May 23, 2008

Via U.S. Mail and Facsimile

Dale Miller, Chairman
Elk Valley Rancheria
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RE: Amendment to the Elk Valley Rancheria Gaming Ordinance

Dear Chairman Miller, Ms. Markussen, and Mr. Downes:

On April 29, 2008, Mr. Downes on behalf of the Tolowa Indians of the Elk Valley Rancheria (Tribe) requested that the National Indian Gaming Commission (NIGC) review and approve the Tribe's amendment to the Elk Valley Rancheria Gaming Ordinance (gaming ordinance). The Tribe amended the gaming ordinance on April 9, 2008. In this amendment, the Tribe clarified its compliance with NIGC Minimum Internal Control Standards (MICS) for Class II and III gaming and corrected several technical errors. Additionally, the Tribe amended the gaming ordinance to ban applicants from reapplying for a license for one year after receiving a denial, suspension, or revocation.

The ordinance's definition of "Reservation" contains a site-specific section that includes "the Martin Ranch property." Gaming Ordinance § 3.23(b). This definition required the NIGC to consider whether the Martin Ranch property would constitute Indian lands under the Indian Gaming Regulatory Act.

On July 13, 2007, the Department of the Interior, Office of the Solicitor, issued a legal opinion concluding that if the Secretary of the Interior accepts trust title to the Martin

Ranch, such trust acquisition will be part of the restoration of lands for the Tribe under 25 U.S.C. § 2719(b)(1)(B)(iii). On February 11, 2008, the Department of the Interior accepted the land into trust and published notice in the federal register. 73 Fed. Reg. 7758-7759 (Feb. 11, 2008). Therefore, I adopt the conclusions of this decision and its record.

This letter constitutes approval of the amendment because nothing therein conflicts with the requirements of the Indian Gaming Regulatory Act (IGRA) and the Commission's regulations.

Thank you for submitting the amendment for review and approval. If you have any questions, please contact Staff Attorney Rebecca Chapman at (202) 632-7003.

Sincerely,

Philip N. Hogen
Chairman

ORDINANCE NO. 95-04, AS AMENDED APRIL 9, 2008

APR 29

ELK VALLEY RANCHERIA, CALIFORNIA
TRIBAL GAMING ORDINANCE

1. PURPOSE

The Elk Valley Rancheria ("Tribe"), as the beneficial owner of the Indian Rancheria, and acting through its Tribal Council in the exercise of its inherent sovereign power to enact ordinances and otherwise safeguard and provide for the health, safety and welfare of the Indian Rancheria or Reservation and the members of the Tribe, hereby enacts this Ordinance to set the terms and conditions under which Class II and Class III gaming may be conducted on the Reservation.

2. APPLICABILITY

Unless specifically indicated otherwise, all provisions of this Ordinance shall apply to both Class II Gaming and Class III Gaming including, but not limited to, all licensing and background investigation procedures.

3. DEFINITIONS

Unless a different meaning is clearly indicated, the terms used in this Ordinance shall have the same meaning as defined in the Indian Gaming Regulatory Act, Public Law 100-497, 25 U.S.C. Section 2710, et seq. (the "Act").

3.01 Calendar Year. The period beginning October 1 at 12:00:00 a.m. and ending the immediately following September 30 at 11:59:59 p.m.

3.02 Chairman. The Chairman of the Elk Valley Rancheria (hereinafter "Elk Valley Rancheria") Gaming Commission.

3.03 Class I Gaming. Playing of social games solely for prizes of minimal value or traditional forms of Indian Gaming engaged in by individuals as part of or in connection with Tribal ceremonies or celebrations.

3.04 Class II Gaming. Subject to the limitations of (d), below, Class II Gaming includes the playing or operation of:

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

(i) Which is played for prizes, including monetary prizes, with cards bearing numbers or other designations;

(ii) In which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and

(iii) In which the game is won by the first person covering a previously designated arrangement of 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; OR

(b) Card games that are;

(i) Explicitly authorized by laws of the State of California; or

(ii) Are not explicitly prohibited by the laws of the State of California and are played at any location in the State of California, but only such card games.

(c) Other games classified as Class II by the State of California or the federal government.

(d) The term Class II Gaming does not include:

(i) Any card games banked by the house, including Baccarat, Chemin de Fer, Blackjack (21); or

(ii) Electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.

3.05 Class III Gaming. Class III Gaming includes all forms of gambling that are not Class I or Class II Gaming.

3.06 Commission. The Elk Valley Rancheria Gaming Commission.

3.07 Commissioner or Commission Member. One of the members of the Commission.

3.08 Tribal Council. The Elk Valley Rancheria Tribal Council, the governing body of the Tribe.

3.09 Gaming or Gaming Activity. The dealing in, operation of, or maintenance of any game played with: Cards, dice, equipment of any mechanical, electromechanical or electronic device or machine for money, property, checks, credit or any representative of value, including, without limiting the generality of the foregoing, Faro, Monte, Roulette, Keno, Bingo Fan-Tan, Bingo, Twenty-one (Blackjack), Seven-and-a-Half, Big Injun, Klondike, Craps, Poker, Chuck-a-Luck, Chinese Chuck-a-Luck (Dai-shu), Wheel of Fortune, Chemin de Far, Baccarat, Pai-Gow, Beat the Banker, Panguingue, slot Machine,

Video Poker Machines, Pull-tabs, any banking or percentage game, or any other game or device approved by the Commission. The term does not include games played with cards in private homes or residences in which no Person makes or charges money for operating the game, except as a player.

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

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

3.12 Gross Revenue. The total monetary value that would be due to any operator of a Gaming Activity for chances taken, for all table fees for card playing, and all other fees charged for participation or admittance, as evidenced by required records. The value shall be stated in U.S. currency, before any deductions or allowances for prizes, payout of winnings, cost of operations, taxes, labor expenses, equipment or material used, or any other expenses. In the absence of records, Gross Revenue shall be the maximum that would be due to an operator from that particular activity if operated at a maximum capacity.

3.13 Key Employee.

(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 persons in the gaming operation.

3.14 Licensee. Any Person who has been issued a valid and current Gaming license pursuant to the provisions of this Ordinance.

3.15 Net Revenues. Gross Revenues of a Gaming Activity less amounts paid out for prizes, winning and total Operating Expenses, but excluding Management Fees.

3.16 Management Contract or Contract. Any contract, agreement or other document establishing a relationship between the Tribal government and any Person in which such a Person has managerial responsibilities for a Tribal-owned Class II or III Gaming Activity. The term Management Contract shall include all collateral agreements, but does not include an employment contract between the tribe and any natural person.

3.17 Management Fee. Any monies paid from Gaming revenue to any Person contracted and/or licensed to operate a Gaming Activity. Such term shall not include monies paid to the owner of a Gaming Activity licensed pursuant to this Ordinance or to salaries paid to employees.

3.18 Operating Expenses. Any expense incurred in the daily operation of a Gaming Activity that is specifically designated as an operating expense incurred in the Management Contract; provided that in the case of an establishment licensed by the Tribe pursuant to this Ordinance, the term shall also mean any expense specifically designated as an operating expense in any regulation adopted by the Commission.

3.19 Patron. Any person or group of persons who participates as players in games as defined in this Ordinance on the Reservation, or who are physically present at Gaming Facilities.

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

3.21 Primary Management Official.

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

(b) Any person who has authority:

(1) To hire and 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.

3.22 Regulations. The regulations of the Commission promulgated under or in furtherance of this Ordinance.

3.23 Reservation.

(a) The area of approximately 100 acres lying within the survey boundaries of the Elk Valley Rancheria in Del Norte County, California.

(b) Any land meeting the definition of "Indian lands" as defined in the IGRA, including but not limited to the Martin Ranch property.

3.24 Tribal-State Compact or Compact. A written document, either negotiated and agreed to by the Elk Valley Rancheria and an official or agency of the State of California or prescribed by the Secretary pursuant to 25 U.S.C. § 2710(7)(B)(vii), governing the conduct of Class III Gaming Activity on the Reservation.

3.25 Tribe. The Elk Valley Rancheria, California, a federally recognized Indian tribe.

3.26 Words and Terms. In construing the provisions of this Ordinance, except when otherwise plainly declared or clearly apparent from the context:

(a) Words in the present tense shall include the future tense;

(b) Words in the masculine, feminine and neuter genders shall include all genders; and

(c) Words in the singular shall include the plural, and in the plural shall include the singular.

4. GAMING AUTHORIZED

4.1. 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. §502.3 (as published in the Federal Register at 57 FR 12382-12393, April 9, 1992) is hereby authorized, provided such gaming is also authorized by and consistent with a Tribal-State Compact that has been approved by the Secretary of the Interior and Is in effect, or otherwise has been authorized by the Secretary of the Interior or federal law.

4.2. Class III gaming as defined in the Indian Gaming Regulatory Act and by the regulations promulgated by the National Indian Gaming Commission at 25 C.F.R. § 502.4 is hereby authorized, provided such gaming is also authorized by and consistent with a Tribal-State Compact that has been approved by the Secretary of the Interior and is in effect, or otherwise has been authorized by the Secretary of the Interior or federal law.

4.3. Unauthorized Gaming. No person shall conduct any Gaming activity within the Reservation without the authority of the Tribe. Any Indian who commits any act of unauthorized Gaming within the Reservation shall be guilty of a crime and may be prosecuted in the Elk Valley Rancheria Tribal Court. Pending establishment of a Tribal Court, the Tribal Council may exercise the jurisdiction of the Tribal Court as established in these regulations. Prosecution for such a crime in Elk Valley Rancheria Tribal Court is not meant to be exclusive. A finding of guilt or innocence shall not deprive the Federal Government or State government of criminal jurisdiction.

5. OWNERSHIP OF GAMING FACILITIES AND/OR ENTERPRISES

The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation facilities and/or enterprise(s) authorized by this Ordinance, provided, however, that the Tribe may, in accordance with IGRA, enter into a management contract for management of the gaming operation. Further, the Tribe may contract with and license a person or entity to engage in gaming pursuant to the provisions of the IGRA and the regulations promulgated thereunder, or as otherwise permitted by law.

6. USE OF GAMING REVENUE

6.1. Net revenues from Class II and Class III gaming on the Reservation shall be used only for the following purposes:

a) To fund Tribal government operation and 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 organization; or

e) To help fund operations of local government agencies.

6.2. If the Tribe elects to make per capita payments to Tribal Members, it shall authorize such payments only in conformity with a plan submitted to and approved by the Secretary of the Interior pursuant to 25 U.S.C. § 2710(b)(3).

7. TRIBAL GAMING COMMISSION.

7.01 Establishment of Commission. The Elk Valley Tribal Gaming Commission is hereby established. The Commission shall consist of three (3) Members appointed by a majority vote of the Tribal Council. All three (3) Members of the Commission shall be full-time, at will employees and will serve at the discretion of the Tribal Council. The Chairperson of the Commission shall supervise the other Members of the Commission and any Commission employees. The Tribal Council shall fill vacancies on the Commission within 30 days of a vacancy.

7.02 Restrictions on Commissioners. Commissioners may hold other Tribal positions and engage in business; provided, however, that Commissioners shall **not** engage in any business that is subject to the provisions of this Ordinance. Commissioners may not gamble in the Gaming Activity nor have any personal financial interest in any gambling by any Person. No member of the Tribal Council shall serve as a member of the Commission during that person's term on the Tribal Council. A Commissioner shall immediately resign from the Commission upon the Commissioner's conviction in a Federal or State Court of competent jurisdiction for any felony or for any misdemeanor related to illegal gambling or bribery or upon conviction in the Tribal Court of any charge that the Tribal Council finds relates to the Commissioner's honesty or ability to fulfill his duties. If a Commissioner is convicted of violating any part of this Ordinance, he shall immediately resign from the Commission.

7.03 Code of Ethics. The Commission may adopt and revise from time to time a Code of Ethics regulating the conduct of the Commissioners and Commission Staff.

7.04 Compensation of Commissioner. Commissioners shall be compensated at the rate to be established annually by the by the Tribal Council. Commissioners shall submit personal expense receipts to the Tribal Council and shall be reimbursed for actual expenses incurred on Commission business, including necessary travel expenses. Commissioners shall be eligible for fringe benefits similar to those as established for employees of the Elk Valley Rancheria, including but not limited to health insurance, dental insurance, vision insurance, life insurance, retirement program(s) and other similar benefits.

7.05 Selection of Chairperson. The Chairperson shall be appointed by the Tribal Council. The Commission may also select from among its members such other officers as it deems appropriate.

7.06 Meetings Open to the Public. General meetings of the Commission may be open to the public. Closed sessions may be held for good cause, including protecting the privacy of Persons, considering personnel matters, considering licensing determinations, reviewing background investigations, hearing complaints against individuals, and considering whether to include Persons on

the list of excluded individuals. All meetings shall be governed by Roberts Rules of Order or such other procedures as the Commission may adopt. Nothing herein shall preclude a vote from being taken by the Commission by telephone poll in an emergency when circumstances do not allow a meeting of the full board in one location in a timely manner.

7.07 Quorum Required. A quorum shall consist of two (2) members of the Commission. A quorum shall be required for any vote or decision by the Commission. All decisions shall be made by a majority vote of those present, unless indicated otherwise in this Ordinance.

7.08 Monthly Reports. The Commission shall make monthly reports to the Tribal Council within 30 days after the close of the month for which the information is being required. The reports shall include a full and complete statement of Gaming revenues paid to the Tribe, expenses and all other financial transactions of the Commission and a summary of all licensing and enforcement actions. Such reports may be in the form of minutes of the Commission meetings supplemented by any additional documents as may be appropriate. Monthly reports from the Comptroller may suffice for the financial reports required in this section.

7.09 Powers. The Commission shall exercise all powers necessary to effectuate the purposes of the Gaming Ordinance. The Commission may exercise any proper power and authority necessary or convenient to perform its responsibilities under this Ordinance or the Gaming Ordinance. The Commission shall meet not less than once each month to make recommendations and set policy, to approve or reject reports of the casino management, and transact other business that may be properly brought before it.

7.10 Prior Notice of Actions. In adopting, amending and repealing regulations, the Commission shall give prior notice of the proposed action to all Licensees and other Persons whom the Commission has reason to believe have a legitimate interest in such proposed action. Said notice shall inform such Persons as to the general nature of the proposed action and advise them as to the manner in which comments on said proposed action shall be received by the Commission. Notice may be given by posting for at least one week at a place designated by the Commission within the Casino office complex. In emergencies, the Commission may summarily adopt, amend or repeal any regulation if at the time, the Commission determines such action is necessary for the immediate preservation of the public peace, health, safety, morals, good order or general welfare, together with a statement of facts constituting the emergency; provided, however, that the Commission shall schedule such emergency action for a regular hearing within 60 days.

7.11 Request for Commission Action. Any Person who is determined by the Commission to be a real party in interest may file a petition in a manner and form approved by the Commission requesting the adoption, amendment or repeal of a

regulation. Upon receipt of the petition, the Commission shall within 30 days deny the request in writing or schedule the matter for action pursuant to Code.

7.12 Appointment of Staff. The Commission may appoint such staff as it determines appropriate, with the budget approved by the Tribal Council, who shall be responsible for the day-to-day management of the affairs of the Commission. Such staff may include support personnel as may be appropriate.

7.13 Duties of the Commission. The Commission shall perform all duties, exercise all powers, promulgate all regulations, assume and discharge all responsibilities and carry out and affect all purposes of the Gaming Ordinance and of this Ordinance relating to the establishment of all Gaming activity. In all decisions, the Commission shall act to promote and ensure the integrity, security, honesty and fairness of the operation and administration of all Gaming Activity. The Commission's duties shall include, but not be limited to, the following:

(a) Ensuring that all gaming fees of all Gaming Activities are sent to the National Gaming Commission on a timely basis.

(b) Corresponding with the National Indian Gaming Commission and doing whatever is necessary to be in compliance with the rules and regulations of that agency.

(c) Assuring that all Gaming Activity is conducted in a manner, which adequately protects the environment and the public health and safety.

(d) Establishing an adequate system to include finger print clearances with the California Department of Justice or with the National Indian Gaming Commission, which ensures that background investigations are conducted on all Primary Management Officials and Key Employees of any Gaming Activity and that oversight of such officials and their management is conducted on an ongoing basis. The Commission will have final authority regarding the granting of Tribal licenses for Primary Management Officials and Key Employees and other persons. The Commission shall immediately notify the National Gaming Commission of the issuance of such licenses. The Commission will review all applications and background investigations to ensure that no Person shall be eligible for employment in or with any part of the gaming Activity if that Person's prior activities, criminal record or reputation, habits 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 practice, methods and activities in to conduct the Gaming. The Commission shall notify the National Indian Gaming Commission of the results of such background checks before the issuance of such licenses.

(e) Conducting surveillance activities at the Elk Valley Casino as is appropriate for a casino operation of such size and character in compliance with requirements of the National Gaming Commission.

(f) Hiring such professional, clerical, technical and administrative personnel as may be necessary to carry out the provisions of the Gaming Ordinance;

(g) Reviewing all records, documents and anything else necessary and pertinent to enforcement of any provisions of Gaming Ordinance; and

(h) Determining whether sanctions should be imposed on any Person subject to the jurisdiction of the Gaming Ordinance.

7.14 Right of Inspection. The Commission and its agents, inspectors and employees, upon formal Commission action have the authority to:

(a) Inspect and examine all Gaming Facilities and premises where gambling devices or equipment are manufactured, sold or distributed;

(b) Inspect all equipment and supplies in, upon or about a Gaming Facility, or inspect any equipment or supplies, wherever located, which may have or have been used in the Gaming Facility;

(c) Summarily seize and remove from a Gaming Facility, of wherever located, and impound such equipment of supplies for the purpose of examination, inspection, evidence or forfeiture;

(d) Demand access to and inspect, examine and audit all papers, books and records of applicants and license respecting any income produced by any Gaming Activity and require verification of income and all other matters affecting the enforcement of the policy of or any of the provisions of the Gaming Ordinance;

(e) Seize and impound any Patron's winnings which the Commission has reason to believe may have been won or obtained in violation of the Gaming Ordinance pending a civil forfeiture of earnings of such seizure;

(f) For the purpose of administration and enforcement of the Gaming Ordinance, the Commission and its investigative personnel may, if deemed necessary by the Tribal Council, have the powers of the peace officer of the Elk Valley Rancheria for purposes of enforcement of the Gaming Ordinance; and

(g) The Commission shall have full power and authority to issue subpoenas and compel the attendance of witnesses for hearings at any place within the Reservation, to administer oaths and to require testimony under oath. Any process or notice may be served in the manner provided for service of the process and notices in civil actions. The Commission may pay such transportation and other expenses of witnesses, as it may deem reasonable and proper.

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

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

7.17 Processing Employee and Patron Complaints. The Commission may receive any complaint from an employee of any Gaming Activity or any member of the public who is or claims to be adversely affected by an act or omission of the Gaming Activity which is asserted to violate the Ordinance, the Compact, or this Ordinance adopted pursuant to the Ordinance, and may upon consideration of such complaint order such remedial action as it deems appropriate to bring the Gaming Activity into compliance with such provisions. The Commission may for this purpose, in its sole discretion, conduct a hearing and receive evidence with regard to such complaint if it deems an evidentiary proceeding useful in the resolution of such complaint.

7.18 Violations of Gaming Regulation – Punishment. Any violation of this Ordinance shall be punished by a fine of no more than $5,000 for each separate count or violation, or one (1) year in jail or both. Each day of violation shall

constitute a separate count or violation. A violator may also be required to pay court costs, storage fees and auction or sales fees. All property used or which may be used in activities in each and every separate violation of this Ordinance may become the property of the Tribe. Persons may be prohibited from trespassing on premises licensed under this Ordinance, licenses may be suspended, revoked or limited, and establishments may be forcibly closed. All such action shall be taken at the discretion of the Commission, subject to the right of appeal to Tribal Court. Winnings found to have been received in violation of this Ordinance are forfeited and become the property of the Tribe.

7.19 Limitations Period. No fine shall be assessed, nor any action taken for any violation under the preceding Section unless a charge is filed in proper form with the Commission or Tribal Court within two (2) years of the commission of the offense.

7.20 Special Agents. The Commission may authorize special agents to perform services reasonably necessary to assure compliance with the provisions of the Gaming Ordinance. Said special services of enforcement and surveillance shall be under the authorization and direction of the Compliance Officer, unless otherwise determined by the Commission. This section shall in no way be deemed to limit the normal law enforcement functions of theses or other Tribal law enforcement officers not so authorized.

7.21 Limitation on Gifts & Compensation. Commissioners, Commission staff, and their immediate families shall receive no personal compensation, gift, reimbursement or payment of any kind from any Person doing or wishing to do business with the Tribe relating to Gaming, nor with any Person wishing to obtain an unfair advantage in any authorized wager on Gaming, except as may be authorized in a duly adopted Code of Ethics. Any Person suspected of violating this provision may be prosecuted to the fullest extent possible under Tribal Law for accepting a bribe, and any property received in violation of this provision shall be forfeited to the Tribe. The Commission shall cooperate to the fullest extent possible with any federal or state law enforcement agency to pursue prosecution under applicable federal or state law.

8. LICENSING

8.01 Mandatory License. Any Person seeking to conduct, operate or manage any Gaming Activity on the Reservation shall apply for and receive all the required licenses from the Commission prior to engaging in such Gaming Activities. Any person seeking to conduct, operate, or manage Gaming Activities without first obtaining the required licenses shall be deemed in violation of this Ordinance and shall be punished in accordance with this Ordinance. Nothing in this section shall prohibit a Person from being temporarily employed in a Gaming Activity after being hired for a short period of time, not to exceed thirty days, pending the grant of a temporary license in conformance with background investigation and licensing procedures adopted by the Commission.

8.02 Authorization of Class II Gaming Activity; Net Revenue Allocation; Audits; Contracts.

(a) A separate license issued by the Commission shall be required for each place, facility or location within the Reservation at which any Class II Gaming Activity is conducted.

(b) The Commission may license and regulate a Tribally-Owned Class II Gaming Activity if:

(i) Such Gaming Activity is located on The Reservation and the State of California permits such Gaming for any purpose by any Person, organization or entity and such Gaming is not otherwise specifically prohibited on Indian lands by federal laws; and

(ii) The Tribe will have the sole propriety interest and responsibility for the conduct of such Gaming Activity; and

(iii) Net Revenue from such Gaming Activity is used in accordance with the Tribal Ordinance and federal law; and

(iv) Such Gaming activity is subject to annual outside audits, which may be encompassed within existing independent Tribal audit systems and provided to the Tribal Council; and

(v) All contracts for supplies, services or concession for an aggregate amount in excess of $25,000 annually relating to such Gaming Activity are also subject to independent audits; and

(vi) The construction and maintenance of the Gaming Facility and the operation of that Facility is conducted in a manner which adequately protects the environment and the public health and safety; and

(vii) All Primary Management Officials and Key Employees of the Class II Gaming Activity have successfully passed a background investigation, which is approved, by the Tribe and the National Indian Gaming Commission or are in the process of being licensed in conformance with the procedures adopted by the Commission.

8.03 Issuance of Tribal Gaming Licenses – Objections. The Commission shall consult with appropriate law enforcement officials concerning any Gaming licenses it may issue. If, after issuance of a Gaming license by the Commission, reliable information is received that a Licensee does not meet the standard established under Section 8.08 of this Ordinance, the Commission shall suspend such license and, after notice and hearing, may revoke such license.

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

(a) Such Gaming meets the requirements of Section 3.05; and

(b) Such Gaming is conducted in conformance with the terms and conditions of a valid Tribal/State Compact entered into by the Tribe and the State of California.

8.05 Non-transferability of Licenses. Any license issued pursuant to the provisions of the Gaming Ordinance is valid only for the Person shown on the face thereof, and only at the place of business shown on the face thereof. It is not assignable or otherwise transferable to any other Person or for any other location without approval of the Commission. Transfer of fifty percent (50%) or more of the ownership of an entity that is a licensee is a transfer of the license, which may be accomplished only with Commission approval.

8.06 Granting of License – Majority Vote. To approve the initial issuance of any license pursuant to this Ordinance, a quorum of the Commission must be present with a majority vote of approval by said quorum required. A license will not be issued to a Person whose license has been previously revoked, or to whom the issuance of renewal of a license has been denied, except with the unanimous approval of the Commission Members.

8.07 Application Fee. The Commission may set a fee for applications, background investigations and licenses. All money orders or checks for such fees shall be made payable to the Elk Valley Rancheria and delivered to the Tribe's accounting office. Nothing herein shall prohibit the Commission from collecting fees for applications, background investigations and licenses through payroll deduction.

8.08 Background Investigation. No license shall be granted to any Person who has been determined to be a Person whose prior activities, criminal record or reputation, habits and associations pose a threat to the public interest or to the effective regulation and control of Gaming, or create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of Gaming or the carrying on of the business and financial matters incidental thereto.

8.09 Failure of Applicant to Disclose Material Information. An applicant for licensing shall make true and full disclosure of all information to the Commission as necessary or appropriate in the public interest or as required in order to carry out the policies of the gaming Ordinance relating to licensing and control of the Gaming industry. It is the duty of the applicant to disclose all information material to whether his involvement with Gaming would jeopardize or compromise the Tribal interest, whether or not the applicant has been specifically requested to

provide that information. It shall constitute a violation of the Gaming Ordinance to fail to disclose, to mislead or to misstate any material information to the Commission, or to any Licensee's employer. Any failure to disclose, misstatement, or furnishing of misleading information shall be grounds for denial, suspension, or revoking of a license.

8.10 Temporary Employment License. The Commission may issue a temporary employment license to any Person applying for a license to work in a licensed Gaming Activity, which shall be valid pending the background investigation of the applicant. In no event shall a temporary license be valid for greater than 180 days.

8.11 Parameters of Licenses. Violation of any provision of the Gaming Ordinance or of any of the regulations in this Ordinance by a Licensee, his agent or employee shall be deemed contrary to the public health, safety, morals, good order and general welfare of the Tribe and the inhabitants of the Elk Valley Rancheria and shall be deemed grounds for refusing to grant or renew a license, suspension or revocation of a license or shall constitute grounds for the Commission to file charges in Tribal Court. Acceptance of a Gaming license or renewal thereof, or condition imposed thereof by a Licensee, constitutes an agreement on the part of the Licensee to be bound by all the regulations and conditions of the Commission and by the provisions of the Gaming Ordinance as the same are now, or may hereafter be amended or promulgated, and to cooperate fully with the Commission and its staff. It is the responsibility of the Licensee to keep informed of the contents of the Gaming Ordinance and all such regulations, amendments, provisions and conditions; ignorance thereof will not excuse violations.

8.12 Voting on Licensing; Notice Procedures & Review Hearings. Any Commission vote to approve, disapprove, revoke, suspend, limit or condition a license may be conducted by secret ballot. Following a determination by the Commission, the applicant or licensee shall be notified in writing of the suspension or revocation by either personal service, or certified mail to the last known address provided to the Commission. The Commission is not responsible for undeliverable mail. Should an applicant or licensee disagree with the determination of the Commission, the applicant or licensee shall submit a written statement to the Commission office within ten (10) days from the date of the postmark on the written notice of determination. The Commission shall hold a hearing to review its decision no less than twenty (20) days from the date the applicant or licensee file his/her disagreement with the Commission. The applicant or licensee shall be notified in writing of the date time and place for the review hearing. At the hearing, the burden shall be on the applicant to show cause why the Commission's determination was incorrect.

8.13 Commission Findings Following Review Hearing. Following such review hearing, the Commission shall within ten (10) days reach a determination concerning:

(a) The accuracy of any preliminary certifications of facts; and

(b) Whether the license in question should be denied, granted, continued, suspended, revoked, conditioned or limited; and

(c) Whether any other action recommended to the Commission including, but not limited to, forfeitures, should be taken.

8.14 Notification of Commission Decision. Within three (3) working days following a determination, the Commission shall inform the applicant or licensee in writing of that determination. Written notification may be delivered to the subject in person, by fax, or by mailing to the subject's last known address.

8.15 Right to Appeal. The applicant or licensee shall have a right to appeal the determination of the Commission to the Tribal Court in written form on or before the tenth (10th) day following receipt of the written determination of the Commission. A determination of such appeal by the Tribal Court shall be final and no further action may be had. In any appropriate case, which has been referred to the Tribal Court or Tribal Council for final action, the Tribal Court shall review the determination of the Commission. The Tribal Court review shall be limited to a determination of whether there exists substantial evidence to support the Commission's determination. The Court's action shall be final and no further appeals may be made.

8.16 Ability to Re-Apply for a License. After a review hearing, if an Applicant's or Licensee's license has been denied, suspended, or revoked, the applicant or Licensee shall not be permitted to re-apply for a license for at least one year from the date of the denial, suspension, or revocation.

9.0 MANAGEMENT CONTRACTS

9.01 Commission Licensing of Management Contractor Required.

(a) Any Management Contract entered into by the Tribe for the operation and management of Class II and/or Class III Gaming Activity must provide that the Parties in Interest associated with the Management Contractor shall submit to a suitability determination by and licensing requirements of the Commission. The Commission may require and obtain the following information:

(i) The name, address and other additional pertinent background information on each Person including, in cases involving entities, each individual, partner, officer, shareholder, and director comprising such entity having direct financial interest in, or management responsibility for, such Contract; and in the case of a corporation, those individuals who serve on the board of directors of such corporation and each of its stockholders who hold, directly or

indirectly, 10% or more of its issued and outstanding stock; and

(ii) A complete financial statement of each Person listed pursuant to subsection (i) above.

(b) Any Person listed pursuant to subsection (a)(i) above shall be required to respond to such written or oral questions that the Commission may propound in accordance with its responsibilities under this Ordinance.

(c) The Commission may require management contractors and potential management contractors to pay a fee as set from time to time to cover the cost of the investigation necessary to reach a suitability determination as required by this Ordinance.

9.02 Provisions of Management Contracts. Any Management contract entered into by the Tribe may include the following provisions:

(a) That accounting procedures are maintained and verifiable financial reports are prepared, by or for the Tribal Council, on a monthly basis;

(b) For access to the daily operations of the Gaming Facility to appropriate Tribal officials and their accountants and assistants, who shall also have a right to verify the daily Gross Revenues and income made from any such Tribal Gaming Activity;

(c) For a minimum guaranteed payment to the Tribe that has preference over the retirement of development and construction costs;

(d) For an agreed ceiling for the repayment of development and construction costs;

(e) For a Contract term not to exceed five (5) years, except that, upon the request of the Tribe, a Contact term that exceeds five (5) years but does not exceed seven (7) years;

(f) For grounds and mechanisms for terminating such Management Contract; and

(g) That preference will be given to Tribal members and non-member Indians in hiring of employees for the Gaming Activity.

9.03 Percentage-of Net-Revenue Fees. A Management Contract providing for a fee based upon a percentage of the Net Revenues of a Tribal Gaming Activity shall not exceed 30% of the Net Revenue unless the Tribal Council is

satisfied that the capital investment required, and the income projections for such Tribal Gaming Activity, justify an additional fee – in no event to exceed 40% of Net Revenue.

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

10.0 AUDITING AND INTERNAL CONTROL

10.01 Minimum Procedure for Control of Internal Fiscal Affairs. The Commission shall ensure promulgation of regulations for the control of internal fiscal affairs of all Gaming Activities. At a minimum, those regulations shall:

(a) Prescribe minimum procedures for safeguarding the Gaming Activities' assets and revenues, including recording of cash, evidence of indebtedness and mandatory count procedures. Such procedures shall establish a control environment, accounting system and control procedures that safeguard the assets of the organization, assure that operation transactions are properly recorded, and promote operational efficiency and encourage adherence to prescribed policies;

(b) Prescribe minimum reporting requirements to the Commission;

(c) Provide for the conducting, adoption and use of audits by external auditors who are Certified Public Accountants licensed to practice public accounting in the State of California;

(d) Formulate a uniform code of accounts and accounting classifications to assure consistency, comparability and effective disclosure of financial information. Such code shall require that records be maintained that reflect statistical drop (amount of cash wagered by Patrons), statistical win (amount of cash won by the Gaming Activity) and the percentage of statistical win to statistical drop, or provide similar information for each type of game or Gaming Device;

(e) Prescribe the intervals at which such information shall be furnished;

(f) Provide for the maintenance of documentation (i.e., checklists, programs, reports) to evidence all internal work performed as it relates to the requirements of this section; and

(g) Provide that all financial statements and documentation referred to in subsection (f) be maintained on the Reservation for a minimum of five (5) years.

10.02 Commission Oversight of Internal Fiscal Affairs. The Commission shall require audits of the financial statements of all Gaming Activities. Such audits must:

(a) Be made by independent Certified Public Accountants holding a permit issued by the State of California to practice public accounting;

(b) Include an opinion (qualified or unqualified), or if appropriate, disclaim an opinion on the financial statements taken as a whole in accordance with standards of the accounting profession established by rules and regulation of the California State Board of Accountancy and the American Institute of Certified Public Accountants;

(c) Disclose whether the accounts, records and control procedures maintained by the Gaming Activity are as required by the regulation promulgated by the Commission under 10.01; and

(d) Provide for a preliminary review of the internal control structure, upon adoption of the policies and procedures by the entity, to disclose any deviation from prescribed rules and regulations and report such finding to the Commission and management.

10.03 Commission's Right to Conduct Audits. The Commission is authorized to retain its own appointed accountants, or to direct an accountant employed by the Tribe, to conduct audits of all Gaming Activities.

10.04 Prohibition Against Embezzlement. Any delay, maneuver or action of any kind which in the opinion of the Commission is effectuated by any Licensee to unlawfully divert Gaming proceeds or other proceeds properly belonging to the Tribe shall constitute grounds for taking disciplinary action against the Licensee. If the Commission finds an unlawful diversion was attempted, it shall sanction the Licensee. Sanctions may include restitution, fining, revoking, suspending, limiting or refusing to renew the license. The Commission or Tribal Council may also seek prosecution of the offender under Tribal, State, and federal laws.

10.05 Non-Compliance. Failure to comply with this Ordinance or the regulations promulgated hereunder shall constitute a per se violation of these regulations.

10.06 Minimum Internal Control Standards.

(a) Applicable Standards. The Commission shall comply with 25 CFR Part 542 ("MICS") by formally adopting and making applicable to the Tribe's gaming operation internal control standards that:

(1) Provide a level of control that equals or exceeds those set fort in 25 CFR Part 542, as published or as revised by mutual agreement between the National Indian Gaming Commission ("NIGC") and the Tribe; and

(2) Contain standards for currency transaction reporting that comply with 31 CFR Part 103; and

(3) Establish internal control standards for Class II and Class III games that are not addressed in the MICS, if any.

(b) Annual CPA Testing of Compliance. In order to verify that the gaming operation is in compliance with the internal control standards adopted pursuant to Section 10.06(a), an independent certified public accountant ("CPA") shall be engaged annually to perform "Agreed-Upon Procedures" in the manner provided in 25 CFR § 542.3(f).

(c) Compliance. The Tribal gaming regulatory authority and the NIGC shall monitor and enforce compliance with the internal control standards adopted pursuant to Section 10.06(a) in the manner provided for in 25 CFR § 542.3(g). In addition, the NIGC shall, for purposes of enforcing compliance with the internal control standards, have authority to:

(1) Monitor all Class II and Class III gaming on a continuing basis;

(2) Inspect and examine all premises on which Class II or Class III gaming is conducted; and

(3) Demand access to and inspect, examine, photocopy, and audit all papers, books, and records respecting gross revenues of all Class II and Class III gaming or any other matters necessary to ensure and enforce compliance with the MICS.

(d) Enforcement. Any failure to adopt internal control standards pursuant to Section 10.06(a), to perform Agreed-Upon Procedures pursuant to Section 10.06(b), to prevent or obstruct the exercise of any of the NIGC's authority under Section 10.06(c) or to comply with the internal control standards once adopted is a violation of this Ordinance. The Chairman of the NIGC shall have the authority to remedy violations of this Ordinance under 25 USC § 2713 and its implementing regulations, and the Tribe shall have all rights and remedies available thereunder.

11.0 REVIEW AND APPROVAL OF GAMING.

11.01 Prohibition Against Gaming. No Person duly authorized by the Commission to conduct Gaming shall engage, conduct or condone any game unless and until such game is approved by the Commission, a valid license has been issued and all fees paid by the Licensee, and procedures governing such game have been duly approved by the Commission.

11.02 Grace Period. The prohibition contained in 11.01 shall not apply to those games already being played as of the date of the enactment of this Ordinance; provided that the Licensee conform to the rules promulgated hereunder within five (5) days of such promulgation.

11.03 Authorization of Gaming. The Commission may authorize the playing of any game not prohibited by the laws of the State of California. The Commission shall approve rules and procedures governing all authorized games, including rules governing Gaming Equipment, including without limitation chips, dice, cards and tiles. Any provision in a Compact with the State of California providing for notice to and comment from the State shall be complied with before any game is authorized by the Commission.

11.04 Approval of Gaming Equipment. The Commission shall have the discretion to review, and to reject or approve, all Gaming Equipment and other devices used in the Gaming Activity as to quality, design, integrity, fairness, honesty and suitability.

(a) The Commission may require a prototype or sample of any model of Gaming Equipment or other device used in the Gaming Activity to be placed in the custody of the Commission and retained by it as a control for comparison purposes.

(b) Any evidence that Gaming Equipment or other devices used in the Gaming Operation has been tampered with or altered in any way, which would affect the integrity, fairness, honesty or suitability of the equipment or device, shall be immediately reported to the Commission.

11.05 Posting of Rules. The rules of each game offered at any duly licensed Gaming Facility shall be maintained in a location at the Gaming Facility and shall be clearly legible and available for public inspection upon request.

11.06 Gaming Rules & Procedures. The management of a Gaming Facility may adopt rules and procedures governing the operations of all Gaming Activity with the approval of the Commission. Such rules and procedures shall be complied with until such time as modified with the approval of the Commission. Management may adopt emergency changes to such rules and procedures, however such changes shall be in writing and must be presented to the

Commission for approval or rejection no later than at its next regularly scheduled meeting.

12. EXCLUSION OR EJECTION OF INDIVIDUALS

12.01 Exclusion List. The Commission may provide for the establishment of a list of persons who are to be excluded or ejected from any duly licensed Gaming Facility. The list may include any person whose presence in the Gaming Facility is determined by the Commission to pose a threat to the interests of the Tribe, State of California or to licensed Gaming. Race, color, creed national origin, ancestry or sex must not be grounds for placing the name of a person on the list.

12.02 Notice and Opportunity to be Heard. The Commission shall promulgate regulations providing fair notice and opportunity to be heard to any individuals whose name is being contemplated by the Tribe to be placed on the list referred to in 12.01. Such regulations must provide the person an opportunity to show cause why his name should be deleted from the list.

12.03 Prohibition Against Listed Individuals. It shall be a violation of this Ordinance for any Licensee to knowingly fail to exclude or eject from a Gaming Facility any persons placed on the list referred to in 12.01. It shall be a violation of this Ordinance for any person whose name appears on the list referred to in 12.01 to enter into or engage in any game at a duly licensed Gaming Facility.

12.04 Prohibition Against Certain Individuals. It shall be a violation of this Ordinance for any Licensee to fail to exclude or eject from a Gaming Facility any individual who:

(a) Is visibly under the influence of liquor or any narcotic or such other substance; or

(b) Is under the age of eighteen (18) years.

13. CHEATING

13.01 Unlawful Acts. It is unlawful for any Person to:

(a) Alter or misrepresent the outcome of a game or other event on which wagers have been made after the outcome is made sure, but before it is revealed to the players;

(b) Place, increase or decrease a bet, or to determine the course of play, after acquiring knowledge not available to all players, of the outcome of the game or knowledge that is the subject of the bet or wager;

(c) Aid anyone in acquiring such knowledge as set forth in subsection (b) above, for the purpose of increasing or decreasing a bet or

wager, or for the purpose of determining the course of play contingent upon that event or outcome;

(d) Claim, collect or attempt to claim or take money or anything of value in or from a licensed game with intent to defraud, without having made a wager contingent thereon, or to claim, collect or take an amount greater than the amount won;

(e) Knowingly entice or induce another to go to any place where a Gaming Activity is being conducted or operated in violating of the provisions of this Chapter, with the intent that the other person play or participate in that Gaming Activity;

(f) To place or increase a bet or wager after acquiring knowledge of the outcome of the game or event which is the subject of the bet or wager, including past-posting and pressing bets;

(g) To reduce the amount wagered or cancel the bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet or wager, including pinching bets; or

(h) To manipulate, with intent to cheat, any component of Gaming Equipment in a manner contrary to the designed and normal operational purpose for the component, with knowledge that the manipulation affects or may affect the outcome of the game or with knowledge of any event that affects the outcome of the game.

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

14. NATIONAL INDIAN GAMING COMMISSION & TRIBAL-STATE COMPACT

14.01 – National Indian Gaming Commission – Regulations. Notwithstanding any provision in the Gaming Ordinance, this Ordinance or any regulation promulgated thereunder, the Commission is fully empowered to comply with all regulation promulgated by the National Indian Gaming Commission, including but not limited to all requirements to report ordinances, contracts, license applications, background checks and other information to the National Indian Gaming Commission.

14.02 – National Indian Gaming Commission – Assessment. Notwithstanding any provision in the Gaming Ordinance, this Ordinance or any regulation promulgated thereunder, the Commission is fully empowered to

comply with all assessments authorized by the National Indian Gaming Commission. Such assessments shall be paid from the Treasury of the Elk Valley Rancheria.

14.03 – Compact with the State of California. Notwithstanding any provision in the Gaming Ordinance, this Ordinance or any regulation promulgated thereunder, the Commission is fully empowered to comply with the provisions of any Compact properly executed between the Tribe and the State of California; provided, however, that if any provision of the tribal-state compact provides for action by the Tribe, the Commission is not authorized to, and shall not, contact the State's appointed agencies (or its agents) without the prior approval of the Tribal Council.

15. AUDIT

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

15.2. 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.

16. PROTECTION OF THE ENVIRONMENT AND PUBLIC HEALTH AND SAFETY

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

17. LICENSES FOR KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS

17.1 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 and/or Class III gaming enterprise operated on Indian lands.

17.2 Application Forms. The following notice shall be placed on the application form of a key employee or a primary management official before that form is filled out by an applicant:

> In compliance with the Privacy Act of 1974, the following information is provided. Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by National Indian Gaming Commission members and staff who have need for the information in the

performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to hire you in a primary management official or key employee position.

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

17.3 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.

17.4 The following notice shall be placed on the application form for a key employee or a primary official before that form is filled out by an applicant:

A false statement on any part of you 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. (18 U.S.C. §1001).

17.5 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.

17.6 Background Investigations. 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 languages spoken or written;

(b) Currently and for the previous five (5) years: all business and employment positions held, ownership interest 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 that was acquainted with the applicant during each period of residences 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 the 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 every 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 ten (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 ten (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 names and address of each licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;

(l) A current photograph;

(m) Any other information the Tribe may deem relevant under the circumstances; and

(n) Fingerprints consistent with procedures adopted by the Tribe in accordance with 25 C.F.R. §522.2 (h).

The Tribe shall conduct an investigation sufficient to make a determination under Section 17.7 below. The Tribe shall conduct a background investigation that meets or exceeds the requirements of 25 C.F.R. §§ 556 and 558. In conducting a background investigation, the Tribe or its agent(s) shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

17.7 Eligibility Determination. The Tribe shall review an applicant'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.

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

(a) 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 Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in Section 17.7 of this Ordinance.

(b) The Tribe shall forward the report referred to in Section 17.9 of this Ordinance 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 Indian Gaming Commission.

(c) 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.

17.9. Report to the National Indian Gaming Commission. Pursuant to the procedures set our in Section 17.6 of this Ordinance, 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 the background investigation;

(b) Results obtained;

(c) Conclusions reached;

(d) The basis for those conclusions.

17.10 The Tribe shall submit, with the report, a copy of the eligibility determination made under Section 17.9 of this Ordinance.

(a) If a license is not issued to an applicant, the Tribe:

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

(ii) 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.

(b) With respect to key employees and primary management officials, the Tribe shall retain applications for employment and reports (if any) of background investigations for inspection 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 or denial of employment.

17.11. Granting a Gaming License.

(a) If, within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission fails to respond or 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 primary management official or 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.

(b) 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 thirty (30) day period under this Section until the Chairman of the National Indian Gaming Commission receives the additional information.

(c) If, within the thirty (30) day period described above, the National Indian Gaming Commission provides the Tribe with a statement itemizing it's objection(s) 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 objection(s) itemized by the National Indian Gaming Commission. The Tribe shall make the final decision whether to issue a license to such applicant.

17.12 License Suspension or Revocation

(a) If, after issuance of a gaming license, the Gaming Commission receives reliable information from the NIGC or other reliable source indicating that a Key Employee, Primary Management Official or other licensee is not eligible for licensure under the eligibility criteria established herein, the Gaming Commission shall suspend the license and shall notify the licensee in writing of the license suspension and proposed revocation.

(b) An Applicant or Licensee shall be notified in writing by either personal service, or mail to the last known address provided to the Gaming Commission. Notice shall be deemed complete on the tenth (10th) day after deposit of notice in the U.S. Mail. Should an Applicant or Licensee disagree with the initial determination of the Gaming Commission, the Applicant or Licensee shall submit a written statement and a separate request for hearing to the Gaming Commission office within ten (10) days of the written notice. The Gaming Commission shall set the matter for hearing to review its decision within twenty-one (21) working days from the date the Applicant or Licensee files his written request for hearing and supporting written statement. At the hearing, the burden shall be on the Applicant or Licensee to show by clear and convincing evidence that the Gaming Commission's decision is incorrect.

(c) 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.

(d) The Gaming Commission is hereby authorized to promulgate Regulations regarding hearings before the Gaming Commission.

17.13 No Property Interest in License. Nothing herein shall create a property interest in the issuance or retention of a license provided for this Ordinance. Failure of an employee or primary management official to obtain or maintain a gaming license shall be grounds for immediate termination. Nothing herein shall grant or otherwise create any property interest in employment or continued employment at any gaming facility on Indian lands.

17.14. No Assignment or Transfer. No license issued under the Ordinance shall be assigned or transferred without the written approval of the Gaming Commission expressed formally in writing.

18. LICENSING OF GAMING PLACES, FACILITIES AND LOCATIONS

A separate license shall be required for each place, facility, or location on Indian lands where Class II and/or Class III gaming is to be conducted under this Ordinance.

19. MISCELLANEOUS

19.01 Security. Each licensed Gaming Activity must provide for reasonable security. All security officers and personnel must be licensed by the Commission. Such licensing may or may not entail full background investigations required for primary management officials and key employees.

19.02 Maintenance of Code and Regulations. Each licensed Gaming Facility shall obtain, maintain and keep current a copy of the Gaming Ordinance of Regulations on the Gaming Premises. The Ordinance and Code of Regulations shall be produced by any Licensee and shown to any interested party upon demand. That a Licensee may not have a current copy of the Gaming Ordinance, Code of Gaming Regulations, or each of the rules of the Commission, shall not in any way diminish the Licensee's obligation to abide by the Ordinance and Code of Regulations.

19.03 Compliance with Other Laws. The construction, maintenance and operation of any Gaming Facility shall be in a manner, which adequately protects the environment and the public health and safety and shall comply with any otherwise applicable Tribal and federal laws relating to environmental protection and health and safety.

19.04 Amendment of Commission Regulations. All regulations promulgated herein by the Commission are subject to proper revision, repeal or amendment by the Commission.

19.05 Severability. If any provision of this Ordinance, or its application to any purpose or circumstance, is held invalid by a court of competent jurisdiction, the full remainder of the provision, or the application of the provision through another Person or circumstance, shall not be affected.

19.06 Captions. The captions and heading of this Ordinance are included for the convenience only and shall in no way limit or affect the text thereunder.

20. SOVEREIGN IMMUNITY

Except as provided herein, nothing in this Ordinance shall be construed as a waiver of the sovereign immunity of the Tribe or any of its officers, employees, or entities.

21. CONSENT TO JURISDICTION

Any person who applies for a License under this Ordinance, applies for employment in any Gaming Establishment, enters into any contract or agreement related to Gaming, or participates in any Gaming on the Reservation, shall be deemed to consent to the civil jurisdiction of the Tribe, the Commission and the Tribal Court. Nothing in this Section shall limit the jurisdiction of the Tribe, the Commission or the Tribal Court under any circumstances not explicitly contemplated in this Ordinance.

22. LAW ENFORCEMENT; FINGERPRINTING AND CRIMINAL BACKGROUND CHECKS

Each applicant for a Key Employee or Primary Management Official shall be required to have fingerprints taken as part of the license application procedure. Fingerprints shall be taken by the Elk Valley Tribal Gaming Commission. Fingerprints will then be forwarded to the NIGC for processing through the FBI and NCIC to determine the applicant's criminal history, if any. Nothing herein shall prohibit the Commission from accessing CLETS as provided by the Compact.

23. AGENT FOR SERVICE

The Chairperson of the Tribal Council is hereby appointed as the agent for service of process. The Chairperson's address is: 2332 Howland Hill Road, Crescent City, California 95531.

24. CUSTOMER DISPUTE RESOLUTION PROCEDURE

With respect to Class II and Class III gaming, the general manager of the tribal gaming operation shall attempt to resolve on an informal basis any customer complaints relating to payment of prizes or services and report any such resolution to the governing body of the enterprise. If the complaint cannot be resolved at the general manager level, the customer shall be informed that he/she has the right to present his or her complaint to the governing body of the gaming enterprise, whose decision shall be final.

25. AMENDMENTS

All provisions of this Ordinance are subject to amendment by the Council. All Rules promulgated by the Commission are subject to proper revision, repeal, or amendment by the Commission. All amendments to this Ordinance shall be effective upon the date of passage by the Council.

26. REPEAL

To the extent that they are inconsistent with this Ordinance, all prior gaming ordinances are hereby repealed.

27. EFFECTIVE DATE

This Ordinance shall take effect immediately upon its approval by the Chairman of the National Indian Gaming Commission.

CERTIFICATION

We, the undersigned duly elected officials of the Elk Valley Rancheria, do hereby certify that the foregoing Ordinance was adopted on April 9, 2008, at a duly called meeting of the Tribal Council of the Elk Valley Rancheria with a quorum present by a vote of eight (8) for, zero (0) against, zero (0) abstaining and (0) absent.

Attest:

Dale A. Miller, Chairman

Kim Krokodilos, Secretary