearly described and available to players at the time of play.

(2) Each lottery shall be conducted in such a manner that the results are randomly determined and that each player is afforded an equal opportunity to win.

(3) Winners shall be determined according to the type of lottery and the rules for each lottery established by the Casino Executive Officer.

#### 43.404 PRIZES.

(1) The amount and nature of prizes offered for lotteries shall be determined for each lottery by the Casino Executive Officer; provided, that the prizes offered shall be commensurate with the prevailing and generally accepted odds for the type of lottery involved.

(2) Either cash prizes or merchandise prizes shall be allowed. If a merchandise prize is offered, its stated value shall be its current retail price. No merchandise prize shall be redeemable or convertible into cash, either directly or indirectly, by the Tribe.

(3) Prizes of alcoholic or fermented malt beverages, securities or interests in real estate are prohibited.

#### CHAPTER V: GAMING AGENTS **DELETED**

#### CHAPTER VI: FINANCES AND ACCOUNTING **DELETED**

#### CHAPTER VII: ENFORCEMENT AND PENALTIES

#### 43.701 LAW ENFORCEMENT.

(1) Any person employed, appointed or deputized as a tribal law enforcement officer may enforce the provisions of this ordinance.

(2) Any tribal law enforcement officer may execute and serve warrants and other process issued by the tribal court in the same manner as any law enforcement officer of the State of Wisconsin may serve and execute such state warrants and other process under state law.

(3) **DELETED**

(4) Any law enforcement law officer may conduct searches and make stops and arrests without warrant under the prevailing constitutional standards relating to probable cause, reasonable suspicion and exigent circumstances.

(5) Any tribal law enforcement officer may issue a citation to any person upon reasonable belief that such person has breached a provision of this ordinance and may seize and hold any property needed as evidence or any property authorized to be seized pursuant to the civil remedial forfeiture provisions of this ordinance.

43.702 PROHIBITED ACTIVITIES.

It shall be unlawful and a prohibited activity for any person to:

(1) Violate the terms of this ordinance in any way; or

(2) **DELETED**

(3) Conduct, or possess equipment for the conduct of, gaming within the boundaries of the Tribe's reservation unless licensed to do so pursuant to this ordinance; or

(4) Act or scheme in any way to influence the conduct or result of any Class II or III gaming or the determination of the winner thereof; or

(5) Act or scheme in any way to deprive the Tribe of the income or proceeds or any portion thereof from any Class II or III gaming, or the operational expenses related thereto.

43.703 PENALTIES.

Any person who, himself or herself, or by his or her agent, servant or employee or who as agent, servant or employee of another, violates any provisions of this ordinance, shall be liable as follows:

(1) For a civil remedial money penalty of up to \$500.00; and/or

(2) For a civil remedial forfeiture of any property and equipment used in the commission of the violation; and/or

(3) For discipline or discharge from tribal employment, as determined under the applicable personnel policies and procedures; and/or

(4) For suspension or revocation of appointment as a gaming agent pursuant to Chapter V; and/or

(5) For recovery by the Tribe of damages from the violators in an amount not to exceed three times the monetary gain realized by the violator as a result of the violation; and/or

(6) For referral to state or federal authorities for criminal prosecution; and/or

(7) For such other civil remedies as the Tribe may have available to it to prevent continuing violations or to recover for losses caused by or associated with such violations; and

(8) For court costs of \$20.00, which shall be assessed against any person found to have violated this ordinance.

#### 43.704 PARTIES TO A VIOLATION.

Whoever is concerned in the commission of a violation of this ordinance is a principal and may be charged with the violation although he or she did not directly commit it and although the person who directly committed it has not been convicted of the violation. A person is concerned in the commission of a violation if the person:

(1) Directly commits the violation;

(2) Aids and abets the commission of it; or

(3) Is a party to a conspiracy with another to commit it or advises, hires, or counsels or otherwise procures another to commit it.

#### 43.705 ENFORCEMENT PROCEDURES.

Jurisdiction is hereby conferred upon the tribal court over matters related to the violation of this ordinance. Forfeiture proceedings shall be conducted in accordance with Chapter IV of the Tribal Court Code, Tribal Code Ch. 80; provided, that citations issued hereunder may be served by ordinary mail.

### CHAPTER VIII: CLASS III GAMING

#### 43.801 STATEMENT OF POLICY.

It is the purpose of this chapter of the Tribe's Gaming Ordinance to provide for the sound comprehensive regulation of all Class III casino-style gaming activities on lands within the jurisdiction of the Lac du Flambeau Band of Lake Superior Chippewa Indians, in order to protect the Tribe's and the public's interest in the integrity of such gaming activities, and to promote tribal economic development, self-sufficiency, and strong tribal government.

#### 43.802 DEFINITIONS.

For the purposes of this chapter of the Gaming Ordinance:

(1) "Act" means the Indian Gaming Regulatory Act, Public Law 100--497, 25 U.S.C. ss. 2701 et seq.

(2) "Class III gaming" means Class III gaming as defined in accordance with the Act, 25 U.S.C. s. 2703(8).

(3) "Compact" means the Tribal-State Compact between the Lac du Flambeau Band of Lake Superior Chippewa Indians and the State of Wisconsin, in accordance with the Indian Gaming Regulatory Act, under which Class III Gaming may be conducted on Indian lands over which the Tribe has jurisdiction.

(4) "Commission" means the Lac du Flambeau Tribal Gaming Commission established by this chapter of the Gaming Ordinance.

(5) "Chairman" means the Chair of the Lac du Flambeau Tribal Gaming Commission established pursuant to this Ordinance.

(6) "Executive Director" means the Executive Director of the Lac du Flambeau Gaming Commission regulating Class III Gaming.

(7) "Gaming facilities" means any site, room, or rooms in which Class III gaming is conducted.

(8) "National Indian Gaming Commission" means the National Indian Gaming Commission established pursuant to 25 U.S.C. s. 2704.

(9) "Net Revenues" means gross revenues of a Class III gaming activity less amounts paid out as, or paid for, prizes and total operating expenses including debt service but excluding management fees paid to a management contractor within the meaning of 25 U.S.C. s. 2711(c).

(10) "Ordinance" means this Lac du Flambeau Chippewa Tribal Gaming Ordinance.

(11) "State" means the State of Wisconsin.

(12) "Tribe" means the Lac du Flambeau Chippewa Tribe.

(13) "Tribal Council" means the Lac du Flambeau Chippewa Tribal Council.

#### 43.803 GAMING COMMISSION.

(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 insure 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) Each 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 ones' 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 matter 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, 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 be 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 is it 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 prohibitions shall be subject to termination.

(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 collecting of fees to defray 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 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 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 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 1<sup>st</sup> 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 by 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 or 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, or 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 1<sup>st</sup> 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, (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), or for any conduct that threatens the honesty or integrity of the Gaming Commission of 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 by a Tribal member or employee, the Secretary shall submit such a 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.

#### 43.804 SUPPLIERS LICENSES.

(1) The Commission may issue a supplier's license to such persons, firms or corporations which apply for such upon the payment of a non-refundable application fee of \$2,000.00.

(2) The holder of a supplier's license is authorized to sell or lease, and to contract to sell or lease, gaming equipment and supplies unique to gaming in the Tribal gaming facility.

(3) Gaming supplies and equipment may not be distributed to the Tribal facility unless the supplies and equipment conform to standards set by the Commission.

(4) A person, firm or corporation is ineligible to receive a suppliers license if:

- (a) The person, officer of the corporation, or a stockholder in a position to exercise control of the corporation has been convicted of a felony under the laws of this State, any other state, or the United States.
- (b) The person has submitted an application for a license under this Ordinance which contains false or misleading information;
- (c) The person is a member of the Commission;
- (d) The firm or corporation is one in which a person defined in (4a), (4b), or (4c), is an officer, director, or a managerial employee;
- (e) The firm or corporation employs a person who participates in the management or operations of Tribal gaming authorized under this Ordinance;
- (f) The license of the person, firm or corporation issued under this Ordinance, or a license to operate gaming facilities in any other jurisdiction, has been revoked.

(5) Any person that supplies any equipment, devices, supplies, or services unique to the Tribal gaming operation must first obtain a suppliers license. A supplier shall furnish to the Commission a list of all equipment, devices and supplies, or services offered for sale or lease in connection with gaming authorized under this Ordinance. A supplier shall keep books and records for the furnishing of equipment, devices, supplies, or services to the Tribal gaming facility separate and distinct from any other business that the supplier might operate. A supplier shall file a quarterly report with the Commission listing all customers, sales, leases, or services. A supplier shall permanently affix its name to all its equipment, devices, and supplies for gaming operations.

(6) Any supplier's equipment, devices or supplies which are used by any person in a gaming operation not authorized by the Commission shall be confiscated by the Tribe.

(7) The Tribe may own its own gaming equipment, devices and supplies. In that event, the Tribe through its' authorized Casino Executive Officer, shall file an annual report listing its inventories of such gaming equipment, devices and supplies.

#### 43.805 RECORDS - REPORTS.

(1) The Tribal gaming facility shall keep it's books and records so as to clearly

show the following:

- (a) The amount received daily from admission fees (if applicable).
  - (b) The total amount of gross receipts.
  - (c) The total amount of adjust gross receipts.
  - (d) A system of accounting control relative to the gaming operation which shall provide a plan of organization and a description of the procedures and records which are designed to provide reasonable assurance that the following objectives will be attained:
    - (i) The safeguarding of assets.
    - (ii) The reliability of financial records
    - (iii) That transactions are executed in accordance with management's general or specific authorization.
    - (iv) That transactions are recorded as necessary to (a) permit proper recording of gaming revenue, and (b) maintain accountability for assets.
    - (v) That access to assets is permitted only in accordance with management's authorization.
    - (vi) That the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.
- (2) The Tribal gaming facility shall furnish to the Commission any reports and information which the Commission shall require with respect to it's activities on forms designated by the Commission.
- (3) The books and records kept by the Tribal gaming facility as provided by this Section are Tribal records and the examination, publication, and disseminating of the books and records are governed by the provisions of the Tribal/State gaming compact.
- (4) Audit of Operations. Audits shall be conducted as set out in §43.905. The selected auditor shall transmit to the Commission an audit of the financial transactions and conditions of the Tribal gaming facility's total operations. All audits shall be conducted by certified public accountants registered in the State of Wisconsin.
- (5) Annual Report of Board. The Commission shall make an annual report to the Tribal Council, for the period ending September 30 of each year. Included in the report

shall be an account of all Commission actions, its financial position, the practical results attained under this Ordinance and any recommendations for Tribal legislation which the Commission deems advisable.

43.806 SAVINGS CLAUSES.

(1) Nothing in this Ordinance shall be deemed to limit the Tribe's regulatory or taxation authority with regard to any gaming under the Tribe's authority.

(2) Severability. The invalidity of a section, sub-section, clause or provision of this ordinance shall not affect the validity of the remaining sections, sub-sections, clauses, or provisions of this ordinance.

43.807 EFFECTIVE DATE.

This ordinance shall be effective immediately upon securing all necessary approvals; until such time as the Commissioners are appointed and qualified the powers of the Commission shall be exercised by the Tribal Council.

CHAPTER IX: CLASS II AND III GAMING ORDINANCE

43.901 Purpose

The Lac du Flambeau Tribal Council empowered by the Tribe's Constitution to enact ordinances, hereby enacts this ordinance in order to set the terms for class II and III gaming operations on tribal lands.

43.902 Gaming Authorized

Class II and III gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. § 2703(7)(A) (IGRA) and by the regulations promulgated by the National Indian Gaming Commission at 25 C.F.R. § 502.3 and 502.4 (as published in the Federal Register at 57 FR 12382-12393, April 9, 1992) is hereby reaffirmed as being authorized.

43.903 Ownership of Gaming

The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this ordinance.

43.904 Use of Gaming Revenue

A. Net Revenues from class II and III gaming shall be used only for the following purposes: to fund tribal government operations and programs; provide for the general welfare of the Tribe and its members; promote tribal economic development; donate to charitable organizations; or help fund operations of local government agencies.

B. If the Tribe elects to make per capita payments to tribal members, it shall authorize such payments only upon approval of a plan submitted to the Secretary of the Interior under 25 U.S.C. § 2710(b)(3).

#### 43.905 Audit

A. The Tribe shall cause to be conducted annually an independent audit of gaming operations and shall submit the resulting audit reports to the National Indian Gaming Commission.

B. All gaming related contracts that result in the purchase of supplies, services, or concessions in excess of \$25,000.00 annually, except contracts for professional legal and accounting services, shall be specifically included within the scope of the audit that is described in subsections A. above.

#### 43.906 Protection of the Environment and Public Health and Safety

Class II and III gaming facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.

#### 43.907 Licenses for Key Employees and Primary Management Officials

The Tribe shall ensure that the policies and procedures set out in this section are implemented with respect to key employees and primary management officials employed at any class II gaming enterprise operated on Indian lands:

##### A. Definitions

For the purposes of this section, the following definitions apply:

##### 1. Key employee means

a. A person who performs one or more of the following functions:

- (1) Bingo caller;
- (2) Counting room supervisor
- (3) Chief of security;
- (4) Custodian of gaming supplies or cash;
- (5) Floor manager;
- (6) Pit boss;
- (7) Dealer;
- (8) Croupier;
- (9) Approver of credit; or
- (10) Custodian of gambling devices including persons

with access to cash and accounting records within such devices;

b. If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or

c. If not otherwise included, the four most highly compensated persons in the gaming operation.

2. Primary management official means

a. The person having management responsibility for a management contract;

b. Any person who has authority:

(1) To hire and fire employees; or

(2) To set up working policy for the gaming operation;

or

c. The chief financial officer or other person who has financial management responsibility.

B. Application Forms

1. The following notice shall be placed on the application form for a key employee or a primary management official before that form is filled out by an applicant:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et.seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to hire you in a primary management official or key employee position.

The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

2. Existing key employees and primary management officials shall be notified in writing that they shall either:

a. Complete a new application form that contains a Privacy Act notice; or,

b. Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

3. The following notice shall be placed on the application form for a key employee or a primary official before that form is filled out by an applicant.

A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. also, you may be punished by fine or imprisonment. (U.S. Code, title 18, section 1001.)

4. The Tribe shall notify in writing existing key employees and primary management officials that they shall either:

a. Complete a new application form that contains a notice regarding false statements; or,

b. Sign a statement that contains the notice regarding false statements.

C. Background Investigation

1. The Tribe shall request from each primary management official and from each key employee all of the following information:

a. Full name, other names used (oral or written), social security number(s), birth date, place of birth citizenship, gender, all languages (spoken or written);

b. Currently and for the previous 5 years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;

c. The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (1)(b) of this section;

- d. Current business and residence telephone numbers;
- e. A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
- f. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- g. The name and address of any licensing or regulatory agency with which the person has filed an application for license or permit related to gaming, whether or not such license or permit was granted;
- h. For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;
- i. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within 10 years of the date of the application, the name and address of the court involved and the date and disposition;
- j. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to paragraph (1)(h) or (1)(i) of this section, the criminal charge, the name and address of the court involved and the date and disposition;
- k. The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
- l. A current photograph;
- m. Any other information the Tribe deems relevant; and,
- n. Fingerprints consistent with procedures adopted by the Tribe according to 25 C.F.R. sec 522.2(h).

2. The Tribe shall conduct an investigation sufficient to make a determination under subsection D. below. In conducting a background investigation, the Tribe or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

D. Eligibility Determination

The Tribe shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation. If the Tribe determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, a tribal gaming operation shall not employ that person in a key employee or primary management official position.

E. Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission

1. When a key employee or primary management official begins work at a gaming operation authorized by this ordinance, the Tribe shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in subsection D of this section.

2. The Tribe shall forward the report referred to in subsection F of this section to the National Indian Gaming Commission within 60 days after an employee begins work or within 60 days of the approval of this ordinance by the Chairman of the National Indian Gaming Commission.

3. The gaming operation shall not employ as a key employee or primary management official a person who does not have a license after 90 days.

F. Report to the National Indian Gaming Commission

1. Pursuant to the procedures set out in subsection E of this section, the Tribe shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation. An investigative report shall include all of the following:

- a. Steps taken in conducting a background investigation;
- b. Results obtained;
- c. Conclusions reached; and,
- d. The bases for those conclusions.

2. The Tribe shall submit, with the report, a copy of the eligibility

determination made under subsection D of this section.

3. If a license is not issued to an applicant, the Tribe:
  - a. Shall notify the National Indian Gaming Commission; and,
  - b. May forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.

4. With respect to key employees and primary management officials, the Tribe shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the National Indian Gaming Commission or his or her designee for no less than three (3) years from the date of termination of employment.

G. Granting a Gaming License

1. If, within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the tribe that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the tribe has provided an application and investigative report to the national Indian Gaming Commission, the Tribe may issue a license to such applicant.

2. The Tribe shall respond to a request for additional information from the chairman of the National Indian Gaming Commission concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30-day period under paragraph G. 1. of this section until the Chairman of the National Indian Gaming Commission receives the additional information.

3. If, within the thirty (30) day period described above, the National Indian Gaming Commission provides the Tribe with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Tribe has provided an application and investigative report to the National Indian Gaming Commission, the Tribe shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. The Tribe shall make the final decision whether to issue a license to such applicant.

H. License Suspension

1. If, after the issuance of a gaming license, the Tribe receives from the National Indian Gaming Commission reliable information indicating that a key

employee or a primary management official is not eligible for employment under subsection D. above, the Tribe shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

2. The Tribe shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.

3. After a revocation hearing, the Tribe shall decide to revoke or to reinstate a gaming license. The Tribe shall notify the National Indian Gaming Commission of its decision.

#### 43.908 License Locations

The Tribe shall issue a separate license to each place, facility, or location on Indian lands where class II and/or III gaming is conducted under this ordinance.

#### 43.909 Repeal

To the extent that they are inconsistent with this ordinance, all prior gaming ordinances are hereby repealed.

## CHAPTER X: PER CAPITA DISTRIBUTION ORDINANCE

### 43.1001 STATEMENT OF POLICY.

In order to promote the general welfare of the Tribe and its members, this Ordinance is intended to provide for fair and equitable per capita distribution to duly enrolled tribal members of revenues appropriated by the Lac du Flambeau Tribal Council from gaming activities conducted by and on behalf of the Tribe. This Ordinance combines both the per capita plan and the revenue allocation plan of the Tribe.

### 43.1002 DEFINITIONS.

For purposes of this Ordinance:

(1) "Act" means the Indian Gaming Regulatory Act, Pub. L. 100-497, 25 U.S.C. §2701 *et seq.*

(2) "Children's Trust Funds" or "CTFs" shall mean the trust funds established under §43.1005 for all minor Members and legally incompetent adult Members eligible to receive per capita payments.

(3) "Council" means the duly elected Lac du Flambeau Tribal Council.

(4) "Members" means those persons, including otherwise eligible minor children and other legal incompetents, who are duly recognized as members of the Lac du Flambeau Tribe.

(5) "Need based public benefit program" means programs which use the amount of the applicant's monthly income as one factor in determining eligibility. *Definition added by Resolution No. 173(00) April 14, 2000.*

(6) "Net revenues" means gross revenues of tribal gaming activities less amounts paid out as, or paid for, prizes and total operating expenses including debt service but excluding management fees paid to a management contractor within the meaning of 25 U.S.C. §2711(c). *Section renumbered by Resolution No. 173(00) April 14, 2000.*

(7) "Ordinance" means this Per Capita Distribution Ordinance. *Section renumbered by Resolution No. 173(00) April 14, 2000.*

(8) "Revenue Allocation Plan" means the revenue allocation plan included in §43.1003 of this Ordinance providing a percentage allocation of uses of funds derived from tribal gaming operations. *Section renumbered by Resolution No. 173(00) April 14, 2000.*

(9) "State" means the state of Wisconsin. *Section renumbered by Resolution No. 173(00) April 14, 2000.*

(10) "Trustee" means a professional asset management firm with suitable expertise and discretion selected by the Lac du Flambeau Tribal Council. The Council shall only be empowered to select qualified financial institutions as Trustee. Such selection shall be limited to state and federally chartered banks, trust companies and investment brokerage firms which, at the time of engagement manage assets of five hundred million dollars or more. *Section renumbered by Resolution No. 173(00) April 14, 2000.*

43.1003      APPROPRIATIONS AND APPLICATION OF TRIBAL GAMING REVENUES.

(1) In order to provide for the general welfare of the Tribe and its members, the Lac du Flambeau Tribal Council shall review periodically throughout the fiscal year at times it deems appropriate, the income, expenses, and management of tribal gaming operations, and after due consideration of the overall need to fund tribal government operations and programs, the overall needs of the Tribe and its members, and the need to promote tribal economic development, shall determine whether to make any changes to the Revenue Allocation Plan providing for appropriate percentage allocation of Tribal Gaming Revenues within the annual budget of the Tribe. The Council shall also determine what amount, if any, of the revenues allocated to general welfare purposes shall be appropriated for distribution as per capita payments. An affirmative vote of at least a majority of the members of the Council shall be required to approve any changes to the Revenue Allocation Plan or to authorize per capita appropriations.

(2) The initial allocation of Tribal Gaming Revenues shall be as follows: 23% (TWENTY-THREE PERCENT) for tribal government operations and programs; 69% (SIXTY-NINE PERCENT) to provide for the general welfare of the Tribe or its members; 7% (SEVEN PERCENT) to promote tribal economic development; 1% (ONE PERCENT) for charitable donations; and 0% (ZERO PERCENT) to fund the operation of local governmental services.

(3) The portion allocated to Tribal Government Operations and Programs shall fund: the Council's activities, Executive Offices, Finance Department, Computer System, Personnel Department, Property and Procurement Office, Newsletter, Legal Department, Legal Fees, Investigation and Audits, Tribal Courts, Constitutional Reform, etc.

(4) The portion allocated to the General Welfare of the Tribe and its members shall fund: Education Administration, Tribal Scholarships, Community Education, Support, HeadStart Support and Building, employee assistance, training, Public Works Department, new homes and mobile homes, repairs and maintenance, Health Department, Tribal aging unit, per capita payments, etc.

(5) The portion allocated to Economic Development shall fund; the Planning Department, Development Department, Business Loans, land acquisitions, purchase of businesses, Enterprise Management, Casino Department Service, casino expansion, etc.

(6) The charitable donations will be decided by the Council based on requests.

(7) Funding for the operation of local government services will be coordinated by the Council.

43.1004 MEMBERSHIP AND ELIGIBILITY.

(1) Applications, Written Determination of Eligibility. All members of the Lac du Flambeau Tribe that are on the tribal rolls shall be eligible to receive per capita distributions. Persons seeking membership in the Lac du Flambeau Tribe may fill out an application for membership in accordance with the Tribal Enrollment Ordinance. Applications for membership may be made at any time, and shall be submitted in such form and manner as the Enrollment Officer may reasonably require. In order to provide for the orderly review and consideration, applications submitted within 60 (sixty) days or less of a scheduled distribution date shall not be found eligible for distribution until the next scheduled distribution. At least 45 (forty-five) days but no longer than 50 (fifty) days before the annual date of the distribution of per capita payments as provided in Section 6 of this Ordinance, the Enrollment Officer shall publish a list of those persons found eligible for such payments or whose eligibility is dependent on action on their application for enrollment. Any applicant found not to be eligible shall be provided with a written determination of the basis for the denial.

(2) Appeal of Findings. Any person who believes that the Enrollment Officer has erroneously made a determination regarding his or her own membership or residency may appeal that as provided for in Chapter 10 of the Tribe's ordinances, entitled, "Membership Ordinance".

43.1005 MINORS AND OTHER LEGAL INCOMPETENTS.

(1) The interests of minors and other legally incompetent Members, or members whose addresses are unknown at the time of a distribution, otherwise entitled to receive per capita payments shall be disbursed as follows. Within 60 days of passage of this Ordinance a Children's Trust Fund, which shall be irrevocable, shall be established for each minor Member and legally incompetent adult Member eligible for per capita payments. The Council shall select a Trustee with suitable expertise and discretion to administer the CTFs. Trust assets shall be invested in a reasonable and prudent manner which protects the principal and seeks a reasonable return. The Trustee shall disburse the proportional assets of each CTF to the beneficiary thereof upon reaching the age of eighteen (18); this provision shall not operate to compel disbursement of funds to Members legally determined to be incompetent.

(2) Members whose whereabouts are unknown shall also have their money added to the CTF and said monies shall be held until their whereabouts are known or until reasonable proof of death is presented to the Tribal Court at which time the monies due to the member shall be distributed to their estate. If no heirs can be determined by the Tribal

Court, the monies shall be returned to the Tribe.

(3) Funds in the CTF of a minor or legally incompetent member shall be available for the benefit of a beneficiary's health, education and welfare when the needs of such person are not being met from other Tribal funds and upon a finding of special need by the Lac du Flambeau Tribal Court. In order to request such funds, a written request must be submitted to the Tribal Court by the beneficiary's parent or legal guardian. The parent or legal guardian shall maintain records sufficient to demonstrate that the funds disbursed were expended as required by this Ordinance and any applicable state or federal law. The procedure that shall be followed in making this request is that it is to be in writing on an application form available from the Department of Social Services that has been approved by the Per Capita Committee and the Tribal Court judges. This form shall include information under oath that the needs of such person are not being met from other Tribal funds. This application shall also recite under oath what special needs must be met. Upon application and filing with the Tribal Court a hearing shall be conducted after at least three working days notice is given to the Department of Social Services, the Tribal Secretary, and the Tribal Treasurer. The application form shall include a notice to the applicant that if the funds are expended in a way other than as authorized by this Ordinance or any applicable state or federal law that the Tribe will seek prosecution of the responsible party(ies).

#### 43.1006 PAYMENTS.

(1) Any per capita payments authorized by the Council pursuant to §43.1003 shall be made annually on or before the first Monday in the month of December to all Members eligible for the distribution in accordance with §43.1004, and in proportionate shares to the CTFs on behalf of the beneficiaries thereof. All members living on October 1<sup>st</sup> of the distribution year shall be eligible for payment even if they subsequently die.

(2) In order to promote the social welfare of the tribe, a monthly supplemental income distribution of up to five hundred (\$500) dollars shall be made to all Members age 55 and above eligible for the distribution in accordance with §43.1004, provided those Members are not participating in other need based public benefit programs. Those Members participating in need based public benefit programs shall receive their supplemental income distribution with the per capita payment made to all members in paragraph (1) of this section or at such time as determined by the Council. The amount of monthly supplemental income distribution shall be determined based upon availability of funds and provided for as a line item of the General Fund Operation Budget. *Section adopted per Resolution No. 173(00) April 14, 2000.*

(3) Unless there is an approved loan and repayment schedule in effect prior to the distribution close out date of October 1 of the distribution year and the member is not in default on that schedule, any monies owed to the Tribe, to any Tribal Enterprise or to the Tribal Court, shall be deducted from any members per capita payment until such debt and/or obligation to the Tribe is paid in full. *Section renumbered by Resolution No. 173(00) April 14, 2000.*

43.1007      TAXATION.

The per capita payments are subject to Federal taxation. Members receiving payments shall be informed that they are responsible for payment of applicable taxes. The Tribe will deduct and withhold any applicable federal taxes as required by Section 3402(r) of the Internal Revenue Code of 1986.

43.1008      AMENDMENTS.

This ordinance may be amended by the action of the Lac du Flambeau Tribal Council, in a meeting at which a quorum is present, but only upon the affirmative vote of a majority of the members. All amendments shall be subject to the approval of the Secretary of the Interior before they become effective.

## TRIBAL CODE

### CHAPTER 43.10 - PER CAPITA PAYMENT DISTRIBUTION ORDINANCE

#### ADDENDUM #1

The Lac du Flambeau Band of Lake Superior Chippewa Indians financed construction of the Lake of the Torches Casino in 1996, with the pay off scheduled in June of 1999. At the time of financing, tribal members were asked to be patient and told that when the casino was paid off, they would receive a per capita payment.

Therefore, the Lac du Flambeau Tribe wishes to make a special one time payment of \$1500.00 each to its tribal members. This special payment would be made from funds available through the General Fund Per Capita Account.

This *Special June 30, 1999* distribution shall not affect the payment schedule outlined in the Tribal Code, Chapter 43.10, Per Capita Payment Distribution Ordinance, which shall remain in tact until such time as the tribe decides if and when it will make more frequent payments.

The following shall apply for the *Special June 30, 1999* One Time payment:

(1) Applications, Written Determination of Eligibility. All members of the Lac du Flambeau Tribe that are on the tribal rolls shall be eligible to receive the *Special June 30, 1999* per capita distribution. Persons seeking membership in the Lac du Flambeau Tribe may fill out an application for membership in accordance with the Tribal Enrollment Ordinance and shall be submitted in such form and manner as the Enrollment Officer may reasonably require. In order to provide for the orderly review and consideration, applications submitted within 40 days or less of scheduled distribution date shall not be found eligible for the *Special June 30, 1999* distribution. At least 25 days but no longer than 30 days before the *Special June 30, 1999* distribution of per capita payments as provided in Section 4 of this Addendum, the Enrollment Officer shall publish a list of those persons found eligible for such payments. Any applicant found not to be eligible shall be provided with a written determination for the basis for the denial.

(2) Appeal of Findings. Any person who believes that the Enrollment officer has erroneously made a determination regarding his or her own membership may appeal that as provided for in Chapter 10 of the Tribe's ordinances, entitled, "Membership Ordinance."

(3) Minors and Other Legal Incompetents. The interests of minors and other legal incompetent members, or members whose addresses are unknown at the time of the distribution, otherwise entitled to receive per capita payments shall be placed in the Children's Trust Fund and handled in accordance with Chapter 43.1005(1)(2)(3).

(4) Payments. This *Special July 30, 1999* distribution, authorized by the Council pursuant to this Addendum #1, shall be made in accordance to the provisions set forth herein to all members eligible for the distribution, and in proportionate shares to the CTFs on behalf of the eligible for the *Special July 30, 1999* distribution even if they subsequently die.

(5) Unless there is an approved loan and repayment schedule in effect prior to the distribution day of July 30, 1999 and the members in not in default on the schedule, any monies to the Tribe, to any Tribal Enterprise or to the Tribal Court, shall be deducted from any members per capita payment until such debt and/or obligation to the Tribe is paid in full.

(6) TAXATION. The per capita payments are subject to Federal taxation. Members receiving payments shall be informed that they are responsible for payment of applicable taxes as required by Section 3402(r) of the Internal Revenue Code of 1986.

*Resolution No. 230(99)*