

**NATIONAL  
INDIAN  
GAMING  
COMMISSION**

JAN 13 1997

Ernest L. Stensgar  
Chairman  
Coeur D'Alene Tribe  
Rt. 1, Box 11FA  
Plummer, ID 83851

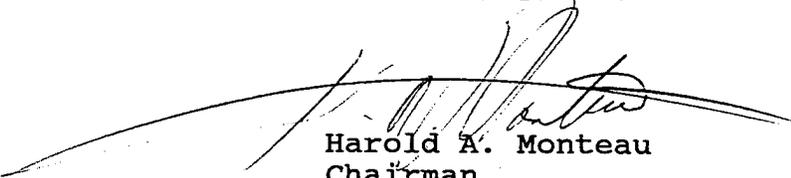
Dear Chairman Stensgar:

This letter responds to your request to review and approve the amendment to the tribal gaming ordinance of the Coeur D'Alene Tribe (Tribe). The amendment to the ordinance was adopted by the Tribe by Resolution No. 297(96) on September 19, 1996. Net revenue allocation plans must be submitted to the Secretary of the Interior for approval under 25 U.S.C. § 2710(b)(3)(B). The NIGC must review the purposes that net revenues will be used for to determine compliance with 25 U.S.C. § 2710(b)(2)(B) and 25 C.F.R. § 522.4(b)(2). This letter constitutes approval of such provisions 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 amendments to 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. Under the IGRA, 25 U.S.C § 2710(b)(3)(B), a plan to allocate revenues must be approved by the Secretary of the Interior as adequate. This net revenue allocation plan, therefore, must be submitted to the Secretary for approval.

Thank you for submitting the amendment to the tribal gaming ordinance of the Coeur D'Alene Tribe. The NIGC staff and I continue to look forward to working with you and the Tribe in implementing the IGRA.

Sincerely yours,



Harold A. Monteau  
Chairman

cc: Tara Allgood, Esq.  
Givens, Funke & Work

July 21 1996

**REVENUE ALLOCATION PLAN**

**CDA RESOLUTION 297 (96)**

**WHEREAS**, The Coeur d'Alene Tribal Council has been empowered to act for and on behalf of the Coeur d'Alene Tribe pursuant to the Revised Constitution and By-Laws, adopted by the Coeur d'Alene Tribe by referendum November 10, 1984, and approved by the Secretary of the Interior, Bureau of Indian Affairs, December 21, 1984; and

**WHEREAS**, the Coeur d'Alene Tribal Council intends to distribute net gaming revenues in compliance with 25 U.S.C. § 2710 et seq.; and

**WHEREAS**, net gaming revenues are to be used only for purposes of funding tribal government operations or programs, providing for the general welfare of the Tribe and its members, promoting tribal economic development, donating to charitable organizations or helping fund operations of local government agencies in accordance with 25 U.S.C. § 2710 (b)(2)(B); and

**WHEREAS**, the interests of minors and other legally incompetent persons are protected and preserved by the amendments to Chapter 30 in accordance with 25 U.S.C. § 2710(b)(3)(C); and

**WHEREAS**, Chapter 30 of the Coeur d'Alene Tribal Code, titled Coeur d'Alene Tribal Charitable Gaming Code, provides the Revenue Allocation Plan for distribution of net gaming revenue; and

**WHEREAS**, the Tribal Council has determined the percentages of net gaming revenue to be allocated and such percentages are outlined in the attached amendments to Chapter 30.

**NOW THEREFORE, BE IT RESOLVED**, that the Coeur d'Alene Tribal Council hereby adopts amendments to Chapter 30, the Coeur d'Alene Tribal Charitable Gaming Code; and

**BE IT FURTHER RESOLVED**, that the Coeur d'Alene Tribal Council hereby adopts Chapter 30 the Coeur d'Alene Tribal Charitable Gaming Code as the Revenue Allocation Plan required under 25 U.S.C. § 2710.

CERTIFICATION

The foregoing resolution was adopted at a meeting of the Coeur d'Alene Tribal Council held at the Joseph R. Garry Administrative Building, Tribal Headquarters, near Plummer, Idaho, on September 19, 1996, with the required quorum present by a vote of 3 FOR, 0 AGAINST, and 0 Abstaining. 1047.

*Ernest L. Stensgar*

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ERNEST L. STENSGAR, CHAIRMAN  
COEUR D'ALENE TRIBAL COUNCIL

*Norma J. Peone*

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NORMA J. PEONE, SECRETARY  
COEUR D'ALENE TRIBAL COUNCIL

## CHAPTER 30

### COEUR D'ALENE TRIBAL CHARITABLE GAMING CODE

#### **30-1.01**     **Title**

This Chapter shall be known as the Coeur d'Alene Tribal Charitable Gaming Code.

#### **30-2.01**     **Purpose And Intent**

The purpose and intent of this Chapter is to provide a comprehensive scheme of regulations of Tribal or Indian owned gaming on the Coeur d'Alene Indian Reservation. This Chapter does not apply to traditional forms of Indian gaming regulated under Chapter 27 or to non-Indian gaming operations. Specifically, the purpose and intents of this Chapter are to:

A) Fund charitable activities of the Coeur d'Alene Tribe including education of Coeur d'Alene Tribal children, Coeur d'Alene Tribal senior citizen activities and traditional Coeur d'Alene Tribal cultural events.

B) Provide funds for the health, education and general welfare of the Coeur d'Alene Tribe and its members.

C) Provide funds for the operations and programs of the Coeur d'Alene Tribal Government and Coeur d'Alene Tribal Agencies.

D) Provide jobs for Coeur d'Alene Tribal Members.

E) Provide for responsible, environmentally sound economic development of the Coeur d'Alene Reservation.

F) Promote Coeur d'Alene Tribal self-government by providing a larger share of the operating expenses of the Tribal Government, thereby reducing dependency on Federal funds.

G) Encourage Tribal self-sufficiency and promote Tribal sovereignty.

H) Provide services and activities on the Coeur d'Alene Reservation which can be used and enjoyed by both Indians and non-Indians to foster cooperation, goodwill and racial harmony on the Reservation between all races.

I) Safeguard all persons from unscrupulous and illegal operations of any type of gaming.

J) To prevent and eliminate any possible influence of organized crime or other undesirable elements on the Reservation.

**30-3.01      Definitions**

A) Tribe means the Coeur d'Alene Tribe.

B) Reservation means all area within the exterior boundaries of the Coeur d'Alene Indian Reservation.

C) Tribal Council means the elected Tribal Council of the Coeur d'Alene Tribe.

D) Board means the Coeur d'Alene Tribal Charitable Gaming Board.

E) Lottery means all forms of gaming which contain the three essential elements of chance, consideration and prize, whether or not electronic, computer, or other technologic aids are used in connection therewith,

F) Class II Gaming means:

1) The game of chance commonly known as bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith)

a) which is played for prizes, including monetary prizes, with cards bearing numbers or other designations,

b) in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined, and

c) in which the game is won by the first person covering a previously designated arrangement of numbers or designations 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

2) card games that -

a) are explicitly authorized by the laws of the State of Idaho, or

b) are not explicitly prohibited by the laws of the State of Idaho and are played at any location in the State of Idaho, but only if such card games are played in conformity with those laws and regulation (if any) of the State regarding hours of periods of operation of such card games or limitations on wagers or pot sizes in such card games.

3) The term Class II gaming does not include -

a) any banking card game, including baccarat, chemin defer, or blackjack (21), or

b) electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.

G) Class III Gaming means all forms of gaming that are not traditional forms of Indian gaming or Class II gaming.

H) Net Revenue means those revenues of an authorized and licensed gaming activity less amounts paid out, or paid for, prizes and total operating expenses, excluding management fees.

I) Gaming Facility means any facility or location on the Coeur d'Alene Indian Reservation at which any type of gaming is conducted.

J) Operator means any person or entity operating or managing a form of gaming authorized or licensed by the Board.

K) Management Contractor means an individual or entity with whom the Coeur d'Alene Tribe has contracted to operate a gaming activity on the Coeur d'Alene Indian Reservation.

**30-4.01 Establishment Of The Board**

The Coeur d'Alene Tribal Charitable Gaming Board is hereby established. The Board shall consist of three (3) members who shall be enrolled members of the Coeur d'Alene Tribe. The Board Members shall serve staggered three (3) year terms with one member being appointed by the Council each year. When the Council appoints the initial Board, one member shall be appointed for one year, one member for two years and one member for three years. Thereafter, all members shall be appointed for three year terms. The Tribal Council shall serve as the Gaming Board until the Board is appointed.

### **30-4.02      Responsibility For Gaming**

The Coeur d'Alene Tribe through its Tribal Council shall have sole proprietary interest and responsibility for the conduct of all gaming on the Coeur d'Alene Indian Reservation. The Tribal Council may designate responsibility for the conduct or various aspects of gaming to the Board, but may not delegate the responsibility for determining the type of gaming authorized on the Reservation or for entering into gaming management contracts.

### **30-4.03      Removal**

Any member of the Board may be removed for cause by the Council.

### **30-5.01      Powers and Duties of the Board**

The Board shall, unless otherwise directed by the Tribal Council, have the following powers and duties:

A)      Implement gaming activities authorized by the Tribal Council to be conducted on the Coeur d'Alene Reservation in accordance with this Chapter.

B)      Issue licenses to gaming facilities, operators, primary management officials, or key employees of any gaming enterprise.

C)      Oversee and regulate all gaming and activities authorized by the Tribal Council subject to any terms and conditions that may be set out in any contracts that the Tribal Council may enter into with a management contractor or operator.

D)      Promulgate rules, regulations and bylaws, subject to Tribal Council approval.

E)      Contract for services needed to carry out the duties and obligations of the Board, provided however, that only the Tribal Council may enter into contracts with a management contractor for the operation of a gaming facility.

F)      Regulate and control and/or enter into contracts regarding all concessions, including those for food and beverage, that are operated in conjunction with gaming authorized under this Act.

G)      Provide for proper record keeping of all gaming activities and Board affairs, including an annual independent outside audit of the gaming, which may be encompassed within the existing independent Tribal audit system. All contracts for supplies, services or concessions for a contract amount in excess of \$25,000 annually

(except contracts for professional legal services or accounting services) shall be subject to such annual independent outside audit.

H) Collect revenues, pay expenses and transfer all net revenue as approved by the Tribal Council.

I) Hire professional, technical and other employees as may be necessary to carry out the duties of the Board.

J) Approve all major procurements.

K) Review on a monthly basis records of all gaming authorized under this Code.

L) Receive revenue and make disbursements.

M) Conduct investigations, hold hearing, administer oaths and issue subpoenas which shall be enforced by the Tribal Court.

N) Require bonds of operators, management contractors, primary management officials and key employees of any gaming facility.

O) Perform all other acts necessary to carry out the purpose and provisions of this Code.

P) The Board shall have no authority over traditional or Class I games unless specifically delegated by the Tribal Council. (CDA 252(92), 08/20/92)

### **30-5.02 Board Expenses**

Members of the Board shall be allowed reasonable out-of-pocket expenses and per diem, but shall receive no salaries unless otherwise approved by the Coeur d'Alene Tribal Council. Such payments shall come out of the license fees or net revenues of the gaming activities allowed under this Chapter.

### **30-5.03 Limitation On Board Activities**

No member of the Board shall participate in any form of gaming regulated by the Board under this Chapter. No member of the Board, nor their spouse or other with whom they are living in a similar way, shall be employed by any operator, management contractor or at any gaming facility regulated by the Board. (CDA 252(92), 08/20/92)

**30-6.01      Limitations On Gaming**

No gaming regulated under this Chapter shall be conducted on the Coeur d'Alene Indian Reservation except as allowed by this Chapter, and specifically authorized by the Tribal Council upon a finding that such gaming is in the best interest of the Coeur d'Alene Tribe and under a license issued by the Board. (CDA 252(92), 08/20/92)

**30-6.02      Class II Games**

Class II games that are authorized by Tribal Council Ordinance may be conducted on the Coeur d'Alene Indian Reservation under such terms and conditions as determined by the Board.

**30-6.03      Class III Games**

Class III games that are authorized by Tribal Council Ordinance may be conducted on the Coeur d'Alene Indian Reservation under such terms and conditions as determined by the Board, so long as the conduct of such Class III games satisfies all other legal requirements.

**30-6.04      Other Gaming**

Notwithstanding any other provision of this section, the Tribal Council may authorize by Ordinance any form of lottery, parimutuel betting, or charitable game of chance regardless of whether it employs electronic, computer, or other technologic aids, that is allowed by law and found by the Tribal Council to be in the best interest of the Coeur d'Alene Tribe.

**30-6.05      No Gaming By Minors**

No one under the age of eighteen (18) shall be allowed to participate in gaming authorized under this Code.

**30-6.06      Gaming Authorized - Class II**

It is in the best interests of the Coeur d'Alene Tribe that all Class II gaming be authorized to be conducted under the provisions of this act and the same is so authorized under such terms and conditions as the Board shall require.

**30-6.07      Gaming Authorized - Class III**

It is in the best interests of the Coeur d'Alene Tribe that all Class III gaming authorized by the Compact between the Coeur d'Alene Tribe and the State of

Idaho be authorized to be conducted under the provisions of this act and the same is so authorized under such terms and conditions as the Board shall require. The National Indian Lottery is specifically authorized to be conducted under the Management Agreement previously approved by the Chairman of the National Indian Gaming Commission.

### **30-7.01**      **Licenses And Background Checks**

The Board may issue facility licenses and personnel licenses. No facility may conduct gaming unless it has received a facility license. No operator, primary management official or key employee of any gaming enterprise may hold such position unless they have received a personnel license by the Board.

### **30-7.02**      **Personnel Licensing Standards**

No person shall receive a personnel license if that person's prior activities, criminal records, if any, reputation, or 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 or methods or activities in the conduct of gaming and such facts are verified by a background investigation which is conducted on all primary management officials and key employees in the gaming enterprise. The Board shall continue oversight of such officials in their management conduct on an ongoing basis.

### **30-7.03**      **Revocation Of License**

A facility or personnel license previously issued shall be revoked by the Board if it determines anytime that the facility's or person's activities, criminal records, reputation, habits, or associations pose a threat to the public interest or the effective regulation of gaming, or creates or enhances the danger of unsuitable, unfair, or illegal practices or methods or activities in the conduct of gaming, or that the person or facility is in violation of the By-Laws, regulations, or directives of the Board.

### **30-8.01**      **Certificate Of Acceptability**

Prior to the issuance of a facility license to any premise under this Code, the Board shall be provided with a certificate of acceptability from the Coeur d'Alene Tribal Planning Department which certifies that the construction and maintenance of the gaming facility and the manner in which gaming is to be operated and services provided will adequately protect the environment and the public health and safety.

**30-8.02**      **Inspection Of Premise & Records**

Each and every facility licensed under this Code to conduct gaming shall be available for inspection by the Board or its designee at all times. All books and records of any gaming facility authorized under this Chapter shall be kept and maintained on the Coeur d'Alene Indian Reservation at all times. Such books and records shall be open for inspection by the Board or its designee at all times, and shall be reviewed by the Board or its designee on a monthly basis.

**30-8.03**      **Inspection Of Premises And Records By Board**

In addition to inspections and audits conducted by the Board or its designee, the Tribal Council, through the Tribal attorney or his/her designee, shall conduct spot monthly inspections and/or audits, without notice, as seen fit. The results of such spot monthly inspections or audits shall be reported directly to the full Tribal Council and a copy provided to the Board. The Tribal attorney or his/her designee shall have full and complete access to all books, records and facilities of any gaming facility authorized under this Chapter at all times and under whatever conditions as the Tribal attorney or his/her designee requires.

**30-9.01**      **Taxation And Net Revenue Distribution**

The Tribe specifically reserves, through its inherent power as a sovereign nation, the full right and authority to adopt or impose a uniform and comprehensive system of taxation and/or fee structure for all gaming allowed under this Code.

Per capita payments from net gaming revenue are subject to federal income taxation. The Tribe shall so notify each recipient at the time of disbursement.

**30-9.02**      **Net Revenue Distribution - Land Repurchase**

Not less than twenty-five percent (25%) of net revenues shall go to the land repurchase plan of the Coeur d'Alene Tribe. The land repurchase plan promotes tribal economic development and provides for the general welfare of the Tribe and its members.

**30-9.03**      **Net Revenue Distribution - Other**

Not less than fifty percent (50%) of net revenues shall be used 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; or
- (E) to help fund operations of local government agencies;

**30-9.04 Per Capita Payments**

Distribution of net gaming revenues is subject to Tribal Code and federal laws, specifically this Chapter and 25 U.S.C. § 2710(b)(3). Twenty-five percent (25%) of net gaming revenues are to be distributed as per capita payments to all individual tribal members. The following are guidelines for per capita payments:

A) Eligibility Deadline. Eligibility for per capita payments is based upon tribal enrollment. Enrollment as a tribal member must be established by September 30 of the year of the distribution in order to be eligible for payment. Eligibility for enrollment is reviewed in accordance with Chapter 39 of the Tribal Code.

B) Minors and Legal Incompetents. The interests of minors and other legally incompetent persons who are entitled to receive per capita payments are to be distributed as follows:

1) Minors - persons under the age of 18.

a) One-half of the per capita payment shall be placed into a trust in the name of the individual minor. Such amount shall remain in trust until:

i. the person reaches the age of 18 and has graduated from high school or obtained a GED certificate, or

ii. the person reaches the age of 21.

b) One-half of the per capita payment shall be disbursed to the parents or legal guardian for the benefit of such minors. Such payment is necessary for the health, education, and welfare of the individual.

2) Legal Incompetents - persons deemed incompetent through a court proceeding.

a) Regardless of age of the incompetent, one-half of the per capita payment shall be placed into a trust in the name of the individual incompetent. Such amount may be distributed to the parents or legal guardians of the incompetent upon application. The application must include an explanation of why the trust should be distributed for the benefit of the incompetent.

b) One-half of the per capita payment shall be disbursed to the parents or legal guardian for the benefit of such legal incompetent. Such payment is necessary for the health, education, and welfare of the individual.

3) Special Circumstances - The Coeur d'Alene Tribe recognizes there are circumstances which may require disbursement of a portion of remaining individual trust money. An application must be submitted for such disbursement. Applications are available through the Tribal Enrollment Office. Tribal Council or designated representatives will review applications for disbursement under the following circumstances:

a) Upon certification by at least two licensed physicians that the minor is afflicted with a terminal illness.

b) Upon certification by a school official that the minor will be graduating. Disbursement for the graduation expenses shall not exceed \$500.

4) Encumbrances - No funds placed in trust on behalf of individual members may be pledged or encumbered in any manner.

5) Death of a Minor or Legal Incompetent - Upon the death of a minor, all funds including interest shall be transferred from the individual trust account and shall be probated in accordance with appropriate procedures in the court of competent jurisdiction.

### **30-9.05 Management Contracts**

The Coeur d'Alene Tribal Council may enter into management contracts for the conduct of gaming under this Chapter, but in no event shall the management contractor receive more than 40% of the net revenues in consideration of the provisions of management services.

### **30-10.01 Penalties For Violations**

Any person who contracts, supplies, manages, is employed by, or participates in any gaming activity authorized under this Chapter shall, as a matter of doing so, consent to the civil and criminal jurisdiction of the Coeur d'Alene Tribe. Such consent to jurisdictions shall be publicly posted and shall be contained on all cards, tickets or other gaming devices used under the authority of this Chapter.

### **30-10.02 Civil Penalties For Violations**

Any person who shall violate any provisions of this Chapter or shall conduct gaming operations without a required license, shall commit fraud or deceit,

or shall engage in professional gambling or bookmaking, shall be subject to one or all of the following civil penalties:

- A) Civil fine of \$2,000.00 per occurrence per day and confiscation of all proceeds from such activities,
- B) Injunctive relief against continued violation of this Chapter,
- C) Exclusion from the Coeur d'Alene Indian Reservation in conformity with Chapter 25 of this Code,
- D) Revocation or suspension of gaming license, or
- E) Civil cause of action by the Tribe for damages, restitution or other equitable relief.

**30-11.01    Investigations, Hearings, & Judicial Review**

Nothing in this Chapter shall entitle any individual or entity to any right to appeal or judicial review that they do not otherwise have as a result of some other law.

The Board or its designee may conduct any investigation or hold any hearing it deems appropriate and necessary to carry out its responsibilities under this act.

The Board or its designee may conduct such other hearings to review a prior decision as are necessary unless the Board itself was the decision maker, in which case the hearing shall be conducted by the Tribal Council or its designee.

Jurisdiction for judicial review of an administrative hearing decision under this Section shall rest exclusively with the Tribal Court. In the exercise of its jurisdiction to conduct such judicial review, the Court shall be absolutely and completely bound by the findings of facts of the administrative hearing and may only reverse the decision if substantial prejudicial errors of law occur.

**30-12.01    Severability**

If any provision of this Chapter is held invalid or its application to any person or circumstance is held invalid, the remainder of this Chapter or the application of the provision to other persons or circumstances is not affected.

**30-13.01 Purpose**

The Coeur d'Alene Tribal Council (hereinafter "Tribe"), empowered by the Tribe's Constitution to enact ordinances, hereby enacts this ordinance which shall be referred to as statutes in order to further set the terms for Class II and III gaming operations on tribal lands. All of the following sections shall apply to Class II gaming. Sections 30-13.03; 30-13.06; 30-13.07(A), (C), and (D); 30-13.08; and 30-14.01 shall apply to Class III gaming. (CDA 218(94), 06/23/94)

**30-13.02 Gaming Authorized**

Class II gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. Section 2703 (7)(A) ("IGRA") and by the regulations promulgated by the National Indian Gaming Commission at 25 C.F.R. Subsection 502.3 (as published in the Federal Register at 57 FR 12382-12393, April 9, 1992) is hereby authorized. Class III gaming authorization is governed by the terms of 30-6.03. (CDA 218(94), 06/23/94).

**30-13.03 Ownership of Gaming**

The Tribe shall have the sole propriety interest in and responsibility for the conduct of any gaming operation authorized by this ordinance.

**30-13.04 Use of Gaming Revenue**

Net revenues from Class II gaming shall be used only for the following purposes: to fund tribal government operations and programs; to provide for the general welfare of the Tribe and its members; to promote tribal economic development; to donate to charitable organizations; or to help fund operations of local government agencies.

**30-13.05 Audit**

A. The Tribe shall cause to be conducted annually an independent audit of gaming operations and shall submit the resulting audit reports to the National Indian Gaming Commission.

B. All gaming related contracts that result in the purchase of supplies, services, or concessions in excess of \$25,000.00 annually, except contracts for professional legal and accounting services, shall be specifically included within the scope of the audit that is described in subsection A. above.

**30-13.06 Protection of the Environment and Public Health and Safety**

Class II gaming facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.

**30-13.07 Licenses for Key Employees and Primary Management Officials**

The Tribe shall ensure that the policies and procedures set out in this section are implemented with respect to key employees and primary management officials employed at any Class II gaming enterprise operated on Indian lands:

A. Definitions

For the purposes of this section, the following definitions apply:

1. Key employee means

(a) A person who performs one or more of the following functions:

- (1) Bingo caller;
- (2) Counting room supervisor;
- (3) Chief of security;
- (4) Custodian of gaming supplies or cash;
- (5) Floor manager;
- (6) Pit boss;
- (7) Dealer;
- (8) Croupier;
- (9) Approver of credit; or
- (10) Custodian of gambling devices including persons with access to cash and accounting records within such devices;

(b) If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or

(c) If not otherwise included, the four most highly compensated person in the gaming operation.

2. Primary management official means

(a) The person having management responsibility for a management contract;

(b) Any person who has authority:

(1) To hire or fire employees; or

(2) To set up working policy for the gaming operation; or

(c) The chief financial officer or other person who has financial management responsibility.

**B. Application Forms**

1. 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 of the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in the 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 error in processing your application.

2. Existing key employees and primary management officials shall be notified in writing that they shall either:

(a) Complete a new application form that contains a Privacy Act notice; or

(b) Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

3. The following notice shall be placed on the application form for a key employee or primary 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, section 1001)

4. The Tribe shall notify in writing existing key employees and primary management officials that they shall either:

(a) Complete a new application form that contains a notice regarding false statements; or

(b) Sign a statement that contains the notice regarding false statements.

C. Background Investigations

1. The Tribe shall request from each primary management official and from each key employee all of the following information:

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

(b) 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;

(c) 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 (1)(b) of this section;

- (d) Current business and residence telephone numbers;
- (e) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
- (f) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- (g) 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;
- (h) For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition, if any;
- (i) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within 10 years of the date of the application, the name and address of the court involved and the date and disposition;
- (j) For each criminal charge (excluding minor traffic charges) whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to paragraph (1)(h) or (1)(i) of this section, the criminal charge, the name and address of the court involved and the date and disposition;
- (k) The name and address of any licensing or regulatory agency which has filed an application for an occupational license or permit, whether or not such license or permit was granted;
- (l) A current photograph;
- (m) Any other information the Tribe deems relevant; and
- (n) Fingerprints consistent with procedures adopted by the Tribe according to 25 C.F.R. Subsection 522.2(h).

2. The Tribe shall conduct an investigation sufficient to make a determination under subsection D below. In conducting a background investigation, the Tribe or its agent shall promise to keep confidential the identity of each person interviewed in the course of investigation.

D. Eligibility Determination

The Tribe 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. If the Tribe 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, a tribal gaming operation shall not employ that person in a key employee or primary management official position.

E. Procedure for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission

1. When a key employee or primary management official begins work at a gaming operation authorized by this ordinance, the Tribe shall forward to the National Gaming Commission a completed application for employment and conduct background investigation and make the determination referred to in subsection D of this section.

2. The Tribe shall forward the report referred to in subsection F of this section to the National Indian Gaming Commission within 60 days after an employee begins work or within 60 days of the approval of this ordinance by the Chairman of the National Gaming Commission.

3. The gaming operation shall not employ as a key employee or primary management official a person who does not have a license after 90 days.

F. Report to the National Indian Gaming Commission

1. Pursuant to the procedures set out in subsection E of this section, the Tribe shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation. An investigative report shall include all of the following:

- (a) Steps taken in conducting a background investigation;
- (b) Results obtained;
- (c) Conclusions reached; and

(d) The basis for those conclusions.

2. The Tribe shall submit, with the report, a copy of the eligibility determination made under subsection D of this section.

3. If a license is not issued to an applicant, the Tribe:

(a) Shall notify the National Indian Gaming Commission;  
and

(b) May forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Record System.

4. With respect to key employees and primary management officials, the Tribe shall retain applications for employment and reports (if any) of the background investigations for inspections by the Chairman of the National Indian Gaming Commission or his or her designee for no less than three (3) years from the date of termination of employment.

#### G. Granting a Gaming License

1. If, within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission 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 Tribe has provided an application and investigative report to the National Indian Gaming Commission, the Tribe may issue a license to such applicant.

2. The Tribe shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30-day period under paragraph G.1 of this section until the Chairman of the National Indian Gaming Commission receives the additional information.

3. If, within the thirty (30) day period described above, the National Indian Gaming Commission 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 Tribe has provided an application and investigative report to the National Indian Gaming Commission, the Tribe shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. The Tribe shall make the final decision whether to issue a license to such applicant.

H. License Suspension

1. If, after the issuance of a gaming license, the Tribe receives from the National Indian Gaming Commission reliable information indicating that a key employee or a primary management official is not eligible for employment under Section D. above, the Tribe shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

2. The Tribe shall notify the licensee of a time and place for a hearing on the proposed revocation of a license.

3. After a revocation hearing, the Tribe shall decide to revoke or to reinstate a gaming license. The Tribe shall notify the National Indian Gaming Commission of its decision.

**30-13.08 License Locations**

The Tribe shall issue a separate license to each place, facility, or location on Indian lands where Class II gaming is conducted under this ordinance.

**30-13.09 Repeal**

To the extent that 30-01 thru 30-12 are inconsistent with 30-13 thru 30-14, those prior gaming statutes are hereby repealed and 30-13 thru 30-14 shall control.

**30-14.01 Specific Background Investigations**

Section 522.2(b) requires a description of procedures to conduct or cause to be conducted background investigations on key employees and primary management officials.

Background investigations of key employees and primary management officials shall include:

A. A clear statement that the Tribe is responsible for the conduct of the background investigations and suitability determinations.

B. An organization chart or statement showing the positions of people responsible for --

1. conducting and causing to be conducted the background investigations;

2. reviewing and approving the investigative work done;
3. reporting the results of the background investigation to the National Indian Gaming Commission;
4. obtaining and processing fingerprints; and
5. making the suitability determinations.

C. An explanation of how the positions and people identified above were selected.

D. A listing of the minimum investigative procedures to be performed, including the following:

1. Verify by written or oral communication information submitted by applicant.

2. Inquire into the applicant's prior activities, criminal record, if any, and reputation, habit and associations; interview a sufficient number of knowledgeable people such as former employers, personal references, and others to whom referred in order to provide a basis for the tribe to make a finding concerning the eligibility for employment in a gaming operation.

3. Document the disposition of all potential problem areas noted and disqualifying information obtained.

E. An investigative report setting forth the following:

1. Steps taken in conducting the background investigation;
2. Results obtained;
3. Conclusions reached; and
4. The basis for those conclusions.