NATIONAL
INDIAN
GAMING
COMMISSION

SEP 12 1994

Jerry Meninick, Chairman
Confederate Tribes and Bands of the
Yakama Indian Nation
P.O. Box 151, Fort Road
Toppenish, Washington 98948

Dear Chairman Meninick:

This letter responds to your request to review and approve the tribal gaming ordinance adopted on May 12, 1994, by the Confederate Tribes and Bands of the Yakama Indian Nation (Nation). 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. Such approval does not constitute approval of specific games. Also, the gaming ordinance is approved for gaming only on Indian lands as defined in the IGRA.

The Nation has indicated that it wishes to utilize the NIGC to process the fingerprint cards through the Federal Bureau of Investigation. Before the NIGC can provide this service, the Nation must complete and return the enclosed Memorandum of Understanding. Additionally, the Nation designated the chairperson of the tribal gaming commission as its agent for service of process. Please transmit the name and address of that person to the NIGC for our records.

With the Chairman's approval of the Nation's gaming ordinance, the Nation 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 Confederate Tribes and Bands of the Yakama Nation for review and approval.

1850 M STREET, N.W. SUITE 250 WASHINGTON D.C. 20036 TEL 202-632-7003 FAX 202-632-7066

The NIGC staff and I look forward to working with you and the Nation in implementing the IGRA.

Sincerely yours,

Anthony J. Hope

Anthony J. Hope
Chairman

enclosure

R E S O L U T I O N T-104-94

WHEREAS, the Confederated Tribes and Bands of the Yakama Indian Nation is a federally recognized Tribe pursuant to the Treaty of 1855 (12 Stat. 951), and

WHEREAS, the Yakama Tribal Council is the governing body of the Yakama Indian Nation of the Yakama Reservation, Toppenish, Washington, by the authority delegated by Resolution T-38-56, and

WHEREAS, the Tribal Council has the opportunity to take the leadership role to reduce unemployment, diversify revenue generating programs and to improve the quality of life among tribal members, and

WHEREAS, the Yakama Indian Nation Continues to improve the reduction of the unemployment rate from 80% to 60% and is too dependent on timber revenues, and

WHEREAS, the OEDP Committee of the Tribal Council made the recommendation to the General Council membership that a CLASS II and CLASS III GAMING operation be authorized utilizing any and all available financial resources was adopted under GC-05-94.

NOW, THEREFORE, BE IT RESOLVED, by the Yakama Tribal Council meeting in regular session at the Governmental Offices of the Confederated Tribes and Bands of the Yakama Indian Nation, Toppenish, Washington, with a quorum being present, hereby adopts a CLASS II and CLASS III GAMING ordinance consistent with Tribal and Federal laws to establish a CLASS II and CLASS III GAMING operation on the Yakama Indian Reservation.

BE IT FURTHER RESOLVED, that the Yakama Indian Nation does not waive, alter, or otherwise diminish their "sovereign immunity" whether expressed or implied by virtue of enacting this resolution. Nor does the Yakama Indian Nation waive, alter, or otherwise diminish the rights, privileges, remedies, or services guaranteed by the Treaty of 1855.

DONE AND DATED on this 12th day of May, 1994, by the Yakama Tribal Council by a vote of 6 for, 0 against, and 4 abstentions.

Jerry Meninick, Chairman
Yakama Tribal Council

ATTEST:

Harry Smiskin, Secretary
Yakama Tribal Council

YAKAMA INDIAN NATION

Ordinance No. T-104-94

YAKAMA INDIAN NATION GAMING ORDINANCE OF 1994

The Confederated Tribes and Bands of the Yakama Indian Nation ("Nation"), a federally recognized sovereign Government pursuant to the Treaty of 1855 (12 Stat. 951) with the United States of America, hereby enacts the following ordinance, to be known as the "YAKAMA INDIAN NATION GAMING ORDINANCE OF 1994" ("Ordinance"). This Ordinance and any regulations promulgated thereunder shall constitute the entire gaming regulations for the Nation.

Section 1. Findings and Policy.

This Ordinance is adopted by the Yakama Tribal Council, the governing body of the Yakama Indian Nation of the Yakama Reservation, pursuant to its authority enacted by General Council Resolution T-38-56, and pursuant to the mandate of General Council Resolution GC-02-81, for the purpose of establishing the terms for gaming on the Reservation for tribal governmental and charitable purposes, and to develop and operate such gaming consistent with the findings herein and in conformity with the federal Indian Gaming Regulatory Act (25 U.S.C. § 2701 et seq. ("IGRA")) and regulations promulgated thereunder.

The Nation finds that:

a. Gaming on the Yakama Reservation is a valuable means of reducing unemployment, diversifying revenue generating programs, generating revenues that are needed for economic development, to promote tribal self-sufficiency, economic development, employment, job training, and a strong tribal government, and to fund and ensure essential social programs and services and thereby improve the quality of life among all Members of the Nation;

b. The Nation desires to conduct gaming to provide needed revenues to the Nation and provide employment opportunities and meet all requirements under the tribal employment rights ordinance ("TERO"); and to regulate and control such gaming in a manner that will protect the environment, the Reservation, the health, security and general welfare of the Nation, the players, and the community; and

c. The Nation desires to manage and regulate such gaming on the Reservation in a manner that will adequately address such special interests and needs of the Nation.

Section 2. Definitions.

Unless specified otherwise, terms used herein shall have the same meaning as in IGRA, including but not limited to references to "Net Revenues," "Class I," "Class II," and "Class III" gaming, except for references to "Commissioners," "Commission," or "Gaming Commission" which shall mean the Yakama Indian Nation Gaming Commission or its Commissioners, established and described herein.

a. "Board of Directors" shall mean those persons responsible for overseeing the operation and management of gaming.

b. "Closely Associated Independent Contractor" shall mean any contractor that shares common ownership, common officers, or common directors with any management principal, or a person related thereto.

c. "Gaming" shall mean an activity in which a person stakes or risks something of value on the outcome of a contest of chance or a future contingent event, not under his or her control or influence, upon an agreement or understanding that the person, or someone else, will receive something of value in the event of a certain outcome, but shall not include bona fide business transactions.

d. "Gaming Activities" shall mean any Class I, Class II, or Class III gaming activity conducted by or within the jurisdiction of the Nation.

e. "Gaming Commission" shall mean the Yakama Indian Nation Gaming Commission, as established herein to monitor the Gaming Activities, investigate wrongdoing, conduct background investigations, issue licenses, and perform other duties as necessary for the regulation of gaming on the Reservation.

f. "Gaming Contractor" shall mean any person or business that manufactures, distributes, or supplies gaming devices, other gaming equipment, other equipment or services, or personnel (including gaming management or consulting services) to any Gaming Activities or Gaming Entity.

g. "Gaming Entity" shall mean the gaming business, event, or activity (however organized) conducted by or within the jurisdiction of the Nation.

h. "General Council" is the body of the Nation that decides matters of great importance to the Yakama Indian Nation according to Resolution GC-02-81.

i. "Key Employee" shall mean a person who performs one or more of the following functions: bingo caller, counting room supervisor, chief of security, custodian of gaming supplies or cash, floor manager, pit boss, dealer, croupier, approver of credit, or custodian of gaming devices including those persons with access to cash and

accounting records within such devices. If not otherwise included, any other person whose total cash compensation is in excess of $50,000 per year, and the four most highly compensated persons in the Gaming Entity are included in the definition of Key Employees. At the discretion of the Gaming Commission, other positions or persons, and including Gaming Contractors not otherwise included, may be included under and subject to the requirements for Key Employees.

j. "Management Contract" shall mean any contract, subcontract, or collateral agreement between the Nation and a contractor or between a contractor and a subcontractor if such contract or agreement provides for the management of all or part of a gaming operation.

k. "Member" shall mean any duly enrolled member of the Nation.

l. "National Indian Gaming Commission" ("NIGC") shall mean the commission established under IGRA.

m. "Net Revenues" shall mean gross gaming revenues of a tribal gaming operation less (a) amounts paid out as, or paid for, prizes; and (b) total gaming-related operating expenses, excluding management fees.

n. "Person" shall mean any natural person or entity, including but not limited to corporations, partnerships and trusts.

o. "Primary Management Official" shall mean the person who has management responsibility for a management contract; any person who has authority to hire and fire employees or to set up working policy for the Gaming Entity; or the chief financial officer or other person who has financial management responsibility. At the discretion of the Gaming Commission, other positions or persons, and including Gaming Contractors, may be included under and subject to the requirements for primary management officials.

p. "Related to" shall refer to persons who are related as a father, mother, sister or brother.

q. "Reservation" shall mean all lands of the Nation, and including all those lands defined as "Indian lands" under the IGRA.

r. "Tribal Council" shall mean the committee of the elected tribal officers, established as the governing body of the Yakama Indian Nation of the Yakama Reservation by the authority delegated pursuant to Resolution T-38-56.

s. "Tribal Court" shall mean any court established by the Nation.

t. "TERO" shall mean the Tribal Employment Rights Ordinance enacted by the Yakama Tribal Council and administered by the Tribal Employment Rights Commission to create employment and training opportunities for Yakama Indian Nation Tribal Members and other Indians and eradicate discrimination against Indian people.

Section 3. Ownership of Gaming.

a. The Nation shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this Ordinance, except to the extent the Nation may contract with and license a person or entity to own, operate or manage the Gaming Entity pursuant to the provisions of IGRA or as otherwise permitted by law.

b. Gaming activities conducted on the Reservation, owned by a person or entity other than the Nation, shall be licensed and regulated by the Nation under this Ordinance, and conducted in compliance with the requirements of IGRA and 25 C.F.R. §§ 522.10 and 522.11.

Section 4. Gaming Commission.

a. Establishment of Gaming Commission. There is established hereby a Commission acting under the authority of the Nation to be known as the Yakama Indian Nation Gaming Commission. The Gaming Commission is responsible for licensing and regulation of the Gaming Entity and Gaming Activities, but shall not have management responsibility for the Gaming Entity or Gaming Activities.

b. Membership and Appointment. The Gaming Commission shall be composed of five (5) Members of the Nation, and shall serve for three (3) year terms. Four (4) members of the Gaming Commission shall be appointed by the General Council; one (1) member shall be appointed from the Tribal Council Overall Economic Development Planning (OEDP) Committee.

c. Qualifications for Office. The following minimum requirements must be met to qualify for membership on the Commission:

(1) Enrolled Member of the Yakama Indian Nation;

(2) Twenty-five (25) years of age;

(3) Reside on or near the Yakama Indian Nation Reservation, or near the Gaming Entity or Gaming Activity; and

(4) Successful completion of a background investigation.

d. Disqualifications for Office. The following persons shall not serve as Commissioners:

(1) Employees of any Gaming Entity on the Reservation;

(2) Persons related to any Gaming Contractor (including any principal thereof or Closely Associated Independent Contractor); or

(3) Persons who do not qualify to serve in such a position as result of finds of a background investigation, including a criminal history review, conducted under the direction of the Tribal Police Department and Chief of Police.

e. Terms of Office. The Commissioners shall serve for three (3) year terms, except that immediately after enactment of this Ordinance two (2) of the Commissioners shall serve for two (2) years, and three (3) of the Commissioners shall serve for three (3) years. Commissioners may be reappointed to serve for more than a single term and, at the expiration of their term, may serve until replaced.

f. Removal from Office. Commissioners may only be removed from office before the expiration of their terms for neglect of duty, malfeasance or other good cause shown. Prior to removal, Commissioners shall be entitled, upon request, to a hearing before the Tribal Council and General Council Executive Board and shall otherwise by subject to the Nation's procedures for removing an officer of the Nation.

g. Quorum. Three (3) members of the Gaming Commission shall constitute a quorum.

h. Officers and Duties. The Gaming Commission shall select, by majority vote, a Chairman, Vice-Chairman, Secretary, and other officers as necessary. The Chairman shall preside over meetings of the Gaming Commission and the Vice-Chairman shall preside in absence of the Chairman. The Secretary shall record in writing the minutes of all Gaming Commission meetings and all official actions taken by the Gaming Commission.

i. Voting. All actions of the Gaming Commission shall be taken by majority vote. The Commission Chairman may vote on any issue.

j. Meetings. Meetings shall be held at least once per month, on the third Thursday of the month at 8 a.m. at the Nation's headquarters, unless otherwise changed by written notice provided in advance in a manner reasonably calculated to inform the Members of the Nation. Additional meetings shall be held as called by the Chairman or

by at least three (3) other Commissioners. Notice of meetings shall be given in writing to each Commissioner, served by first class mail or personal delivery at least five (5) business days prior to such meeting. Such notice may be waived when meetings are called by unanimous consent of the Commissioners.

k. Compensation for Serving; Fringe Benefits; Reimbursement of Expenses. Commissioners shall be compensated for serving on the Commission at rates to be set by the Tribal Council and General Council Executive Board after full review. Commissioners shall be eligible for fringe benefits which are available to other employees of the Nation to the extent the provider of such benefits qualifies the Gaming Commission positions for such benefits. Subject to approval by the Tribal Council and General Council Executive Board and in accordance with procedures to be adopted by those bodies, Commissioners shall be reimbursed for expenses incurred in connection with the performance of their Gaming Commission duties.

l. Commission Budget. At least annually, the Gaming Commission will develop a budget for the upcoming twelve (12) months operation of the Gaming Commission and shall submit the proposed budget to the Tribal Council for review and approval. The proposed budget shall include all anticipated expenses for staff, travel and meeting expense, and compensation to Commissioners.

m. Powers and Duties.

The Gaming Commission, acting as a regulatory body, shall have the power and duty to:

(1) After consultation with the Tribal Council and General Council Executive Committee, issue such regulations as appropriate in order to implement the provisions of this Ordinance;

(2) Inspect, examine and monitor Gaming Activities and the Gaming Entity, including the power to demand access to and inspect, examine, photocopy and audit all papers, books and records respecting such Gaming Activities and Gaming Entity;

(3) Investigate or cause to be investigated, in conjunction with the Tribal Police Department or other recognized enforcement agency or agencies, any suspicion of wrongdoing in connection with any Gaming Activities or Gaming Entity;

(4) Conduct or cause to be conducted such investigations as may be necessary to determine compliance with all applicable laws, or with this Ordinance or any contracts, agreements, goods, services, events, incidents, or other matters related to the Gaming Activities or Gaming Entity;

(5) Issue licenses to persons and entities connected with the Gaming Activities or the Gaming Entity and, at minimum, to all Key Employees and Primary Management Officials according to requirements at least as stringent as those in 25 C.F.R. parts 556 and 558;

(6) Conduct or cause to be conducted background investigations regarding persons and entities connected with the Gaming Activities or the Gaming Entity and, at minimum, for all Key Employees and Primary Management Officials according to requirements at least as stringent as those in 25 C.F.R. parts 556 and 558;

(7) Hold such hearings, sit and act at such times and places, summon persons on the Reservation to attend and testify at such hearings, take such testimony, and receive such evidence as the Gaming Commission deems relevant in fulfilling its duties;

(8) Administer oaths or affirmations to witnesses appearing before the Gaming Commission;

(9) Implement and administer a system for investigating, licensing and monitoring employees and others connected with the Gaming Activities or Gaming Entity, as described below, and including the issuance of licenses to gaming facilities, individuals and entities as required under this Ordinance and the IGRA;

(10) Hear disputes against the Gaming Entity, in accordance with the procedures established in this Ordinance;

(11) Hire such staff and support services for the Commission as deemed necessary subject to a budget approved by the Tribal Council;

(12) To the extent required, comply with any reporting requirements, including annual reports to Tribal Council and General Council, Executive Committee, and those requirements established under a compact to which the Nation is a party and other applicable law, including the IGRA and regulations promulgated thereunder;

(13) Promulgate rules for each Class I, Class II or Class III game allowed under this Ordinance, to govern the conduct of such games; and

(14) Carry out such other duties with respect to the Gaming Activities and Gaming Entity on the Reservation as the Tribal Council or the General Council shall direct.

n. Annual Reports. On or before April 30th of each year, the Gaming Commission shall provide in writing to the Tribal Council and General Council Executive Committee an Annual Report summarizing its activities during the prior twelve (12) month period ending on September 30, and accounting for all receipts and disbursements. The Tribal Council shall cause an executive summary of the Annual Report to be made available to Members within thirty (30) days after receipt. Further, the Gaming Commission shall provide an oral report of its activities to the General Council at least annually.

o. Other Reporting Requirements. As required, the Gaming Commission shall comply with any reporting requirements established under a compact to which the Nation is a party, and other applicable law, including the IGRA and regulations promulgated thereunder.

Section 5. Board of Directors.

a. Establishment of the Board of Directors. There is hereby established a Board of Directors, appointed by agreement of the General Council Officers and Tribal Council to oversee management towards continuing profitable development of gaming. Membership is comprised of five (5) persons, three (3) members shall be from the General Council at large, one (1) member shall be from the OEDP Committee, and one (1) member shall be from the business community.

b. Powers and Duties. The Board of Directors shall have as their sole authority the following powers and duties:

(1) Work with Primary Management Officials and Key Employees to set strategies and objectives for gaming;

(2) Oversee the management of Primary Management Officials and Key Employees on an ongoing basis;

(3) Insure management performance by designing evaluation standards that are implemented and monitored in a timely manner;

(4) Insure lines of communication are developed with the General Council membership, and the elected officials of the Yakama Nation;

(5) Develop or insure development of financial plans, marketing plans, and personnel policies; and

(6) Work to insure gaming is a profitable means of economic resource for the Nation.

Section 6. Permitted Gaming Activities.

a. Unauthorized Gaming Prohibited. All Gaming Activities on the Reservation (whether Class I, II or III) are prohibited except as expressly authorized under this Ordinance.

(1) Class I Gaming. Class I Gaming Activities are hereby permitted to the extent consistent with tribal custom and practice. The Gaming Commission may prohibit and prevent any conduct which is claimed to be Class I gaming pursuant to a finding that such conduct is not in accordance with tribal customs or practices.

(2) Class II and Class III Gaming. Class II and Class III gaming on the Reservation is hereby authorized, provided the Nation has the sole proprietary interest in and responsibility for the conduct of any Gaming Entity, or to the extent the Nation may contract with or license a person or entity to own, operate or manage Gaming Activities or the Gaming Entity pursuant to the provisions of IGRA or as otherwise permitted by law. Nothing herein shall prohibit the Nation from engaging the services of non-tribal persons as employees thereof or engaging any person or entity to provide consulting or other technical assistance or to assist the Nation in the management of Gaming Activities pursuant to a management agreement entered into under the provisions of IGRA. Class III gaming shall be conducted in accordance with a compact, as applicable, or any alternative thereto as provided by IGRA.

Section 7. Gaming Revenues.

a. Tribal Property. Except as provided for under the terms of an agreement pursuant to the provisions of IGRA or as otherwise permitted by law, all revenues generated from any Class II or Class III Gaming Activities are the property of the Nation. Any profits or net revenues from Gaming Activities shall be deposited into the tribal accounts as determined by the Nation. Once becoming part of such tribal account, such funds shall lose any identity as gaming revenues except to the extent necessary to identify them as such in order to comply with applicable law. No individual Member shall be deemed to have any interest in such profits or net revenues. Payments from tribal accounts under other tribal programs, including those related to health, welfare, education, elderly care, and housing, shall not be deemed to be per capita payments. The Nation acknowledges the requirements of IGRA, 25 U.S.C. § 2710 (b) (3) regarding gaming revenues.

b. Use of Net Revenues. Net revenues from Gaming Activities shall not be used for purposes other than:

(1) To fund tribal government operations or programs;

(2) To provide for the general welfare of the Nation and its members;

(3) To promote economic development for the Nation;

(4) To donate to charitable organizations; or

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

Section 8. Operation of Gaming Establishments.

a. Gaming Permitted as Licensed. Except to the extent authorized by an agreement pursuant to the provisions of IGRA or as otherwise permitted by law, Gaming Activities shall only be conducted in tribal owned, operated and licensed facilities pursuant to the provisions of this Ordinance. Such activities shall be conducted in accordance with the terms and conditions of any license issued by the Gaming Commission for such purposes as to each facility before any Gaming Activities may occur therein. Such licenses shall specify the hours of operation, type and scope of Gaming Activities allowed therein, permitted uses of the facility for other activities, rules of conduct for employees and patrons, food handling and entertainment, and such other matters as the Gaming Commission may deem necessary to the conduct of Gaming Activities therein.

b. Protection of Environment and Public. Any construction or maintenance of any gaming facility, and the operation of gaming therein, shall be conducted in a manner which adequately protects the environment and the public health and safety.

c. Dispute Resolution. Patrons who have complaints against the gaming establishment shall have as their sole remedy the right to file a petition for relief with the Gaming Commission. For such purposes, disputes with any management contractor or its employees shall be made to the Gaming Commission, and such shall be the exclusive remedy for patron complaints. Complaints shall be submitted in writing and, at the discretion of the Gaming Commission, the petitioner may be allowed to present evidence. The Gaming Commission will render a decision in a timely fashion and all such decisions will be final when issued. Any patron having a claim against the Gaming Entity or a management contractor or its employees must submit such claim to the Gaming Commission within thirty (30) days of its occurrence. All claims by patrons shall be limited to a maximum recovery of $10,000 per occurrence, and a cumulative limit of $20,000 per patron in any twelve (12) month period.

Section 9. Audits.

a. Annual Audits. Annual outside auditing by the recognized independent accounting firm selected by the Tribal Council and General Council Executive Board shall be conducted of the Gaming Activities and the results thereof reported to the Tribal Council, the NIGC, and otherwise as required by law. All audits must meet any audit requirements of the Nation.

Section 10. Contracts / Audits.

a. Gaming Contracts. Unless otherwise exempted by the Gaming Commission, contracts relating to Gaming Activities, the Gaming Entity or any gaming facility (except contracts for professional legal or accounting services) shall be subject to the Nation's requirements for purchasing such goods and services.

b. Audit Requirements. All contracts for supplies, services, or concessions for a contract amount in excess of $25,000 annually (except contracts for professional legal or accounting services) relating to Class II or Class III gaming on the Reservation shall be subject to independent audits, and such contracts shall so specify.

Section 11. Licenses.

a. Licensing Requirements. It is the declared policy of the Nation that all Gaming Activities be licensed and controlled so as to protect the peace, dignity, and welfare of Members and other persons on the Reservation and to preserve the honesty, fairness and integrity of such Gaming Activities. Accordingly, no person or entity shall provide goods or services to, or be employed to conduct, be associated with, supervise, or manage any Class II or Class III Gaming Activities on the Reservation without an appropriate and valid independent Class II or Class III gaming license issued by the Gaming Commission. Any gaming license which is issued, or finding of suitability or approval by the Gaming Commission, shall be deemed a privilege subject to suspension or revocation. No license shall be issued that would place the Nation in violation of a compact to which the Nation is a party, or of any applicable law.

b. Burden on Applicant. The burden of proving an applicant's qualification to receive any license hereunder is at all times on the applicant. Applicants must accept any risk of adverse public notice, embarrassment or other action which may result from the application process and expressly waive any claim for damages as a result thereof.

c. Applicant Claim of Privilege. An applicant may claim any privilege afforded by law in connection with a gaming license application or investigation, but a claim of

privilege with respect to any testimony or evidence pertaining thereto may constitute sufficient grounds for denial, suspension or revocation.

d. Release of Information. All persons applying for a license shall agree to release all information necessary in order for the Gaming Commission to achieve its goals under this Ordinance, and to furnish such information to the NIGC, and to such other governmental agency as may be required by law.

e. Types of Licenses. Three classes of licenses (Class A, Class B, and Class C) shall be issued to persons and entities associated with Gaming Activities or the gaming facility.

(1) Class A Licenses. Before permitting any person to become permanently associated with the Gaming Activities as an investor, management entity, or other person owning or controlling ten percent (10%) or more of any interest in any management entity; or any Primary Management Official; Key Employee; Closely Associated Independent Contractor; or other individual or entity with influence over the management or operation of the gaming; and, unless otherwise exempted, a Gaming Contractor, such person shall obtain a Class A license. Those who do not meet the qualifications established shall be denied a Class A license. The Gaming Commission shall conduct or cause to be conducted a background investigation to determine if such person has:

(a) Any criminal record or any reputation, prior activities, habits or associations which might pose a threat to the public interest or to the effective regulation of gaming.

(b) Anything else in their background which might create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming.

(2) Class B Licenses. Persons who are not among those identified in subsection (1) above, but are to be employed at a gaming facility on the Reservation in another gaming related activity or, at the sole discretion of the Gaming Commission, in non-gaming related activities, shall be required to obtain a Class B license from the Gaming Commission. Such persons must establish that they have not been convicted of a crime, or engaged in any activity, which the Gaming Commission in its sole discretion deems would render such person a danger to the safety or integrity of the Gaming Activities or the safety or property of the Nation, any Member, any gaming employee or patron, or the public.

(3) Class C Licenses. Minors (persons under 18 years of age) employed at a gaming facility on the Reservation may be issued a Class C license, which will entitle them to work in positions for which a Class B license would otherwise be required and in which minors are not otherwise prohibited by law from working. The Gaming Commission will first determine that the minor receiving a Class C license does not pose any threat to the safety or integrity of the Gaming Activities or the safety or property of the Nation, any Member, any gaming employee or patron, or the public. Such licenses shall be valid for no more than six (6) months before renewal, and shall be revoked upon the minor's reaching the age of eighteen (18), at which time a Class A or B license, as may be appropriate, will be required. Minors shall not be employed as dealers or otherwise to operate or supervise the operations of games.

f. Class A and Class B License Renewal Revocation, and Suspension. Class A and Class B licenses shall be subject to renewal at least every two (2) years. Licenses may be revoked or suspended upon the occurrence of any act which, if known during the application process, or becomes known thereafter, would have tended to disqualify such person for such a license.

g. Temporary Licenses. Pending completion of an investigation for a license, temporary licenses of no more than ninety (90) days duration may be issued by the Gaming Commission if, in its sole discretion, it deems it appropriate to do so. Under no circumstances will the Gaming Commission issue more than two (2) temporary licenses to an individual or entity in any two (2) year period. Such licenses shall permit the licensee to engage in such activities pursuant to such terms and conditions as may be specified by the Gaming Commission. Such temporary licenses shall expire ninety (90) days from date of issuance, upon issuance of a regular license, or until an earlier specified expiration date, whichever occurs first.

h. License Investigations. The Gaming Commission may employ all reasonable means, including the engagement of outside services and investigators and the holding of hearings, to acquire the information necessary to determine whether or not a license should be issued. Applicants shall also agree to release all information necessary in order for the Gaming Commission to achieve its goals under this section and to furnish such information to the NIGC and to such other agency as may be required by law.

i. License Fees. Unless specifically waived by the Gaming Commission, all persons applying for a Class A, B or C license shall be required to pay all applicable license fees and costs when due, including the reasonable cost for regulation and monitoring of licensees, and including a reasonable deposit for costs incurred in obtaining information in connection with the license application. Estimates of licensing costs shall be provided to applicants upon request. Unless specifically waived by the Gaming

Commission, payment for all fees and costs must be received by the Gaming Commission prior to issuance of the license.

j. Standards. All persons engaged by or associated with any Gaming Activity on the Reservation shall conduct themselves with honesty, integrity, and with such decorum and manners as may be necessary to reflect positively on the Nation, its members and the Gaming Activities involved. Any failure to abide by such standards, or a violation of any rule, ordinance, custom or tradition of the Nation, the Reservation or the Gaming Activities, or the terms or conditions of the license, may be grounds for immediate suspension or revocation of any license issued hereunder.

k. Appeals. All decisions of the Gaming Commission regarding the issuance, suspension, or revocation of licenses shall be final and effective when issued; provided, within fifteen (15) days of the receipt of the written decision regarding denial, suspension, or revocation of the license, the applicant may file a petition for reconsideration with the Gaming Commission. Any Member who is denied a license by the Gaming Commission may, within thirty (30) days of the receipt of the written notice of such denial, appeal the denial to the Gaming Commission, which shall have the power to reverse its prior decision and order that such license be issued. Licenses issued by the Gaming Commission as a result of such appeal shall be issued for no more than one year, and are subject to the renewal procedures set forth herein. No decision of the Gaming Commission that a license be issued shall be valid if such issuance would place the Nation in violation of a compact to which the Nation is a party, or of any applicable law.

l. Background Investigations.

(1) The Gaming Commission shall request from each Primary Management Official and each Key Employee all of the information specified in subsections (a) through (n) below. Each other applicant for a Class A, Class B or Class C license shall submit such information as the Gaming Commission, in its sole discretion, deems appropriate for the position sought by applicant. The Gaming Commission reserves the right, at any time, to request additional information either prior to, during, or subsequent to any background investigation.

(a) Full name, other names used (oral or written), social security number(s), date of birth, place of birth, citizenship, gender, all languages (spoken or written);

(b) Current and for at least the previous five (5) years: business and employment positions held, ownership interests in those businesses, business and residence addresses and drivers license number(s);

(c) Names and current addresses of at least three (3) personal references, including one personal reference who was acquainted with the applicant during each period of residence as listed under subsection (b) above;

(d) Current business and residence telephone numbers;

(e) Description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

(f) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;

(g) Name and address of any licensing or regulatory agency with which the person has ever filed an application for a license or permit related to gaming, whether or not such license or permit was granted;

(h) For each felony for which there is an on-going prosecution or a conviction: the charge, the name and address of the court involved, and the date and disposition, if any, of the case;

(i) For each misdemeanor conviction or on-going 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, if any, of the case;

(j) For each criminal charge (excluding minor traffic charges), whether or not there is or was a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed above pursuant to subsections (h) or (i) above: the criminal charge, the name and address of the court involved and the date and disposition, if any, of the case;

(k) Name and address of any licensing or regulatory agency (federal, tribal, state, local or foreign) with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;

(l) Photographs (current at time of application);

(m) Any other information the Nation or the Gaming Commission deems relevant; and

(n) Fingerprints consistent with procedures adopted by the Gaming Commission according to 25 C.F.R. § 522.2(h).

(2) The Nation shall conduct or cause to be conducted an investigation, through the Gaming Commission, sufficient to make a determination of eligibility as required under this Ordinance for, at minimum, all Key Employees and Primary Management Officials. In conducting the background investigation, the Gaming Commission and its agents shall keep confidential the identity of each person interviewed in the course of the investigation.

m. Eligibility Determination. The Gaming 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, at minimum, all Key Employees and Primary Management Officials for employment in a gaming operation. If the Gaming Commission 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 and methods and activities in the conduct of Gaming, the Gaming Entity shall not employ that person in a Key Employee or Primary Management Official position or in any other position for which a Class A license is required, except as specifically established by the Gaming Commission.

n. Forwarding Licensing Applications and Reports to NIGC.

(1) When any Key Employee or Primary Management Official is employed by a Gaming Entity authorized under this Ordinance, the Gaming Commission, acting on behalf of the Nation, shall forward to the NIGC the person's completed application for employment containing the information required above under subsection 11.l.(1) of this Ordinance.

(2) Prior to issuing a license to a Primary Management Official or Key Employee, the Gaming Commission, acting on behalf of the Nation, shall forward to the NIGC, together with a copy of the eligibility determination made under subsection 11.m. above, an investigative report on each background investigation. The investigative report on each background investigation shall be forwarded to the NIGC within sixty (60) days after the employee begins work, or within sixty (60) days of the approval of this Ordinance by the NIGC. The Gaming Entity shall not employ or continue to employ any person as a Key Employee or Primary Management Official who does not have a license within ninety (90) days.

The investigative report shall include the following information:

(a) Steps taken in conducting a background investigation;

(b) Results obtained;

(c) Conclusions reached; and

(d) The bases for those conclusions.

(3) The Gaming Commission, acting on behalf of the Nation, shall provide to the NIGC or other agency, any other reports and information required by IGRA and regulations promulgated thereunder. Further, with respect to Key Employees and Primary Management Officials, the Gaming Commission shall retain applications for employment and reports (if any) of background investigations for inspection by the NIGC for no less than three (3) years from the date of termination of employment.

(4) If a license is not issued to an applicant, the Gaming Commission shall notify the NIGC and may forward copies of its eligibility determination and investigative report (if any) to the NIGC for inclusion in the Indian Gaming Individuals Records System.

o. Granting a Gaming License.

(1) If, within a thirty (30) day period after the NIGC receives a report as required under subsection 11.n. above, the NIGC notifies the Nation that it has no objection to the issuance of a license pursuant to the license application filed for a Key Employee or Primary Management Official for whom the Gaming Commission has provided an application and investigative report, the Gaming Commission may issue the license.

(2) The Gaming Commission shall provide any additional information requested by the NIGC concerning a Key Employee or Primary Management Official who is the subject of a report as required under this subsection. An NIGC request for additional information shall suspend the thirty (30) day period established under this subsection until the NIGC receives the additional information.

(3) If, within the thirty (30) day period established under this subsection, the NIGC provides a statement itemizing objections to issuance of a license to a Key Employee or Primary Management Official, the Gaming Commission shall reconsider the application, taking into account such objections. The Gaming Commission retains the right to make the final determination whether to issue the license to such applicant.

p. Gaming License Suspension and Revocation.

(1) If, after issuance of a gaming license, the Nation receives reliable information from the NIGC or other reliable source indicating that a Key

Employee or a Primary Management Official is not eligible for employment under the eligibility criteria established in section 11 above, the Gaming Commission shall suspend the license and shall notify the licensee in writing of the license suspension and proposed revocation.

(2) The Gaming Commission shall notify the licensee of a time and place for a hearing on the proposed revocation of a license.

(3) After the revocation hearing, the Gaming Commission shall determine whether to revoke or to reinstate the gaming license. For actions taken in response to information provided by the NIGC, the Gaming Commission shall notify the NIGC of its decision.

q. Facilities Licenses. Before Gaming Activities can be conducted therein, the Gaming Commission shall inspect and license each such facility in accordance with this Ordinance and any requirements under IGRA.

Section 12. Application Forms.

a. Each application form for a Key Employee or a Primary Management Official, as well as for all other license applicants, unless otherwise specifically exempted by the Gaming Commission, shall contain the notices set forth in subsections (1) and (2) below:

(1) *Privacy Act Notice:*

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. §2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by 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 an Indian Nation or 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 an Indian Nation or Tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in an Indian Nation or 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.

(2) *Notice Regarding False Statements.*

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, § 1001)

b. Any existing Key Employee or Primary Management Official or other licensee subject to such requirements, unless otherwise specifically exempted by the Gaming Commission, that has not completed an application form containing the language set forth in Section 11.a.(1) and (2) above, shall be notified that they must either:

(1) Complete a new application form that contains the Privacy Act Notice and the Notice Regarding False Statements; or

(2) Sign a statement that contains the Privacy Act Notice and consent to the routine uses described in that notice, and sign a statement that contains the Notice Regarding False Statements.

Section 13. Class III Gaming; Compact.

Class III gaming on the Reservation shall be under the provisions of a compact, as applicable, or other alternative as provided under the IGRA and applicable regulations. All negotiations for such compacts shall be conducted through the Chairman of the Yakama Nation Tribal Council, with the advice and suggestion of the Gaming Commission, and shall be finalized only upon the majority vote of the Tribal Council after consideration of the terms of such compact. In the event the Nation approves a compact, the provisions of such compact, once approved under IGRA, shall govern over the provisions herein, to the extent the compact is inconsistent herewith.

Section 14. Interest in Management Contracts by Tribal Officials.

No elected official of the Nation, including the Gaming Commission or any other committee or agency of the Nation, shall have a financial interest in or management responsibility for, any management agreement entered into pursuant to IGRA, nor shall such elected official serve on the board of directors or hold (directly or indirectly) ten percent (10%) or more of the issued and outstanding stock of any corporation, or ten percent (10%) or more of the beneficial interest in any partnership, trust, or other entity, in any such corporation, partnership, trust or other entity, having a financial interest in, or management responsibility for, such contract.

Section 15. Service of Process.

The Nation designates as its agent for the service of any official determination, order, or notice of violation in any gaming related matter, the Chairperson of the Gaming Commission.

Section 16. Compliance with TERO.

All Gaming Activities under this Ordinance shall be conducted in full compliance with all requirements under TERO, including amendments as may be adopted thereto.

Section 17. Tribal Gaming Corporation.

Nothing in this Ordinance shall prevent the Tribal Council and General Council Executive Board from delegating the authority to conduct gaming to one or more tribal corporations, so long as the tribal corporation to which such authority is delegated agrees to meet all criteria and requirements established under this Ordinance.

Section 18. Entire Gaming Regulations; Prior Ordinances Repealed; Effective Date.

This Ordinance and the regulations promulgated thereunder shall constitute the entire gaming regulations of the Nation. All prior gaming ordinances and resolutions of the Nation are hereby repealed, and this Ordinance shall become effective upon its adoption by the Tribal Council after consultation with the General Council Executive Board.

Section 19. Amendments.

All provisions of this Ordinance are subject to revision, repeal, or amendment by the Tribal Council. Regulations promulgated by the Gaming Commission under this Ordinance are subject to revision, repeal or amendment by the Gaming Commission.

Section 20. Sovereign Immunity Preserved.

Nothing in this Ordinance is intended or shall be construed as a waiver of the sovereign immunity of the Nation; and no manager, officer or employee of the Gaming Commission or the Nation shall be authorized, nor shall they attempt, to waive the immunity of the Nation.

Section 21. Construction and Severability.

This Ordinance is exempted from the rule of strict construction, and shall be liberally construed to give full effect to the objectives and purposes for which it was enacted. If any section of this Ordinance, or its application to any person or entity or circumstance, is held invalid, the remainder of the Ordinance, or the application of the provision to other persons or entities or circumstances, shall not be affected and shall remain in full force and effect.