NATIONAL
INDIAN
GAMING
COMMISSION

September 15, 1999

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

Dear Ms. Tierney:

This letter responds to your request for National Indian Gaming Commission (NIGC) review and approval of the recent amendment to the tribal gaming ordinance, received by the NIGC on August 27, 1999. Resolution No. 99-6-14 D, which amends section 4.18 of the former ordinance, was adopted on June 14, 1999 by the Bay Mills Indian Community (Tribe). This letter constitutes such approval of the ordinance under the Indian Gaming Regulatory Act (IGRA).

Thank you for submitting the amended ordinance of the Bay Mills Indian Community for review and approval. The NIGC staff and I look forward to working with you and the Tribe in implementing the IGRA.

Sincerely yours,

Montie R. Deer
Chairman

1441 L STREET, N.W. 9TH FLOOR WASHINGTON, D.C. 20005 TEL: 202-632-7003 FAX: 202-632-7066

BAY MILLS INDIAN COMMUNITY

RURAL ROUTE NO. 1
BRIMLEY, MICHIGAN 49715

AUG 27 1999

RESOLUTION

Resolution No. 99-6-14 D
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: The power of the Gaming Commission requires clarification in the Gaming Ordinance.

NOW, THEREFORE BE IT RESOLVED, that the Executive Council of the Bay Mills Indian Community hereby adopts the following amendment to the Gaming Ordinance:

Subsection (C) of section 4.18 is DELETED.

APPROVED:

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

ATTEST:

Andrew A. LeBlanc, Sr.
Secretary
Bay Mills Indian Community
Executive Council

Resolution No. 99-6-14D

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 Executive Council held at Bay Mills, Michigan on the 14th day of June, 1999, with a vote of __3__ for __0__ opposed __1__ absent and __1__ abstaining. As per provisions of the Bay Mills Constitution, the Tribal Chairman must abstain except in the event of a tie.

Andrew A. LeBlanc Sr.

Andrew A. LeBlanc, Sr.,
Secretary
Bay Mills Indian Community

990920-0-07

(B) Vacancies. If any Commissioner shall die, resign, be removed or for any reason be unable to serve as a Commissioner, the Council shall declare his position vacant and shall appoint another person to fill the position. The terms of office of each person appointed to replace an initial Commissioner shall be for the balance of any unexpired term for such position, provided, however, that any prospective appointee must meet the qualifications established by this Ordinance.

4.17 **Conflict of Interest.** No person shall serve as a Commissioner if s/he or any member of his immediate family is a key employee of or has a financial interest in any management contract or gaming supply business, or if s/he has any other personal or legal relationship which places him in a conflict of interest.

4.18 **Powers of the Tribal Commission.** In furtherance, but not in limitation, of the Tribal Commission's purposes and responsibilities, and subject to any restrictions contained in this Ordinance or other applicable law, the Tribal Commission shall have and is authorized to exercise by majority vote, the following powers in addition to all powers already conferred by this Ordinance:

(A) To regulate all day-to-day gaming activity within the jurisdiction of the Tribe including tele-bingo and other unusual games.

(B) To promote the full and proper enforcement of all tribal civil and criminal gaming laws and policies.

(C) To enact and enforce such rules and regulations regarding its activities and governing its internal affairs as the Tribal Commission may deem necessary and proper to effectuate the powers granted by this Ordinance and the powers granted and duties imposed by applicable law.

(D) To publish and distribute copies of this Ordinance, Tribal Commission rules, and any Council, Tribal Commission or Tribal Court decisions regarding gaming matters.

(E) To prepare and submit for Council approval proposals, including budget and monetary proposals, which could enable the Tribe to better carry forth the policies and intent of this Ordinance.

(F) To work with the staff of any tribal department, program, project, or operation and to cooperate with the Council or any Council Committee in regard to gaming issues.

(G) Where it is in the best interest of the Tribe, to develop a cooperative working relationship with federal and state agencies and officials.

(H) To arrange for and direct such inspections and investigations as it deems necessary to ensure compliance with this Ordinance and implementing regulations. In undertaking such investigations, the Tribal Commission may request the assistance of tribal gaming staff, federal, state and tribal law enforcement officials, legal counsel and other third parties.

(I) To maintain and keep current a record of new developments in the area of Indian gaming.

(J) To request the assistance of the Tribal Court or Tribal Appellate Court in conducting gaming hearings, defining terms used in this Ordinance or other tribal laws, or in any other matter in which the Tribal Commission deems such assistance to be necessary or proper.

(K) To consider any gaming matter brought before it by any person, organization or business, and all matters referred to it by the Tribal Council.

(L) To obtain and publish a summary of federal revenue laws relating to gaming and to insure compliance with the same.

(M) To arrange for training of Tribal Commission members, tribal employees and others in areas relating to the regulation or operation of gaming.

(N) With the approval of the Council, to employ such advisors as it may deem necessary. Advisors may include, but are not limited to, lawyers, accountants, law enforcement specialists and gaming professionals.

(O) To make recommendations to the Council on the hiring of all supervisory gaming employees.

(P) To promulgate rules and regulations to implement and further the provisions of this Ordinance.

(Q) To approve or disapprove any application for a tribal gaming license.

(R) To consult with and make recommendations to the Council regarding changes in tribal gaming laws and policies.

(S) To administer oaths, conduct hearings, and by subpoena compel the attendance of witnesses and the production of any books, records and papers relating to the enforcement of tribal gaming laws, regulations and policies.

(T) To make, or cause to be made by its agents or employees, an examination or investigation of the place of business, equipment, facilities, tangible personal property, and the books, records, papers, vouchers, accounts, documents and financial statements of any gaming or enterprise operating, or suspected to be operating, within the jurisdiction of the Tribe.

(U) When necessary or appropriate, to request the assistance and utilize the services of the courts, law enforcement and government officials and agencies, and private parties, in exercising its powers and carrying out its responsibilities.

(V) To examine under oath, either orally or in writing, any person or agent, officer, or employee of any person, with respect to any matters related to this Ordinance.

(W) To delegate to an individual member of the Commission, or to an individual member of the Tribal Council, or to the Tribal Commission or tribal staff, such of its functions as may be necessary to administer these ordinances efficiently; provided, that the Tribal Commission may not re-delegate its power to exercise any of the substantial governmental functions of the Tribe delegated to the Tribal Commission by the Tribe; and provided further, that the Tribal Commission may not delegate its power to promulgate rules and regulations. It may also not delegate to anybody except the Tribal Council or Tribal Court the power to revoke a tribal gaming license permanently. The Tribal Commission may, however, delegate the power to suspend a gaming license temporarily and to close a licensed gaming enterprise for no more than 30 days when its continued operation threatens the public health, welfare or safety.

(X) To close permanently, after notice and a hearing, any game or games which are operating in violation of tribal law.

(Y) To sue or be sued in courts of competent jurisdiction within the United States and Canada, subject to the provisions of this Ordinance and other tribal laws relating to sovereign immunity; provided, that no suit shall be brought by the Tribal Commission

without the prior explicit written approval of the Tribal Council.

(Z) To purchase, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve and use property and assets of every description, real and personal, tangible or intangible, including money, securities, or any interests therein, rights and services of any kind and description or any interest therein; provided that the Tribal Commission shall have authority to purchase any interest in real property, whether located on or off the Reservation, only with the express, prior written consent of the Tribal Council as to each such action, and title to such real property and property which is to become a fixture or permanent improvement or part of the real property shall be taken in the name of the Tribe or in the name of the United States in trust for the Tribe, and title to all trust and restricted real property shall remain in trust or restricted status.

(AA) To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its personal property and assets.

(BB) With the prior permission of the Tribal Council, to borrow money and to make, accept, endorse, execute and issue bonds, debentures, promissory notes, guarantees and other obligations of the Tribal Commission for moneys borrowed, or in payment for property acquired or for any of the purposes of the Tribal Commission and to secure payment of any obligations by secured interest, mortgage, pledge, deed, indenture, agreement or other instrument of trust or by other lien upon, assignment of or agreement in regard to all or any part of the property, rights or privileges of the Tribal Commission.

(CC) To arbitrate, compromise, negotiate or settle any dispute to which it is a party relating to the Tribal Commission's authorized activities.

(DD) To enter into, make, perform and carry out any agreement, partnership, joint venture contract or other undertaking with any federal, state or local governmental agency, tribe, person, partnership, corporation or other association or entity for any lawful purpose pertaining to the business of the Tribal Commission or which is necessary or incidental to the accomplishment of the purposes of the Tribal Commission.

(EE) To invest and reinvest its funds in such mortgages, bonds, notes, debentures, share of preferred and common stock, and any other securities of any kind whatsoever, and property, real, personal or mixed, tangible or intangible, as the Tribal Commission shall deem advisable and as may be permitted under applicable law, provided that the Tribal Commission shall have authority to invest or reinvest in real property, whether located on or off the Reservation, subject to the restrictions set forth in Subsection 4.18(DD) above.

(FF) To exercise the tribal power to tax authorized by the Tribal Constitution, and, in accordance with other applicable law, by establishing and collecting gaming fees from gaming enterprises.

(GG) To purchase insurance from any stock or mutual company for any property, or against any risk or hazard.

(HH) To establish and maintain such bank accounts as may be necessary or convenient.

(II) To engage in any and all activities which directly or indirectly carry out the purposes of the Tribe as set forth in this Ordinance.

(JJ) With prior approval of the Tribal Council, to make application and accept grants and other awards from private and governmental sources in carrying out or furthering the purposes of the Tribal Commission or the Tribe.

(KK) To exercise all authority delegated to it or conferred upon it by law and to take all action which shall be reasonably necessary and proper for carrying into execution the foregoing powers and all of the powers vested in this Ordinance as permitted by the purposes and powers herein stated and which are deemed to be in the best interests of the Tribe, exercising prudent management and good business judgment, all in compliance with applicable law.

4.19 **Annual Budget.** The Tribal Commission shall prepare an annual operating budget for all Tribal Commission activities and present it to the Council by November 15th of each year.

4.20 **Tribal Commission Regulations.**

(A) Tribal Commission regulations necessary to carry out the orderly performance of its duties and powers

shall include, but shall not be limited to the following:

(1) Internal operational procedures of the Tribal Commission and its staff;

(2) Interpretation and application of this Ordinance as may be necessary to carry out the Tribal Commission's duties and exercise its powers;

(3) A regulatory system for all gaming activity, including accounting, contracting, management and supervision;

(4) The findings of any reports or other information required by or necessary to implement this Ordinance; and

(5) The conduct of inspections, investigations, hearings, enforcement actions and other powers of the Tribal Commission authorized by this Ordinance.

(B) No regulation of the Tribal Commission shall be of any force or effect unless it is adopted by the Tribal Commission by written resolution and subsequently approved by a resolution of the Tribal Council and both filed for record in the office of the Tribal Secretary.

(C) The Tribal Court and any other court of competent jurisdiction shall take judicial notice of all Tribal Commission regulations adopted pursuant to this Ordinance.

4.21 **Right of Entrance; Monthly Inspection.** The Tribal Commission and duly authorized officers and employees of the Tribal Commission, during regular business hours, may enter upon any premises of any operator or gaming establishment for the purpose of making inspections and examining the accounts, books, papers, and documents, of any such operator or gaming establishment. Such operator shall facilitate such inspection or examinations by giving every reasonable aid to the Tribal Commission and to any properly authorized officer or employee.

A Commissioner or a member of the Tribal Commission's staff shall visit each tribally-owned or tribally-operated gaming establishment during normal business hours for the purpose of monitoring its operation. Such visits shall be unannounced.

4.22 **Investigations.** The Tribal Commission, upon complaint or upon its own initiative or whenever it may deem it necessary in the performance of its duties or the exercise of its powers, may investigate and examine the operation and premises of any person who is subject to the provisions of this Ordinance. In conducting such investigation, the Tribal Commission may proceed either with or without a hearing as it may deem best, but it shall make no order without affording any affected party notice and an opportunity for a hearing pursuant to Tribal Commission regulations.

4.23 **Hearings; Examiner.** Pursuant to regulations, the Tribal Commission may hold any hearing it deems to be reasonably required in administration of its powers and duties under this Ordinance. Whenever it shall appear to the satisfaction of the Tribal Commission that all of the interested parties involved in any proposed hearing have agreed concerning the matter at hand, the Tribal Commission may issue its order without a hearing.

The Tribal Commission may designate one of its members to act as examiner for the purpose of holding any such hearing or the Tribal Commission may appoint another person to act as examiner under subsection 4.24 below. The Tribal Commission shall provide reasonable notice and the right to present oral or written testimony to all people interested therein as determined by the Tribal Commission.

4.24 **Appointment of Examiner; Power of Examiner.** The Tribal Commission may appoint any person qualified in the law or possessing knowledge or expertise in the subject matter of the hearing to act as examiner for the purpose of holding any hearing which the Tribal Commission, or any member thereof, has power or authority to hold. Any such appointment shall constitute a delegation to such examiner of all powers of a Commissioner under this Ordinance with respect to any such hearing.

4.25 **Staff of Gaming Commission.** Staff of the Gaming Commission are employees of the Bay Mills Indian Community, subject to the governmental personnel policies of the Tribe and supervised by the Commission. No person shall be hired or retained in a staff position who does not meet the standards imposed on Commissioners by subsection 4.11(C) of this Ordinance.

4.26 **Quarterly Reports.** The Tribal Commission shall file a quarterly report to the Council summarizing reports received from each of the Tribe's Primary Management Officials, and making such comments as it deems necessary to keep the Council fully informed as to the status of its various gaming operations.

Section 5. Gaming Licenses.

5.1 **Applicability.** This Ordinance applies to all people engaged in gaming within the jurisdiction of the Tribe. The application for license and the conduct of gaming within the jurisdiction of the Tribe shall be deemed to be a consent to the jurisdiction of the Tribe and the Tribal Court in all matters arising from the conduct of such gaming, and all matters arising under any of the provisions of this Ordinance or other tribal laws.

5.2 **License Required.** No person shall operate Class II or Class III gaming within the jurisdiction of the Tribe unless such gaming is licensed by the Tribe.

5.3 **Types of Licenses.** The Tribe shall issue each of the following types of gaming licenses:

(A) Tribally-Owned or Tribally-Operated Class II. This license shall be required of all tribally-owned or tribally-operated gaming enterprises operating one or more Class II gaming activities.

(B) Tribally-Owned or Tribally-Operated Class III. This license shall be required for all tribally-owned or operated gaming enterprises operating any gaming other than Class I or Class II gaming.

(C) Privately Owned Gaming Not Licensable. No license may be issued for any gaming operation, whether for one or more occasions, which are owned or operated by any person other than the Tribe.

5.4 **Application Procedures.**

(A) Tribally-Owned or Tribally-Operated Class II. Before issuing a license to a tribally-owned or operated Class II gaming activity the Tribal Commission shall:

(1) Review the proposed gaming activity to ensure that all threshold criteria required by this Ordinance shall be met.

(2) Perform the necessary background checks on management contractors, primary management officials and key employees required by this Ordinance.

(3) Review and approve the accounting procedures to be used in such gaming activity.

(4) Take any additional steps necessary to ensure the integrity of such gaming activity.

(B) Tribally-Owned or Tribally-Operated Class III. Before issuing a license to a tribally-owned or operated Class III gaming activity, the Tribal Commission shall:

(1) Review the proposed gaming activity to ensure that all threshold criteria required by this Ordinance shall be met.

(2) Perform the necessary background checks on management contractors, primary management officials and key employees required by this Ordinance.

(3) Review and approve the accounting procedures to be used in such gaming activity.

(4) Take any additional steps necessary to ensure the integrity of such gaming activity.

(5) Review all aspects of the proposed gaming operation to ensure that it will be in compliance with the provisions of the applicable state/tribal compact.

5.5 **Threshold Criteria Which a Potential Operator Must Meet.** The Tribal Commission shall automatically issue the above license to any tribally-owned or tribally-operated Class II or Class III proposed gaming enterprise if:

(A) The proposed gaming activity is to be located on land which was held in trust for the Tribe prior to October 17, 1988 or on trust lands which were located within or contiguous to the boundaries of the Reservation on October 17, 1988 or on lands taken into trust after October 17, 1988 as a settlement of a claim.

(B) The proposed gaming activity is to be played as Class II gaming as defined by this Ordinance and the IGRA.

(C) The proposed gaming activity is authorized by a Tribal Council resolution.

(D) The Tribe or one of its subdivisions will have the sole proprietary interest and the Tribe will have the exclusive responsibility for the conduct of the proposed gaming activity.

(E) The resolution authorizing the proposed gaming activity provides that:

(1) The revenues of the proposed gaming activity shall be audited annually and copies of those audits will be provided to the Tribal Commission and the National Indian Gaming Commission.

(2) The proposed gaming activity shall comply with all IRS reporting and filing requirements.

(3) All of the proceeds of the proposed gaming activity shall be used for the purposes stated in subsection 9.2.

(4) All contracts for supplies services or concessions for an amount in excess of $25,000 annually, except contracts for legal and consulting services, shall be subject to an annual independent audit.

(5) The construction or maintenance of the gaming facility and the operation of the proposed gaming activity shall be conducted in a manner which the Tribal Commission finds will adequately protect the environment and the public health and safety.

(6) All primary management officials and key employees shall pass the background checks and obtain the tribal gaming employee licenses required by this Ordinance.

(7) The Tribal Commission shall have the authority to regulate the proposed gaming activity.

(8) The proposed gaming activity shall pay to the National Indian Gaming Commission such fees as federal law may require to be paid.

(9) In the event the gaming activity is Class III gaming, such gaming activity meets all other criteria established by the Tribal-State Gaming Compact.

5.6 **License Application Fees.** An application fee shall be required for a or tribally-operated Class II or Class III gaming enterprise. Said fee shall be in the amount of $250 and shall accompany the application.

5.7 **License Tax.** No annual license tax shall be required for a tribally-owned or tribally-operated Class II or Class III gaming operation.

5.8 **Terms of License.** A tribally-owned and tribally-operated Class II and Class III gaming license shall be valid for a period of one year from the date of issuance.

5.9 **Posting of Licenses.** Each operator shall post his tribal gaming license in a conspicuous location at his place of business. If an operator has more than one location, the operator must obtain and post a separate license for each location.

5.10 **Gaming License Renewals.** Each annual tribal gaming license must be renewed every 365 days from the date of issuance. A renewal fee shall be required for a tribally-owned Class II or Class III license in the amount of $100. In order to obtain a renewal of a license, the operator shall submit a written renewal application to the Tribal Commission on the form provided by the Tribal Commission. No renewal application shall be approved until the annual report, required by subsection 5.11, has been properly filed. All renewal applications submitted by a tribally-owned Class II or Class III gaming enterprise shall be approved in 30 days or less unless the Commission believes, based on reasonable grounds, that the enterprise has been or will be operated in violation of tribal, federal or other applicable law or the terms and conditions of the Tribal-State Compact.

5.11 **Annual Reports.** Each operator who possesses an annual Class II or Class III license must file an annual report with the Tribal Commission and the Tribal Council between the 15th and the last day of the 12th month duration of each such license. The report shall be submitted to the Tribal Commission on the annual report form provided by the Tribal Commission and shall include, at a minimum, the following information:

(A) The name, address and telephone number of the operator;

(B) The names, addresses and titles of all of the current managers of the operator;

(C) A description of the gaming activity that it has operated and the total gross sales;

(D) A written copy of any changes it proposes to initiate in its rules;

(E) A statement of the specific date or dates and time or times on which it wishes to operate its gaming activity over the next license period;

(F) The name and addresses of the person who will be designated as primary management official over the next license period;

(G) A statement of any changes in the primary management officials or key employees who will operate

the gaming activity over the next license period;

(H) The names and addresses of any employees who the Tribal Commission may determine to be key employees during review of the application;

(I) Written proof that the operator has paid to the National Indian Gaming Commission such fees as federal and tribal law may require it to pay and will continue to do so;

(J) A sworn statement that the operator has complied with the Internal Revenue Codes and Regulations, including written notice of customer winnings, and a statement that the operator shall continue to obey all tribal and federal laws and shall hold the Tribal Commission and the Tribe harmless for failure to do so;

(K) Any location at which the gaming activity has been conducted and any new location which will be established in the next license period;

(L) The number of full-time equivalent people, on an annualized basis, employed by the operation during the past 12 months, together with a projection of the number of full-time equivalent people who are expected to be employed during the next license period;

(M) The total gross revenue of the operator attributable directly or indirectly to tribally-licensed gaming activity over the proceeding 12 months;

(N) Written proof that the operator has paid to the Tribe the gross receipts tax, and a sworn statement that it will continue to make such payments as may be required during the next license period;

(O) A sworn statement that the operator will continue to comply with all tribal and federal laws applicable to the operator's gaming operation;

(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.

(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.

(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.

(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.

(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.

(18) A disclosure of any civil or criminal judgments rendered against the applicant, including the case number, a description of the judgment and the name and address of the court involved.

(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.

(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.

(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.

(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).

(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.** No person under the age of 21 years shall be permitted to play any gaming activity being conducted within a facility which has a retail alcoholic beverage license.

7.9 **Minimum Age to Enter Facility.** No person, other than a Class III enterprise employee, shall be permitted to enter the area of any building in which a Class III gaming activity is being conducted, who is under the age of 21.

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.