

NATIONAL
INDIAN
GAMING
COMMISSION

MAR 30 1995

Claudia Brundin, Tribal Chairperson
Blue Lake Rancheria
P.O. Box 428
Blue Lake, California 95525

Dear Chairperson Brundin:

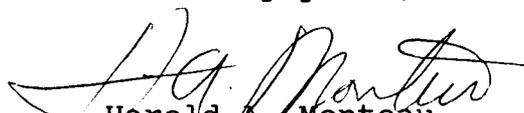
This letter responds to your request to review and approve the tribal gaming ordinance adopted by Resolution 95-01 on January 8, 1995, by the Blue Lake Rancheria (Tribe). This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

Under the IGRA and the regulations of the National Indian Gaming Commission (NIGC), the Chairman is directed to review ordinances with respect to the requirements of the IGRA and the implementing regulations. Thus, the scope of the Chairman's review and approval is limited to the requirements of the IGRA and the NIGC regulations. Provisions other than those required under the IGRA or the NIGC regulations that may be included in a tribal ordinance are not subject to review and approval. Also, such approval does not constitute approval of specific games. It is important to note that the gaming ordinance is approved for gaming only on Indian lands as defined in the IGRA.

With the Chairman's approval of the Tribe's gaming ordinance, the Tribe is now required to conduct background investigations on its key employees and primary management officials. The NIGC expects to receive a completed application for each key employee and primary management official pursuant to 25 C.F.R. § 556.5(a) and an investigative report on each background investigation before issuing a license to a key employee or primary management official pursuant to 25 C.F.R. § 556.5(b).

Thank you for submitting the ordinance of the Blue Lake Rancheria for review and approval. The NIGC staff and I look forward to working with you and the Tribe in implementing the IGRA.

Sincerely yours,


Harold A. Monteau
Chairman

**RESOLUTION
RELATING TO REVISING
TRIBAL CLASS II GAMING CODE DATED AUGUST 14, 1993
No. 95-01**

SUBJECT: Formal authorization to adopt revised Tribal Gaming Code dated August 14, 1993.

WHEREAS, Resolution 94-13, formally adopts the Blue Lake Rancheria's Tribal Gaming Code; and

WHEREAS, Such Resolution and Ordinance must be approved by the National Indian Gaming Commission prior to authorization of Class II Gaming by the Blue Lake Rancheria Gaming Commission; and

WHEREAS, The Blue Lake Rancheria Business Council has determined that the Blue Lake Rancheria's Tribal Gaming Code should be revised and that such revision should also be promptly submitted to the National Indian Gaming Commission; and

WHEREAS, a Revised Blue Lake Rancheria Tribal Gaming Code has been proposed for purposes of submission to and approval by the National Indian Gaming Commission for approval.

NOW THEREFORE BE IT RESOLVED, that the Blue Lake Rancheria Business Council hereby adopts the Blue Lake Rancheria Revised Tribal Class II Gaming Code, attached hereto as Exhibit A.

CERTIFICATION

As the Chairperson of the Business Council for the Blue Lake Rancheria, I hereby certify that the Business Council adopted this Resolution by vote of 5 for and 0 against, and 0 absent this 8 th day of January, 1995. This Resolution has not been amended in any way.

Art Ramsey
Moved by

Diene Halliday
Seconded by

1/8/95
Date

Candice Breuden
Business Council Chairperson

Attested Art Ramsey
Secretary/Treasurer

Blue Lake Rancheria
Post Office Box 428
Blue Lake, California 95525
Phone: (707) 668-5101
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BLUE LAKE RANCHERIA
REVISED
TRIBAL CLASS II GAMING CODE

Original: AUGUST 14, 1993, RESOLUTION NO. 94-13

Revised: 1/8/95, RESOLUTION NO. 95-01

I. DEFINITIONS

Section 1.01 - Definitions. Unless a different code meaning is clearly indicated, the terms used in this Code shall have the same meaning as defined in the Indian Gaming Regulatory Act, Public Law 100-497, 102 Stat. 2467 (Oct. 17, 1988)

Section 1.02 - Calendar Year. The period beginning January 1 at 12:00:01 and ending the immediately following December 31 at 12:00 midnight.

Section 1.03 - Chairperson. The Chairperson of the Blue Lake Rancheria Gaming Commission.

Section 1.04 - Class I Gaming. Social Gaming played solely for prizes of minimal value or traditional forms of Indian Gaming engaging in by individuals as a part of, or in connection with, Tribal Ceremonies or Celebrations.

Section 1.05 - Class II Gaming.

- (a) The gaming of chance commonly known as bingo or lotto, whether or not electronic, computer or other technologic aids are used in connection therewith:
 - (i) Which is played for prizes, including monetary prizes, with cards bearing numbers or other designations;
 - (ii) In which the holder of the card covers such numbers or designations when objects similarly numbered or designated, are drawn or electronically determined; and
 - (iii) In which the game is won by the first person covering a previously designated arrangement of numbered or designated on such cards, including, if played in the same location: Pull Tabs, Lotto, Punch boards, Tip Jars, Instant Bingo and other games similar to Bingo; and
- (b) Nonbanking card games that are:
 - (i) Explicitly authorized by laws of the laws of the State California;
 - (ii) Not explicitly prohibited by the laws of the State of California, and are played anywhere in the State; and
 - (iii) Played in conformity with State laws and regulations concerning hours, periods of operation, and limitations on wagers and pot sizes.
- (c) The term Class II Gaming does not include any Class III Gaming.

Section 1.06 - Class III Gaming. All other forms of gambling that are not Class I or Class II Gaming as defined in the IGRA.

Section 1.07 - Commission. The Blue Lake Rancheria Gaming Commission.

Section 1.08 - Commissioner. A member of the Blue Lake Rancheria Gaming Commission.

Section 1.09 - Council. The Blue Lake Business Council, the highest governing body of the Blue Lake Rancheria.

Section 1.10 - Director. The Director of the Gaming Commission. The Director is the Chief Administrator of Blue Lake Gaming.

Section 1.11 - Gaming or Gaming Activity. To deal, operate, carry on, conduct, maintain or expose for play any game played with: Cards, Dice, Equipment or any Mechanical, Electromechanical or Electronic Device or Machine for Money, Property, Checks, Credit or any representative of value, including (without limiting the generality of the forgoing) Faro, Monte, Roulette, Keno, Bingo FanTan, Bingo, Twenty-one (Blackjack), Seven-and-a-Half, Big Injun, Klondike, Craps, Poker, Chuck-a-Luck (Dai-shu), Wheel of Fortune, Chemin de Fer, Baccarat, Pai-Gow, Beat the Banker, Panguigui, Slot Machines, Video Poker Machines, Pull-tabs, any banking or percentage game, or any other game or device approved by the Commission. Gaming or Gaming Activity not include games played with cards in private homes or residences in which no person makes or changes money for operating the game, except as a player.

Section 1.11a - Gaming Code. The Tribal Class II Gaming Code of Blue Lake Rancheria, as revised.

Section 1.12 - Gaming Device. Any equipment or mechanical, electromechanical or electronic contrivance, component or machine used remotely or directly in connection with gaming or any game which affects the result of a wager by determining win or loss. The term includes a system for processing information that may alter the normal criteria of random selection, which affects the operation of any game, or facilities used or maintained in connection with such gaming.

Section 1.13 - Gaming Establishment or Gaming Premises. Any premises where gaming, other than Class I Gaming, is operated or conducted, including all buildings, improvements, equipment and facilities used or maintained in connection with such gaming.

Section 1.14 - Gross Revenue. The total monetary value that would be due to any operator of a Gaming Activity for any chance taken, for any table fee for card playing, or other fee charged for participation or admittance, as evident by required records. The value shall be stated in U.S. currency, before any deductions or allowances for prizes, pay out of winnings, cost of operation, taxes, labor expenses, equipment or materials used, or any other expenses. In the absence of records, gross revenue shall be the maximum that would be due to an operator from that particular activity if operated at maximum capacity.

Section 1.14a - IGRA. The Indian Gaming Regulatory Act, Pub. L. 100-497, 25 U.S.C. §§2701, *et seq.*, including any amendments thereto. Where appropriate, "IGRA" also means regulations duly promulgated by the NIGC under the IGRA which are valid interpretations of the IGRA.

Section 1.15 - Indian Land.

- (a) All land within the limits of the reservation of Blue Lake Rancheria; or
- (b) Land over which the Blue Lake Rancheria exercises governmental power and that is either--
 - (i) Held in trust by the United States for the benefit of the Rancheria Tribe or individual; or
 - (ii) Held by the Tribe or individual subject to restriction by the United States against alienation.

Section 1.16 - Key Employee.

- (a) All employees who have authority over receipt or distribution of revenues from the Gaming Activity, includes (but not be limited to): bingo caller, counting room supervisor, Chief of security, custodian of gaming supplies or cash, floor manager, custodian of gambling devices including persons with access to cash and accounting records within such devices, head cashiers, pit bosses, floor managers, supervisors and any other individual who has the authority to sign checks or handle cash or currency.
- (b) If not otherwise included, any person whose total cash compensation is in excess of \$50,000 per year;
- (c) If not otherwise included, the four most highly compensated persons in each gaming operation.

Section 1.16a - Lender. Any person who provides financing to the gaming operation and is not in the position of nor has any interest as a Key Employee, Owner or Controlling Person.

Section 1.17 - Licensee. Any person who has been issued a valid and current license pursuant to the provision of this Gaming Code.

Section 1.17a - NIGC. The National Indian Gaming Commission established pursuant to the IGRA, 25 U.S.C. §2704.

Section 1.18 - Net Revenues (gaming). For the purposes of this Code shall mean the Gross Gaming Revenue (Win) of the Enterprise from Gaming less all Gaming related Operating Expenses, excluding the Management Fee, in accordance with Generally Accepted Accounting Principles.

Section 1.18a - Net Revenues (other). Gross Revenues, as heretofore defined, of the Enterprise from all sources other than Gaming, including food, beverage, entertainment, and retail sales, less all non-Gaming related Operating Expenses, excluding the Management Fee in accordance with Generally Accepted Accounting Principles.

Section 1.18b - Net Tribal Revenues. Net Revenues (gaming) and Net Revenues (other), as heretofore defined, of the Enterprise from all sources less all Management Fees in accordance with Generally Accepted Accounting Principles.

Section 1.19 - Management Contract. Any contract, agreement or other document establishing a relationship between the Tribal Government and any person or entity in which such a person or entity

has managerial responsibilities for a Tribally Owned Class II or in the event of an approved Tribal/State Compact, a Class III Gaming Operation. The term Management Contract shall include all collateral agreements.

Section 1.20 - Management Fee. Any moneys paid from Gaming Revenue to any person or entity contracted and/or licensed to operate a Gaming Establishment. Such terms shall not include moneys paid to the owner of a Gaming Establishment licensed pursuant to Section 3.03 of this Code.

Section 1.21 - Operating Expenses. Any expense incurred in the daily operation of a Gaming Activity that is specifically designated as an operating expense in a management contract; provided (in the case of an establishment licensed by the Rancheria pursuant to Section 3.03), the term shall mean an expense specifically designated as an operating expense in any regulation adopted the Commission.

Section 1.21a - Owner or Controlling Person.

- (a) Any natural person having a direct financial interest in any Management Contract;
- (b) Any beneficiary or trustee when a trust is a party to a Management Contract;
- (c) Any partner when a partnership is a party to a Management Contract;
- (d) Any person who is an officer or director or who holds at least ten (10) percent of the issued and outstanding stock alone or in combination with another stockholder who is a spouse, parent, child or sibling; or
- (e) Any/all persons having an interest in a management contract, whether an entity other than a natural person in a trust partnership or corporation, all parties of that entity are deemed to be persons having a direct financial interest in a Management Contract.

Section 1.22 - Patron. Any person or group of persons on Indian Land who participate as players in games as defined by this Code, or who are physically present on premises wherein or whereon such games are being played.

Section 1.23 - Person. Any association, partnership, corporation, firm, trust or other form of business association as well as a natural person.

Section 1.24 - Primary Management Officials. Includes all officials of the Gaming Activity who exercise authority over daily operation of the Gaming; covering the authority to hire and fire employees, supervise employees or establish operational policy for the Gaming Activity. Such officials shall include, but not be limited to, all owners, officers, shareholders or partners of the management contractor, if any.

Section 1.25 - Regulations. The regulations and rules promulgated by the Gaming Commission under this Code.

Section 1.26 - Reservation.

1. The area of approximately 31 acres lying within the survey boundaries of the Blue Lake Rancheria in Blue Lake, California.

2. Any additional lands to be acquired by the Blue Lake Rancheria to be put in trust pursuant to Public Law 101-42, but not yet surveyed; and
3. Any other land designated as reservation land for the Blue Lake Rancheria by the Secretary of the Department of Interior.

Section 1.27 - Services. Labor provided by one person or another, where such labor is provided in pursuit of the purpose of Gaming on the Blue Lake Rancheria.

Section 1.27a - Tribal General Counsel. The attorney representing the Blue Lake Rancheria.

Section 1.28 - Tribal/State Compact or Compact. A written document, either negotiated and agreed to by the Blue Lake Rancheria and an official or agency of the State of California; or prescribed by the Secretary pursuant to 25 U.S.C. 2710 (7) (B) (vii), governing the conduct of Class III Gaming activity on Indian Lands.

Section 1.29 - Rancheria. The Blue Lake Rancheria, also known as Blue Lake Rancheria of California; a Federally recognized tribe of a diverse mixture of Wiyot, Tolowa, Yurok, and Cherokee Indians of Blue Lake, California.

Section 1.30 - Tribal Court. The Tribal Court of the Blue Lake Rancheria of California.

Section 1.31 - Working Days. Monday through Sunday or 365 days a year.

Section 1.32 - Words and Terms. Tense, number and gender. In constructing the provisions of this Code, have when otherwise plainly declared or clearly apparent from the context.

- (a) Words in the present tense shall include the future tense;
- (b) Words in the masculine, feminine and neuter genders shall include all genders;
- (c) Word in the singular shall include the plural - and in the plural shall include the singular.

II. ADMINISTRATION AND ENFORCEMENT

Section 2.01 - Unauthorized Gaming. Any Indian who commits any act of unauthorized Gaming on this Reservation or on any Indian land shall be guilty of a crime and shall be prosecuted in Tribal Court. Prosecution for such a crime in Tribal Court is not meant to be exclusive. A finding of guilt or innocence shall not deprive the Federal Government from criminal jurisdiction.

Section 2.02 - Ownership: Revenues to Benefit the Tribe. The Rancheria shall have sole propriety interest in and sole responsibility for the conduct of the Gaming Activity. Such provisions do not limit the Tribe's ability to enter into a management contract wherein Net Tribal Revenues will go to the Tribe and upon the preparation of a plan by the Business Council to allocate revenues; Net Tribal Revenues may be used only for the following purposes:

- (a) To fund Tribal Government Operations or Programs;
- (b) To provide for the General Welfare of the Tribe and its members;
- (c) To promote Tribal Economic Development;
- (d) To donate to Charitable Organizations;
- (e) To help fund operations of local Government Agencies; or
- (f) To make Per Capita payments to members of the Tribe (such plan approved by the Secretary of the Interior under 25 U.S.C. 2710(b)(3)).

Section 2.03 - Establishment of Commission. The Blue Lake Rancheria Gaming Commission is hereby established. The Commission shall consist of five (5) members appointed by the majority vote of the Council. The Commission shall consist of at least one individual with an accounting background, one with a legal or law enforcement background and one with at least five years of business experience. At least three (3) members of the Commission shall be members of the Blue Lake Rancheria. A Commissioner shall serve for three (3) years by a majority vote of the Council. In order to establish an annually staggered Commission appointment schedule similar to that of the Council, the first two (2) members shall serve three (3) year terms, two (2) members shall serve two (2) year terms and one (1) member shall serve one (1) year term for the initial appointment only. Thereafter all successive terms of appointment shall run for three (3) years. In the absence of a duly constituted Commission, Commission shall be the Blue Lake Business Council. A vacancy on the Commission through death, resignation, or removal from office shall be filled by appointment by the Council to complete the unexpired term.

Section 2.04 Commissioners.

- (a) **Restrictions.** Commissioners may hold other Tribal positions and engage in business, provided that they shall not engage in any business which is subject to the provisions of this Gaming Code. Commissioners may not gamble in the Gaming Establishment nor have any personal financial interest in any gambling by any person. A Commissioner shall immediately resign from the Commission upon the Commissioner's conviction in a Federal or State Court of competent jurisdiction for any felony or for any misdemeanor related to illegal gambling or bribery or upon conviction in the Tribal Court or any charge that the Council finds relates to the Commissioner's honesty or ability to fulfill

his duties. If a Commissioner is convicted of violating any part of this Code, he shall immediately resign from the Commission.

- (b) **Qualifications.** In order to qualify for appointment to the Commission, an applicant must satisfy all of the following requirements:
- (i) Be age 21 or older.
 - (ii) Have at least a high school or General Equivalency Diploma equivalent education and have knowledge of or experience in the gaming industry.
 - (iii) Have no prior criminal record of conviction of, or entry of a plea of guilty or no contest to, any of the following in any tribal, county, state or federal court, unless he or she has been pardoned:
 - (1) A felony.
 - (2) Any gaming-related offense.
 - (3) Fraud or misrepresentation in any connection.
 - (4) A violation of any provision of any rule promulgated by the California Gaming Agency, of this Code or any other ordinance of the Tribe regulating or prohibiting gaming.
 - (v) Not be a person whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effect regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the operation of gaming or the carrying on of the business and financial arrangements incidental thereto.
 - (vi) Not be employed by any Gaming Operation.
 - (vii) Not be a Primary Management Official or Owner or Controlling Person with respect to any Management Contract, and not be a Relative of an Owner or Controlling Person with respect to any Management Contract.
- (c) **Removal.** Any Commissioner may be removed by an affirmative vote of a majority of the Council acting at a meeting at which a quorum is present. Such removal shall only be for cause, including malfeasance, dereliction or neglect of duty, unexcused failure to attend three successive meetings of the Commission, failure to continue to meet the qualifications for appointment to the Commission, conviction of a felony in any tribal, county, state or federal court while in office, any willful and persistent misconduct reflecting on the dignity and integrity of the Council or the Tribe, or failure to comply with any provisions of the Tribe's Constitution and Bylaws and other applicable laws. Any Commissioner being considered for removal shall be provided with notice in writing stating the grounds for removal, and he or she shall have 30 days to provide an explanation to the Council in person or in writing, which explanation shall be considered by the Council in voting on the removal question. All removal questions shall be considered by the Council in open session at or after the end of the 30-day notice period at which the Commissioner and his or her attorney shall have the right to be present. Judicial review of such Council determinations may be obtained by bringing an appeal in Tribal Court within 15 days after the date of the determination.

Section 2.05 - Compensation of Commissioners. Commissioners shall be compensated at the rate to be established annually by the Commission and approved by the Council. Commissioners shall be reimbursed for actual expenses incurred on Commission business, including necessary travel expenses.

Section 2.06 - Selection of Chairperson. The Commission shall select from its membership a chairperson, who shall have the power to convene special meetings of the Commission upon 48 hours' prior written notice to Members of the Commission.

Section 2.07 - Meetings.

- (a) **Open Meetings.** All meetings and hearings of the Commission (except executive sessions) shall be open to all members of the Tribe, and to non-members upon invitation of the Commission, the Council, or the Tribal General Counsel. Balloting at all sessions shall be as the presiding officer shall direct. The Commission may, upon motion duly passed, go into executive session. At such sessions all persons shall be excluded from the meeting chamber, and any persons whose presence shall be required before the Commission shall be designated by the presiding officer, and no other persons shall be allowed to be present other than the Commissioners.
- (b) **Notice of Meetings.** The Commission shall post notice of any meeting or hearing in a prominent, noticeable place in the Tribe's Executive Office no less than 48 hours prior to the meeting or hearing, unless an emergency requires shorter notice, and shall also publish, if possible, such notice at or before the date of posting in a Tribal newspaper, or if a Tribal newspaper is not currently in publication, in such other local newspaper serving the local community. The notice shall state the date, time and place of the hearing.
- (c) **Commission Rules of Practice and Procedure.** The Commission's rules and procedures to compel attendance or the production of documents, and to provide for pre-hearing discovery are subject to any limitations set forth in this Code. Such rules may be amended by the Commission at any time, but amendments shall not be effective until approved by the Council.

Section 2.08 - Quorum. A quorum shall consist of three members of the Commission. All decisions shall be made by a majority vote of the Commission, unless indicated otherwise in this Code.

Section 2.09 - Monthly Reports. The Commission shall make monthly reports to the Council within 30 days after the close of the month for which the information is being required. The reports shall include a full and complete statement of Gaming revenues paid to the Tribe, expenses and all other financial transactions of the Commission and a summary of all licensing and enforcement actions.

Section 2.10 - Powers. The Commission shall exercise all powers necessary to effectuate the purposes of this Code. The Commission may exercise any proper power and authority necessary to perform in this Chapter. The Commission shall meet with the Director not less than once each month to make recommendations and set policy, to approve or reject reports of the Director and transact other business that may be properly brought before it. The Commission shall promulgate rules and regulations for the governance of any Gaming Activity and the operation of any Gaming Establishment; shall hear and resolve all disputes regarding any act to promote and ensure integrity, security, honesty and fairness of the operation and administration of all Gaming Activities. The Commission shall have the power and authority to investigate any Licensee; to deny any application; to limit, condition, suspend or restrict any license, make a finding of suitability or approval of a license, or a finding of suitability or approval of or the imposition of a fine upon any person licensed, for any cause deemed reasonable by the Commission.

Section 2.11 - Prior Notice of Actions. In adopting, amending and repealing regulations, the Commission shall give prior notice of the proposed action to all Licensees and other persons whom the Commission or Director has reason to believe have legitimate and interest in such proposed action. Said notice shall inform such persons as to the general nature of the proposed action and advise them as to the manner in which comments on said proposed action shall be received by the Commission. In emergencies, the Commission may summarily adopt, amend or repeal any regulation if at the time the Commission determines such action is necessary for the immediate preservation of the public peace, health, safety, morals, good order or general welfare, together with a statement of facts constituting the emergency; provided the Commission shall schedule such emergency action for a regular hearing within 15 days.

- (a) **Notice of Applications.** After an Application has been filed with Commission, the Commission shall post notice of the Application in a prominent, noticeable place on the premises where the games are to be held for at least seven (7) days prior to consideration by the Council or the Commission and shall publish such notice at least once or before the date of posting in a Tribal newspaper, or if a Tribal newspaper is not in publication, in such other local newspaper serving the community that may be affected by the License as authorized by the Commission. The notice shall state the date, time and place when the Application shall be considered by the Council or the Commission and also shall state whether the Applicant is seeking a waiver of any requirements set forth in Sec. 3.03a(a)(iv).
- (b) **Notice to Applicant or Licensee.** The Commission shall provide written notice to the Applicant or Licensee of the hearing at least seven (7) days prior to the date set for the hearing. The notice shall be sent by regular mail, or may be personally served upon the Applicant or Licensee. The notice shall state the date, time and place of the hearing. The notice shall also state the purpose of the hearing, including, but not limited to:
 - (i) Whether the Commission is holding the hearing for the purpose of obtaining further information;
 - (ii) Whether the Commission will be considering the grant or denial of the License application;
 - (iii) Whether the Commission will be examining any alleged violations of this Code, the IGRA, the conditions of any License issued by the Commission, any order by the Commission or Council, or any other applicable laws, regulations or agreements, including, but not limited to any agreement with the Blue Lake Rancheria of California or in the event of such an agreement, a Tribal/State Compact.

Section 2.12 - Commission Hearings; Request for Commission Action.

- (a) Any person who is determined by the Commission or Director to be a real party in interest may file a petition in a manner and form approved by the Commission requesting the adoption, amendment or repeal of a regulation. Upon receipt of the petition, the Commission shall within 30 days deny the request in writing or schedule the matter for action pursuant to this Code.
- (b) The Commission shall afford a Licensee the opportunity for a hearing prior to taking final action resulting on the imposition of any penalties which the Commission is authorized to impose pursuant to this Code.

- (c) Nothing in this section shall limit the Commission's authority to suspend a License summarily without a hearing pursuant to this Code.
- (d) The burden of proving fitness and suitability for a License shall be on the Applicant.
- (e) Where a person or entity is charged with violation of this Code, an order of the Commission, a License condition, the IGRA or any other applicable laws, regulations or agreements, including but not limited to any agreement relating to gaming with the Blue Lake Rancheria of California (including in the event of a Tribal/State Compact), the party alleging the violation shall carry an initial burden of establishing a prima facie case of violation. If the Commission finds that a prima facie case has been established, the burden to rebut the charge shall shift to that person or entity.

Section 2.12a - Ex Parte Communications Prohibited.

- (a) No ex parte communication relative to any matter(s) being considered by the Commission, or a threat or offer of reward shall be made, before a decision is rendered, to any member of the Commission or any member of the Council by an Applicant or Licensee, its legal counsel, representative, agent or employee.
- (b) Nothing in this section shall prohibit the Applicant, Licensee or its authorized agent from communicating with the Tribal General Counsel or its authorized agents.
- (c) Any member of the Commission or the Council who receives an ex parte communication shall immediately report such communication in writing to the Tribal General Counsel.
- (d) For the purposes of this section only, "any matter(s) being considered by the Commission," means those matters identified in the written notice as provided in Section 2.11 of this Code, as well as any other matters that are actually considered by the Commission during a hearing. All matters identified in the written notice shall be subject to the prohibition against ex parte communications. All matters not identified in the written notice that are considered by the Commission during a hearing become subject to the prohibition against ex parte communications as soon as they are discussed during the hearing.
- (e) The Commission shall have the power to impose any sanction pursuant to Section 2.14b upon its determination that an Applicant or Licensee, its legal counsel, agent, representative or employee, has made an ex parte communication in violation of this Section.

Section 2.12b - Appearance through Counsel.

- (a) Parties to all hearings governed by this Code may appear personally or through an attorney, except that a party must personally attend any hearing on the merits unless attendance has been waived, in writing, by the Commission.
- (b) When a party has appeared through an attorney, service of all notices, motions, orders, decisions and other papers shall thereafter be made upon the attorney, unless the party requests otherwise in writing.

- (c) When a party is represented by an attorney, the attorney shall sign all motions, notices, requests, and other papers on behalf of the party, including a request for subpoenas.

Section 2.12c - Discovery.

- (a) The Tribal General Counsel and the Licensee shall exchange a list of persons that each party intends to call as witnesses no later than three (3) business days before a scheduled enforcement hearing. Each witness shall be identified by name, if known, position, and business address. If no business address is available, a home address for the witness shall be provided. Any witness not identified in accord with this Section may be prohibited from testifying at a hearing in the Commission's discretion.
- (b) The Tribal General Counsel and the Licensee shall exchange a copy of all documents or tangible things that they intend to offer as evidence in support of the party's case in chief. This exchange shall be made to the opposing party no later than three (3) business days before a scheduled enforcement hearing. Failure to make available any document or tangible thing in accord with this section may, in the Commission's discretion, be grounds to deny the admission into evidence of such document or tangible thing.

Section 2.12d- Confidential Materials.

- (a) Prior to making any documents available to the Tribal General Counsel, the Applicant or Licensee may designate any document it believes to contain confidential information as "Subject to a Confidentiality Claim" by so marking the document prior to providing a copy of the document to the Tribal General Counsel.
- (b) No document provided to the Tribal General Counsel which has been in accord with Subs. (a) above, and no non-public information contained with the document, shall be made a part of the public record of the Commission proceedings or otherwise disclosed by the Commission to any person other than its authorized agents (or except as may be required under any laws, regulations, court or administrative order, or in the event of a Tribal/State Compact), without first providing the Applicant or Respondent with the opportunity to seek a ruling by the Commission that the documents and/or non-public information contained therein should not be made public. The request for such a ruling and any discussion relating to the document shall be heard and ruled upon by the Commission in an Executive Session meeting. If the request for such a ruling is made during a public hearing session, the hearing session shall be adjourned and the Commission shall conduct an Executive Session meeting in order to hear and rule upon the Applicant's or Respondent's request. The Applicant or Licensee may present to the Commission in Executive Session written and oral argument regarding the confidentiality claim, along with any facts the Applicant or Licensee believes to be relevant to such argument.

Section 2.12e- Subpoenas.

- (a) The Commission has the power and discretion to issue subpoenas.

- (b) Subpoenas may be issued only to compel any person to appear at any hearing before the Commission to give oral testimony, or to produce documents or other tangible things.

Section 2.13 - Commission Determinations: Voting on Licensing.

- (a) The Commission shall make all determinations of issues before it by a majority vote of at least a quorum of the Commission. Any Commission vote in approving, disapproving, revoking, suspending, limiting or conditioning a license under this Code shall be by secret ballot only; provided that in an emergency a secret phone vote may be polled, pursuant to Commission Regulations.
- (b) All significant determinations made by the Commission shall be documented in a written resolution. Significant determinations include the grant, denial or cancellation of a License, a finding of a violation of the Code, the IGRA, the conditions of any license issued by the Commission, any order of the Commission, or any other applicable laws, regulations or agreements, including, but not limited to, any agreement with the Blue Lake Rancheria of California, in the event of any Tribal/State Compact, and the imposition of any sanctions or penalties.
- (c) A copy of any resolution reached pursuant to this section shall be served upon the Applicant or Respondent by registered or certified mail, or may be served personally.
- (d) Should an Applicant disagree with the determination of the Commission, the Commission shall hold a hearing to review its decision within three (3) working days from the date an Applicant files his disagreement with the Commission. At the hearing, the burden shall be on the Applicant to show cause why the Commission's determination was incorrect.

Section 2.14 - Hearing Proceedings; Commission Findings.

- (a) The Chair of the Commission shall preside over all hearings, and shall call the proceedings to order, control the presentation of evidence, the appearance of witnesses, and the order of the proceedings.
- (b) The Commission may require any person, including, but not limited to, any Applicant or Licensee, or any agent, employee or representative of any Applicant or Licensee, to appear and testify before it with regard to any matter within its jurisdiction at such time and place as it may designate. Such testimony shall be under oath and may include any matters which the Commission deems relevant to the discharge of the Commission's official duties. Testimony shall be recorded by a duly certified court reporter and may be used by the Commission as evidence in any proceedings or matter before the Commission. Failure to appear and testify fully at the time and place designated shall result in sanctions. Failure to appear may constitute grounds for:
 - (i) Refusal to grant a License to the person summoned, and/or that person's principal or employer;
 - (ii) Cancellation or suspension of a License held by the person summoned, and/or that person's principal or employer; or
 - (iii) Inference that the testimony of the person summoned would have been adverse to that person and/or that person's principal or employer.

- (c) Any party to the hearing may call and examine witnesses. The Commission shall exercise its discretion to limit the testimony of witnesses where that testimony is argumentative or repetitive.
 - (i) The Commission shall have the authority to eject from the hearings any person who is disruptive, disorderly, or who shows a lack of proper respect for the Commission or the nature of the proceedings.
 - (ii) Persons shall be permitted to speak only when recognized by the Commission.
 - (iii) Any member of the Commission may ask questions of witnesses, and may request or allow additional evidence at any time.
 - (iv) Any party to the hearing may conduct cross-examinations reasonably required for a full and true disclosure of the facts.
 - (v) All hearings held under this Code shall be open to all members of the Rancheria and to such other persons who, in the discretion of the Commission or the Tribal General Counsel should be allowed to attend.
 - (vi) The Commission, in its discretion, has the power to sequester witnesses.
- (d) Following such hearing, the Commission shall, within three (3) days, reach a determination concerning:
 - (i) The accuracy of the preliminary certifications of facts; and
 - (ii) Whether the license in question should be granted, continued, suspended, revoked, conditioned, or limited; and
 - (iii) Whether or not any other action recommended to the Commission including, but not limited to, forfeitures, should be taken.

Section 2.14a - Evidence.

- (a) In hearings governed by this Code, the Commission shall not be bound by technical rules relating to evidence and witnesses. The Commission shall admit all testimony having reasonable probative value, but shall exclude immaterial, irrelevant or unduly repetitious testimony. The Commission shall give effect to the rules of privilege unless such privilege is waived. Basic principals of relevancy, materiality and probative force shall govern the proof of all questions of fact. Objections to evidentiary offers and offers of proof of evidence not admitted may be made and shall be noted in the record.
- (b) All evidence, including records and documents in the possession of the Commission or which the Commission desires to avail itself, shall be duly offered and made a part of the record in the case. Each party shall be afforded adequate opportunity to rebut or offer countervailing evidence.
- (c) The Commission may take official notice of any generally recognized fact or any established technical or scientific fact; but parties shall be notified either before or during the hearing or by full reference in preliminary reports or otherwise, of the facts so noticed, and they shall be afforded an opportunity to contest the validity of the official notice.
- (d) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy of the original.
- (e) The record in a hearing governed by this Code shall include:

- (i) All applications, pleadings, intermediate rulings and exhibits and appendices thereto;
- (ii) Evidence received or considered, stipulations and admissions, including but not limited to confidential evidence received under Sec. 2.11f of this Code.
- (iii) A statement of matters officially noticed;
- (iv) Questions and offers of proof, objections, and rulings thereon;
- (v) Any proposed findings or decisions and exceptions;
- (vi) Any decision, opinion or report by the Commission; and
- (vii) The transcript prepared by a duly certified court reporter.

Section 2.14b- Sanctions. If any party or its attorney fails to comply with any provision of this Code, any Commission regulations, the IGRA, the conditions of any license issued by the Commission or Council, any order by the Commission or Council, or any other applicable laws, regulations or agreements, including, but not limited to, any agreement with the Blue Lake Rancheria of California, or in the event of any Tribal/State Compact, regarding any matter, including, but not limited to, discovery matters and the failure to appear at a hearing at the scheduled time, the Commission upon motion or upon its own initiative, may in its discretion impose upon such party or attorney, or both, appropriate sanctions in regard to the failure(s) as are just, including, but not limited to, the following:

- (a) An order prohibiting the use of any witness, document or tangible thing which should have been disclosed, produced, exhibited or exchanged pursuant to this Code, the Commission's regulations, or any order of the Commission;
- (b) An order that designated facts shall be taken as established;
- (c) An order that the disobedient party may not support or oppose designated claims or defenses;
- (d) An order striking pleadings or parts thereof, or staying further proceedings or dismissing the proceeding or any part thereof, or entering a judgment by default against the disobedient party;
- (e) A finding against the disobedient party; or
- (f) Any penalty provided for in Section 2.26 of this Code.

Section 2.15 - Notification of Commission Decision. Within three (3) working days following a determination the Commission shall inform the subject in writing of that determination. The Commission and the Council shall post public notices of all actions taken in regard to Licenses and License applications in a prominent, noticeable place in the Tribe's offices, on gaming premises and shall publish such notice in a Tribal or local newspaper serving the affected community.

Section 2.16 - Right to Appeal. The Applicant shall have a right to appeal the determination of the Commission to the court of competent jurisdiction. Such appeal must be filed with such court in written form on or before the tenth (10) day following the receipt of the written determination of the Commission. A determination of such appeal by the court shall be final and no further action may be had. In any appropriate case which has been referred to the court for final action, the court shall review de novo the determination of the Commission. The Court's action shall be final and no further appeals may be made.

Section 2.17 - Appointment of Director. The Council, upon recommendation of the Commission, shall appoint a Director who shall be responsible for the day-to-day management of the affairs of the Commission as well as overseeing the establishment and operation of all Gaming Operations. A detailed background investigation shall have been conducted on the Director before his appointment and the Commission shall maintain oversight of the Director on an ongoing basis. No one convicted of a felony of any kind or a misdemeanor related to illegal gambling or bribery can serve as a Director. The Director shall not have any personal interests in any Gaming Activity. The Director may not gamble in the Gaming Establishment, nor have any personal financial interest in any gambling by any Gambling Establishment patron.

Section 2.18 - Director's Contract. The Director shall be hired on a contract basis. The terms of the contract will be negotiated with the Commission and approved by the Council. The Director's compensation shall be part of the negotiations.

Section 2.19 - Termination of the Director. The Director shall be terminated immediately and without the necessity of a vote of the Council upon the Director's conviction in a Federal or State Court of competent jurisdiction for any felony or for any misdemeanor related to illegal gambling or bribery. If the Director is convicted of violating any part of this Code he shall be immediately terminated.

Section 2.20 - Duties of the Director. The Director shall, subject to the approval of the Commission, perform all duties, exercise all powers, assume and discharge all responsibilities and carry out and affect all purposes of this Code relating to the establishment of all Gaming Activity. In all decisions, the Director shall act to promote and ensure integrity, security, honesty and fairness of the operation and administration of all Gaming Activity. The Director's duties include but are not limited to the following:

- (a) Negotiating contracts for payments by the Rancheria for the provision of security and other professional services. Such contracts must be approved by the Commission and the Council and shall not constitute a waiver of criminal jurisdiction by the Rancheria.
- (b) The Director will insure that all gaming fees of the Gaming Enterprise are sent to the NIGC on a timely basis.
- (c) Correspond with the NIGC and do whatever is necessary to be in compliance with the rules and regulations of that agency. Specifically, the Director shall arrange for an annual outside audit of authorized Gaming Activity and will provide a copy to the NIGC, in compliance with 25 U.S.C. § 2710(b)(2)(C). In addition, when submitting existing Codes and Resolutions to the NIGC, the Director shall provide financial statements for the previous fiscal year, the most recent audit report and management letter.
- (d) The Director will assure that all Gaming Activity is conducted in a manner which adequately protects the environment and the public health and safety;
- (e) The Director will establish an adequate system which ensures that background investigations are conducted on all primary management officials and key employees of any Gaming establishment and that right of such officials and their management is conducted on an ongoing basis. The Directors will recommend to the Commission (having final authority) on the granting of Tribal licenses for primary management officials and key employees. The Director shall immediately notify the NIGC of the issuance of such licenses. The Director will review all applications and background

investigations to ensure that no person shall be eligible for employment in or with any part of the Gaming Operation if that person's prior activities, criminal record, if any, or reputation, habits and associations 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, methods and activities in to conduct of Gaming. The Director shall be responsible for obtaining and processing fingerprints and shall designate the Humboldt County Sheriff's Department to take fingerprints and to conduct a criminal history check. The Director shall notify the NIGC in a report of the results of such background checks before the issuance of such licenses;

- (f) Hiring, pursuant to the approval of the Commission, such professional, clerical, technical and administrative personnel as may be necessary to carry out the provisions of this code.
- (g) Reviewing all records, documents and anything else necessary and pertinent to enforcement of any provisions of this Code;
- (h) Recommend to the Commission whether sanctions should be imposed on any person subject to the jurisdiction of this Code.

Section 2.21 - Right of Inspection. The Council, Commission, Director and their agents, inspectors and employees have the authority to:

- (a) Inspect and examine all premises wherein Gaming is conducted or gambling devices or equipment are manufactured, sold or distributed;
- (b) Inspect all equipment and supplies in, upon or about a Gaming Establishment, or inspect any equipment or supplies wherever located, which may or have been used in the Gaming Establishment;
- (c) Summarily seize and remove from a Gaming Establishment, or wherever located, and impound such equipment or supplies for the purpose of examination, evidence or forfeiture;
- (d) Demand access to and inspect, examine and audit all papers, books and records of Applicants and licenses respecting any income produced by any Gaming business and require verification of income and all other matters affecting the enforcement of the policy of or any of the provisions of this Code.
- (e) Seize and impound any patron's winnings which the Commission may have reasons to believe may have been won or obtained in violation of this Code pending a civil forfeiture on such seizure;
- (f) For the purpose of administration and enforcement of this Code the Commission, Director and their investigative personnel may, if deemed necessary by the Council, have the powers of the peace officer of the Blue Lake Rancheria for purposes of this Code only;

Section 2.22 - Confidentiality of Information. The Commission and Director may refuse to reveal, in any court proceeding, the identity of any informant or the information obtained from the informant, or both the identity and the information.

Section 2.23 - Powers of Delegation. The Commission may organize itself, and take to the Council for approval, a functional division as it may deem necessary and from time to time alter such plan of organization as it may deem expedient. The Commission shall establish its own budget for operations including a budget for the Director and acquire such furnishings, equipment, supplies, stationary, books, motor vehicles and other things as it may deem necessary or desirable in carrying out its functions and incur such other expenses, within the limit of funds available to it, as it may deem necessary. Within the limits of a Council approved budget, the Commission shall employ and fix the salaries of or contract for services of such professional, technical and operational personnel and consultants as the execution of its duties and the operation of the Director and Commission may require. At the Council's discretion, said budget may be reviewed and modified by the Council every six (6) months. Upon the end of the budget year any surplus which exists shall be refunded to the Council at their discretion. The Commission and Director shall each keep and maintain a file of all applications for licenses under this chapter, together with a record of all action taken with respect to such applications. The Commission and Director shall keep and maintain such other files and records as they may deem desirable and all such records may be open to public inspection as they may deem appropriate; provide, that the annual Commission budget shall be made available to the Council upon reasonable notice.

Section 2.25 - Limitations Period. No fine shall be assessed, nor any action taken for any violation under the preceding section unless a charge is filed in proper form with the Commission within the Statute of Limitations of the offense.

Section 2.26 - Violations of Code - Punishment; Enforcement. Any violation of this Code shall be punished by a fine of no more than \$5,000 for each separate count or violation, or one (1) year in jail or both. Each day of violation shall constitute a separate count or violation under this Code. A violator may also be required to pay court costs, storage fees and auction or sales fees. All property used or which may be used in activities in each and every separate violation of this Code may become the property of the Rancheria. Persons may be prohibited from trespassing on premises licensed under this Code, licenses may be suspended or limited and/or establishments may be forcibly closed. All such action shall be taken at the discretion of the Commission, and are subject to the right of appeal to a court of competent jurisdiction. Winnings found to have been received in violation of this Code are forfeited and become the property of the Rancheria.

- (a) **Enforcement.** The Commission shall impose civil penalties on any person who:
- (i) Violates any provision of this Code;
 - (ii) Makes any false or misleading statements or omissions in any Application filed with the Commission or in connection with any matter provided for hereunder;
 - (iii) Gives false testimony in any matter provided for hereunder before either the Commission or the Council;
 - (iv) Engages in conduct which is disrespectful to the Commission or which disrupts the efficiency and good order of Commission proceedings; or
 - (v) Fails to observe the Commission's Rules of Procedure and Practice, License conditions imposed by the Commission or Council, or orders of the Commission or Council.
- (b) **Penalties.** The Commission shall be empowered to impose any of the following civil penalties:

- (i) Termination, suspension or exclusion from employment in any Gaming Operations or other employee discipline;
 - (ii) Exclusion from attendance at any Gaming Facilities;
 - (iii) Exclusion from the Tribe's Lands if not a member of the Tribe;
 - (iv) A fine of not more than \$ 5,000 for each such violation, except that a General Manager, Owner or Controlling Person or a party to a Management Contract shall be subject to a fine of not more than \$ _____ for each such violation, and actual damages to the Tribe or its Gaming Operations.
- (c) **Investigations.** The Director and the Commission have the power to conduct investigations as provided in this Section. Outside counsel and other agents may be retained to assist in conducting investigations. All references to the Director and the Commission hereafter include the Director, the Commission and/or any designated agent.
- (i) The Director and/or the Commission may instigate without limitation the background and suitability of any Applicant or Licensee to ensure that the Applicant's or Licensee's prior activities or reputation, habits and associations do not pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the danger of unsuitable, unfair or illegal practices and methods and activities in the conduct of gaming.
 - (ii) The Director and/or the Commission may also investigate without limitation any suspected violation of this Code, the IGRA, the conditions of any License issued by the Commission, and order by the Commission or Tribal Council, or any other applicable laws, regulations or agreements, including, but not limited to any agreement with Blue Lake Rancheria of California.
 - (iii) No Applicant or Licensee shall neglect or refuse to produce records or evidence or to give information upon written demand by the Director and/or the Commission within seven (7) days of receipt of such request. No Applicant or Licensee shall interfere with any proper and lawful efforts by the Director to obtain such information. Every Applicant, Licensee, and all Licensed manufacturers, distributor and vendors shall make their premises, books and records available for inspection by the Director for the purposes of conducting its investigation. Failure of any person or entity to comply with this Section may result in a denial of a License application, cancellation of a License, or the imposition of other penalties and sanctions.
- (d) **Notice of Penalties.** The Commission shall post and publish notices of all penalties imposed hereunder under the same posting and publication procedures prescribed in Section 2.15.

Section 2.27 - Due Process Regarding Enforcement Actions. The Commission shall promulgate regulations protecting due process rights of all individuals subject to the enforcement of this Code. Such regulations shall provide, at a minimum:

- (a) Standards for emergency or summary suspension of license;
- (b) Fair notice and opportunity for hearing regarding any revocation or suspension of licenses and regarding any enforcement action taken pursuant to this Code;

- (c) Right to appeal de novo of any Commission disciplinary or enforcement action to a court of competent jurisdiction.

Section 2.28 - Special Agents. The Commission shall authorize special agents to perform services reasonably necessary to assure compliance with the provisions of this Code only. Said special services of enforcement and surveillance shall be under the authorization and direction of the Director, unless otherwise determined by the Commission. This section shall in no way be deemed to limit the normal law enforcement functions of these or other Tribal Law Enforcement Officers not so authorized.

Section 2.29 - Independence of Commission. The Director, Commission, members of the Council and their immediate families shall receive no personal compensation, gift, reimbursement or payment of any kind from any person doing or wishing to do business with the Rancheria relating to Gaming; nor with any person wishing to obtain an unfair advantage in any authorized wager on Gaming. Any property received in violation of this provision, including the offending persons, shall be prosecuted to the fullest extent possible under the Tribal Law for accepting a bribe. The Commission shall cooperate to the fullest extent possible with any Federal or State Law Enforcement Agency to pursue prosecution under applicable Federal or State Law.

III. LICENSING OF GAMES

Section 3.01 - Mandatory License. The following persons must obtain tribal Licenses under the procedures of this Chapter III, as a condition to employment in any Gaming Operations on the Tribe's Lands:

- (i) Any Owner or Controlling person;
- (ii) Primary Management Official;
- (iii) Key Employees; and
- (iv) Any other employee or class of employees as determined by the Council. The Tribe shall issue to any individual a Class II License which shall be valid for any Class II facility and in the event of a Tribal/State Compact, a Class III License which shall be valid for any Class III facility. In the event of a Tribal/State Compact, the licensing requirement under this Code is in addition to any state certificates required.

Section 3.02 - Authorization of Class II Gaming Activity. The Commission may authorize Class II gaming activity to be played on Indian Lands that are within the jurisdiction of the Rancheria.

Section 3.03 - Licensing and Regulation of Class II Gaming Activity.

- (a) A separate license issued by the Commission shall be required for each place, facility or location on Indian Lands within the Rancheria's jurisdiction at which any Class II Gaming Activity is conducted.
- (b) **Individual Licensing.** Requirements for licensing of individually owned class II gaming operations (other than those operating on September 1, 1986):
 - (i) The gaming operation shall be licensed and regulated under an ordinance or resolution approved by the Chairman of the NIGC;
 - (ii) Income to the tribe from an individually owned gaming operation be used only:

- (1) to fund tribal government operations or programs;
 - (2) to provide for general welfare of the tribe and its members;
 - (3) to promote tribal economic development;
 - (4) to donate to charitable organizations; or
 - (5) to help fund operations of local government agencies.
 - (iii) Not less than 60 percent of the net revenues be income to the Tribe;
 - (iv) The owner(s) pay an annual assessment to the NIGC as established by the NIGC and published in the *Federal Register*.
 - (v) Licensing standards that are at least as restrictive as those established by State law governing similar gaming within the jurisdiction of the surrounding State; and
 - (vi) Denial of a license for any person or entity that would not be eligible to receive a State license to conduct the same activity within the jurisdiction of the surrounding State. State law standards shall apply with respect to purpose, entity, pot limits and hours of operation.
- (c) Requirements for licensing of individually owned class II and class III gaming operations operating on September 1, 1986 shall contain the same requirements as those in (ii)(1-4) of this part.
- (d) Standard for License. Licenses issued hereunder shall be issued according to requirements that are at least as stringent as those set forth in regulations promulgated by the NIGC in parts 556 and 558 of chapter 25 of the Code of Federal Regulations, including any amendments thereto, and also, in the event of the Tribe conducting Class III gaming, according to requirements that are at least as stringent as those set forth in a Tribal/State Compact.

Section 3.03a - Application for License.

- (a) No License shall be issued under this Chapter except upon a sworn Application filed with the Commission, in such form as may be prescribed by the Commission, containing a full and complete showing, at a minimum, of the following:
- (i) Satisfactory proof that the Application is of good character and reputation among the members of the Tribe, and is financially responsible;
 - (ii) A description of the premises at which the games are to be conducted, with proof of the conceptual or other basis upon which the Applicant shall conduct games, or be employed, at each premises;
 - (iii) Agreement by the Applicant to accept and abide by all conditions of the License as provided in this Code;
 - (iv) Satisfactory proof that neither the Applicant, nor any Owner or Controlling Person of any Applicant which is a party to a Management Contract, nor any of the Applicant's employees has in any jurisdiction ever been convicted of, or entered a plea of guilty or no contest to, any of the following criminal offenses, unless the person has been pardoned:
 - a. A felony, other than a felony conviction for an offense under b, c, or d, within the immediately preceding ten (10) years;
 - b. Any gaming-related offense;
 - c. Fraud or misrepresentation in any connection; or
 - d. A violation of any provision of gaming-related statutes or any rule promulgated by the California Gaming Agency or other appropriate

state regulatory body, or this Code or any other ordinance of the Tribe regulating or prohibiting gaming.

Except in the case of Owners or Controlling Persons or persons designated in any Management Contract as having management responsibility of all or any part of any Gaming Operations, the Council may in its discretion waive by legislative resolution any requirements set forth in this Section 3.03a(iv) for any Applicant for a Class II License or, in the event of a Tribal/State Compact and NIGC approval for Class III gaming, for any Applicant for a Class III License as permitted by the Compact when the Applicant has demonstrated on the record before the Commission evidence of sufficient rehabilitation and present fitness to hold a License under the standard set forth in Section 3.03a(b). Decisions of the Council to grant or to deny a waiver under this subsection shall not be appealable to the Tribal Court; and

- (v) That the Applicant has fulfilled any applicable requirements of IGRA.
- (b) No License shall be issued to any Applicant who has been determined by the Council or the Commission to be a person whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the operation of gaming or the carrying on of the business and financial arrangements incidental thereto.
- (c) The issuance of licenses hereunder also shall be subject to the provisions of Section 3.09 regarding background investigations.
- (d) The following notice shall be placed on the application form for a Key Employee or a Primary Management Official before that form is filled out by an Applicant:

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

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

- (e) Key Employees and Primary Management Officials hired prior to the effective date of this Code shall be notified in writing that they shall either:
 - (i) Complete a new application form that contains a Privacy Act notice; or
 - (ii) Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

- (f) The following notice shall be placed on the application form for a Key Employee or a Primary Management Official before that form is filled out by an Applicant.

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, sec. 1001.)

- (g) The Commission shall notify in writing any Key Employees and Primary Management Officials hired prior to the effective date of this Code that they shall either:
 - (i) Complete a new application form that contains a notice regarding false statements; or
 - (ii) Sign a statement that contains the notice regarding false statements.

Section 3.03b - Approval by Commission. All applications shall be considered by the Commission in accordance with Sections 2.10 to 2.29 of this Code.

Section 3.04 - Issuance of Tribal Gaming Licenses; Objections; Authority to Issue License. The Commission shall consult with appropriate law enforcement officials concerning any Gaming licenses it may issue. If, after issuance of a Gaming license by the Commission, reliable information is received that a primary management official or key employee does not meet the standard established under Section 3.09 of this Code, the Commission shall suspend such license and after notice and hearing, may revoke such license. The Commission shall grant or deny all Applications for a License, except that the Commission shall deny an application for a License where the Applicant or Licensee does not meet the restrictions under Section 3.03a(a)(iv) of this Code, in which case, in the discretion of the Applicant, the Applicant may proceed to make a record for findings by the Commission as to the Applicant's sufficient rehabilitation and present fitness to hold a License. Any License granted by the Commission shall be effective upon the date of grant, which effectiveness shall be provisional as set forth in Sec. 3.11 hereof pending the satisfactory completion of all background investigations and pending expiration of the 30-day period for review by the NIGC provided for in regulations promulgated by the NIGC in part 558 of chapter 25 of the Code of Federal Regulations, including any amendments thereto; provided, however, that the Commission must provide written notice to the Council of the granting of any Licenses, and the Council shall have the power to overturn the granting of any License on its own motion at any time provided the Council has conducted a hearing consistent with Section 2.12. If overturned by the Council, a License issued by the Commission shall have no force or effect. Any such denial may be appealed to the Tribal Court.

Section 3.04a - Appeal of Denial of License. The Applicant may appeal any denial of a License as provided in Section 2.16 of this Code.

Section 3.04b - Notice of Issuance or Denial to NIGC. The Commission shall promptly notify the NIGC or other appropriate federal regulatory body of the issuance or denial of tribal Licenses, as required under IGRA.

Section 3.04c - Cancellation or Suspension. The Licensee and his or her or its employees shall be legally responsible for any violation of the Code or the License. Any License issued hereunder may be canceled by the Commission for the breach of any of the provisions of the License, this Code, or any rules promulgated pursuant to this Code, as provided in Section 2.30 and as follows:

- (a) **Appearance by Licensee.** The Licensee and his or her or its attorney have the right to be present and to participate.
- (b) **Suspensions.** A License may be summarily suspended for up to thirty (30) days without prior hearing for good cause by a majority vote of the Commission; provided, however, that a License shall be suspended during such period as required under the IGRA if the cancellation hearing arises as a result of notice from the NIGC under regulations.
- (c) **Appeals.** All decisions of the Commission regarding cancellations of Licenses shall be final, unless appealed as provided in Section 2.16 of this Code, except that a License canceled by the Commission pursuant to an objection itemized by the NIGC as provided in Section 3.09e may not be appealed. There shall be no right of appeal of any suspension decision, and no gaming shall be conducted by any Licensee during the period of suspension. No gaming shall be conducted by the Licensee after cancellation, even during the pendency of an appeal proceeding.

Section 3.05 - License & Regulation of Class III Gaming Activities - Tribal/State Compact Required.
The Commission may license and regulate Class III Gaming Activity if:

- (a) Such Gaming meets the requirements of Section 3.03; and
- (b) Conducted in conformance with the terms and conditions of a valid Tribal/State Compact entered into by the Rancheria and the State of California; and
- (c) Such Gaming is approved by the NIGC.

Section 3.06 - Non Transferability of Licenses. Any License issued pursuant to the provisions of this Code is valid only for the person or entity at the place of business shown on the face thereof. It is not assignable or otherwise transferable to any other person or entity for any other location without approval of the Director and Commission.

Section 3.07 - Granting of License; Majority Vote.

- (a) If, within a thirty (30) day period after the NIGC receives a report, the NIGC notifies the Tribe that it has no objection to the issuance of a License pursuant to a License application filed by a Key Employee or a Primary Management Official for whom the Commission has provided an application and investigative report to the NIGC, the Tribe may issue a License to such Applicant.
- (b) The Commission shall respond to a request for additional information from the Chairman of the NIGC concerning a Key Employee or a Primary Management Official who is the subject of a report. Such a request shall suspend the thirty (30) day period under Subs. (a) of this section until the Chairman of the NIGC receives the additional information.

- (c) If, within the thirty (30) day period described above, the NIGC provides the Tribe with a statement itemizing objections to the issuance of a License to a Key Employee or to a Primary Management Official for whom the Commission has provided an application and investigative report to the NIGC, the Commission shall reconsider the application, taking into account the objects itemized by the NIGC. The Commission shall make the final decision whether to issue a License to such Applicant.
- (d) To approve of any license issued pursuant to this Code, a quorum of the Commission must be present with a majority vote of approval by said quorum required. A license will not be issued to a person whose license has been previously revoked pursuant to this Code, or to whom the issuance of renewal of a license has been denied, except with the unanimous approval of the Commission Members.

Section 3.08 - Application Fee. The Commission shall set a fee for applications, background investigations and, licenses. All such fees shall be made payable to the Commission and delivered to the Rancheria's Accounting Office.

- (a) Licenses shall be for a term of one year, and shall expire on the anniversary of the date of issue.
- (b) In order to recover the costs to the Tribe of complying with the federal, tribal, and state regulatory processes applicable to Class II gaming, or in such event, Class II gaming, annual License fees shall be imposed as follows:
 - (i) License fees in the amount of \$_____ per year shall be imposed on each party to a Management Contract with the Tribe.
 - (ii) License fees shall be imposed on any persons required to obtain a Tribal License in accordance with a fee schedule to be established by the Council.
 - (iii) In addition to the License fees imposed pursuant to Section 3.08(b)(i) and (ii), the Commission may in its discretion impose such fees on licensed persons as are reasonably related to costs of enforcement, including investigations and proceedings before the Commission, which will in the aggregate be sufficient to enable the Tribe to recover its reasonable costs of enforcing this Code.

Section 3.09 - Background Investigation. No license shall be granted to any person or entity who has been determined to be a person or entity whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation and control of Gaming, or create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of Gaming or the carrying on of the business and financial arrangements incidental thereto. Background investigations shall be conducted on all persons or entities specified in section 3.01 of this Code. Such investigations shall be conducted according to requirements that are at least as stringent as those set forth in regulations promulgated by the NIGC in 25 C.F.R. parts 556 and 558, including any amendments thereto.

Section 3.09a - Information Required for Background Investigations.

- (a) Each person subject to a background investigation under Sec. 3.01 of this Code shall be required to provide all of the following information:
 - (i) Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);

- (ii) Currently and for the previous 5 years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;
 - (iii) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the Applicant during each period of residence listed under paragraph (a)(ii) of this section;
 - (iv) Current business and residence telephone numbers;
 - (v) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
 - (vi) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
 - (vii) The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
 - (viii) For each felony for which there is an ongoing prosecution or conviction, the charge, the name and address of the court involved, and the date and disposition if any;
 - (ix) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within ten (10) years of the date of the application, the name and address of the court involved and the date and disposition;
 - (x) For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed pursuant to this section, the criminal charge, the name and address of the court involved and the date and disposition;
 - (xi) The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
 - (xii) A current photograph;
 - (xiii) Any other information the Tribe deems relevant; and
 - (xiv) Fingerprints consistent with proceedings adopted by the Tribe according to 25 C.F.R. §522.2(h).
- (b) The Director shall oversee the Commission to conduct an investigation sufficient to make a determination under Sec. 3.09b. In conducting a background investigation, the Director and the Commission shall promise to keep confidential the identity of each person interviewed in the course of investigation.
- (c) The Commission may only issue a Temporary License to an Applicant after that Applicant provides a complete set of fingerprints on forms provided by the NIGC. Fingerprints shall be taken exclusively by the Humboldt County Sheriff's Department. The Sheriff's Department shall then submit these fingerprint cards directly to the NIGC for transmittal to the Federal Bureau of Investigation for processing. Reports obtained from such fingerprint processing shall be delivered to the Commission to be incorporated into the file of the Applicant, along with results of a criminal history check also conducted by the Sheriff's Department. The criminal history check by the Sheriff's Department shall include a check of criminal history records maintained by the Federal Bureau of Investigation.

Section 3.09b - Eligibility Determination. The Commission shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a Key employee or Primary Management Official for employment in a gaming operation. The Commission shall interview a sufficient number of knowledgeable people such as former employers of the Applicant and personal references to make a finding concerning eligibility for employment. If the Commission or Council determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of gaming, a tribal gaming operation shall not employ that person in a Key Employee or Primary Management Official position. A report on the investigations of Primary Management Officials and Key Employees shall be prepared and submitted to the NIGC, containing the eligibility determination described in such regulations. All background investigations shall otherwise meet the standards of such investigations imposed under the IGRA and/or in the event of a Compact, and shall be updated as required under IGRA and/or the Compact, as applicable. Nothing herein shall prevent the conduct of more comprehensive background investigations than those required under the IGRA or such Compact.

Section 3.09c - Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the NIGC.

- (a) When a Key Employee or Primary Management Official begins work at a Gaming Operation authorized by this Code, the Tribe shall forward to the NIGC a completed application for employment and conduct the background investigation and make the determination referred to in Sec. 3.09b of this section.
- (b) The Tribe shall forward the report referred to in Sec. 3.09d to the NIGC within sixty (60) days after an employee begins work or within sixty (60) days of the approval of this Code by the Chairman of the NIGC.
- (c) The Gaming Operation shall not employ as a Key Employee or Primary Management Official a person who does not have a license after ninety (90) days.

Section 3.09d - Report to the NIGC.

- (a) Pursuant to the procedures set out in Sec. 3.09c, the Commission shall prepare and forward to the NIGC an investigative report on each background investigation upon issuance of a License. An investigative report shall include all of the following:
 - (i) Steps taken in conducting a background investigation;
 - (ii) Results obtained;
 - (iii) Conclusions reached by the Commission; and
 - (iv) The Commission's basis for those conclusions.
- (b) The Commission shall submit, with the report, a copy of the eligibility determination made under Sec. 3.09b.
- (c) If a License is not issued to an Applicant, the Commission:
 - (i) Shall notify the NIGC; and
 - (ii) May forward copies of its eligibility determination and investigation report, if any, to the NIGC for inclusion in the Indian Gaming Individuals Records System.

- (d) With respect to Key Employees and Primary Management Officials, applications for employment and reports (if any) of background investigations shall be retained for inspection by the Chairman of the NIGC or his or her designee for no less than three (3) years from the date of termination of employment.

Section 3.09e - License Cancellation and Suspension Following Receipt of Information from NIGC.

- (a) If, after the issuance of a gaming License, the Tribe receives from the NIGC reliable information indicating that a Key Employee or a Primary Management Official is not eligible for employment under Sec. 3.09 above, the Commission shall suspend such License and shall notify in writing the Licensee of the suspension and the proposed cancellation.
- (b) The Commission shall conduct a hearing in accord with Sections 2.12 and 3.04c on a proposed cancellation pursuant to Sec. 3.09d.
- (c) After a hearing, the Commission shall decide to cancel or to reinstate a gaming License. The Commission shall notify the NIGC of its decision. The decision of the Commission to cancel the License shall be final and there shall be no appeal.

Section 3.10 - Failure of Applicant to Disclose Material Information. An Applicant for Licensing shall make true and full disclosure of all information to the Director and Commission as necessary or appropriate in the public interest or as required in order to carry out the policies of this Rancheria relating to licensing and control of the Gaming Industry. It is the duty of the Applicant to disclose all information material to whether his involvement with Gaming would jeopardize or compromise the Tribal interest, whether or not the Applicant has been specifically requested to provide that information. It shall constitute a violation of this Code to fail to disclose, mislead or to mis-state any such material information to the Director of the Commission, or to any Licensee's employer.

Section 3.11 - Temporary Employment License. Any License granted hereunder shall be effective on a provisional basis pending the satisfactory completion of all background investigations required under this Code, the IGRA, any agreement to which the Tribe is a party, and pending expiration of the 30-day period for review by the NIGC provided for in regulations promulgated by the NIGC in part 558 of chapter 25 of the Code of Federal Regulations, including any amendments thereto, if applicable. Upon the satisfactory completion of all required background investigations and such review by the NIGC, such License shall continue to be effective until it expires. If background investigations or NIGC review are not satisfactorily completed, a provisional License shall have no further force or effect.

Section 3.12 - Parameters of Licenses; Conditions. Violations of any provision of the Code or any of the Commission's regulations by a Licensee, his agent or employee shall be deemed contrary to the public health, safety, morals, good order and general welfare of the Blue Lake Rancheria and the inhabitants of the Blue Lake Rancheria and shall be deemed grounds for refusing to grant or renew a license, suspension or revocation of a license or shall constitute grounds for the filing of charges by the Commission or Director. Acceptance of a Gaming License or renewal thereof, or condition imposed thereof by a Licensee, constitutes an agreement on the part of the Licensee to be bound by all the regulations and conditions of the Director or Commission had by the provisions of this Code as the same are now, or may hereafter be amended or promulgated, and to cooperate fully with the Director and Commission. It is the responsibility of the Licensee to keep himself informed of the contents of all such regulations, amendments, provisions and conditions; ignorance thereof will not excuse violations. The Licensee shall at all times maintain an orderly, clean and neat establishment, both inside and outside

the licensed premises; the licensed premises shall be subject to patrol by the Tribe's security force and local law enforcement, and the Licensee shall cooperate at all times with such security and law enforcement officials. In addition,

- (a) The licensed premises shall be open to inspection by duly authorized tribal officials at all times during the regular business hours;
- (b) There shall be no discrimination in the operations under the license by reason of race, color or creed; provided, however, that nothing herein shall prevent the Licensee from granting preferences to Indians as permitted by law.

IV. MANAGEMENT CONTRACTS

Section 4.01 - Commission Approval Required.

- (a) Any management contract entered into by the Rancheria for the operation and management of Class II and/or Class III Gaming Activity must be submitted to the Commission for approval. Before approving such contract, the Commission shall require and obtain the following information:
 - (i) The name, address and other additional pertinent background information on each person or entity, including comprising such entity, having direct financial interest in, or management responsibility for, such contract; and, in the case of a corporation, those individuals who serve on the board of directors of such corporation and each of its stockholders who hold, directly or indirectly, 10% or more of it issued and outstanding stock; and
 - (ii) A complete financial statement of each person listed pursuant to subsection (i) above; and
- (b) Any person listed pursuant to subsection (a)(i) above shall be required to respond to such written or oral questions that the Commission may propound in accordance with its responsibilities under this section.
- (c) In making the determination to approve management contracts, when the Rancheria has submitted competing bids or proposals involving Gaming wherein the bids or proposals will provide substantially the same return to the Rancheria and its Members. Further, preference will be given to Indians who are members of the Rancheria and cooperative associations of Non-member Indians over Non-Indians.

Section 4.02 - Approval of Management Contracts. The Commission may approve any management contract entered into by the Rancheria pursuant to this Chapter only if it determines that such contract provides at least:

- (a) Generally accepted accounting procedures that are maintained and for verifiable financial reports that are prepared, by or for the Council on a monthly basis;
- (b) Access to the daily operations of the Gaming to appropriate Tribal Officials who shall also have a right to verify the daily gross revenues and income made from any such Tribal Gaming Activity;

- (c) For a minimum guaranteed payment to the Rancheria that has preference over the retirement of development and construction costs;
- (d) For an agreed ceiling for the repayment of development and construction costs;
- (e) For a contract term not to exceed five (5) years, except that, upon the request of the Rancheria, the Commission may authorize a contract term that exceeds five (5) years but does not exceed seven (7) years if the Commission is satisfied that the capital investment required, and the income projections, for the particular Gaming Activity require additional time; and
- (f) For grounds and mechanisms for terminating such contract, but not actual contract termination shall not require the approval of the Commission;
- (g) Preference to Tribal Members and Non-member Indians in hiring of employees for the Gaming Establishment.

Section 4.03 - Percentage-of-Net-Revenue Fees.

- (a) A management contract providing for a fee based upon a percentage of the net revenues of a Tribal Gaming Activity may be approved by the Commission if such percentage fee is reasonable in light of surrounding circumstances. Except as provided in this Section, such fee shall not exceed 30% of the net revenue.
- (b) Upon request of the Council, the Commission may approve a management contract providing for a fee based upon a percentage of the net revenues of a Tribal Gaming Activity that exceeds 30% but not 40% of the net revenues if the Commission and Council are satisfied that the capital investment required, and income projections, for such Tribal Gaming Activity require the additional fee.

Section 4.04 - Contract Disapproval. The Commission shall not approve any contract if it determines:

- (a) Any person listed to Section 4.01(a)(i) who:
 - (i) Is an elected member of the Council;
 - (ii) Has been or subsequently is convicted of any felony or Gaming offense;
 - (iii) Has knowingly and willfully provided materially false important statements of information to the Commission or the Tribal Official who negotiate such contract or has refused to respond to questions propounded pursuant to Section 4.01(b); or
 - (iv) Has been determined to be a person whose prior activities, criminal record, if any, or reputations, habits and associations pose a threat to the public interest or to the effective regulation and control of Gaming, or create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of Gaming or the carrying on of the business and financial arrangements incidental thereto;
- (b) The management contractor has, or has attempted unduly to interfere or influence for its gain or advantage any decision or process of Tribal Government relating to Gaming Activity;

- (c) The management contractor has deliberately or substantially failed to comply with the terms of the management contract, the provisions of this Code or any regulations adopted pursuant to this Code or the IGRA.

Section 4.05 - Modifying or Voiding Contract. The Commission, after notice and hearing, shall have the authority to require appropriate contract modifications or may void any contract if it subsequently determines that any of the provisions of this Chapter have been violated.

Section 4.06 - Conveying Interest in Land. No Management Contract for the operation of a Gaming Activity regulated by this Code shall transfer or convey any interest in land or other real property, unless specific applicable statutory authority exists.

Section 4.07 - Fee for Investigation. The Commission shall require a potential contractor to pay a fee to cover the cost of the investigation necessary to reach a determination required in Section 4.04 of this Chapter.

V. AUDITING AND INTERNAL CONTROL

Section 5.01 - Minimum Procedures for Control of Internal Fiscal Affairs. The Commission shall promulgate regulations for control of internal fiscal affairs of all Gaming Operations. At a minimum, those regulations shall:

- (a) Prescribe minimum procedures for safeguarding the Gaming Operation's assets and revenues, including recording of cash, evidence of indebtedness and mandatory count procedures. Such procedures shall establish a control environment, a generally accepted accounting system and control procedures that safeguard the assets of the organization, assures that operating transactions are properly recorded, promote operational efficiency and encourage adherence to prescribed policies;
- (b) Prescribe minimum reporting requirements to the Commission.
- (c) Provide for the adoption and use of internal audits, by internal auditors and certified Public Accountants licensed to practice public accounting in the State of California.
- (d) Formulate a uniform code of accounts and accounting classifications to assure consistence, comparability and effective disclosure of financial information. Such code shall require that records be retained that reflect statistical drop (amount of cash wagered by patrons), statistical win (amount of cash won by the Gaming Operation) and the percentage of statistical win to statistical drop, or provide similar information for each type of game or device;
- (e) Prescribe the intervals at which such information shall be furnished;
- (f) Provide for the maintenance of documentation (i.e., checklist, programs, reports) to evidence all internal work performed as it relates to the requirements of this section; and
- (g) Provide that all financial statements and documentation referred to in subsection (f) be maintained for a minimum of seven (7) years.

Section 5.02 - Commission Oversight of Internal Fiscal Affairs. The Commission shall, by regulation, require annual audits of the financial statements of all Gaming Operations. Such audits must:

- (a) Be made by independent Certified Public Accountants holding a permit issued by the State of California to practice public accounting;
- (b) Include an opinion, qualified or unqualified, or if appropriate, disclaim an opinion on the financial statements taken as a whole in accordance with standards of the accounting profession established by rules and regulations of the California State Board of Accountancy and the American Institute of Certified Public Accountants;
- (c) Disclose whether the accounts, records and control procedures maintained by the Gaming Operation are as required by the regulations promulgated by the Commission;
- (d) Provide for a preliminary review of the internal control structure, upon adoption of the policies and procedures by the entity, to disclose any deviation from prescribed rules and regulations and report such findings to the Commission and Manager of the Gaming Enterprise; and
- (e) Copies of the annual audit shall be provided to the NIGC, the California Gaming Agency, and the California State Auditor within one hundred twenty (120) days after the end of the fiscal year. All gaming related contracts that result in purchases of supplies, services or concessions for more than \$25,000 in any year (except contracts for professional legal or accounting services) shall be specifically included within the scope of such audit. The Tribe's Chief Financial Officer shall reconcile the Tribe's quarterly fee assessment reports made to the NIGC with the annual audit of the Gaming Operations and shall make such reconciliation available to the NIGC upon request.

Section 5.03 - Commission's Right to Conduct Audits. The Commission shall be able to retain its own appointed accountants or direct an accountant employed by the Rancheria to conduct its own audit of any Gaming Operations.

Section 5.04 - Prohibition Against Embezzlement. Any delay, maneuver or action of any kind which in the opinion of the Director is effectuated by any Licensee to unlawfully divert Gaming or other process property belonging to the Rancheria shall constitute grounds for taking disciplinary action on that Licensee. If the Commission finds an unlawful diversion was attempted, it shall sanction the Licensee. Sanctions may include fining, revoking, suspending, limiting or refusing to renew the license.

Section 5.05 - Non Compliance. Failure to comply with this Chapter or the regulations promulgated thereunder, shall constitute a per se violation of this Code.

VI. AUTHORIZATION OF GAMING

Section 6.01 - Prohibition Against Gaming. No person duly authorized by the Commission shall engage, conduct or condone any game unless such game is approved by this Commission and regulations for rules governing such game have been duly promulgated by this Commission.

Section 6.02 - Grace Period. The prohibition contained in Section 6.01 shall not apply to those games already being played as of the date of enactment of this Code; provided that the Licensee conform to the rules promulgated thereunder within five (5) days of such promulgation.

Section 6.03 - Authorization of Gaming. The Commission may authorize Class II Gaming Activity to be played on Indian Lands that are within the jurisdiction of the Rancheria. The Commission may authorize the playing of any game not prohibited by the laws of the State of California. The Commission shall promulgate regulations for rules governing all authorized games, including regulations governing the equipment (chips, dice, cards, tiles) used in such game. In the event that the Rancheria executes a Compact with the State of California which is approved by the NIGC for Class III Gaming Activity, any provision in that Compact providing for notice to and comment from the State shall be complied with before any game is authorized by the Commission.

Section 6.04 - Approval of Gaming Equipment. The Commission shall have the discretion to review and approve all Gaming equipment and other devices used in the Gaming Operation as to quality, design, integrity, fairness, honesty and suitability.

- (a) The Commission may require a prototype or sample of any model of Gaming Equipment or other device used in the Gaming Operation to be placed in the custody of the Director and retained by him as a control for comparison purposes.
- (b) Any evidence that Gaming Equipment or other devices used in the Gaming Operation has been tampered with or altered in any way which would affect the integrity, fairness, honesty or suitability of the equipment or device shall be immediately reported to the Commission.

Section 6.05 - Posting of Rules. The Rules of each authorized game offered at any duly licensed Gaming Establishment shall be posted in a conspicuous location and shall be clearly legible.

VII. EXCLUSION OR EJECTION OF INDIVIDUALS

Section 7.01 - List of Undesirables. The Commission may (by regulations) provide for the establishment of a list of persons who are to be excluded or ejected from any duly licensed Gaming Operation. The list may include any person whose presence in the Gaming Establishment is determined by the Commission to pose a threat to the interest of the Rancheria, State of California or to licensed Gaming. Race, color, creed, national origin, ancestry or sex must not be grounds for placing the name of a person on the list. Such threats include but are not limited to:

- (a) **Impermissible Alcohol Beverages.** No person shall have in his or her possession any alcohol beverages on any premises, except in the event that under appropriate licensing and requirements of other Tribal Codes and a Tribal/State Compact, the Tribe conducts on-premises sales and/or consumption of alcohol beverages. At such time possession and consumption of such beverages shall be confined to certain areas specifically defined by the Council.
- (b) **Prohibited Substances.** No person shall have in his or her possession any substance prohibited by federal or state laws while on any premises.

- (c) Persons Under the Influence of Alcohol or Prohibited Substances. No person under the influence of any alcohol beverage or prohibited substance shall be allowed on any premises.
- (d) Firearms. No person shall have in his or her possession any firearm on any premises. This section shall not apply to law enforcement officers or security personnel employed by the Tribe.
- (e) Disorderly Conduct. No person shall engage in conduct which is violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly under circumstances in which the conduct tends to cause or provide disturbance on any premises.

Section 7.02 - Notice and Opportunity to be Heard. The Commission shall promulgate regulations providing fair notice and opportunity to be heard to any individuals whose name is being contemplated by the Rancheria to be placed on the list referred to in Section 7.01. Such regulations must provide the person an opportunity to show cause why his name should be deleted from the list. The individual may appeal any decision of the Commission to place his name on the list to a court of competent jurisdiction.

Section 7.03 - Prohibition Against Listed Individuals. It shall be a violation of this Code for any Licensee to knowingly fail to exclude or eject from the Gaming Establishment any persons placed on the list referred to in Section 7.01. It shall be violation of this Code for any person whose name appears on the list referred to in Section 7.01 to enter into or engage in any game at a duly licensed Gaming Establishment.

Section 7.04 - Prohibition Against Certain Individuals. It shall be a violation of this Code for any Licensee who knowingly fails to exclude or eject any individual who:

- (a) Is in the Gaming Establishment and is visibly under the influence of liquor or any narcotic or such other substance; or
- (b) Is in the Gaming Establishment and is under the age of twenty-one (21) years.
- (c) Provides conveyance on Tribal lands, or whose destination is Tribal Lands and conducts or permits to be conducted any Class II or, in the event of a Tribal/State Compact, Class III games in such vehicle.

VIII. CHEATING

Section 8.01 - Unlawful Acts. It is unlawful for any person to:

- (a) Alter or misrepresent the outcome of a game or other event on which wagers have been made after the outcome is made sure, but before it is revealed to the players;
- (b) Place, increase or decrease a bet or to determine the course of play after acquiring knowledge (not available to all players) of the outcome of the game or knowledge that is the subject of the bet or wager;

- (c) Aid anyone in acquiring such knowledge as set forth in subsection (b) above, for the purpose of increasing or decreasing a bet or wager, or for the purpose of determining the course of play contingent upon that event or outcome;
- (d) Claim, collect or attempt to claim or take money or anything of value in or from a Gambling Game with intent to defraud, without having made a wager contingent thereon, or to claim, collect or take an amount greater than the amount won;
- (e) Knowingly entice or induce another to go to any place where a gambling game is being conducted or operated in violating of the provisions of this Chapter, with the intent that the other person play or participate in that gambling game;
- (f) To place or increase a bet or wager after acquiring knowledge of the outcome of the game or event which is the subject of the bet or wager, including past-posting and pressing bets;
- (g) To reduce the amount wagered or cancel the bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet or wager, including pinching bets;
- (h) To manipulate with intent to cheat, any component of a gaming device in a manner contrary to the designed and normal operational purpose for the component, with knowledge that the manipulation affects the outcome of the game or with knowledge of any event that affects the outcome of the game.

Section 8.02 - Prohibition Against Electronic Aids. Except as specifically permitted by the Director with the approval of the Commission, no person shall possess with the intent to use (or actually use) at any table game, either by himself, or in concert with others, any calculator, computer or other electronic, electrical or mechanical device to assist in projecting an outcome at any table game, to keep track of or analyze the cards having been dealt, to change the probabilities of any table game or the playing strategies to be utilized.

IX. NIGC & TRIBAL/STATE COMPACTS

Section 9.01 - NIGC - Regulations. Notwithstanding any provision in this Gaming code or any regulation promulgated thereunder, the Commission is fully empowered to comply with all regulations promulgated by the NIGC, including, but not limited to, all requirements to report ordinances, contracts, license applications, background checks and other information to the NIGC.

Section 9.02 - NIGC - Assessment. Notwithstanding any provision in this Gaming Code or any regulation promulgated thereunder, the Commission is fully empowered to comply with all assessments authorized by the NIGC. Such assessments shall be paid from the Treasure of the Blue Lake Rancheria.

Section 9.03 - Compact with the State of California. Notwithstanding any provision in this Gaming Code or any regulation promulgated thereunder, the Commission is fully empowered to comply with the provisions of any Compact properly executed between the Rancheria and the State of California, in the event that such a Compact is executed and approved by the NIGC.

X. DISPUTE RESOLUTION

Section 10.01 - Disputes and Grievances. Any dispute or other grievance that involves currency, tokens, coins or any other thing of value and is between the customer or player and the Gaming Facility, may be raised with the following persons and in the following order: (a) a member of the staff of the Gaming Facility, (b) the supervisor in the area in which the dispute arose, (c) the General Manager of the Gaming Facility and (d) the Commission. At each level, the complainant has the right to explain his or her side of the dispute, and to present witnesses in connection with any factual allegation. At each level, if the dispute remains unresolved, the complainant shall be informed of the right to take the dispute to the next higher level. Resolution of any dispute by staff of the Gaming Facility shall always involve two or more staff members. All disputes, whether resolved or not, shall be the subject of a detailed report by all staff involved to their supervisors, or, in the case of the General Manager, to the Commission.

Section 10.02 - Commission Action on Customer Disputes. All disputes which are submitted to the Commission shall be decided by the Commission based on information provided by the complainant, any witnesses for or documents provided by the complainant, or by the General Manager of the Gaming Facility or any other person who has relevant information to provide. The decision of the Commission shall be in writing, shall be issued within fourteen (14) days of submission of the matter to the Commission, and shall be provided to the General Manager of the Gaming Facility and the complainant.

XI. MISCELLANEOUS

Section 11.01 - Security. Each licensed Gaming Establishment must provide for reasonable security. All security personnel must be licensed by the Commission.

Section 11.02 - Maintenance of Code and Regulations. Each Licensee shall obtain, maintain and keep current a copy of the Gaming Code and regulations promulgated thereunder, which shall be located on the premises used for the conduct of a licensed activity. The Code and regulations shall be produced by the Licensee and shown to any authorized interested party upon demand. That the Licensee may not have a current copy of the Code, or each of the rules of the Commission, shall not in any way diminish the Licensee's obligation to abide by the Code and regulations.

Section 11.03 - Compliance with Other Laws. The construction, maintenance and operation of any facility in which Gaming Activities are to take place shall be in a manner which adequately protects the environment and the public health and safety and shall comply with any otherwise applicable Tribal and Federal Laws relating to environmental protection and public health and safety.

Section 11.04 - Amendment. All provisions of this Gaming Code are subject to amendment by the Council. All regulations promulgated by the Commission are subject to proper revision, repeal or amendment by the Commission.

Section 11.05 - Severability. If any provision of this Code, or its application to any purpose or circumstance, is held invalid by a court of competent jurisdiction, the full remainder of the provision, or the application of the provision through another person or circumstance, shall not be affected.

Section 11.06 - Agent for Service of Process. The Tribal Chairperson shall be designated as the Agent for Service of Process.

Section 11.07 - Effective Date. This Code shall take effect upon its adoption by a majority vote of the Council at a duly convened meeting.

CERTIFICATION

The foregoing Rancheria Gaming Code was considered by the Blue Lake Business Council at a duly called meeting and was adopted by the Council, with a quorum being present, and which meeting was held on the 8th day of January, 1995.

By: Claudia Brundin
Authorized Officer
Title: Chairperson

ATTEST:

By: Arthur J. Parnell
Authorized Officer
Title: Secretary