MAY 22 2001

Kathryn L. Tierney, Attorney
Bay Mills Indian Community
12140 West Lake Shore Drive
Brimley, Michigan 49715

RE: Approval of Amendment to the Bay Mills Indian Community Gaming Ordinance

Dear Ms. Tierney:

This letter responds to your request to review and approve the amendment to the Bay Mills Indian Community's (Community) gaming ordinance submitted on April 13, 2001. The Community by Resolution No. 01-4-9 adopted the amendment to the ordinance on April 9, 2001. The Chairman of the National Indian Gaming Commission (NIGC) approved the Community's original ordinance on August 31, 1993. This letter constitutes approval under the Indian Gaming Regulatory Act (IGRA).

Thank you for submitting the amendment to the tribal gaming ordinance of the Bay Mills Indian Community for review and approval. If you have any questions or require further assistance, please contact Ms. Frances Fragua at 202/632-7003.

Sincerely yours,

Montie R. Deer
Chairman

Bay Mills Indian Community
12140 West Lakeshore Drive
Brimley, Michigan 49715
(906) 248-3241 Fax – (906) 248-3283

APR 13 2001

RESOLUTION

Resolution No. 01-4-9
Amendment to Gaming Ordinance

WHEREAS: The Bay Mills Indian Community is a federally recognized Indian tribe with a Constitution enacted pursuant to the Indian Reorganization Act of 1934, 25 U.S.C. sec. 461, *et seq.*, and

WHEREAS: The Tribe regulates gaming on its Reservation under a compact with the State of Michigan and under its Gaming Ordinance, and

WHEREAS: An amendment to the Gaming Ordinance is determined appropriate to conform the contents of the Tribe's application for gaming license with the background investigation provisions contained in 25 C.F.R. Part 556, as it may be from time to time amended, and with the specifications for eligible gaming employees contained in sec. 4(D)(2) and (3) of the Gaming Compact with the State of Michigan.

NOW, THEREFORE BE IT RESOLVED, that the Executive Council of the Bay Mills Indian Community hereby adopts the following amendments to the Gaming Ordinance, with deletions struck out and additions in italics:

6.2 **Application Procedure for Employment.**
(A) Any person seeking employment with a gaming enterprise licensed by the Commission shall submit an application to the Tribal Commission on such form or in such manner as the Tribal Commission may require. The application form and any changes thereto shall be reviewed and approved by the Bay Mills Indian Community Executive Council prior to utilization.

(B) At a minimum, the application shall contain the following information:

~~(1) The applicant's name, including all other names used, current home and work addresses and telephone numbers, gender, Social Security Number, place of birth, date of birth, citizenship, and driver's license number, as well as the address of his or her personal residences over the past 5~~

years. All information required under Part 556 of Title 25 of the Code of Federal Regulations, as that may from time to time be amended.

(2) The name, address and telephone number of the Primary Management Official for whom the applicant is applying to work and the specific location at which s/he or she is applying to be employed.

(3) The name and job description of the position the applicant is applying for.

(4) The names and addresses of the applicant's living parents, grandparents, spouse, children, brothers, and sisters, including step-, half- and in-law.

(5) A statement as to whether or not the applicant has ever been charged with a crime, and if so, the charge, the name and address of the court involved, the applicant's explanation of the outcome of the case, including the date of final disposition.

(6) The names, current addresses and telephone numbers of three references who are not related to the applicant and who were acquainted with the applicant when the applicant was residing at each of the addresses listed in subsection 6.2(B)(1).

(7) A list of the applicant's current and previous jobs over the preceding 5 years, including the name, address and telephone number of his or her employer, and the position held.

(8) The names and addresses and a brief description of all businesses in which the applicant currently holds, or has within the last 5 years held, an ownership interest.

(9) A description of any existing and previous employment relationship with an Indian Tribe, including the employee position held, name of the Tribe involved and name and address of a person who can attest to the accuracy of the information provided.

(10) A description of any current or past non-employee business arrangement which the applicant has had with an Indian Tribe, including the name of the Tribe involved and the name and address of a person who can attest to the accuracy of the information provided.

~~(11) A statement as to whether the applicant has had any past employment with, or ownership interest in, any gaming business. If so, the applicant shall provide a written statement describing his or her position, the dates during which that position was held, a description of the applicant's ownership interest or job responsibilities and the name, address and phone number of the business, and a person who can attest to the accuracy of the information provided.~~

~~(12) A list of all gaming related licenses the individual has applied for, whether or not those licenses were granted and the name and address and phone number of the regulatory agency involved.~~

~~(13) A list of all professional or business licenses the applicant has applied for, whether or not those licenses where granted and the name, address and phone number of the regulatory agency involved.~~

~~(14) A statement of all languages written or spoken.~~

(5) ~~(15)~~ A sworn statement that neither the applicant nor any member of his immediate family has a past or current financial interest, other than a salary interest, in any gaming-related enterprise anywhere. If the applicant has any relative who has such a relationship, the applicant shall fully disclose his name and the nature of the relationship.

(6) ~~(16)~~ Written permission giving the Tribal Commission or its designee the right to investigate the applicant's background, including his criminal record, civil and criminal judgments and credit history.

~~(17) A complete disclosure of any pending or anticipated civil or criminal action against the applicant, including the name and address of the police department and court involved.~~

(7) ~~(18)~~ A disclosure of any civil or criminal judgments rendered against the applicant, <u>which constitute a collection action for money owed by the applicant,</u> including the case number, a description of the judgment and the name and address of the court involved.

(8) {19} Any other information which might bring into question his fitness to serve as a primary management official or key employee of a licensed gaming operation.

(9) {20} Each application shall be accompanied by a sworn statement that the applicant will submit to the jurisdiction of the Tribe and the Tribal Court, if employed.

{21} Each application shall be accompanied by a photograph of the applicant taken within the last year.

(10) {22} Each application shall be accompanied by a sworn statement that the applicant will abide by all applicable tribal and federal laws, regulations and policies.

(11) {23} Each application for a gaming employee license shall be accompanied by an application fee of $10.00.

{24} Each application shall be accompanied by a written statement that the applicant has read, understands and approves of the following Privacy Act notice and False Statement notice:

---------*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 the 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 the Tribes 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.

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).

APPROVED:

Jeffrey D. Parker, President
Bay Mills Indian Community
Executive Council

ATTEST:

Terry E. Carrick, Secretary
Bay Mills Indian Community
Executive Council

CERTIFICATION

I, the undersigned, as Secretary of the Bay Mills Indian Community Executive Council, do hereby certify that the above resolution was adopted and approved at a meeting of the Bay Mills Indian Community Executive Council held at Bay Mills, Michigan, on the 9th day of April, 2001, with a vote of 3 for, 0 opposed, 1 absent, and 1 abstaining. As per provisions of the Bay Mills Constitution, the Tribal President must abstain except in the event of a tie.

Terry E. Carrick, Secretary
Bay Mills Indian Community
Executive Council

APR 13 2001

GAMING ORDINANCE
BAY MILLS INDIAN COMMUNITY

Table of Contents

Section 1. Findings, Intent and Policy 1

Section 2. Definitions 3

Section 3. General Provisions 10
3.1 Authority and Sovereign Powers and Responsibilities 10
3.2 Title, Repeal of Prior Laws, and Effect of Repeal 10
3.3 Classes of Gaming 10
3.4 Construction 10
3.5 Savings Clause 11

Section 4. Tribal Gaming Commission 11
4.1 Establishment 11
4.2 Location and Place of Business 11
4.3 Duration 11
4.4 Attributes 11
4.5 Recognition as a Political Subdivision of the Tribe 12
4.6 Sovereign Immunity of the Tribal Commission 12
4.7 Waiver of Sovereign Immunity of the Tribal Commission 12
4.8 Sovereign Immunity of the Tribe 12
4.9 Credit of the Tribe 13
4.10 Assets of the Tribal Commission 13
4.11 Membership 13
4.12 Term of Office 14
4.13 Ex-Officio Members 14
4.14 Meetings 14
4.15 Organization 15
4.16 Removal of Members or Vacancies 15
4.17 Conflict of Interest 16
4.18 Powers of the Tribal Commission 16
4.19 Annual Budget 20
4.20 Tribal Commission Regulations 20
4.21 Right of Entrance; Monthly Inspection 21
4.22 Investigations 22
4.23 Hearings; Examiner 22
4.24 Appointment of Examiner; Power of Examiner 22
4.25 Staff of Gaming Commission 22
4.26 Quarterly Reports 23

Section 5. Gaming Licenses 23
5.1 Applicability 23
5.2 License Required 23
5.3 Types of Licenses 23

5.4 Application Procedures 23
5.5 Threshold Criteria Which a Potential Operator Must Meet 24
5.6 License Application Fees 25
5.7 License Tax 26
5.8 Terms of License 26
5.9 Posting of Licenses 26
5.10 Gaming License Renewals 26
5.11 Annual Reports 26
5.12 Closure of a Tribal Licensed Gaming Activity 28

Section 6. Gaming Employee Requirements 28
6.1 Current and Valid Gaming Employee License Required 28
6.2 Application Procedure for Employment 28
6.3 Review Procedure 29
6.4 Scope of License 30
6.5 Licensing Period 30
6.6 Renewals 30
6.7 Requirement to Produce License Upon Request.31
6.8 Suspension or Termination of Employee Licenses 31
6.9 Temporary Suspension of Employee Gaming License 32

Section 7. Provisions of General Applicability to All Operators 33
7.1 Gaming License Required 33
7.2 Site and Operator Specified 33
7.3 License Not Assignable 34
7.4 Employee Licenses Required 34
7.5 Eligible Licensees 34
7.6 Employee Drug Tests 34
7.7 Regulations Posted or Available 34
7.8 Minimum Age to Play 34
7.9 Minimum Age to Enter Facility 34
7.10 Posting of Rules of Play 34
7.11 Equipment Rental Restrictions 34
7.12 Restrictions on Gaming Apparatus Exchange ..35
7.13 Approval of Gaming Materials Required.....35
7.14 Requisite Sale and Redemption Value 35
7.15 Record Maintenance Requirements 35
7.16 Liquor Sale Restrictions 35
7.17 Form of Payment for Chance to Play 35
7.18 Documentation of Winnings and Losses for Tax Purposes 35
7.19 Taxes, Fees and Reports Timely Transmitted..35
7.20 Response to Regulatory Inquiries 35
7.21 Display of Gaming License 36
7.22 Maintenance of Premises 36
7.23 Facility Security 36
7.24 Cooperation with Law Enforcement 36
7.25 Record Inspection 36

7.26 Gaming Occasion Restrictions 36
7.27 Discrimination Prohibited 36
7.28 Financial Record Review 36
7.29 Use of Net Proceeds 36
7.30 Reporting Requirement Compliance 36
7.31 Tribal Law Violation 36
7.32 Employee Misconduct 36

Section 8. Gross Proceeds Tax 37
8.1 Rate 37
8.2 Separate Accounting Practices 37
8.3 Tax Due Date; Accrual, Return and Signature 37
8.4 Annual Periodic Reconciliations 38
8.5 Tax Revenue Distribution 38
8.6 Internal Service Fund 38
8.7 Excess of Receipts over Expenses 38
8.8 Annual Budget 38

Section 9. Operation of Tribally-Owned or Tribally-Operated Games 38
9.1 Management by a Primary Management Official 38
9.2 Use of Net Revenues of Tribally-Owned or Tribally- Operated Gaming Enterprises 40
9.3 Audit Requirements 40
9.4 Management Contracts 40

Section 10. Enforcement 42
10.1 Jurisdiction 42
10.2 Prohibited Acts 42
10.3 Criminal Violation 45
10.4 Civil Violation 45
10.5 Cumulative Fines 45
10.6 Purpose of Civil Penalties 45
10.7 Civil Action for Penalties 45
10.8 Seizure of Property 46
10.9 Reporting of Offenders 46

Section 11. Authorized Games 46
11.1 Games Playable 46
11.2 License Required 46

(P) A sworn statement that the operator and all of its key employees and management contractors continue to consent to Tribal Court jurisdiction and service of process in all matters arising from the conduct of tribally-licensed gaming activity;

(Q) If the operator is a corporation, a copy of any amendment to its articles of incorporation, properly certified by the incorporating government, unless a current copy has already been filed with the Tribal Commission.

5.12 **Closure of a Tribally Licensed Gaming Activity**. If the Tribal Commission finds that any tribally owned gaming activity is operating in violation of this Ordinance, or otherwise presents a threat to the public, the Tribal Commission must immediately notify the Tribal Chairman and the Tribal Council. The Tribal Council may close down any tribally owned or operated gaming activity temporarily or permanently at any time with or without cause.

Section 6. Gaming Employee Requirements.

6.1 **Current and Valid Gaming Employee License Required**. Each primary management official and key employee of a Class II or Class III gaming operation must possess a current, valid gaming employee license.

6.2 **Application Procedure for Employment**.

(A) Any person seeking employment with a gaming enterprise licensed by the Commission shall submit an application to the Tribal Commission on such form or in such manner as the Tribal Commission may require. The application form and any changes thereto shall be reviewed and approved by the Bay Mills Indian Community Executive Council prior to utilization.

(B) At a minimum, the application shall contain the following information:

(1) All information required under Part 556 of Title 25, *Code of Federal Regulations*, as that may from time to time be amended.

(2) The name, address and telephone number of the Primary Management Official for whom the applicant is applying to work and the specific location at which s/he or she is applying to be employed.

(3) The name and job description of the position the applicant is applying for.

(4) The names and addresses of the applicant's living parents, grandparents, spouse, children, brothers, and sisters, including step-, half- and in-law.

(5) A sworn statement that neither the applicant nor any member of his immediate family has a past or current financial interest, other than a salary interest, in any gaming-related enterprise anywhere. If the applicant has any relative who has such a relationship, the applicant shall fully disclose his name and the nature of the relationship.

(6) Written permission giving the Tribal Commission or its designee the right to investigate the applicant's background, including his criminal record, civil and criminal judgments and credit history.

(7) A disclosure of any civil judgments rendered against the applicant, which constitute a collection action for money owed by the applicant, including the case number, a description of the judgment and the name and address of the court involved.

(8) Any other information which might bring into question his fitness to serve as a primary management official or key employee of a licensed gaming operation.

(9) Each application shall be accompanied by a sworn statement that the applicant will submit to the jurisdiction of the Tribe and the Tribal Court, if employed.

(10) Each application shall be accompanied by a sworn statement that the applicant will abide by all applicable tribal and federal laws, regulations and policies.

(11) Each application for a gaming employee license shall be accompanied by an application fee of $10.00.

(C) Any application for a gaming employee license shall be accompanied by an application fee of $10.00.

6.3 **Review Procedure.**

(A) The Tribal Commission or its designee shall forward a copy of each application to a tribal or state law enforcement agency and arrange for that

agency to verify in writing the accuracy of the applicant's criminal record. The Commission or its designee shall also contact each reference provided in the application and take other appropriate steps to verify the accuracy of the other information presented and prepare a report of their findings for the Commission. Once these two reviews are completed, the Commission shall review the findings and either grant or deny the license, if one is required by this Ordinance, or advise the Primary Management Official that the applicant's information has been reviewed and there exists no barrier to employment. The applicant shall be notified in writing of the Commission's decision. If the Commission votes to deny a license, it shall include within this notification the specific reasons for its decision.

(B) A copy of the application, the results of the background checks performed and the Tribal Commission's findings and decision shall be forwarded to the National Indian Gaming Regulatory Commission before a license is issued.

(C) All applications, background checks and Commission decisions shall be retained in the Commission files for a period of at least five (5) years.

6.4 **Scope of License.**

(A) Any employee gaming licenses issued pursuant to this section shall be effective for only the location, job and employer contained in the application.

(B) Any licensed employee shall apply to have his license transferred to a new location by requesting that transfer in writing to the Tribal Commission in a manner which details the new job and location and the operator for whom s/he proposes to work.

6.5 **Licensing Period.** Any permanent employee gaming license issued pursuant to this section shall be effective for a period of one year from the date of issuance and shall contain the licensee's photograph and shall state on its face the name of the employee, the location at which s/he is licensed to work, the gaming operator who employs him, the date that the license became effective and the date that it expires.

6.6 **Renewals.** A holder of an employee gaming license shall petition to have his license renewed, by applying to the Tribal Commission for a renewal before his original license has expired and updating all information contained in the original application.

6.7 **Requirement to Produce License Upon Request.** Any person receiving an employee gaming license must carry that license upon his person during all working hours and must produce that license upon the request of any person.

6.8 **Suspension or Termination of Employee License.**

(A) Grounds for Suspension or Termination. The Tribal Commission may suspend or terminate the license of any employee, after notice and an opportunity for a hearing, for any of the following reasons:

(1) The employee has withheld pertinent information on his application;

(2) The employee has made false statements on the application;

(3) The employee has participated in gaming activity which was not authorized by any tribal gaming license;

(4) The employee has attempted to bribe a tribal council member, Commissioner or other person in an attempt to avoid or circumvent tribal law;

(5) The employee has offered something of value or accepted a loan, financing or other thing of value from a Tribal Commission member, a subordinate employee or any person participating in any gaming activity;

(6) The employee has knowingly promoted, played or participated in any gaming activity operated in violation of tribal or federal law or the tribal/state gaming compact;

(7) The employee has been knowingly involved in the falsification of books or records which relate to a transaction connected with the operation of gaming activity;

(8) The employee has violated any provision of this Ordinance or the rules and regulations of the Tribal Commission;

(9) The employee has been convicted of, or has entered a plea of nolo contendere to, any crime involving gaming, fraud, theft, embezzlement or other activity which, if perpetrated at his operator's place of employment, would injure or pose a threat to the public interest, or the integrity of the gaming activity, or the effective

regulation of gaming or enhance the dangers of unfair, unsuitable or illegal gaming practices;

(10) The employee has refused to comply with any lawful order, inquiry or directive of the Tribal Commission, the Tribal Council, the federal government or any court of competent jurisdiction;

(11) The employee has been convicted of, or entered a plea of nolo contendere to, a crime involving the sale of illegal narcotics or controlled substances; or

(12) The employee has been determined to have present or prior activities, criminal record, if any, or reputation, habits and associations which pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming.

(B) Procedure for Suspension or Termination. Whenever it is brought to the attention of the Tribal Commission that a person has failed to comply with any of the conditions of subsection (A), above, the Tribal Commission or its designee may either undertake an investigation of the gaming enterprise, or serve upon such person or any agent of such person an order to show cause why the employee should not be subject to disciplinary action. Such notice shall state the reason for the order, the time and place for the show cause hearing before the Tribal Commission, and that the person shall have an opportunity to present testimony and cross examine opposing witnesses, and to present any other evidence as to why a disciplinary action should not be issued. The hearing shall be set for not less than ten (10) days nor more than 14 days from the date of the notice. The hearing shall be governed in all respects in accordance with tribal law and Tribal Commission regulations.

6.9 **Temporary Suspension of Employee Gaming License.**

(A) Any employee gaming license may be temporarily and immediately suspended by the Tribal Commission, the Tribal Court or the Council or its designee for not more than 30 days if any of the following have occurred:

(1) The employee has been charged with a violation of any gaming law.

(2) The employee's continued employment as a primary management official or key employee of a game or gaming enterprise poses a threat to the general public.

(3) The employee has made a material false statement in his license application.

(4) The employee has participated in gaming activity unauthorized by his tribal gaming license.

(5) The employee has refused to comply with any lawful order of the Tribal Commission, the Council, the Tribal Court or the National Indian Gaming Commission.

(B) In the event the Tribal Commission determines that any employee meets any of the criteria stated in subsections 6.9(A)(1) through 6.9(A)(5) above or that his non-compliance with this Ordinance is a direct and immediate threat to the peace, safety, morals or health or welfare of the community, the Tribal Commission or its designee shall issue a notice of temporary suspension of his employee gaming license which shall be served upon the employee or any agent of the employee. The order shall state the grounds upon which it is issued and the employee's right to a hearing. The employee shall cease and desist operating in his management position or in his capacity as a key employee immediately upon receipt of the order, but s/he may file a notice of appeal with the Tribal Commission which shall hold a hearing on the order within 14 calendar days of its receipt of the appeal. At the hearing the employee shall have an opportunity to present testimony and cross-examine opposing witnesses, and to present any other evidence as to why a temporary suspension order or an injunction should not be issued. The hearing shall be governed in all respects in accordance with tribal law and Tribal Commission regulations.

Section 7. Provisions of General Applicability to All Operators.

7.1 **Gaming License Required.** Each Class II or Class III gaming activity within the jurisdiction of the Tribe shall be conducted only by an operator who possesses a current and valid tribal gaming license.

7.2 **Site and Operator Specified.** Each tribal gaming license shall be applicable only to one gaming site and the operator named on such license.

7.3 **License Not Assignable.** No tribal gaming license shall be sold, lent, assigned or otherwise transferred.

7.4 **Employee Licenses Required.** Each management and key employee of a licensed gaming operation shall possess a current and valid tribal gaming employee license.

7.5 **Eligible Licensees.** A tribal gaming license shall be issued only to a person who qualifies therefor under the Ordinance, or to the Tribe or a tribal subdivision.

7.6 **Employee Drug Tests.** Any person employed in a Commission-licensed gaming enterprise may be randomly selected for testing for utilization of marijuana, cocaine, amphetamines, opiates and phencyclidine (PCP). Random drug testing of employees is a mandatory operating procedure for all operators.

7.7 **Regulations Posted or Available.** Each operator shall have a copy of this Ordinance and regulations readily available for inspection by any person at each authorized gaming site.

7.8 **Minimum Age to Play.** In any gaming facility which has a retail alcoholic beverage license, the minimum age to play any Class III game is 21 years of age. In any gaming facility which does not have a retail alcoholic beverage license, the minimum age to play is 19 years of age.

7.9 **Minimum Age to Enter Facility.** No person, other than a Class III enterprise employee, shall be permitted to:

(A) Enter the area of any building which has a retail alcoholic beverage license and in which Class III gaming is conducted, if under 21 years of age;

(B) Enter the area of any building which does not have a retail alcoholic beverage license and in which Class III gaming is conducted, if under 19 years of age.

7.10 **Posting of Rules of Play.** Each operator shall post in a conspicuous location near where any gaming activity is being played, or shall otherwise provide the public with an explanation of the rules of play of every specific game s/he operates.

7.11 **Equipment Rental Restrictions.** Each operator of a gaming activity is prohibited from renting or lending gaming equipment to any person.

7.12 **Restrictions on Gaming Apparatus Exchange.** Each operator is prohibited from exchanging pull-tabs, punch-boards, sports pools, and twenty-one boxes (shoes). All other gaming equipment may be exchanged without prior approval. Any request for approval shall be made to the Tribal Commission at least 5 days prior to the exchange.

7.13 **Approval of Gaming Materials Required.** Any operator who anticipates the printing, manufacture, or construction of any equipment for gaming activity shall first notify the Tribal Commission of his intention and shall have the finished product approved by the Tribal Commission before it is placed in service.

7.14 **Requisite Sale and Redemption Value.** Gaming chips and other tokens of value shall only be sold and redeemed by the operator and only for full value.

7.15 **Record Maintenance Requirements.** Each licensed gaming operation shall maintain and keep for not less than five (5) years permanent books of accounts and records, including inventory records of gaming supplies, sufficient to establish the gross and net income, deductions, expenses, receipts and disbursements of the enterprise.

7.16 **Liquor Sale Restrictions.** There shall be no sale of liquor at any gaming site without the requisite license for such sale issued under the Tribe's liquor control ordinance.

7.17 **Form of Payment for Chance to Play.** Consideration for the chance to play in any gaming activity shall only be cash, house token or chip, and shall be presented at the time the game is played. No other form of consideration shall be allowed unless the Tribal Commission gives prior written approval.

7.18 **Documentation of Winnings and Losses for Tax Purposes.** Evidence of any win or loss incurred by a player must, upon request, be provided to such player in such form as will be acceptable to the IRS.

7.19 **Taxes, Fees and Reports Timely Transmitted.** Each operator shall pay all applicable taxes and fees, including those assessed by the National Indian Gaming Commission, and file all applicable reports on time.

7.20 **Response to Regulatory Inquiries.** Each operator shall respond immediately to and obey all inquiries, subpoenas or orders of the Tribal Commission, the Tribal Council, the Tribal Court, or the National Indian Gaming Commission.

7.21 **Display of Gaming License.** Each operator shall prominently display at each gaming site a current, valid tribal gaming licence.

7.22 **Maintenance of Premises.** Each operator shall, at all times, maintain an orderly, clean, and neat gaming establishment, both inside and out.

7.23 **Facility Security.** Each operator shall provide adequate security to protect the public before, during and after any gaming activity.

7.24 **Cooperation with Law Enforcement.** Each operator shall cooperate at all times with law enforcement personnel.

7.25 **Record Inspection.** Each operator shall make its premises and books and records available for inspection during normal business hours by the Tribal Commission or their designee, and by authorized representatives of the National Indian Gaming Commission.

7.26 **Gaming Occasion Restrictions.** No gaming shall be conducted on special days of observance designated by the Tribal Council.

7.27 **Discrimination Prohibited.** No operator may discriminate on the basis of sex, race, color, or creed in the conduct of any licensed gaming activity. Employment preference for tribal members and other Native Americans shall not constitute discrimination by the operator.

7.28 **Financial Record Review.** Each operator shall keep accurate books and records of all moneys received and paid out and provide authorized representatives of the National Indian Gaming Commission and the Tribal Commission or its designee with copies of or access to the same upon request.

7.29 **Use of Net Proceeds.** All net proceeds of any gaming activity shall be used only in a manner prescribed by this Ordinance.

7.30 **Reporting Requirement Compliance.** Every operator shall comply with all applicable tribal and federal revenue reporting laws.

7.31 **Tribal Law Violation.** It shall be a violation of the Tribe's Criminal Code to violate any provision of this Ordinance, any regulation of the Tribal Commission, or any order of the Tribal Court.

7.32 **Employee Misconduct.** Each operator shall immediately suspend without pay any employee who is

charged with an offense described in subsection 10.2(BB) or any offense related to the sale, possession, manufacture and/or transport of illegal drugs. The operator shall also immediately notify the Tribal Commission in writing of the name of the person and the pending charge and advise the Tribal Commission of the outcome of the case. If the employee is convicted or pleads nolo contendere to the charge, his or her employment shall be terminated. An employee terminated under this section for a drug-related conviction may be rehired, provided that such person is eligible for a gaming license, and provided further that such person passes a pre-employment drug screen test, and furnishes a substance abuse assessment by a licensed substance abuse program, and demonstrates compliance with that program's rehabilitation/ counseling plan.

Section 8. Gross Proceeds Tax.

8.1 **Rate.** There is hereby levied upon and there shall be collected from all enterprises an annual tax for the purpose of funding the Tribal Gaming Commission equal to one (1) per cent of the adjusted gross proceeds thereof, as that term is defined in subsection 2.1 of this Ordinance. The tax levied by this section shall be a personal obligation of the taxpayer.

8.2 **Separate Accounting Practices.** Any enterprise which obtains revenue from sources other than activities directly related to gaming, such as the sale of food and beverages, shall keep books to show separately the transactions used to determine the tax levied in this section.

8.3 **Tax Due Date; Accrual, Return and Signature.**

(A) Duty of Enterprise. The enterprise shall, on or before the fifteenth (15th) day of each month, make out a return for the preceding month on a form prescribed by the Tribe, showing the entire amount of adjusted gross proceeds of his gaming activities, and the amount of tax for which it is liable, and shall transmit the return signed by the Primary Management Official, together with payment of the amount of tax owed, on or before the fifteenth day of the month. If the return is prepared by other than said Manager, the return shall so state, and shall give the name and address of the person preparing the return, together with his signature and the name of his employer, if any.

(B) Accrual of Tax. The tax imposed by this section shall accrue to the Tribe on the last day of the month in which the gaming activity occurred.

8.4 **Annual Periodic Reconciliations.** In the event that the annual financial report provided by each enterprise indicates that the amount of adjusted gross proceeds for the year differs from the total of the adjusted gross proceeds reported monthly under sec. 8.3, the enterprise shall file with the Commission a reconciliation return, which indicates the proper amount of the adjusted gross proceeds, and if, additional tax is due, provide the correct amount together with one per cent (1%) penalty interest, compounded monthly, on the amount unreported or underreported, commencing with the month in which the report required by sec. 8.3 was due.

8.5 **Tax Revenue Distribution.** All sums of money received and collected under this section shall be deposited by the Tribe to the credit of an Internal Service Fund to be used solely for the purpose of funding the operations of the Tribal Gaming Commission, in carrying out its responsibilities pursuant to this ordinance, the Indian Gaming Regulatory Act, and the Tribe's Compact with the State of Michigan, published at 58 *Fed. Reg.* 63262 (Nov. 29, 1993).

8.6 **Internal Service Fund**. The Fund is used to account for the financing of goods and services provided by one department or agency to other departments or agencies of the governmental unit, or to other governmental units, on a cost reimbursement basis.

8.7 **Excess of Receipts over Expenses**. In the event that receipts exceed expenses, as determined by the annual audit, the Internal Service Fund will rebate such excess to enterprises proportionately.

8.8 **Annual Budget**. The Tribal Gaming Commission will prepare and submit for approval by the Executive Council an annual budget.

Section 9. Operation of Tribally-Owned or Tribally- Operated Games.

9.1 **Management by a Primary Management Official**.

(A) The Tribal Council shall appoint one person who shall serve as Primary Management Official at each of its tribally-operated gaming establishments. The person appointed shall undergo a background check by the Tribal Commission and shall obtain an employee gaming license before commencing work. The Tribal

Council shall be the direct supervisor of the Primary Management Official.

(B) The Primary Management Official shall be responsible for managing and overseeing the day-to-day operations of the gaming operation. S/he shall have such authority as the Tribal Council may delegate.

(C) The Primary Management Official shall present a written monthly report to the Tribal Commission and the Tribal Council which details the number of patrons served, the amount of income generated, the numbers of employees working at the establishment, a detailed description of any patron complaints and other problems experienced at the establishment, also a written statement of any changes in key employees or primary management officials and all bills which are 30 days or more past due.

(D) Any patron's cash winnings shall be paid in cash or check and shall be paid within 72 hours after it is won.

(E) The Primary Management Official shall propose and the Tribal Commission shall approve a patron's complaint process. Each tribally-owned and tribally-managed gaming establishment shall post at least one sign in each gaming room informing patrons that they may file any complaints that they have directly with the Tribal Commission, and advising them of the Tribal Commission's address and phone number.

(F) Each tribally-owned or tribally-operated gaming establishment shall carry sufficient liability insurance to protect the public in the event of an accident. The Tribal Council shall determine the amount of liability insurance required for each gaming establishment.

(G) Each tribally-owned or tribally-operated gaming establishment shall post the rules of play of each game in a conspicuous place in the establishment, and shall make written copies of them available to any member of the general public upon request.

(H) The Primary Management Official shall be personally responsible for seeing that gaming activity is managed in accordance with tribal and federal law and that such gaming activity complies with all IRS reporting requirements.

9.2 **Use of Net Revenues of Tribally-Owned or Tribally-Operated Gaming Enterprises.**

(A) All net proceeds of a tribally-owned or tribally-operated gaming enterprise shall be held in the name of the Tribe. Such net proceeds may only be expended by the Tribal Council by resolution and only for the following purposes:

(1) To fund tribal government operations or programs.

(2) To provide for the general welfare of the Tribe and its members.

(3) To promote tribal economic development.

(4) To donate to charitable organizations.

(5) To help to fund operations of local government agencies.

9.3 **Audit Requirements.**

(A) The Tribal Commission and the Primary Management Official of each tribally-owned or tribally-operated gaming establishment shall obtain an annual outside audit of such gaming establishment. A copy of such audit shall be provided to the Tribal Commission, the Tribal Council and the National Indian Gaming Commission.

(B) Each contract for supplies, services (other than legal and accounting services) or concessions for a contract amount in excess of $25,000.00 annually shall be subject to an independent audit. A copy of such audit will be provided to the Tribal Commission, the Tribal Council and the National Indian Gaming Commission.

9.4 **Management Contracts.**

(A) Each management contract is subject to the prior approval of the National Indian Gaming Commission.

(B) Each management contract shall be approved by the Council with the advice and comment of the Tribal Commission. Before giving final consideration to any proposed management contract, the Council shall direct the Tribal Commission to obtain the following information and submit it to the Council for review:

(1) Background information on the proposed management contractor including its name, its

address, the names and addresses of each person or entity having a direct financial interest or management responsibility for the proposed management contractor, and in the case of a corporation, the names and addresses of each member of its board of directors and all stockholders who hold directly or indirectly 10 percent or more of its issued or outstanding stock.

(2) A description of any previous experience that each person listed in subsection 9.1 above has had with other gaming contracts with Indian tribes or with the gaming industry generally, including the name and address of any tribal government or licensing agency with which such person has had a contract relating to gaming.

(3) A complete financial statement of each person listed in subsection 9.4(B)(1) above.

(4) The Tribal Commission shall contact each of the tribal governments and licensing agencies in Subsection 9.4(B)(2) above to determine the performance history of the proposed management contractor.

(5) The Tribal Commission shall arrange to have each proposed management contractor investigated to learn of his personal attributes and to determine whether s/he has a prior criminal record or any pending criminal charges.

(6) The Tribal Commission shall obtain an independent verification of the completed financial statements of each proposed management contractor.

(7) The Commission shall undertake any additional steps it can to determine the character and reputation of each proposed management contractor.

(8) If the Tribal Council, after reviewing the above described information still desires to enter into a management contract with the proposed management contractor, such management contract shall be placed in writing and submitted to legal counsel for review before the Council approves it.

(C) Any management contract approved by the Council must contain at a minimum the following with respect to the gaming enterprise to which the contract is applicable:

(1) A provision requiring a monthly financial accounting of the gaming enterprise's income and expenses, with an annual financial accounting to be prepared by an independent auditor who is acceptable to the Tribe.

(2) A provision providing the Tribe absolute access to the daily operation of the gaming enterprise and to its books, and the Tribe's absolute right to verify the daily gross revenues of the gaming enterprise at any time.

(3) A provision guaranteeing the Tribe a minimum guaranteed payment which shall always take precedence over the management contractor's right to recoup development and construction costs.

(4) An agreed upon ceiling for the management contractor's development and construction costs.

(5) A provision that the contract shall not exceed the term limit established by federal law.

(6) A provision for termination of the contract and the grounds for termination.

(D) If the Council is satisfied with the information it receives it shall submit its proposed contract along with all of the above described information to the Chairman of the National Indian Gaming Commission for approval.

Section 10. Enforcement.

10.1 **Jurisdiction.** Except as provided in this Ordinance and in any IGRA compact, the Tribal Court shall have jurisdiction over all violations of this Ordinance.

10.2 **Prohibited Acts.** In addition to other civil and criminal offenses provided for in this Ordinance, the following acts are prohibited and subject any violator to the civil or criminal penalties specified herein:

(A) Participating in any on-reservation gaming activity which is not authorized by this Ordinance.

(B) Knowingly making a false statement in an application for employment with any operator or with the Tribal Commission.

(C) Knowingly making a false statement in connection with any contract to participate in any gaming activity.

(D) Attempting to bribe any person participating in any gaming activity.

(E) Offering or accepting a loan, financing or other thing of value between a Tribal Commission member or employee and any person participating in any gaming activity.

(F) Promoting or participating in any illegal gaming activity.

(G) Failing to keep sufficient books and records to substantiate receipts, disbursements and expenses incurred or paid from any gaming activity authorized pursuant to this Ordinance.

(H) Falsifying any books or records which relate to any transaction connected with any gaming activity pursuant to this Ordinance.

(I) Conducting or participating in any gaming activity which in any manner results in cheating or misrepresentation, and which allows any other disreputable tactics which detract from the fair nature and equal chance of participation between gaming players, or which otherwise creates an advantage over and above the chance of such gaming activity which affects its outcome.

(J) To conduct gaming activity with or to allow participation in gaming activity by or with an intoxicated or disorderly player.

(K) To allow or participate in the sale of liquor at gaming sites when such sale is prohibited by tribal law.

(L) To accept consideration other than money, personal checks or other approved consideration for the chance to play or participate in any gaming activity.

(M) To use bogus or counterfeit chips or charitable gaming tickets, or to substitute or use any cards, charitable gaming tickets or gaming equipment that has been marked or tampered with.

(N) To employ or possess any cheating device or to facilitate cheating in any gaming activity.

(O) To willfully use any fraudulent scheme or technique to change the odds of any game of chance.

(P) To solicit, directly or indirectly, or use inside information on the nature or status of any gaming activity for the benefit of an individual.

(Q) To tamper with a gaming device, attempt to conspire to manipulate the outcome or the payoff of a gaming device, or otherwise unlawfully tamper with or interfere with the proper functioning of the machine.

(R) To alter or counterfeit a gaming license.

(S) To aid, abet, or conspire with another person knowingly or knowingly to cause any person to violate any provision of this Ordinance or any rules and regulations adopted thereunder.

(T) To operate, use or make available to the public any illegal gaming device, apparatus, material, or equipment.

(U) To sell, hold out for sale or transport into or out of the jurisdiction of the Tribe any illegal gaming device, apparatus, material, or equipment.

(V) To assist or allow a person who is under age to participate in a game of chance.

(W) To possess any illegal narcotics or controlled substances on any licensed gaming site.

(X) To steal or attempt to steal funds or other items of value from any gaming establishment or from the Tribal Commission.

(Y) To employ any person at a licensed gaming establishment whom the operator knows has been convicted of a gaming crime or a crime of fraud.

(Z) To conspire with or induce any person to violate any of the provisions of this Ordinance or any tribal or federal law.

(AA) No operator or any of his employees or agents shall engage in any act, practice, or course of operation which could result in a fraud or deceit upon any person.

(BB) No operator shall employ any person who has been convicted of or entered a plea of nolo contendere to a criminal offense committed in Michigan or any other jurisdiction, involving theft, fraud, or misrepresentation, which would be a felony if committed in Michigan, and which was committed as an adult or prosecuted as an adult offense, and which has

not been effectively removed from the person's criminal record by executive pardon, state court order, or operation of law; or to a gaming crime.

10.3 **Criminal Violation.** Any Indian who violates or fails to comply with any provision of this Ordinance, or who fails or neglects to comply with any order or decision of the Tribal Commission, shall be guilty of a crime and may be required to pay a fine not to exceed $5,000 or be incarcerated for a period not to exceed 2 years. Each day during which any such violation or failure to comply continues shall constitute a separate violation of this Ordinance.

10.4 **Civil Violation.** Any non-tribal member who violates or fails to comply with any provision of this Ordinance, or who fails or neglects to comply with any order of the Tribal Commission, shall be liable for a civil fine not to exceed $5,000 for each violation thereof. Each day during which any such violation or failure to comply continues shall constitute a separate violation of this Ordinance. The amount of any such civil fine may be recovered in a civil action in the Tribal Court.

10.5 **Cumulative Fines.** All civil fines accruing under this Ordinance shall be cumulative and a suit for the recovery of one fine shall not bar or affect the recovery of any other fine, or judgment, penalty, forfeiture or damages, nor bar the power of the Tribal Court to punish for contempt, nor bar any criminal prosecution against any officer, director, agent, or employee of any operator, or any other person.

10.6 **Purpose of Civil Penalties.** The civil fines imposed under this Ordinance are intended to be remedial and not punitive and are designed to compensate the Tribe for the damage done to the peace, security, economy and general welfare of the Tribe and the Reservation and to compensate the Tribe for costs incurred by the Tribe in enforcing this Ordinance. The civil fines under this Ordinance are also intended to coerce all people into complying with this Ordinance and Tribal Commission regulations and not to punish such people for violation of such laws and regulations.

10.7 **Civil Action for Penalties.** In enforcing the civil infraction provisions of this Ordinance, the Tribal Commission shall proceed, in the name of the Tribe, against a person for violation of such provision by civil complaint pursuant to the provisions of this Ordinance. The Tribal Commission in such action shall have the burden of showing, by the preponderance of the evidence, that such person violated the applicable provision of this Ordinance.

10.8 **Seizure of Property**. All property utilized in violation of this Ordinance shall be subject to seizure by order of the Tribal Court.

10.9 **Reporting of Offenders**. The Clerk of the Tribal Court shall, upon final conviction of any person under this subsection, report the name of the person convicted to the Tribal Commission.

Section 11. Authorized Games.

11.1 **Games Playable**. All games of chance which are valid under the law of the State of Michigan are authorized for licensing.

11.2 **License Required**. A separate tribal gaming license shall be obtained for the operation of each of the gaming establishments authorized by this Section.