

LEECH LAKE BAND  
OF  
CHIPPEWA INDIANS

CULTURAL RESOURCES PROTECTION ORDINANCE  
ORDINANCE NO. 96-03

BE IT ENACTED by the Leech Lake Reservation Tribal Council:

Section 1. Short Title. Sections 1 through 12 may be cited as the "Leech Lake Reservation Cultural Resources Protection Ordinance" or "CRPO."

Sec. 2. Findings. The Leech Lake Reservation Tribal Council hereby finds and declares that:

(1) the spirit and direction of the Leech Lake Band of Chippewa Indians are founded upon and reflected in its cultural heritage;

(2) the cultural heritage of the Band should be preserved as a living part of our community life and development in order to give a sense of orientation to our people;

(3) cultural properties and burial sites, both inside and outside the boundaries of the Reservation are being lost or substantially altered, often inadvertently, with increasing frequency;

(4) the preservation of this irreplaceable cultural heritage is in the interest of the Band, as its past is a precious resource, one that is still alive today in language, music, stories, and traditions. The Band's cultural heritage must be preserved so that its vital legacy of cultural, educational, aesthetic, inspirational, and economic benefits will be maintained and enriched for future generations;

(5) in the face of ever increasing development within and near the boundaries of the Reservation, a tribal ordinance is necessary to ensure that future generations have a genuine opportunity to appreciate, protect, and enjoy the rich heritage of the Band;

(6) increased knowledge of the Band's cultural resources and the establishment of better means of identifying them and fostering their preservation will improve the planning of federal, Tribal, state, and other projects, will promote economic growth and development, and will expedite project implementation; and

(7) although the federal and state governments have shared primary responsibility for cultural resource preservation in the past, and both must continue to play a

role, it is essential that the Band expand and accelerate its cultural resource preservation programs and activities.

Sec. 3. Policy. It shall be the policy of the Leech Lake Reservation Tribal Council to:

(1) use culturally appropriate measures to foster conditions under which modern society and the cultural resources of the Band can coexist in productive harmony and fulfill the social, economic and other requirements of present and future generations;

(2) provide leadership in the preservation of cultural resources on the Reservation;

(3) administer Reservation cultural resources in a spirit of stewardship and for the inspiration of present and future generations;

(4) contribute to the preservation of off-Reservation cultural resources and give maximum encouragement to organizations and individuals undertaking preservation by private means; and

(5) assume the functions of the State Historic Preservation Officer within the Reservation to the maximum extent authorized by 16 U.S.C. § 470a(d).

Sec. 4. Interpretation. Sections 1 through 12 shall be liberally construed so as to achieve the policies established by Section 3 consistent with the findings of Section 2.

Sec. 5. Definitions. As used in Sections 1 through 12, the terms defined in this section shall have the meanings given them unless otherwise clearly required by the context.

Subd. 1. "Archeological Site" or "Prehistoric Site" means a location containing evidence of past human activity that occurred prior to European arrival in the Reservation and which requires protection to prevent damage, abuse or deterioration.

Subd. 2. "Band" means the Leech Lake Band of Chippewa Indians.

Subd. 3. "Burial Site" means a location containing one or more burials.

Subd. 4. "Cultural Resource" means any product of human activity, or any object or place given significance by human action or belief.

Subd. 5. "Cultural Site" means a location containing cultural resources or cultural materials and which requires protection to prevent damage, abuse or deterioration.

Subd. 6. "Heritage Site" means any archeological, historical, cultural, or burial site on the Reservation. Among other things, they include sites associated with traditional foods and other natural resources, sacred sites, habitations, historic events and people.

Subd. 7. "Heritage Sites Program" means the Reservation Heritage Sites Program.

Subd. 8. "Historic Preservation Officer" or "HPO" means the Leech Lake Historic Preservation Officer, who is the Director of the Leech Lake Historic Preservation Office within the Division of Resource Management.

Subd. 9. "Historic Site" means a location containing evidence of past human activity that occurred during the period commencing at the time of initial European arrival in the Reservation until fifty years prior to the present and which requires protection to prevent damage, abuse or deterioration.

Subd. 10. "Indian" means any enrolled member of a federally recognized band or tribe of Indians.

Subd. 11. "Office" means the Historic Preservation Office created by Section 6.

Subd. 12. "Person" means any individual, corporation, partnership, association, business trust, legal representative, or any organized group of persons.

Subd. 13. "Reservation" means the Leech Lake Indian Reservation as established by treaty and executive order within the boundaries described in an unpublished consent judgment in Leech Lake Band of Chippewa Indians v. Herbst, No. 3-69 Civ. 64 and 3-70 Civ. 228 (U. S. Dist. Ct., Dist. of Minn., June 18, 1973), including all lands and waters inside the described boundaries regardless of the issuance of any patent.

Subd. 14. "Site" means the location of the physical remains of human activity.

Subd. 15. "Sponsor" means the person who had decision making authority over a particular undertaking.

Subd. 16. "Tribal" or "Tribe" refers to the Band.

Subd. 17. "Tribal Archeologist" means the Leech Lake Heritage Sites Program Director.

Subd. 18. "Undertaking" means any project, activity, or program that may result in changes in the character of use of cultural resources.

Sec. 6. Historical Preservation Office; Historical Preservation Officer. The Historical Preservation Office and the position of Historic Preservation Officer are hereby established within the Division of Natural Resources. The Office, which shall be under the direction of the HPO, shall have the following authorities and duties:

- (1) implementing and enforcing this ordinance;
- (2) developing, maintaining and administering the Reservation Cultural Resource Protection Plan described in Section 8;
- (3) soliciting, accepting, and administering grants and other donations and expend funds so acquired consistent with the terms of the grant or donation; provided that all grant agreements that require expenditure of band funds shall require the approval of the Reservation Tribal Council;
- (4) reviewing and determining the adequacy of cultural resource investigations or assessments on the Reservation;
- (5) reviewing and determining the impacts of undertakings that may have the potential for significant adverse impacts on cultural resources or prehistoric, historic, cultural or burial sites on the Reservation;
- (6) issuing, denying, suspending or revoking permits pursuant to Section 9;
- (7) consulting with any person, on or off the Reservation, regarding cultural resource issues of concern to the Band;
- (8) entering into cooperative agreements with federal, state and local agreements or other persons relating to the preservation of cultural resources on the Reservation;
- (9) managing and administering the historic preservation programs of the Band;
- (10) reviewing any activity on the Reservation to determine whether it requires a permit pursuant to Section 9 and requiring cultural resource investigations as necessary prior to project initiation;
- (11) reviewing and determining the reliability and applicability of any cultural resource investigations on the Reservation;
- (12) reviewing, assessing, and making determinations regarding the effect of any Undertaking involving cultural resource on the Reservation;

(13) ensuring that the quality of any cultural resource investigations on the Reservation are responsive to tribal requirements, meet the standards of the Site Protection Plan, and satisfy acceptable professional standards;

(14) issuing guidelines to implement the Cultural Resource Protective Plan;

(15) consulting and negotiating with any person regarding cultural resource issues; and

(16) maintaining and expanding all records and archives generated by any cultural resource investigation or Undertaking on the Reservation.

Sec. 7. Heritage Sites Program: Tribal Archeologist. The Heritage Sites Program is hereby established in the Division of Resource Management. The Program, which shall be under the direction of the Tribal Archeologist, shall provide cultural resource services, including advice and consultation on all phases of identifying, documenting, preserving, managing and protecting cultural resources. In addition, the Program will be the custodian of, and provide a safe and secure repository for, all cultural resources collected on tribal lands within the Reservation.

Sec. 8. Cultural Resource Protection Plan. The HPO, in consultation with the Tribal Archeologist, shall prepare and submit, through the Director of Resource Management, to the RTC for approval a Cultural Resource Protection Plan for the Reservation. The Plan shall include comprehensive strategies for locating, documenting, assessing, preserving, managing and interpreting the cultural resources of the Reservation.

Sec. 9. Protection of Cultural Resources.

Subd. 1. Prohibitions: Permit Requirement. No person shall alter, damage, excavate, deface or destroy any archeological, cultural historic or burial site and no cultural resource may be sold, purchased, bartered, exchanged, or removed from the Reservation except according to the terms of a cultural resources permit issued by the HPO pursuant to subdivision 2 of this section.

Subd. 2. Application for cultural resource permits shall be in such form as the HPO shall specify. There shall be two classes of permits.

(a) Class One Permits shall be issued only for cultural resource investigations and may be issued only if the HPO finds that the proposed investigation is necessary to assess, document, preserve or interpret the cultural resource involved and the benefits of the investigation outweigh the damage to the site or the resource.

(b) Class Two Permits may be issued for any other undertakings but only if the HPO finds that:

(1) there are no reasonably feasible alternatives that avoid or substantially reduce adverse impacts on cultural resources;

(2) the applicant has developed and is capable of effectively implementing a mitigation plan that includes documentation, stabilization, curation or other measures as may be reasonably necessary and feasible to minimize damage to cultural resources; and

(3) no burial sites are affected in any way.

Subd. 3. Procedures. Permits shall be issued on a case-by-case basis, for no more than twelve (12) months unless the RTC, on the recommendation of the HPO, finds that a blanket permit or a longer term will provide at least as much protection to the cultural resources, and the issuance of a blanket permit is consistent with the findings, policies and purposes of the CRPO.

Subd. 4. Suspension and Revocation of Permits. The HPO may suspend or remove any Cultural Resource Permit for violation of this ordinance or of the terms and conditions of the permit. Suspensions or revocations shall be in writing and shall state the reasons therefor. Suspensions shall state the actions the permittee must take to remove the suspension. Suspensions and revocations may be appealed to the Director of Resource Management by filing a written notice of appeal, along with a supporting memorandum, with the HPO within thirty (30) days of the effective date of the revocation or suspension.

Subd. 5. Exemptions. This section shall not apply to: (1) Leech Lake Band traditional practitioners engaging in activities directly related to the practice of traditional Anishinabe religion; or (2) RTC employees engaged in cultural resource management activities within the scope of their employment.

Sec. 10. Penalties: Action in Tribal Court. Any person who violates any provision of this ordinance or a permit issued hereunder shall be subject to a civil penalty of up to \$5,000 per occurrence as ordered by the Tribal Court in a civil action brought in the name of the Band by the HPO. In addition, the Tribal Court may order injunctive relief and may award the Band actual damages including, but not limited to, the full costs of: (1) restoring or mitigating harm to the cultural resources involved; (2) investigating and assessing the injury to the cultural resources; and (3) court costs and attorney's fees.

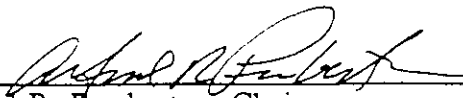
Sec. 11. Sovereign Immunity. Nothing in this ordinance shall be construed as a waiver of the sovereign immunity from suit of the Band or any of its officials, employees or agents.

Sec. 12. Effective Date. Sections 1 through 12 shall become effective upon adoption by the RTC.

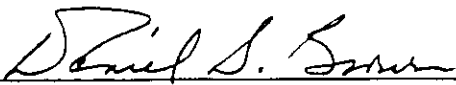
CERTIFICATION

I certify that this ordinance was duly adopted by the Leech Lake Reservation Tribal Council at a ~~SPECIAL~~ meeting thereof held on 12/22/95, in Cass Lake, Minnesota with 3 voting in favor of the ordinance, 0 voting against, and 0 abstaining.

Date: 12/22/95

  
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Alfred R. Pemberton, Chairman  
Leech Lake Reservation Tribal Council

Date: 12/22/95

  
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Daniel S. Brown, Secretary/Treasurer  
Leech Lake Reservation Tribal Council