



February 24, 2004

Jackie Tibbetts
Compliance Director
Leech Lake Band of Ojibwe
Leech Lake Gaming Commission
Regulatory Board of Directors
6280 Upper Cass Frontage Rd. NW
Cass Lake, MN 56633

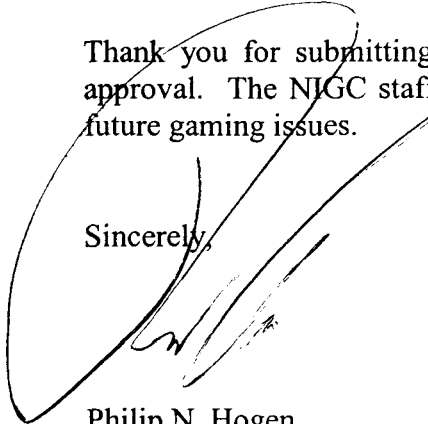
Re: Resolution #LLG03-003 concerning Class II Poker and Resolution #04-51
and Gaming Commission Ordinance concerning Gaming Commission Regulatory
Board

Dear Ms. Tibbetts:

This letter is in response to your request for the National Indian Gaming Commission (NIGC) to review and approve the Resolution #LLG03-003 concerning Class II Poker and Resolution #04-51 and Gaming Commission Ordinance concerning Gaming Commission Regulatory Board. The resolutions and ordinance were received in this office on December 3, 2003. You notified our staff that the Gaming Commission Ordinance is to be effective in conjunction with the Class II and III Gaming Ordinance, which was approved in 1993. This letter constitutes approval of your submission under the Indian Gaming Regulatory Act (IGRA). It is important to note that the Gaming Commission Ordinance is approved for gaming only on Indian lands, as defined in the IGRA, over which the Tribe has jurisdiction and is effective upon approval by the NIGC.

Thank you for submitting the Gaming Commission Ordinance for review and approval. The NIGC staff looks forward to working with you and the Tribe on future gaming issues.

Sincerely,



Philip N. Hogen
Chairman



Leech Lake Band of Ojibwe

N.L.G.C.

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Peter D. White, Chairman
Arthur LaRose, Secretary/Treasurer

Region IV, St. Paul MN

District I Representative District II Representative District III Representative
Burton Wilson *Lyman L. Losh* *Richard Robinson Jr.*

LEECH LAKE TRIBAL COUNCIL

RESOLUTION #LLG03-003

Resolution Amending #94-2 Class II and III Gaming Ordinance Adopting Class II Poker – a Non-banking Card Game

- WHEREAS,** the Leech Lake Tribal Council is the duly elected and authorized governing body of the Leech Lake Band of Ojibwe, and
- WHEREAS,** the Leech Lake Band of Ojibwe Indians owns, operates, and licenses gaming facilities on the Leech Lake Reservation as part of its sovereign governmental power, and
- WHEREAS,** the Leech Lake Tribal Council is the governing body of the Leech Lake Band of Ojibwe and has the authority and responsibility to regulate gaming on the Leech Lake Reservation, and act as the Band's Gaming Commission, and
- WHEREAS,** the Leech Lake Tribal Council has the authority and responsibility to exercise federally recognized inherent powers of self-government within the Leech Lake Reservation, and has the authority to amend ordinances to promote the general welfare of the band, and
- WHEREAS,** pursuant to its own powers of self-government, and under the terms of the Indian Gaming Regulatory Act (IGRA) of 1988 it is necessary to implement certain regulations regarding gaming within the Leech Lake Reservation, and
- WHEREAS,** it is in the best interests of the Leech Lake Band to amend in a comprehensive manner its existing gaming regulations and to incorporate the amendment by the Leech Lake Tribal Council acting as the Gaming Commission has the sovereign authority to amend the existing gaming ordinance, and

NOW THEREFORE BE IT RESOLVED that the Leech Lake Tribal Council, in its own capacity and as the Leech Lake Gaming Commission, and in exercise of its sovereign authority and its responsibilities under applicable federal law and Tribal/State Gaming Compacts, hereby adopts this amendment to our Class II and Class III Gaming Ordinance to include the game of Poker (a non-banked card game) which falls under Class II gaming within the State of Minnesota, and

BE IT FURTHER RESOLVED, that $\frac{3}{4}$ vote of the Leech Lake Tribal Council will be needed to change this amendment to our Gaming Ordinance,

Page 2
Resolution No.LLG03-003
Amending Gaming Ordinance
Adopting Class II Poker

WE DO HEREBY CERTIFY, that the foregoing Amendment #LLG03-003 to Resolution #94-2 was duly presented and adopted by a vote of 4 For, 0 Against, and 0 Silent at the Regular Gaming Commission Meeting of the Leech Lake Tribal Council, a quorum being present, held on 13th day of August, 2003, in Cass Lake, Minnesota.

/s/Peter D. White

/s/Arthur LaRose

Peter D. White, Chairman
LEECH LAKE BAND OF OJIBWE

Arthur LaRose, Secretary/Treasurer
LEECH LAKE BAND OF OJIBWE



Leech Lake Band of Ojibwe

Peter D. White, Chairman

Arthur "Archie" La Rose, Secretary/Treasurer

District I Representative
Burton "Luke" Wilson

District II Representative
Lyman L. Losh

District III Representative
Richard Robinson, Jr.

N.L.G.C.

DEC 03 2003

LEECH LAKE TRIBAL COUNCIL RESOLUTION NO. 04-51

Region IV, St. Paul MN

RESOLUTION TO ENACT A GAMING COMMISSION ORDINANCE AND TO ESTABLISH AND EMPOWER THE GAMING COMMISSION HEARING BOARD

WHEREAS, The Leech Lake Band of Ojibwe is a federally recognized Indian Tribe organized pursuant to the Indian Reorganization Act of 1934 and amendments thereof; and

WHEREAS, the Leech Lake Band of Ojibwe is governed by a Tribal Council made up of elected representatives who act in accordance with the powers granted to it by its Constitution and By-laws; and

WHEREAS, the Tribal Council has determined that it is important to its gaming operations to establish a gaming regulatory commission and a hearing board; and

WHEREAS, the Leech Lake Band adopted its Class II and III Gaming Ordinance (Gaming Ordinance), including the Gaming Control Code, on 8/28/93. The ordinance was enacted in order to "set the terms for Class II and II (sic) gaming operations on Band lands", and repeals all prior gaming ordinances, including Ordinance No. 85-01, adopted 6/2/87, which in turn replaced Ordinance No 85-01, adopted 1/1//85 and revised 7/8/86; and

WHEREAS, the Gaming Ordinance tracks the Indian Gaming Regulatory Act Section 2710(b), and the CFR, Subchapter E, Parts 556 and 558, Gaming Licenses; and the Gaming Control Code tracks the Compact language, and contains rules and restrictions for bingo, blackjack, and video games of chance; and

WHEREAS, the Tribal Council has determined in order to improve the regulatory ability of the Tribe over it's gaming operations it must develop a comprehensive regulatory system of checks and balances needed to ensure the integrity of the games and to protect the interest of the tribe; and

WHEREAS, the Tribal Council has determined it is imperative there be a separation between the regulation and operation of Tribal gaming activities; and

WHEREAS, the Tribal Council has determined under its sovereign authority it shall delegate its regulatory powers, rulemaking authority as well as enforcement powers, to a separate and independent Gaming Commission, as an arm of Tribal government, through the vehicle of a Gaming Commission Ordinance; and

WHEREAS, the Tribal Council has also determined it will further delegate its regulatory powers, rulemaking authority as well as enforcement powers, vested in the Gaming Commission under the Gaming Commission Ordinance to a separate Gaming Commission Hearing Board comprised of the Directors of the Gaming Commission, as defined under the Gaming Commission Ordinance, and one Tribal Council Member.

NOW THEREFORE BE IT ORDAINED, the Leech Lake Band of Ojibwe Gaming Commission Ordinance is hereby enacted.

NOW THEREFORE BE IT RESOLVED, the Tribal Council establishes a separate Gaming Commission Hearing Board comprised of the Directors of the Gaming Commission, as defined under the Gaming Ordinance Unit, and one appointed Tribal Council Member.

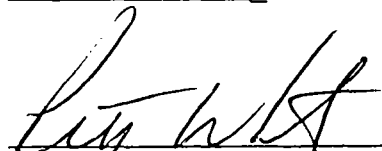
BE IT FURTHER RESOLVED, the Tribal Council further delegates its regulatory powers, rulemaking authority as well as enforcement powers, delegated to the Gaming Commission under the Gaming Commission Ordinance to the Gaming Commission Hearing Board.

BE IT FURTHER RESOLVED, the Gaming Commission Hearing Board shall report all its activities and decisions to the Tribal Council on a monthly basis in a written report and/or verbal presentation.

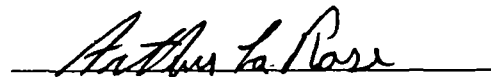
BE IT FURTHER RESOLVED, that at any time in its sole discretion the Tribal Council may revoke any or all of the authority delegated to the Gaming Commission and/or the Gaming Commission Hearing Board by a simple majority vote.

CERTIFICATION

WE DO HEREBY CERTIFY, that the foregoing ordinance and resolutions were duly presented and ordained and adopted by a vote of 4 For 0 Against 0 Silent, by the Tribal Council of the Leech Lake Band of Ojibwe, a quorum being present, held on November 5, 2003 at Cass Lake Minnesota.



Peter D. White, Chairman
Leech Lake Band of Ojibwe



Arthur La Rose, Secretary/Treasurer
Leech Lake Band of Ojibwe

**LEECH LAKE BAND OF OJIBWE
GAMING COMMISSION ORDINANCE**

Section 1. *Short Title.*

This Ordinance shall be known and may be cited as the Leech Lake Gaming Commission Ordinance.

Section 2. *Authority.*

This Gaming Commission Code is enacted pursuant to the inherent sovereign authority of the Leech Lake Tribal Council, as the governing body of the Leech Lake Band of Ojibwe, as granted by Article VI of the Revised Constitution of the Minnesota Ojibwe Tribe, and as recognized by the United States under Section 16 of the Indian Reorganization Act of 1934, 25 U.S.C. § 476.

Section 3. *Purpose.*

The purpose of this Gaming Commission Code is to ensure the integrity of Leech Lake Tribal gaming, to protect the assets of the Band through strong internal controls and monitoring of cash movements, to regulate gaming through the enforcement of all applicable law, through the establishment of a Gaming Commission as the Band's regulatory body for gaming operations.

Section 4. *Use of language from other laws.*

Inclusion of language, definitions, procedure, or other statutory or administrative provisions of other Tribal jurisdictions, the State of Minnesota or other state or federal entities in the Leech Lake Band of Ojibwe Gaming Commission Code shall not be deemed an adoption of that law by the Leech Lake Band of Ojibwe and shall not be deemed an action deferring to state or federal jurisdiction by the Leech Lake Band of Ojibwe where such state or federal jurisdiction is concurrent or does not otherwise exist.

Section 5. *Definitions.*

The terms used in this Code shall have the meaning given to such terms as follows:

“Administrative Unit” or “Leech Lake Gaming Commission Administrative Unit” shall be composed of all the Directors of the Gaming Commission.

“Band” shall mean the Leech Lake Band of Ojibwe.

“Band member” shall mean an enrolled member of the Leech Lake Band of Ojibwe.

"Directors" shall mean the head of the different units of the Gaming Commission.

"Indian" means any person who would be subject to the jurisdiction of the United States as an Indian under section 1153, title 18, United States Code, if that person were to commit an offense listed in that section in Indian country to which that section applies.

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"Leech Lake Reservation" shall mean all lands within the exterior boundaries of the Leech Lake Reservation and all trust lands held by the United States for the Leech Lake Band.

"Tribal Council" shall mean the governing body of the Leech Lake Band.

"Commission" shall mean the Leech Lake Gaming Commission.

"Key employee" shall mean any person employed in a supervisory capacity within a gaming operation that is empowered to make discretionary decisions with regard to the gaming operation. Key employees include but are not limited to:

1. All casino management – General Managers and Shift Managers. All casino Department Managers and their shift supervisors. All Gaming Administration staff – Controller, Assistant Controller, Gaming Director, Assistant Gaming Director, Executive Secretary, Accounting staff, Training staff, Human Resource staff, and Internal Audit staff. Casino department staff in all positions for the following departments – Accounting, Bingo, Blackjack, Poker, Marketing, Security, Surveillance, Slots, and the Vault.
2. If not otherwise included, the four most highly compensated persons in the gaming operation.

"Primary Management Official" shall mean:

1. The person having management responsibility for a management contract; or
2. Any person on a Gaming Board or other Management Board who has management authority with respect to a tribal gaming operation.
3. Any person or entity which sets up the working policy for a gaming operation or which approves or disapproves the working policy or specific decisions of a gaming operation's general manager or who has authority to hire and fire employees.

4. Any person or entity authorized to obligate funds from any tribal gaming operation for operating expenses or make allocations of net revenues on behalf of the Band.
5. A chief financial officer or other person who has financial management responsibility.
6. Any other person defined as a primary management official in 25 C.F.R. § 502.19.

“IGRA” means the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 *et seq.*

“NIGC” means the National Indian Gaming Commission.

“Immediate Family” means a parent, step parent, parent in law, spouse, child, step child, brother, step brother, brother in law, sister, step sister, sister in law, or grandchild.

“Shall” is used in this Ordinance as imposing an obligation to act.

Section 6. *Effect of Headings.*

Article and section headings contained herein are for convenience of reference only and shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent or the provisions of any article or section of this Ordinance.

Section 7. *Liberal Interpretation.*

The provisions of this Ordinance, being necessary for the welfare of the Band and its members, shall be liberally construed to effect the purpose and objective hereof, but in all cases, consistent with the provisions of IGRA or any other applicable law.

Section 8. *Severability.*

The provisions of this Ordinance are severable; if any part or provision hereof shall be held void by tribal or federal court or federal agency, the decision of the court or agency so holding shall not affect or impair any of the remaining provisions of the Ordinance. Citation to potential court action in this section shall not be deemed a waiver of the Band's sovereign immunity from suit.

Section 9. *Implementation.*

It being immediately necessary for the preservation of the public peace and safety of the Band and its members, this Ordinance shall take effect and be in full force from and after its approval and passage by the Tribal Council, and shall remain in affect pending approval from the Secretary of the Interior.



Section 10. *Non-waiver of Immunity.*

Nothing in this Ordinance shall be construed to constitute a waiver of the sovereign immunity of the Leech Lake Band of Ojibwe Indians, which shall extend to all officers, employees and agents who are engaged in the administration or enforcement of the provisions herein.

CHAPTER 1. ESTABLISHMENT OF GAMING COMMISSION

Section 1. *Commission establishment.*

There is hereby established the Leech Lake Gaming Commission to carry out the purposes set forth herein.

Section 2. *Commission membership.*

The Commission shall consist of the Leech Lake Band of Ojibwe Tribal Council. Additionally, there shall be a Leech Lake Gaming Commission Administrative Unit. The initial organizational chart for the Administrative Unit is attached as Exhibit A. The Tribal Council acting as the Leech Lake Gaming Commission shall delegate those administrative and regulatory tasks deemed appropriate by the Tribal Council in a separate resolution to the Leech Lake Gaming Commission Administrative Unit.

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The Director of Investigations and the Director of Compliance shall be co-chairs of the Administrative Unit and shall be responsible for administration of the Commission.

There shall be no right of appeal to any court from a decision of the Tribal Council not to permit a proposed Director to serve as a Director.

Section 3. *Commission employees.*

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The Commission shall employ Directors and staff after conducting interviews and providing license suitability notice to the Tribal Council, in accordance with the Commission's budget as approved by the Tribal Council and in accordance with the Band's personnel and hiring policies and procedures, until such time as the Commission adopts its own policies and procedures in accordance with the Band's policies. At least one Director shall have a background in accounting, one with Gaming experience, and one with a background in law enforcement and investigations.

Section 4. *Duties of Chairperson.*

The Chairperson of the Commission shall have responsibility for calling and Presiding over meetings of the Commission, presiding over rulemaking procedures, and presiding over any hearings which the Commission might conduct, as well as overseeing administration of the daily affairs of the Commission including the receipt of complaints concerning gaming or persons associated with gaming, directing activities of persons charged with conducting background investigations and investigations of complaints, keeping all records, whether relating to financial matters, licenses, investigations, or any other aspect of the Commission's duties and responsibilities, and delegating such responsibilities as the Commission deems necessary.

Members. The members of the Commission shall be required to deliberate vote in all cases where the Commission is required to make a decision regarding licensing, rule-making, a hearing determination regarding the imposition of any sanction including but not limited to licensing suspension, revocation, restriction or limitation, civil penalties, or the exclusion or ejection of any person, as well as annual license renewal.

Section 5. *Decision-making.*

In all cases where a decision is required of the Commission by the provisions of this Ordinance, the Commission shall make said decision after deliberations on the merits of the issue before it, and shall in all cases make a determination of the issue by majority vote of at least a quorum of the Commission, and the position receiving the majority of the votes shall represent the position of the Commission with regard to the matter. All votes by the Commission shall be recorded, and a written record shall be maintained which sets forth the position of the individual members of the Commission.

The members of the Commission shall be required to vote in all cases where the Commission is required to make a decision regarding licensing, rule-making, and any hearing determination regarding the imposition of any sanction including but not limited to licensing suspension, revocation, restriction or limitation, civil penalties, or the exclusion or ejection of any person, as well as annual license renewal.

CHAPTER 2. COMMISSIONERS AND STAFF

Section 1. *Eligibility for selection as Director.*

A proposed Director who meets the criteria within this Chapter is eligible for consideration for selection as a Director.

Section 2. *Background investigation.*

Director. A background investigation shall be conducted, comparable to a primary management official background investigation, to determine the suitability of each

Director to serve on the Regulatory Board. Each proposed member of the Board shall be required to agree that his/her name may be submitted by the Tribal Council to appropriate law enforcement officials in order to determine that the proposed member:

1. Has not been convicted of a felony or any gambling offense in any jurisdiction;
2. Has no prior activities, reputation, habits, or associations affecting his/her present conduct which would pose a threat to the public interest, threaten the effective regulation and control of gambling, or enhance the dangers of unsuitable, unfair, or illegal practices, methods or activities in the conduct of gambling.

Commission employees. A background investigation shall be conducted, comparable to a key employee background investigation, to determine the suitability for employment of each Commission employee.

Section 1. *Prohibitions.*

Gambling. Directors may not gamble in an establishment licensed by the Commission. Commission employees may not gamble in an establishment licensed by the Commission unless Commission rules and regulations authorize or limit such gambling.

Financial interests. Commissioners and Commission employees shall have no personal financial interest in any gambling by any patron other than the financial interest shared equally with all members of the Band.

Conflict of interest. No member of the Commission or any Commission employee, directly or indirectly, individually, or as a member of a partnership or other association, or as a shareholder, director, or officer of a corporation, or otherwise, shall have an interest in a business which contracts for the operation and management of the Band's gaming operations, or any marketing or supplying of equipment and materials in connection therewith.

Gifts and gratuities. No member of the Commission or any employee of the Commission or a member of their immediate family shall ask for, offer or accept, or receive a gift, gratuity, or other thing of value from a person or entity licensed under this Ordinance or from a person or entity contracting or seeking to contract with the Band's gaming operations for the operation and management of such operations or to supply gaming equipment or materials in connection therewith. No person or entity licensed under this Ordinance or a person or entity contracting or seeking to contract with the Band's gaming operations for the operation and management of such enterprise or to supply gaming equipment or materials shall offer a member of the Commission or any employee or the Commission or a member of his/her immediate family a gift, gratuity, or other thing of value.

Other business. Commissioners shall not be engaged in any gambling-related business.

Section 4. *Suspension, Removal, Termination.*

- a. Director.** The Tribal Council may suspend Directors members for cause. "Cause" for purposes of this section shall include, but is not limited to, dereliction of duty, failure to follow a reasonable directive of the Tribal Council, misappropriation of funds, fraud, falsification of reports, conviction of a felony, conviction of a gaming offense in any jurisdiction or violation of this Ordinance or any of the rules or regulations promulgated thereunder. Upon suspension, the Tribal Council must immediately notify the accused Director in writing of the suspension and the reasons for the suspension. The Tribal Council shall hold a hearing on the charges not less than ten nor more than twenty days from the receipt of such notification by the Director. Upon conclusion of a suspension hearing, the Tribal Council shall determine whether the evidence supports the charges. If the evidence supports the charges, the Tribal Council shall immediately remove the Director.
- b. Commission employee.** An employee of the Commission who, after a hearing before the Commission, is determined to have violated any provision of this Section shall be immediately terminated from employment.
- c. Director and Commission employees.** All Directors and employees are also subject to the Band's human resources policies or the Commission's human resources policies if applicable.

CHAPTER 3. POWERS OF COMMISSION

Section 1. *General Powers.*

The Commission shall have the authority to enforce this Ordinance and to regulate all gambling operations governed by this Ordinance.

Section 2. *Rulemaking.*

The Commission shall:

Adopt and publish such rules and regulations and minimum standards as may be necessary to carry out and assure compliance with the provisions of this Ordinance and the responsibilities of the Band under any applicable federal law

and any Class III gaming compact entered into between the Leech Lake Band and the State of Minnesota.

Adopt standards for licensing the occupations within gaming operations.

Adopt reasonable standards consonant with the size and scope of the gaming operation, including game rules, including regulations concerning security and surveillance operations, and the prize and wagering structure.

In the adoption, amendment or repeal of any rules and regulations, the Commission shall give public notice of the proposed action as set forth in Chapter 4, Section 2.

Section 3. *Licensing.*

The Commission shall:

- a. Receive and process all license applications related to the conduct of Class II and Class III gaming activities on land within the jurisdiction of the Band.
- b. Issue licenses to all such gaming operations, persons, individuals, and distributors who are required to be licensed by the Gaming Ordinance and who qualify for such licensure, and to notify the National Indian Gaming Commission when required.
- c. License any person, organization or entity selling, leasing, marketing or otherwise distributing gambling devices, equipment, games, or implements of gambling.
- d. Limit, condition, suspend, restrict, or revoke any license and assess fines for violations of the Gaming Ordinance or any rules or regulations promulgated by the Commission.
- e. Formally suspend, revoke, and ensure the appropriate disposition of a license held by a licensee for a violation committed by a licensee, or an employee of the licensee, of the Gaming Ordinance or a Commission rule or regulation or for engaging in a fraudulent practice.
- f. Hold hearings, and require license or applicants to appear and testify under oath regarding matters related to enforcement of the Gaming Ordinance, complaints received, actions by the Commission regarding licenses, or other matters over which the Commission has authority.
- g. Issue subpoenas for the attendance of witnesses and subpoenas duces tecum, and administer oaths and affirmations to the witnesses.

- h. Hear and consider for resolution any dispute between members of the public and the Band with regard to gaming activities licensed pursuant to the terms of the Gaming Ordinance.

Section 4. *Investigation.*

The Commission shall:

- a. Investigate gaming and non-gaming employee license applicants, determine their eligibility, and issue licenses.
- b. Investigate non-management gaming contractors and approve any license required.
- c. Investigate and license any management contractors or any ancillary contractors of any management contractor who provide supplies, services, concessions or property to the Band's gaming operations or to any management contractor in connection therewith.
- d. Investigate alleged violations of the Gaming Ordinance, Commission rules, regulations, orders, or final decision, any class III gaming compact, or other applicable laws and take appropriate disciplinary action, including the imposition of civil fines, against a licensee or employee of a licensee, or institute appropriate legal action for enforcement, or both.

Section 5. *Review of gaming-related contracts.*

The Commission shall:

Review all contracts entered into by a gaming operation to determine whether the transaction documents are a contract, whether it is related to gaming and therefore subject to the Gaming Ordinance requirements, and whether the entity must be licensed.

Section 6. *Inspection.*

The Commission shall:

- a. Inspect and examine all premises wherein gaming is conducted or gambling devices or equipment are manufactured, sold or distributed.
- b. Inspect all equipment and supplies in, upon, or about a gaming operation, or inspect any equipment or supplies, wherever located, which may or have been used in the gaming operation.
- c. Enter without restriction the offices, facilities, or other places of business of a licensee to determine compliance with the Gaming Ordinance subject

to the right of the licensee requesting the Commission member be accompanied by security personnel to facilitate unrestricted access.

Section 7. *Seizure.*

The Commission shall:

Summarily seize and remove and impound equipment and supplies for the purpose of examination, inspection, evidence, or forfeiture where the Commission reasonably believes a violation of the Gaming Ordinance has occurred and hold such property pending any final hearing determination of the appropriate disposition of such property.

Seize and impound any patron's winnings reasonably believed obtained in violation of the Gaming Ordinance or other law pending a civil forfeiture hearing and/or criminal proceeding.

Section 8. *Audit and Accounting.*

The Commission shall:

- a. Require and cause to be conducted annually, outside independent audits of all gaming activity as required by IGRA and submitting such audits to the NIGC.
- b. Require and cause to be conducted annually outside audits of all contracts related to the conduct of gaming, except for professional legal and account services, including contracts for supplies, service, or other subject matter determined by the Commission to be related to gaming and which are for a contract amount in excess of \$25,000.
- c. Access upon demand and inspect, examine, copy and audit all papers, books and records of applicants and licensees respecting any revenue or income produced.
- d. Require verification of daily gross revenues and income of any class II and Class III activity.
- e. Assure that payout from the gambling games authorized under the Gaming Ordinance and the payout percentages for all slot machines and video lottery machines are in accordance with compacts.
- f. Inspect and audit at reasonable times and with 24 hours advance notice to a gaming operation the books of account, records, and documents pertaining to the gaming operation and of any management contractor or other person or entity licensed in connection therewith.

- g. Audit books, records, equipment and procedures of any Class III gaming operation and of any management contractor thereof as the Commission deems necessary or as required by Compact.
- h. Audit and inspect any bank records pertaining to gaming operation showing deposits received from or withdrawals of monies in connection with a gaming operation.
- 1. Approve all internal controls procedures and all amendments thereto prior to the commencement of a gaming operation.

Section 9. Enforcement.

The Commission shall:

- a. Exercise the powers of a civilian commissioned officer of the Band for purposes of enforcing the Gaming Ordinance, except there is no authority to carry firearms in the performance of official duties.
- b. Establish, enforce and impose a schedule of civil fines to assure compliance.
- c. Take any other actions as may be reasonable and appropriate to enforce the Gaming Ordinance, the rules and regulations of the Commission, including the assessment and collection of fees and fines.

Section 10. Security and Surveillance.

The Commission shall:

- a. Oversee and carry out necessary surveillance of gambling activities pursuant to any management contract.
- b. Approve security procedures and establish surveillance procedures and equipment standards.

Section 11. Game and Game Rules; Approval and Posting.

The Commission will approve all games and game rules. Before any game may be played in the Band's gaming operations, the game must be authorized by the Commission and the game rules must be publicly posted in the gaming facility at such conspicuous location, near where such gaming activity is conducted so as to make them readily available and accessible to the public. The Commission shall not have the authority to disapprove or withhold authorization for class II gaming activities or any class III gaming activities permitted by the terms of any compact entered into by the Band with the State of Minnesota.

Section 12. *Other.*

The Commission shall:

- a. Defend the Gaming Ordinance in any court or federal agency.
- b. Make monthly reports to the Tribal Council, and otherwise as the Tribal Council may require, summarizing all licensing and enforcement actions, audit reports and recommendations, patron dispute cases, such other information as to which the commission may wish to advise the council, and information on any other matters requested by the Tribal Council.
- c. Maintain all records for financial matters, licenses, and investigations.
- d. Propose an annual budget to the Tribal Council to support commission operations undertaken pursuant to the provision of the Gaming Ordinance, including salaries of Directors and Commission employees.
- e. Consult with the Band's legal counsel to advise the commission as necessary.

CHAPTER 4. RULES AND REGULATIONS

Section 1. *Availability.*

All rules and regulations, including game rules, issued or approved by the commission shall be available to any person making a request for such at a cost of reproduction and other costs as identified by the Commission. Other information, particularly information concerning sensitive operational or contractual information, not published as rules or regulations, shall be released by the Commission only if such release is specifically authorized by the Tribal Council.

Section 2. *Promulgation.*

The Commission shall promulgate such substantive and procedural rules and regulations as the Commission deems necessary to administer the provisions of this Ordinance; but only upon thirty (30) days notice of the proposed rulemaking action, which shall be provided to the Tribal Council, posted at the Band offices and provided in written form to the general manager of any licensed gaming operation.

- a. The notice shall specify the purpose of the proposed regulation, the draft language of the proposed regulation, and the factors the Commission has considered in its determination to enact the proposed regulation, and an address at which the Commission shall receive comments pursuant to the provision of subparagraph 2 of this Section;

b. During the notice period the Commission shall receive comments regarding the proposed regulation at the Commission offices, or at a designated mailing address;

c. The comments received by the Commission shall be considered by the Commission at a meeting open to the public, and the Commission shall make a final determination regarding the need for the proposed regulation, the language of the proposed regulation, and the effective date of the proposed regulation on the basis of all the information available to the Commission. Any final determination of the Commission shall be recorded in writing.

CHAPTER 5. RECORDS.

Section 1. *Employee, agent, contractor employment records.*

The Commission shall retain applications for licensure or other employment in connection with the Band's gaming operations, reports of background investigations, and other employee, agent or contractor records, and records of all hearings for a period no less than three (3) years from the date of termination of employment as an employee, agent, or contractor.

Section 2. *Confidential records.*

Gaming information and records enumerated in this Section are confidential and may not be disclosed except as required by Tribal-State Compact, federal law or regulation, or pursuant to court order of a court of competent jurisdiction. No person may use a subpoena, discovery or other applicable statutes to obtain such information or records. Information and records considered confidential include:

- a. Tax returns of individual licenses;
- b. Applications, credit, medical and security reports of applicants for licenses and of other persons seeking or doing business with the Commission; and
- c. Marketing, financial or sales data, the disclosure of which may be harmful to the competitive position of the Band's gaming operations, its licensees or persons seeking or doing business with the Commission; and
- d. Audit work papers, worksheets and auditing procedures used by the Commission, its agents or employees; and
- e. Information provided by a licensee or license applicant that is privileged or proprietary in nature.

Section 3. Disclosure.

Nothing in this Section shall be construed to prohibit the Commission from disclosing information and records in accordance with the provisions of any class III gaming compact entered into between the Band and the State of Minnesota, or pursuant to the Indian Gaming Regulatory Act and regulations promulgated thereunder, or by order of a court of competent jurisdiction.

CHAPTER 6. HEARINGS

Section 1. Opportunity for hearing.

The Gaming Commission shall afford a licensee or any other person(s), subject to this Ordinance, the opportunity for hearing prior to taking final action resulting in terminating, revoking, suspending, or limiting a license or prior to taking any other adverse action the Commission deems appropriate, provided, that the Commission may summarily suspend temporarily or extend suspension of a license for thirty (30) days in those cases where such action is deemed appropriate by the Commission.

a. License hearings.

1. **Denial.** The Commission shall afford an applicant for a license an opportunity for hearing prior to a final action denying such application or on the Commission's failure to make a determination on a license application within 120 days from submission thereof.
2. **Suspension.** In cases where a license is suspended prior to a hearing, an opportunity for hearing shall be provided. Whenever, after the issuance of a gaming license, the Commission receives reliable information indicating that an employee, agent or contractor is not eligible to have a license for employment to conduct business at a tribal gaming operation, the Commission shall suspend such license and shall notify the licensee in writing of the suspension and proposed revocation. Such licensee shall be afforded the opportunity to show cause why the license in question should not be revoked.
 - a. **Key employee or Primary Management Official.** When the suspension involves a key employee or primary management official or any employee, agent or contractor who has access to cash, tokens or chips, machine components or other gaming supplies or who has management, security, or accounting responsibilities, the notice shall include a time and place for hearing on the proposed license revocation. After hearing, the Commission shall notify the National Indian Gaming Commission of its decision to revoke or to reinstate the license. The

Commission may act to revoke or reinstate the license of any other licensee under such procedures as it may determine appropriate.

3. **Revocation.** The Commission shall revoke and refuse to renew an existing license upon the occurrence of any event which would have made the licensee ineligible for a license if the event had occurred prior to the issuance of the license, or if the licensee knowingly made a false statement on the license application, or following a hearing on suspension of license, or if the licensee or an agent of the licensee knowingly violates or permits a violation of a provision of this Ordinance or of a rule or regulation adopted by the Commission. A licensee whose license is subject to revocation shall be afforded the opportunity to show cause why the license in question should not be revoked.
 - a. **Waiting period after revocation.** A former licensee whose license is revoked is not eligible to receive another license provided that whenever a license is revoked because the licensee is an abuser of alcohol or drugs, a former licensee may be eligible to receive another license upon a determination by the Commission that the former licensee is no longer an abuser of alcohol or drugs.
4. **Violation hearings.** Whenever the Commission determines that any person has failed to comply with the provisions of this Ordinance or any regulation promulgated hereunder, the Commission shall make a certification of specific findings. A copy thereof shall be served upon the subject or subjects of that determination. After five (5) days notice and within ninety (90) days following the Commission's determination, the Commission shall hold a hearing at which the subject shall have an opportunity to be heard and present evidence, if any, in refutation of the Commission's findings. Within five (5) days following a hearing, the Commission shall make a final determination and order on the violation.

Section 2. Notice.

The Gaming Commission shall serve written notice, in accordance with Section 3, of any proposed action, including any final action resulting in terminating, revoking, suspending, or limiting a license or prior to taking any other adverse action the Commission deems appropriate. For license hearing, notice shall be provided to the licensee or applicant at least ten days prior to hearing. For a violation hearing, notice shall be served as provided in Section 1(b).

Section 3. Service.

The Commission shall serve any official determination, order, or notice of violation on licensees, including employees, agents, and contractors doing business at or with the Band's gaming operations, and others within the jurisdiction of the Commission, in

accordance with this Section. A licensee, applicant, or other respondent shall serve any documents upon the Commission in accordance with this Section. Following service, the person who served the document(s) shall complete an Affidavit of Service, which shall become a part of the case file. Service shall be made by:

- a. Delivering a copy to a designated agent;
- b. Delivering a copy to the person or entity that is the subject of the official determination, order, or notice of violation;
- c. Delivering a copy to the individual who, after reasonable inquiry, appears to be in charge of the gaming operation or such other entity that is the subject of the official determination, order or notice of violation;
- d. Mailing to the person or entity that is the subject of the official determination, order, or notice of violation or to his or her or its designated agent at the last known address. Service by mail is complete upon mailing; or
- e. Transmitting a facsimile to the person or entity that is the subject of the official determination, order, or notice of violation or to his or her or its designated agent at the last known facsimile number. Service by facsimile is complete upon transmission.
- f. Delivery of a copy means handing it to the attorney or designated agent (or attorney for either); leaving a copy at the person's, entity's, agent's or attorney's office with a clerk or other person in charge thereof; if there is no one in charge, leaving it in a conspicuous place therein; if the office is closed or the person to be served has no office, leaving it at the person's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein; or, if the entity cannot otherwise be served, handing it to or leaving a copy with a principal, officer, board member, or majority stockholder.

Section 4. *Computation of time.*

Personal service shall be deemed given on the day of service, and time shall be computed starting the day following personal service. Mail service shall be deemed received three days after mailing, as determined by the postmark date, and time shall be computed beginning the following day after the third day of postmark.

Section 5. *Burden of proof.*

At a license hearing it shall be the obligation of the licensee or license applicant to show cause why, as the case may be, the license application in question should not be denied, the license or licenses in question should not be revoked or suspended, the period of

suspension should not be extended, special conditions or limitations upon a license should not be imposed, or any other action should not be taken. At a violation hearing, it shall be the obligation of the respondent to present evidence to refute the Commission's findings.

Section 6. *Commission determination.*

Following a hearing, the Commission shall, within seven (7) days, determine whether the license in question should be granted, continued, suspended, revoked, conditioned or limited, and whether or not any other action recommended to or by the Commission (including but not limited to, forfeitures or fines) should be taken.

Section 7. *Written determination provided.*

Within three (3) days following any determination under Section 6, the Commission shall inform the license applicant, licensee or former licensee, or other respondent in writing of that determination.

Section 8. *Right of appeal.*

The Tribal Court shall have jurisdiction to review any adverse determination of the Commission on a license application or affecting a license and any final determination or order on a violation of this Ordinance. A request for such review must be filed with the clerk of the Tribal Court within five (5) days following service of the Commission's determination or order, or shall be deemed time-barred. The Tribal Court shall reverse the Commission's determination or order only upon a finding that the Commission determination or order is contrary to a clear preponderance of the evidence presented to it. There shall be no appeal from any final determination of the Tribal Court on a determination or order relating to a license denial or revocation. There shall be a right of appeal from any final determination of the Tribal Court on a determination or order on a violation of this Ordinance.

Section 9. *Hearing Procedures.*

A hearing shall be conducted as an adjudicatory proceeding, with an opportunity given the affected party to be represented by counsel, present testimony, exhibits, and any other evidence, which the affected party feels, will support the party's position. In all cases such hearings shall be held on the record, and, in cases of license denial, witnesses may be required to testify under oath. In all cases, which might result in the imposition of sanctions, testimony shall be taken by the Commission under oath. The Commission shall adopt hearing procedures and forms and shall make such hearing procedures available to the public. The Commission may charge any person requesting a copy of hearing procedures and forms a reasonable fee for copying.

CHAPTER 7. FINES AND PENALTIES

Section 1. *General.*

Whenever a person or entity within the civil jurisdiction of the Band violates any provision of this Ordinance, any rule or regulations of the Commission, any provision of any class III gaming compact entered into between the Band and the State of Minnesota, or engages in any activity proscribed under such Ordinance, rules or regulations or compact, such person or entity shall be subject to a civil fine or license suspension or license revocation or both a civil fine and license suspension or revocation.

Section 2. *Schedule of civil fines.*

The Commission shall establish, enforce, and impose such schedule of civil fines as may be necessary to assure compliance with the provisions of this Ordinance, the rules and regulations of the Commission, and any class III gaming compact entered into between the Band and the State of Minnesota.

Section 3. *Attachment of property.*

Upon determining that a person or entity may be the subject of a civil fine, the Commission or its agents or employees may immediately attach the personal property of such person or entity of a value sufficient to satisfy the applicable fine, and hold such property until a final determination is made on whether such person or entity shall be required to pay a civil fine. Nothing in any schedule of fines established by the Commission shall be deemed to limit the amount of any civil fine that may be imposed by a tribal court or by the Commission upon a finding that a person or entity has violated any provision of this Ordinance, any rule or regulation of the Commission, or any provision of any class III gaming compact entered into between the Band and the State of Minnesota.

Section 4. *Payment of costs.*

A violator shall be required to pay court costs or Commission costs, as the case may be, storage fees and auction or sales fees.

Section 5. *Charge or complaint required.*

No fine shall be assessed or any action taken for any violation of this Ordinance, any rule or regulation issued pursuant thereto, or any provision of a class III gaming compact entered into between the Band and the State of Minnesota unless a charge or complaint is filed with the Commission or a tribal court, as the case may be, within three years of the commission of the violation.

Section 6. *Determination of violation.*

The Commission shall review each notice of violation to determine whether a civil fine will be assessed, the amount of the fine, and in the case of continuing violations, whether each daily illegal act or omission will be deemed a separate violation for purposes of the total civil fine assessed.

Section 7. *Forfeiture of property.*

- a. Anything of value, including all traceable proceeds, including but not limited to, real and personal property, moneys, negotiable instruments, securities, and conveyances belonging to any person or entity, is subject to forfeiture to the Band if the item was used for any of the following:
 - 1. In exchange for a bribe intended to affect the outcome of a gambling game.
 - 2. In exchange for, to facilitate, or in connection with a violation of this Ordinance, any rule or regulation of the Commission, any provision of any class III gaming compact entered into between the Band and the State of Minnesota, or in taking any action proscribed under such Ordinance, rules or regulations or compact.
 - 3. In exchange for, to facilitate, or in connection with a violation of any management contract with the Band.
- b. All moneys, coin, and currency found in close proximity or wagers, subject to forfeiture, or of records of such wagers are presumed forfeited. The burden of proof is upon the claimant of the property to rebut this presumption.

Sections 7(a) and 7(b) do not apply if the act or omission which would give rise to the forfeiture was committed or omitted without the owner's knowledge or consent.

Winnings found to have been received in violation of this Ordinance are subject to forfeiture.

Upon determining that the property of a person or entity may be subject to forfeiture, the Commission or its agent or employees may immediately seize such personal property of the person or entity as may be subject to forfeiture, and hold such property until a final determination is made on whether such property is to be forfeited to the Band.

Within five (5) days following the seizure of any property that may be subject to forfeiture, the Commission shall notify the person or entity from whom such property was seized and, if different, the owner of such property, if known, of a hearing before the Commission to determine whether the property was used for any of the purposes

described in Section 7(a). The hearing shall be held no later than fifteen (15) days following the date of seizure of the property, provided that the Commission may extend this time for not more than an additional fifteen (15) days if an investigation into the circumstances of the use of the property has not been completed.

1. At any hearing, the person or entity from whom the property was seized and, if different, the owner of the property shall have an opportunity to be heard, including an opportunity to present oral and documentary evidence, cross-examine witnesses and present oral arguments within limits established by the Commission.
2. When holding a hearing under this Section, the Chairman of the Commission or any presiding Commissioner may administer oaths and affirmations, issue subpoenas to compel the attendance of witnesses or procure the production of documents, and take such other action as may be necessary to conduct the hearing in a manner most likely to result in a fair disposition.
3. Whenever a preponderance of the evidence introduced at a hearing supports the conclusion that seized property was used for any of the purposes described in Section 7(a), the Commission shall issue an order forfeiting such property to the Band.

Upon receipt of forfeited property, the Band shall permit an owner or lienholder of record having a nonforfeitable property interest in the property the opportunity to purchase the property interest forfeited. If the owner or lienholder does not exercise the option under this Section within thirty (30) days the option is terminated, unless the time for exercising the option is extended by the Band.

A person having a valid, recorded lien or property interest in forfeited property, which has not been purchased pursuant to Section 7(g), shall either be reimbursed to the extent of the nonforfeitable interest or to the extent that the sale of the item produces sufficient revenue to do so, whichever amount is less. The sale of the forfeited property should be conducted in a manner, which is commercially reasonable and calculated to provide a sufficient return to cover the costs of the sale and reimburse any nonforfeitable interest. The validity of a lien or property interest is determined as of the date upon which property becomes forfeitable.

This Section does not preclude a civil suit by an owner of an interest in forfeited property against the party who, by using the property for any of the purposes described in Section 7(a), caused the property to become forfeited to the Band.

CHAPTER 8. EXCLUSION OR EJECTION

Section 1. *Exclusion or Ejection of Persons Permitted.*

The Band hereby declares that the exclusion or ejection of certain persons from licensed gaming establishments, facilities, enterprises or places is necessary to carry out the policies of this Ordinance and to maintain the health, welfare, safety and security of the public, as well as to protect the integrity of gaming conducted on the Leech Lake Reservation.

Section 2. *Notice to Gaming Operation.*

In the furtherance of the policies of this section the Commission may provide for any gaming operation, facility, or place a list of persons who are not permitted to enter or be on the premises, and who may be forcibly excluded or ejected therefrom, including any person whose presence poses a threat to the Leech Lake Band, the State of Minnesota, or to the integrity of licensed gaming conducted within the Reservation. Upon a finding that a person should be excluded or ejected for any of the reasons specified in Section 4, the Commission shall provide the gaming operation with a picture of that person, with a written description of that person, together with written notice that the person shall not be permitted to enter or be on the premises of any gaming operation, and who, upon identification by the gaming operation, shall be forcibly ejected or excluded therefrom.

Section 3. *Exclusion by gaming operation.*

Any licensed gaming establishment may independently make a finding that any person should be excluded or ejected for any of the reasons specified in Section I, and may act to exclude or eject such persons, provided that any person so ejected shall be provided with written notice of the right to a hearing to appeal such action to the Gaming Commission.

Section 4. *Factors to be considered in determination to exclude or eject.*

In making its determination regarding exclusion or ejection from a gaming facility, place, establishment, or enterprise the Commission shall consider:

That person's prior conviction for a felony, a misdemeanor involving moral turpitude, or a violation of the Gaming laws of any Indian Tribe, State, or of the United States;

Any violation or attempt to violate, or conspiracy to violate the provisions of this Ordinance relating to the disclosure of an interest in a gaming enterprise;

Failure to disclose information required by the license application, or any effort to evade taxes or fees associated with the conduct of Gaming;

Any reputation for behavior, which would adversely affect the public confidence in the gaming operation and trust that the gaming industry is free from criminal or corrupting influences.

Disorderly conduct, or any attempt to manipulate or tamper with any Gaming equipment or alter or distort the normal conduct of any game, or to conspire with any other person for such purposes.

Section 5. *Notice to Excluded Persons.*

When the name and description of a person is placed on the list of excluded persons, the Commission shall, if possible, give notice of the action to that person by at least one of the following means:

1. By personal service;
2. By certified mail to the last known address of the person.

CHAPTER 9. FUNDING

Section 1. *Funding of Commission.*

The Commission shall be funded through fees and assessment, fines collected, and from annual appropriations from the Tribal Council as a line item in its budget.

CHAPTER 10. AMENDMENT

Section 1. *Amendment.*

This Ordinance may be amended only upon an affirmative vote of an absolute majority of all eligible voting members of the Tribal Council at a meeting called specifically and exclusively for the purpose of amending the Gaming Commission Ordinance, and then such amendment shall be valid only if it complies with the terms and provisions of IGRA, the Compact, and applicable law.

WE DO HEREBY CERTIFY THAT the foregoing Ordinance was adopted by a vote of 4 For and 0 Against, and 0 Abstaining, at a Special meeting of the Leech Lake Tribal Council held on the 5th day of November, 2003, at Cass Lake, Minnesota, at which a quorum was duly present.

/s/Peter D. White

Peter D. White, Chairman
Leech Lake Reservation Tribal Council

/s/Arthur LaRose

Arthur LaRose, Secretary-Treasurer
Leech Lake Reservation Tribal Council