OCT 22 2004

Gonnie Mendez, Tax Director
Ely Shoshone Tribe
16 Shoshone Circle
Ely, Nevada 89301

RE: Ely Shoshone Tribe Gaming Ordinance No. 2004-EST-05

Dear Mr. Mendez:

This letter is in response to your request for the National Indian Gaming Commission (NIGC) to review and approve the Ely Shoshone Tribe (Tribe) Gaming Ordinance No. 2004-EST-05, approved by the Tribal Council on July 13, 2004, by Resolution No. 2004-EST-43. This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA). It is important to note that the Ordinance is approved for gaming only on Indian lands, as defined in the IGRA, over which the Tribe has jurisdiction.

Thank you for submitting the Ordinance for review and approval. The NIGC staff and I look forward to working with you and the Ely Shoshone Tribe on future gaming issues.

Sincerely yours,

Philip N. Hogen
Chairman

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REGIONAL OFFICES Portland, OR; Sacramento, CA; Phoenix, AZ; St. Paul, MN; Tulsa, OK

ELY SHOSHONE TRIBE

16 SHOSHONE CIRCLE FAX (775) 289-3156 ELY, NEVADA 89301
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**RESOLUTION OF THE GOVERNING BODY
OF THE
ELY SHOSHONE TRIBE**

RESOLUTION NO. 2004-EST-43

WHEREAS, Ely Shoshone Tribe is a federally recognized Indian Tribe, organized under the Indian Reorganization Act of June 18, 1934, as amended, with the power to exercise certain rights of home rule and to be responsible for the promotion of economic and social welfare of its tribal membership, and governs it affairs under the Revised Tribal Constitution of May 8, 1990, and the amendments of November 3, 1999; and

WHEREAS, in accordance with its Constitution and By-Laws, the Tribe is governed by its Tribal Council; and

WHEREAS, the Indian Gaming Regulatory Act, 25 U.S.C. §2701 *et seq.,* requires the adoption of a tribal gaming ordinance in order for the Tribe to authorize gaming on reservation lands; and

WHEREAS, on March 24, 2004, the Tribal Council approved an amended Gaming Ordinance; and

WHEREAS, the Tribe submitted this amended Gaming Ordinance to the National Indian Gaming Commission, in accordance with 25 U.S.C. §2710 (b)(1)(B); and

WHEREAS, the NIGC has informed the Tribe and its attorneys that it will not approve the submitted Ordinance without specific amendments; and

WHEREAS, the Tribal Council has reviewed the attached Gaming Ordinance, as amended, and has determined it to be in the best interest of the Tribe to adopt it.

NOW THEREFORE BE IT RESOLVED THAT, the Ely Shoshone Tribal Council hereby adopts and enacts the Ely Shoshone Tribal Gaming Ordinance, No. 2004-EST-05, as amended; and

BE IT FURTHER RESOLVED, that any gaming ordinances or resolutions previously adopted by the Tribal Council are hereby superseded and repealed; and

BE IT FURTHER RESOLVED, that the Tribal Chairperson is authorized to withdraw the Tribe's submission of the March 24, 2004 Gaming Ordinance to the NIGC; and

BE IT FINALLY RESOLVED, that the Tribal Chairperson is authorized to submit a copy of this Resolution and Amended Gaming Ordinance dated June 29, 2004 to the National Indian Gaming Commission for approval, and to take such action as is necessary to carry out the terms and full intent of this Resolution.

CERTIFICATION

It is hereby certified that the foregoing resolution of the Ely Shoshone Tribal Council, composed of 5 member of whom 4 constituting a quorum were present at a **Regular Meeting** duly held on the **13th** day of **July 2004,** was adopted by the affirmative vote of 4 **-For,** 0 **-Against,** and 0 **-Abstained;** pursuant to authority contained in the Revised Constitution of the Ely Shoshone Tribe of May 8, 1990, and amendments of November 3, 1999.

Diana Buckner

Diana Buckner
Chairwoman

ATTEST: Irene Carney

Irene Carney
Secretary-Treasurer

Resolution No.: **2004-EST-43**

ELY SHOSHONE TRIBE

GAMING ORDINANCE

As Amended June 29, 2004
By Resolution 2004-EST-43

ELY SHOSHONE TRIBE
GAMING ORDINANCE

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ORDINANCE OF THE
GOVERNING BODY
OF THE
ELY SHOSHONE TRIBE
ELY, NEVADA

ORDINANCE NO. 2004-EST-05

Section 1. Title.

This Ordinance shall be known as the Ely Shoshone Tribe Gaming Ordinance. Any gaming ordinances or resolutions previously adopted by the Tribal Council are hereby superseded and repealed.

Section 2. Findings.

The Tribal Council of the Ely Shoshone Tribe ("Tribe") finds that:

A. The Tribe, has the exclusive authority to regulate Class I and II gaming activities on the Ely Indian Reservation subject only to the requirements of the Indian Gaming Regulatory Act ("IGRA"); and

B. Provided that it has entered into a compact with the State of Nevada, the Tribe is authorized to operate, license and regulate Class III gaming on its lands pursuant to that compact; and

C. It is essential to the health, safety and general welfare of the Tribe and the visitors to the Ely Reservation that standards and regulations be promulgated to govern the conduct of gaming activities on the Reservation.

Section 3. Purposes.

The purposes of this Gaming Ordinance are to:

A. Provide standards and regulations governing the conduct of gaming activities on the Ely Shoshone Tribal lands;

B. Promote tribal economic development;

C. Enhance employment opportunities for tribal members;

D. Strengthen the economy of the Ely Shoshone Tribe; and

E. Generate revenue for use in improving the health, education and general welfare of enrolled members of the Ely Shoshone Tribe, and for other uses authorized by federal law.

I. GENERAL PROVISIONS

Section 4. Definitions.

1. "Act" or "IGRA" means the Indian Gaming Regulatory Act of 1988, as amended, at 25 U.S.C. §2701-2721, and 18 U.S.C. §§1167-1168.

2. "Applicant" means any Person or Entity applying for, or requesting renewal of, an License or permit described in or required by this Ordinance.

3. "Application" means a request for the issuance or renewal of a License or permit described in or required by this Ordinance.

4. "Banking Card Game" means any card game in which each player wagers against the house rather than against other players.

5. "Bingo" means the game of chance (whether or not electronic, computer or other technological aids are used in connection therewith) which is played for prizes, including monetary prizes, with cards bearing numbers or other designations, in which the holder of the card covers such numbers or designations when objects similarly numbered or designated are drawn or electronically determined, and in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards. "Bingo" includes, if played at the same location, pull tabs, lotto, punch boards, tip jars, and other games similar to bingo.

6. "Class I Gaming" means social games played solely for prizes of minimal value or traditional forms of tribal gaming engaged in by individuals as part of, or in connection with, tribal ceremonies or celebrations.

7. "Class II Gaming" means all forms of gaming which are defined as "Class II Gaming" in the IGRA, 25 U.S.C. §2703(7), and shall include, but not be limited to, the following forms of gaming: bingo, lotto, pull tabs and punch boards, tip jars and non-banking card games, when played in conformity with 25 U.S.C. §2703(7).

8. "Class III Gaming" means all forms of gaming that are not Class I Gaming or Class II Gaming, as defined in the IGRA, 25 U.S.C. §2703(8).

9. "Compact" means the Compact by and between the Ely Shoshone Tribe and the State of Nevada setting forth the agreement for the operation of Class III gaming on Ely Tribal lands within the State of Nevada.

10. "Entity" means any organization, including any division, department or other unit therein, and includes, but shall not be limited to, a public or private corporation, partnership, joint venture, voluntary or unincorporated association, organization, proprietorship, trust, or estate.

11. "Equipment" means any article, device, or other item, employed in gaming activity, including but not limited to Bingo cards, lottery tickets, any electronically operated blower machine, computer, electronic selection machine, gaming devices, gaming tables, associated paraphernalia, chips, tokens, dice and any other items employed in gaming activity.

12. "Gambling Machine" or "Slot Machine" means any mechanical, electrical, electromechanical, electronic, or other device, contrivance or machine which, upon insertion of a coin, token, or similar object, or upon payment of any consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator in playing a gambling game which is presented for play by machine or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive cash, premiums, merchandise, tokens, or anything of value, whether the payoff is made automatically from the machines, or in any other manner. "Slot machine" specifically includes video facsimiles of any game of chance authorized under Nevada Statute, Nev. Rev. Stat. §463.0152. In addition, if at any time the State broadens its definition of "slot machine" to include additional devices, then such devices shall also be "slot machines" within the meaning of this Ordinance.

13. "Gaming Commission" or "Commission" means the Ely Tribal Gaming Commission, created by this Ordinance.

14. "Gaming Device" means any equipment or mechanical, electro-mechanical or electronic contrivance, component or machine used remotely or directly in connection with gaming or any game which affects the result of a water by determining win or loss. The term includes:

    a. A slot machine.

    b. A collection of two or more of the following components:

        (i) an assembled electronic circuit that cannot be reasonably demonstrated to have any use other than in a slot machine;

(ii) a cabinet with electrical wiring and provisions for mounting a coin, token or currency acceptor and provisions for mounting a dispenser of coins, tokens or anything of value;

(iii) a storage medium containing the source language or executable code of a computer program that cannot be reasonably demonstrated to have any use other than in a slot machine;

(iv) an assembled video display unit;

(v) an assembled mechanical or electromechanical display unit intended for use in gambling; or

(vi) an assembled mechanical or electromechanical unit that cannot be demonstrated to have any use other than in a slot machine.

c. Any mechanical, electrical or other device which may be connected to or used with a slot machine to alter the normal criteria of random selection or affect the outcome of a game.

d. A system for the accounting or management of any game in which the result of the wager is determined electronically by using any combination of hardware or software for computers.

e. Any combination of one of the components set forth in paragraphs (i) to (iv) inclusive, of subsection 11.b and any other component that the Commission determines by regulation to be a machine used directly or remotely in connection with gaming or any game that affects the results of a wager by determining win or loss.

15. "Gaming employee" means any person connected directly with an operator of a slot route, the operator of a pari-mutuel system, the operator of an inter-casino linked system or a manufacturer, distributor or disseminator, or with the operation of a gaming establishment licensed to conduct any game, 16 or more slot machines, a race book, sports pool or pari-mutuel wagering, including:

a. Accounting or internal auditing personnel who are directly involved in any record keeping or the examination of records associated with revenue from gaming;

b. Boxmen;

c. Cashiers;

d. Change personnel;

e. Counting room personnel;

f. Dealers;

g. Employees of a person required by Nevada law, NRS 464.010, to be licensed to operate an off-track pari-mutuel system;

h. Employees of a person required by Nevada law, NRS 463.430, to be licensed to disseminate information concerning racing;

i. Employees of manufacturers or distributors of gaming equipment within the Reservation whose duties are directly involved with the manufacture, repair or distribution of gaming equipment;

j. Employees of operators of slot routes who have keys for slot machines or who accept and transport revenue from the slot drop;

k. Employees of operators of inter-casino linked systems;

l. Floor men;

m. Hosts or other persons empowered to extend credit or complimentary services;

n. Keno runners;

o. Keno writers;

p. Machine mechanics;

q. Odds makers and line setters;

r. Security personnel;

s. Shift or pit bosses;

t. Shills;

u. Supervisors or managers; and

v. Ticket writers.

"Gaming employee" does not include bartenders, cocktail waitresses or other persons engaged exclusively in preparing or serving food or beverages.

16. "Gross Receipts" means the total receipts from the conduct of gaming activities.

17. "Indian Lands," "Reservation," or "Ely Shoshone Tribal Lands" means all lands within the exterior boundaries of the Ely Shoshone Tribal Reservation, and any land over which the Ely Shoshone Tribe exercises governmental power that is either (1) held in trust for the Tribe by the United States; or (2) held by the Tribe or Indian individual subject to restriction by the United States against alienation. The terms also include any lands located within or contiguous to the boundaries of the Reservation acquired after October 17, 1988 by the Secretary of Interior in trust for the benefit of the Tribe, and newly acquired lands on which gaming activities are permitted pursuant to 25 U.S.C. §2719(b)(1).

18. "Key employee" means:

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

        (i) bingo caller;
        (ii) counting room supervisor;
        (iii) chief of security;
        (iv) custodian of gaming supplies or cash;
        (v) floor manager;
        (vi) pit boss;
        (vii) dealer;
        (viii) croupier;
        (ix) approver of credit; or
        (x) custodian of gambling devices including persons with access to cash and accounting records within such devices;
        (xi) if not otherwise included, any other person whose total cash compensation is in excess of $50,000 per year; or
        (xii) if not otherwise included, the four most highly compensated persons in the gaming operation.

19. The term "Interstate sports betting facility" means a gaming establishment wherein interstate wagers on sports events are received via telephone, computers and associated equipment on the Reservation pursuant to Art. I §1.d of the Compact, or any authorized amendment thereto.

20. "License" or Licensed" means a tribal gaming license, or having a valid tribal gaming license, issued by the Ely Shoshone Tribe, or the Commission, pursuant to this Ordinance.

21. "Lottery" means any scheme for the disposal or distribution of property, by chance, among persons who have paid any valuable consideration for the chance of obtaining such property, or portion of it, or for any share or any interest in such property upon any agreement, understanding or expectation that it is to be distributed or disposed of by lot or chance, whether called a lottery, raffle or gift enterprise, or by whatever name the same may be known.

22. "National Indian Gaming Commission" or NIGC" means the National Indian Gaming Commission, created by the IGRA.

23. "Net revenue" means the total gross receipts from a tribal gaming operation, less:

    a. Amounts paid out as, or paid for, prizes; and

    b. Total gaming-related operating expenses, excluding management fees.

24. "Non-banking card games" means any card game in which two or more players play against each other and the players do not wager against the house. Non-banking card games played in conformity with State law regulating hours of play, wage and pot limits are Class II gaming. All other non-banking card games are Class III games.

25. "Non-Tribal Gaming Facility" or "Non-Tribal Gaming Operation" means any gaming licensed and conducted on the Reservation by any person or entity other than the Tribe or an entity wholly owned by the Tribe.

26. "Person" means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, partnership, joint venture, club, company, joint stock company, business trust, corporation, association, society, or any group of individuals acting as a unit, whether mutual cooperative, fraternal or nonprofit doing business within the Indian lands. The Tribe is not within the definition of person.

27. "Pinball Machine" means a video, mechanical, electrical or electronic machine which upon insertion of a coin or token or upon redemption of a credit, is available for play, the play or operation of which, by reason of skill, chance or a combination of both, may entitle a player to an automatic, immediate free replay or replays, which cannot be redeemed for anything of value.

28. "Player" means any person participating in gaming activity, who is participating with the reasonable expectation of, or for the chance of, receiving a prize of some value.

29. "Primary management official" means:

    a. The person having management responsibility for a management contract;

    b. Any person who has authority:

        (i) to hire and fire employees; or
        (ii) to set up working policy for the gaming operation; or

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

30. "Prize" means any U.S. currency, cash or other property or thing of value awarded to a player or players, or received by a player or players as a result of their participation in a gaming activity.

31. "Secretary" means the Secretary of the Interior.

32. "State" means the State of Nevada.

33. "Tribal Council means the Ely Shoshone Tribal Council.

34. "Tribal Court" means the Ely Shoshone Judicial Services/CFR Court.

35. "Tribal gaming facility" or "Tribal gaming operation" means any Class II or Class III gaming operation or facility which is owned by the Tribe or a wholly owned entity of the Tribe.

36. "Tribe" means the Ely Shoshone Tribe.

Section 5. Gaming Authorized and Regulated.

A. Class I gaming is authorized on Indian lands, and may be conducted by any person. Class I gaming shall not be regulated by this Ordinance.

B. Class II gaming is authorized on Indian lands. Class II gaming shall be regulated by the Tribal Gaming Commission and shall only be operated consistent with the provisions of this Ordinance and the IGRA.

C. Class III gaming is authorized on Indian lands. Class III gaming shall be regulated by the Tribal Gaming Commission and shall only be operated consistent with this Ordinance, the Compact, and the IGRA.

D. Notwithstanding any provision in this Ordinance to the contrary, any proposal to open a new Class II or Class III gaming operation on the Reservation is prohibited unless it is first authorized and approved by the Tribal Council, and thereafter licensed and regulated by the Gaming Commission pursuant to this Ordinance.

Section 6. Use of Revenues from Class II and Class III Gaming Activities.

A. Tribal revenues from Class II and Class III gaming facilities or operations shall be used only to:

1. Fund tribal government operations or programs;

2. Provide for the general welfare of the Community or Community members;

3. Promote economic development within the Ely Reservation;

4. Fund operations of local government agencies; and/or

5. Donate to charitable organizations.

Section 7. Gaming Facilities.

A. To ensure that the environment and the public health, safety and welfare are adequately protected, each gaming facility shall be constructed, maintained, and operated in compliance with applicable tribal and federal laws, including but not limited to fire codes, safety codes, and building codes.

B. Each gaming facility shall be subject to inspection to insure compliance, annually or on such basis as the Tribal Building Inspector, or if none, the Tribal Council or Gaming Commission, determines necessary and appropriate.

Section 8. Minors, Employees Prohibited from Playing.

A. No person under the age of 21 years shall be permitted to play any Class II or Class III game.

B. No person who is employed at a Class II or Class III gaming facility may play any game conducted therein.

Section 9. Prizes: Assignment and Forfeiture.

A. Not Assignable, Exception.

The right of any person to a prize shall not be assignable except that payment of any prize may be made to the estate of a deceased prize winner or to a person pursuant to an order of the Tribal Court/CFR.

B. Forfeiture.

1. Any unclaimed prize of a Class II or Class III gaming activity shall be retained by the owner of the game for ninety (90) days after the prize is available to be claimed. Any person who fails to claim a prize during such time shall forfeit all rights to the prize, and the amount of the prize shall be awarded to the Tribe.

2. Any prize won by a person under the age of eighteen (18) shall be forfeited as a violation of Section 8 of this Ordinance. Any such prize shall be awarded to the Tribe, and the approximate consideration paid by the minor shall be refunded to the minor.

II. ADMINISTRATION

Section 10. Tribal Gaming Commission.

A. Establishment and Composition.

1. There is hereby created the Ely Shoshone Tribal Gaming Commission.

2. The Tribal Gaming Commission shall be comprised of five members, one of whom shall serve as Chairperson. The Tribal Council shall appoint the Chairperson and other four gaming commissioners.

B. Qualifications, Standards of Conduct and Appointment.

1. The gaming commissioners should possess and demonstrate as minimum qualifications:

   a. Knowledge and experience in the commercial gaming industry;

   b. Familiarity with the IGRA; and

   c. Experience in and knowledge of administration and administrative procedures.

2. Appointments of the Chairman and two other commissioners and members shall be for a period of four (4) years. The initial terms may be staggered. The Chairman and all commissioners may be reappointed for successive terms at the discretion of the Tribal Council.

3. No person shall be appointed to the Tribal Gaming Commission unless, after reviewing that person's prior activities, criminal record, reputation, habits and associations, the Tribal Council is satisfied that such person:

   a. Is of good character, honesty, and integrity;

   b. Does not pose a threat to the public interest of the Tribe or its members or to the effective regulation of gaming;

   c. Does not create or enhance dangers of unsuitable, unfair, or illegal practices in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto; and

   d. Has no interest in any private gaming activity on the Ely Shoshone Reservation lands or in any other activity that may be in conflict with the tribal gaming operations.

4. No person may serve on the Commission if:

   a. The person's other employment or responsibilities conflict or could potentially conflict with the duties and responsibilities of a member of the Commission;

   b. The person is an employee of a Gaming Operation or the person's other employment or responsibilities create an impression or appearance of impropriety in the fulfillment of the duties and responsibilities of a Commissioner;

   c. The person is a:

      (i) Member or officer of the Tribal Council;
      (ii) Judge in any Tribal Court/CFR Court; or
      (iii) Felon.

5. Commissioners may not gamble in any Gaming Establishment on the Reservation. No Commissioner may accept gratuities or any other thing of value from any Licensee or Applicant.

6. The Chairman and the Commission members may be removed for cause, after written notice and an adequate opportunity to be heard by the Tribal Council.

C. **Duties and Powers.**

1. The Gaming Commission shall administer the provisions of this Ordinance and shall have all powers necessary therefore.

2. In exercise of its duties, the Commission shall:

   a. Promulgate such rules and regulations as may be necessary and desirable for the proper implementation of this Ordinance;

   b. Identify and define the rules of play for each Class II and Class III game permitted;

   c. License, supervise, inspect and oversee all gaming activities and persons employed in gaming activities conducted on Indian lands;

   d. Conduct or contract with other government agencies or private entities to conduct background investigations;

   e. Carry on a continuous study and investigation of Class II and Class III gaming on Indian lands for the purpose of:

      (i) Ascertaining any defects in abuses of the standards and regulations in this Ordinance or applicable rules and regulations;

      (ii) Formulating recommendations for changes in the standards and regulations in this Ordinance or applicable rules and regulations;

      (iii) Preventing abuses and evasions of the standards and regulations prescribed by this Ordinance and applicable rules;

   f. Report to the Tribal Council on any matters related to gaming that are deemed by the Tribal Gaming Commission to constitute an emergency requiring immediate action;

   g. Take any action it deems necessary and appropriate for violation(s) of this Ordinance or of applicable rules and/or regulations, including but not limited to License suspension, revocation, prosecution, referral for prosecution, or civil suit;

h. Subject to the approval of the Tribal Council, employ such persons as are necessary to carry out the specific and general powers and duties of the Commission; and

i. Prepare and submit an annual budget to the Tribal Council for approval in accordance with the Tribe's standard practice for approving the budgets of other tribal agencies.

3. The Commission shall have the authority to subpoena witnesses and documents, conduct administrative hearings, and assess civil fines or penalties upon persons who violate the provisions of this Ordinance, any provision of the Compact, or any provision of IGRA, provided that such person shall be given adequate notice and an opportunity to be heard before the Commission.

a. Any person assessed a fine or penalty under this section shall have the right to an administrative appeal to the Tribal Court, provided that a written complaint seeking review of the Commission's decision is filed with the Tribal Court within thirty (30) days of the Commission's decision. If a timely complaint is not filed, then the Commission's decision imposing the fine or penalty shall be final and not subject to further review. The Tribal Court shall, however, have jurisdiction to enforce any assessed fine or penalty imposed by the Commission. In the event a timely complaint seeking review of an assessed fine or penalty is filed, the Tribal Court shall review the Commission's decision in accordance with the requirements of section 15.E of this Ordinance.

b. Any person or entity engaging in or conducting gaming on Tribal lands is thereby deemed to have consented to the jurisdiction of the Tribal Court.

D. <u>Commission Record-Keeping</u>.

1. The Commission shall maintain complete records regarding the following:

a. Applications, financial statements, fingerprints, contracts, Licenses, suspension and cancellation notices and correspondences of all Applicants, including management contractors, Key Employees, Primary Management Officials, Gaming Establishments and Gaming Device suppliers;

b. Meeting minutes from all Commission meetings;

c. Compact compliance;

d. Reports relating to customer disputes, complaints or other issues that affect the integrity of the gaming operation;

e. Commission budget and expenditures;

f. Council communications and correspondence;

g. Any other records or documents the Commission deems necessary or appropriate; and

h. Records shall be kept for a minimum of three years.

E. <u>Reports</u>.

1. Unless otherwise authorized by the Council, the Commission shall make monthly reports to the Council within thirty (30) days after the end of each month. Such reports shall contain the following information:

   a. Number and types of Licenses issued during the previous thirty-day period;

   b. Information regarding License denials, suspensions or revocations;

   c. Report of any events of non-compliance, breach or violations of this Ordinance, the Compact, IGRA, a License or any other law or regulation; provided, however, that these reports are not the subject of or relating to a pending investigation of the Commission, or hearing before the Commission;

   d. A report of Commission expenditures for the prior thirty-day period;

   e. A summary of any Commission travel and training;

   f. The number of and purpose for any special Commission meeting(s); and

   g. All other information that the Commission deems relevant in order to keep the Council informed and current on all gaming matters.

Nothing in this section shall authorize or permit the Commission to provide the Tribal Council with any information pertaining to a pending investigation of the Commission, or hearing before the Commission. All such information shall be kept confidential.

F. Regulation of Patron Disputes.

1. The Commission shall promulgate necessary regulations in order to resolve any disputes which arise in connection with lawful gaming activities conducted pursuant to the Tribal Gaming Ordinance between the gaming public and the Tribe or its employees or management contractors. The Commission's regulations shall comply with the following minimum standards:

   a. Any disputes that arise between the gaming public and the Tribe or its management contractors must go before the Tribal Gaming Commission, which shall convene and hold a hearing within thirty (30) days of receiving notice of the dispute.

   b. The Tribal Gaming Commission shall issue a written decision within thirty (30) days after the conclusion of the hearing, and shall grant or deny such relief as is legally and equitably due, provided that the Tribal Gaming Commission shall have no authority to award any monetary relief against any tribal gaming facility unless such relief is specifically authorized by a separate resolution of the Tribal Council.

   c. Any decision of the Tribal Gaming Commission may be appealed to the Tribal Court utilizing the same procedures set forth in section 15.E of this Ordinance.

   d. Nothing in this section shall be construed as a waiver of the sovereign immunity of the Tribe or the Tribal Gaming Commission, or any subordinate economic enterprise created by the Tribe to operate a tribal gaming facility. Any relief awarded by the Tribal Gaming Commission pursuant to this section shall be limited to equitable relief. The Tribal Gaming Commission shall have no authority to grant monetary relief against any tribally owned gaming facility, unless such relief is authorized by a separate resolution of the Tribal Council after review of the Tribal Gaming Commission's decision by the Tribal Council.

G. Compensation.

The Chairman, Commission members, and Commission employees may be compensated, provided that the terms and conditions of such compensation shall be set by the Tribal Council.

Section 11. Gaming Facilities Licensing and Audits.

A. Authority to License.

1. Subject to the approval of the Tribal Council in section 5, the Tribal Gaming Commission shall have the authority to license and regulate any Class II and Class III gaming operations on the Ely Shoshone Tribal lands consistent with the terms of this Ordinance. The licensing and regulation of Class III gaming shall also be consistent with the terms of this Compact.

2. Class I gaming shall not be regulated by this Ordinance; no licensing shall be required for Class I gaming.

B. Types of Licenses to be Issued.

1. The Tribal Gaming Commission shall issue licenses for gaming on Ely Shoshone Tribal lands to the following:

   a. Any Class II or Class III tribal gaming facility;

   b. Any Class II or Class III non-tribal gaming facility;

   c. Any management contractor; and

   d. Any other license required by the IGRA and/or the Compact.

2. Licenses shall be issued for Class II or Class III gaming, and shall indicate the type and class of license on the fact of the license. A combined Class II and Class III license may be issued if appropriate.

Section 12. License Fees and Taxes.

A. Any person or entity applying for a tribal gaming license pursuant to this Ordinance (hereafter referred to as "Applicant") shall submit with his or her application an application fee of $1,500 plus the annual renewal fee prescribed by subsection C, provided, that persons applying for a license to operate 20 or fewer slot machines shall not be required to pay an application or renewal fee. The Commission may waive fees in its discretion when a License Applicant demonstrates an inability to pay a fee. The Tribe shall not be subject to the license fee or any other fee imposed by this Ordinance.

B. In addition to the application fee prescribed in subsection A, any Applicant for a Class II or Class III gaming license shall also pay for the costs of all background investigations conducted by the NIGC, or the Tribal Gaming Commission or its authorized delegate. An Applicant for a Class III gaming license shall also be

required to pay any costs incurred by the Tribe for obtaining the necessary background investigations and approval of all gaming employees, key employees and other persons subject to review by the State of Nevada under the Compact.

C. A Licensee shall, at least sixty (60) days prior to the expiration of his or her License apply for renewal, as required by the Tribal Gaming Commission, and shall submit with the application for renewal a renewal fee of $500.

D. In addition to the fees prescribed in this section, any person or entity licensed to conduct Class II or Class III gaming shall pay all applicable taxes and fees imposed by the Ely Tribal Tax Code, including but not limited to all applicable gaming taxes and licensing fees imposed.

E. The failure to pay any fee or tax prescribed by this Ordinance or any other provision of federal or tribal law shall be grounds for the denial, suspension or revocation of a gaming license by the Tribal Gaming Commission, provided that after a License is initially approved if shall not be suspended or revoked by the Commission without first according the Licensee prior notice and an opportunity to be heard.

F. Any Applicant for a License or permit from the Commission shall have the continuing duty to keep the information in their application updated, to provide materials, assistance or other information required by the Commission, and to fully cooperate in any investigation conducted by or on behalf of the Commission. Applicants must immediately notify the Commission in the event of a change or addition to any information submitted with an application.

G. The assignment or transfer of any License or permit granted under this Ordinance is prohibited without the prior consent of the Commission and a finding that the assignee/transferee is independently qualified to have a License or permit under this Ordinance.

H. The issuance of a License under this Ordinance does not create a property interest in such License for the benefit of the Licensee. The opportunity for an Applicant or Licensee to be involved in gaming on the Reservation is a privilege, not a right.

Section 13. Gaming Facility License, Effective Period and Place.

A. **Period.** Tribal gaming licenses shall be valid and effective for a period of one year from the date of issue, unless sooner suspended or revoked for cause after notice and hearing, pursuant to this Ordinance. The effective date and period shall be stated on the face of the license.

B. **Place.** A tribal gaming license shall be valid for one (1) facility or location only, and the location shall be identified on the face of the license.

Section 14. Primary Management Officials, Key and Other Employees.

A. Work Permits for All Gaming Employees at Tribal Class III Gaming Facilities.

1. The Tribal Gaming Commission shall issue work permits to all gaming employees employed at a Tribal Class III gaming facility in accordance with the requirements of the Compact. No person may be employed as a gaming employee who is determined by the Tribal Gaming Commission, the Nevada Gaming Commission, or State Gaming Control Board to be a person who would be unsuitable to hold or retain a Nevada work permit in a similarly situated non-tribal gaming operation. Applications for work permits shall be processed in accordance with Article IV of the Compact. The requirements of this subsection shall apply only to Tribal Class III gaming facilities.

B. Primary Management Officials and Key Employees, License Requirements.

1. No primary management official or key employee may be associated with a Class II or Class III tribal gaming operation unless such person has obtained a License from the Tribal Gaming Commission. Prior to issuing a License to such person, the Tribal Gaming Commission shall conduct, or cause to be conducted, a background investigation that meets the requirements of this Ordinance and applicable federal law. Applicants shall pay all fees required by the IGRA and this Ordinance.

2. A license shall not be granted unless the Tribal Gaming Commission has reviewed the results of the background investigation and is satisfied that the Applicant:

    a. Is of good character, honesty, and integrity;

    b. Does not pose a threat to the public interest of the Tribe or its members or to the effective regulation of gaming;

    c. Does not create or enhance dangers of unsuitable, unfair, or illegal practices in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto; and

    d. Is in all other respects qualified to be licensed of found suitable consistent with the declared policy of the Ely Shoshone Tribe.

3. An application for a license constitutes a request for a determination of the Applicant's general character, integrity and ability to participate or engage in, or be associated with gaming. Any written or oral statement made in the course of an official proceeding of the Tribal Gaming Commission or

the National Indian Gaming Commission by any member thereof or any witness testifying under oath that is relevant to the purpose of the proceeding is absolutely privileged and does not impose liability constituting a ground for recovery in any civil action.

4. Neither this subsection nor subsections C-G shall apply to gaming employees who are subject to the work permit requirements of Section 14.A.

C. Primary Management Officials and Key Employees; License Application, Notices.

1. The Commission shall require that primary management officials and key employees fill out an application form and pay a processing fee designated by the Commission, which fee shall not exceed $1,500 per Applicant.

2. Required Notices to Applicants: To the extent an application is subject to review by the National Indian Gaming Commission pursuant to the IGRA or the regulations of the National Indian Gaming Commission, the application form shall provide the following notices:

   a. Privacy Notice:

      In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. §§2701-2721. 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 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 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 constituent band or a gaming operation. The Tribe cannot hire a person in a primary management official or key employee position unless the person consents to the disclosures indicated in this notice.

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

b. Notice Regarding False Statements.

A false statement on any part of an application may be grounds for not hiring a person, or for firing a person after work begins. Also, false statements may be punishable by fine or imprisonment (U.S. Code, Title 18, Section 1001).

c. All applicants shall sign an acknowledgment of receipt and reading of the Privacy Notice and the Notice Regarding False Statements, which shall be placed on the same page immediately following the Notice.

d. To the extent any key employee or primary management official has not received the notice required by this subsection, the Gaming Commission shall notify in writing all such key employees and primary management officials that they shall either:

(i) complete a new application that contains the required types of notice; or

(ii) sign a statement that contains the notices and thereby consent to the routine uses described in said notices.

3. In addition to the requirements of subsection 2, the application form for both Class II and Class III gaming applicants shall require, at a minimum, the following information:

a. The Applicant's 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, a list of all business and employment positions held, all businesses in which the applicant has an ownership interest, and all business and residence addresses during that period;

c. Currently and for the previous five (5) years, disclosure of all driver's license numbers ever assigned to the Applicant, and the state by which they were assigned;

d. The names and current addresses of at least three personal references, including at least one personal reference who was acquainted with the Applicant during each period of residence listed under subsection 3.b of this subsection;

e. Current business and residence telephone numbers;

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

g. A description of any existing and previous business relationships with the gaming industry generally, including ownership interest in those businesses;

h. 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;

i. 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 of the charge;

j. For each misdemeanor conviction or ongoing misdemeanor prosecution within ten (10) years of the date of the application (excluding minor traffic violations), the name and address of the court involved, and the date and disposition of the charge;

k. For each criminal charge (excluding minor traffic violations), 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 subsection 3.i or 3.j of this section, the name and address of the court involved, the date of the offense, a short description of the charge, and the disposition;

l. The name and address of any licensing or regulatory agency with which the applicant has filed an application for an occupational license or permit, whether or not such license or permit was granted;

m. A current photograph;

n. Fingerprints consistent with procedures adopted by the BIA/Tribal Police or the Commission consistent with 25 C.F.R. §522.2(h). Fingerprints shall be taken by the BIA/Tribal Police, or the State Police of the state in which the applicant resides, and shall be sent by the agency taking the fingerprints to the Federal Bureau of Investigation National Criminal Information Center for a criminal history check. The Commission may also submit an Applicant's fingerprint card to any tribal, local or state criminal history check center or system as the Commission deems necessary or

appropriate. Reports obtained from such fingerprint checks shall be incorporated in the Applicant's file.

o. For Class III gaming applicants, any additional information required by the Compact;

p. Any other information required by the NIGC, or which the Tribal Gaming Commission deems relevant.

D. <u>Primary Management Officials and Key Employees; Background Investigation; Report</u>.

1. The Commission shall conduct, or cause to be conducted by an investigator appointed by it, a background investigation for each primary management official and key employee. In conducting a background investigation, the Commission or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation. The Commission or its investigator shall, at a minimum:

   a. Verify all information on the application;

   b. To the extent deemed necessary, interview or obtain references from current and prior employers and immediate supervisors for the preceding five (5) years;

   c. To the extent deemed necessary, interview any or all personal references;

   d. Obtain a criminal history record; and

   e. Interview the applicant.

2. The investigator shall make a written report of the investigation to the Commission, including therein the steps taken in conducting the investigation, the names, addresses and relationship to the applicant of any persons interviewed, the information obtained from each person interviewed regarding the Applicant's reputation, habits and associations, the apparent candidness (or lack thereof) of the persons interviewed, and any other information garnered or learned about the Applicant and the source of the information, and shall particularly identify all potential problem areas and sources of the information.

E. <u>Eligibility Determination</u>.

1. The Commission shall review the report and any additional information known to it, taking into account the Applicant's prior activities, criminal

record, if any, and reputation, habits and associations, and shall make a determination concerning the eligibility for employment in a gaming operation. If the Commission determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, a tribal gaming operation shall not employ that person in a key employee or primary management official position.

F. Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission; Issuance of Temporary Licenses.

1. If the Commission determines that an Applicant is eligible for a license, it may issue a temporary license if it determines that the applicant must start work immediately, pending a review of the applicant's eligibility by the National Indian Gaming Commission and/or by the State of Nevada under the Compact, as applicable. Within ten (10) days of the issuance of a temporary license or upon a determination of eligibility, whichever occurs first, the Tribal Gaming Commission shall forward copies of the Applicant's employment/license application, and background investigation report and related information to the National Indian Gaming Commission, and to the State of Nevada if required under the Compact.

2. In addition to the documentation required in subsection F.1, the Tribal Gaming Commission shall prepare and forward to the National Indian Gaming Commission, and to the State if required under the Compact, 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 bases for those conclusions.

   The Tribal Gaming Commission shall submit, with the report, a copy of the eligibility determination made under this section.

3. If a temporary license is not issued to an applicant or if the Commission determines an applicant is not eligible for a license, the Tribal Gaming Commission:

a. Shall notify the National Indian Gaming Commission, and the State if required by the Compact; 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 Records System.

4. With respect to key employees and primary management officials, the Tribal Gaming Commission 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/her designee for no less than three (3) years from the date of termination of employment.

G. <u>Granting a Gaming License</u>.

1. If, within a thirty (30) day period after the National Indian Gaming Commission receives the information required in subsection F, the National Indian Gaming Commission notifies the Tribe that it has no objection to the issuance of a permanent license to the applicant, and the Tribal Gaming Commission may issue a permanent license to such applicant.

2. The Tribal Gaming Commission 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 Tribal Gaming Commission shall make the final decision whether to issue a license to such applicant.

4. Notwithstanding any provision herein to the contrary, to the extent the Tribal Gaming Commission is required by the Compact to submit relevant background and licensing information for Class III gaming applicants to the State, the Tribal Gaming Commission may not issue a permanent license until after the applicable requirements of the Compact are met.

H. Requirements Applicable to all Employees.

1. No person shall be employed by a tribal gaming enterprise operated on the Ely Shoshone Tribal lands who is under the age 18, except that, no person shall be employed as a primary management official or key employee who is under the age of 21.

2. No person shall be employed as a primary management official or key employee in a Class II or Class III gaming activity who has not first applied for and obtained a tribal gaming license pursuant to this Ordinance and, for Class III gaming, in compliance with the terms and conditions of the Compact.

3. Every person employed at a tribal gaming facility operated on Ely Shoshone Tribal lands shall wear an identification badge during work hours that conspicuously states his or her full name, title, and place of employment.

Section 15. License Suspension and Revocation.

A. If, after the issuance of a temporary or permanent gaming license, the Tribal Gaming Commission receives from the National Indian Gaming Commission, the State, or any other source reliable information indicating that a key employee or a primary management official is not eligible for employment under Section 14 above, the Tribal Gaming Commission shall suspend such license and shall notify the Licensee in writing of the suspension and the proposed revocation.

B. The Tribal Gaming Commission shall notify the Licensee of a time and a place for a hearing on the proposed revocation of a license.

C. After a revocation hearing, the Tribal Gaming Commission shall decide to revoke or to reinstate a gaming license. The Tribal Gaming Commission shall notify the National Indian Gaming Commission, and the State if required by the Compact, of its decision.

D. Decisions by the Tribal Gaming Commission to suspend or revoke a temporary license are not appealable.

E. Decisions by the Tribal Gaming Commission to suspend or revoke a permanent license may be appealed to the Tribal Court by filing an appropriate civil complaint within thirty (30) days of a final decision of the Gaming Commission. Unless a complaint is timely filed under this section, the Commission's decision shall be final, and the Tribal Court shall have no jurisdiction to review the Commission's action. If a timely complaint is filed, the Tribal Court shall uphold the decision of the Tribal Gaming Commission unless the Court determines that the Gaming Commission's decision is arbitrary, capricious or otherwise not in

accordance with applicable law, in which case the Tribal Court may reverse, modify or vacate the decision of the Gaming Commission, and grant such equitable relief as it deems necessary and appropriate. In no event shall the Tribal Court be authorized to grant any form of monetary relief against the Tribal Gaming Commission. Except as specifically authorized herein, nothing in this Ordinance shall be construed as a waiver of the sovereign immunity of the Tribe or the Tribal Gaming Commission.

F. A copy of the Tribal Gaming Commission's decision, and if applicable the Tribal Court's decision, regarding the revocation of a license shall be sent to the NIGC, and to the State if required by the Compact.

Section 16. Audits of Tribal Gaming Operations.

A. The Tribal Gaming Commission shall cause to be conducted annually an independent audit of all tribal 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.

III. CLASS II GAMING

Section 17. Definitions.

A. Except as otherwise provided in this Ordinance, the Compact or the regulations of the NIGC, the following terms are defined as follows:

1. "Bingo" means bingo as defined in Section 4 of this Ordinance.

2. "Bingo Occasion" means a single session or gathering at which a series of successive bingo games are played.

3. "Card games" means non-banking card games played in conformity with Nevada State law regulating hours, wages and pot limitations.

4. "Class II electronic aid" means and includes and electronic device or machine that is approved by the National Indian Gaming Commission or a federal court for use as a Class II game pursuant to 25 U.S.C. §2703(7).

5. "Game Card" and "Bingo card game" mean a regular or special Bingo Card.

6. "Lotto" means a game of chance played for prizes with cards bearing numbers or other designations in which the player holding the card covers such numbers or designations when objects similarly numbered or designated are drawn or otherwise randomly determined, in which the game is won by the first player to cover a pre-designated arrangement on the card.

7. "Pull Tabs" means factory covered tickets which are purchased and opened by customers revealing a predetermined winning arrangement.

8. "Punch Board" means a small board that has many holes, each filled with a rolled up printed slip to be punched out upon payment of a player fee, in an effort to obtain a slip that entitles the player to a designated prize.

9. "Regular Bingo Card" means a board card issued to a person upon payment of admission fee which affords a person the opportunity to participate in all regular bingo games played at a bingo occasion.

10. "Special Bingo Card" means a disposable, specially marked bingo card which affords a person the opportunity to participate in a special bingo game for special prizes, or a game card generated by and appearing on the screen of a computer employed by the gaming facility and assigned to a player for a bingo game(s).

11. "Special Bingo Game" means any bingo game which is not a regular bingo game and which is played with special bingo cards whether or not for special prizes.

12. "Tip Jars" means a game of chance, wherein a person upon payment of a fee, is permitted to reach into, or tip jar containing printed slips, and extract one slip in an effort to obtain a slip that entitles the player to a designated prize.

Section 18. Person Authorized to Conduct Class II Gaming.

A. No person or entity shall own, operate or conduct a Class II gaming activity on Indian lands unless that person or entity has first received a license to conduct a Class II gaming activity from the Gaming Commission. The initial license of any Class II gaming operation must also be approved by the Tribal Council.

Section 19. Ownership of Class II Gaming Activity.

A. Except as expressly provided herein, the Ely Shoshone Tribe shall have the sole proprietary interest in any Class II gaming operation or facility conducted on Indian lands.

B. Notwithstanding subparagraph A above, the Tribal Gaming Commission, with the prior approval of the Tribal Council, may license a Class II gaming activity owned in whole or in part, by a person or entity other than the Ely Shoshone Tribe, provided that (a) the licensing standards for individually owned Class II gaming shall be at least as restrictive as those established by State law governing similar gaming within the jurisdiction of the State; and (b) no license may be issued to such a person or entity unless the person or entity has first expressly agreed in writing on a form prescribed by the Tribal Gaming Commission that:

1. The gaming activity shall be subject to the regulations prescribed in this section;

2. Not less than sixty percent (60%) of the net revenues from the gaming activity shall be income to the Tribe;

3. The person(s) who own(s) the gaming activity or entity:

   a. Is (are) eligible to receive a license from the State of Nevada to conduct the same gaming activity on lands subject to State jurisdiction; and

   b. Shall pay an appropriate assessment to the National Indian Gaming Commission for the regulation of the gaming activity, as required by 25 U.S.C. §2717(a)(1).

4. A license to own or operate a Class II gaming establishment shall not be granted unless the Applicant has satisfied the Tribal Gaming Commission that:

   a. He has adequate business ability, confidence and experience in gaming, and the proposed gaming operation will generate net revenue for the Tribe; and

   b. The proposed financing of the operation is adequate for the nature of the proposed operation and from a suitable source, and lender or other source of money or credit that the Commission finds does not meet appropriate standards may be deemed unsuitable.

5. The Tribal Gaming Commission may in its discretion grant a license to a corporation that has complied with the provisions of the Tribal Gaming Ordinance.

6. The Tribal Gaming Commission may in its discretion grant a license to a limited partnership that has complied with the Tribal Gaming Ordinance.

7. No person or limited partnership, except one whose sole limited partner is a publicly traded corporation which has registered with the Tribal Gaming Commission, or business trust organization or other association of a quasi corporate character, is eligible to receive or hold any license, or be a Licensee or operator under this Ordinance unless all persons having any direct or indirect interest therein or nay nature whatsoever, whether financial, administrative, policy making or supervisory, are individually qualified to be licensed under the provisions of this chapter.

8. The Tribal Gaming Commission may limit the number of persons who may be financially interested in any corporation or other organization or association licensed under this Ordinance, consistent with 25 U.S.C. §2700 *et seq.*, and establish such other qualifications for licenses as they may, in their discretion, deem to be in the public interest and consistent with the declared policy of the Tribe and the IGRA.

C. Income to the Tribe from the gaming activity shall only be used for the purposes described in Section 6 of this Ordinance.

Section 20. Management Contracts.

The Ely Shoshone Tribe may enter into a management contract for the operation and management of Class II tribal gaming operations. Each such contract must comply with the provisions of this Ordinance, other applicable provisions of tribal law (including, but not limited to, tribal employment preference laws), and provisions of federal law (including, but not limited to, 25 U.S.C. §2711).

Section 21. Games Permitted.

A. The Tribe and/or any licensed Class II owner and operator may conduct any Class II games and any combination of Class II games.

B. A schedule of the Class II games to be conducted and a description of prizes offered must be conspicuously posted at each entrance to the Class II facility each week in which games will be conducted at least 24 hours prior to the start of the first game scheduled.

Section 22. Bingo Game Cards.

A. Each facility shall provide the game cards to be used for each bingo game conducted and each card shall be marked to indicate the issuing facility.

B. Special bingo cards must be issued separately from regular bingo cards, and must be specially marked to indicate the particular special bingo game, including the date, and the facility of issuance. In the case of computer-generated cards, the computer must be programmed to lock on a card at the start of the game, prior to calling of the first number or designated symbol, so as not to permit altering or changing of the card during the game, and every winning card must be verified. A special bingo card shall be valid only for the designated game.

Section 23. Player Limitation.

A. The number of persons permitted to play any Class II game shall be determined by the owner, operator or manager as is appropriate, except that:

1. The number of people permitted in the facility or in any room in the facility shall not exceed the limitation of the number permissible under the applicable fire, building or other safety codes or standards.

2. The number of people permitted to play any bingo game shall not exceed the number of seats available in the room(s) in which the game is being played.

Section 24. Entry Prohibited.

No person may enter any room in which a bingo game is being played unless the person is a player, except facility employees and persons present by authority of the Tribal Gaming Commission, for purposes of inspection or regulatory duties.

Section 25. Hours of Operation; Notice to Commission.

A. Class II gaming may be conducted 24 hours a day, seven days a week, unless the Tribal Gaming Commission, by license, regulation or otherwise, limits the hours of operation of any Class II gaming facility.

B. Unless notified otherwise by the Gaming Commission, each licensed Class II gaming facility shall have the right to operate 24 hours a day, seven days a week.

IV. CLASS III GAMING

Section 26. Persons Authorized to Conduct Class III Gaming.

No person or entity shall conduct a Class III gaming activity on Indian lands unless that person or entity has first complied with the terms and conditions of the Compact and has received a license to conduct a Class III gaming activity from the Tribal Gaming Commission. The initial license of any Class III tribal gaming operation must also be approved by the Tribal Council.

Section 27. Persons Authorized to Own a Class III Gaming Operation.

A. Except as expressly provided herein, the Ely Shoshone Tribe shall have the sole proprietary interest in any Class III gaming operation or facility.

B. Notwithstanding subparagraph A above, the Tribal Gaming Commission, with the prior approval of the Tribal Council, may license a Class III gaming facility owned in whole or in part by a person or entity other than the Ely Shoshone Tribe, or provided that the licensing standards for individually owned Class III gaming shall comply with the Compact, and all other applicable provisions of federal law are satisfied. Any such gaming activity shall be subject to regulations prescribed by the Gaming Commission which shall be consistent with the Compact and applicable provisions of the IGRA.

Section 28. Authorized Operation.

A. Class III gaming is prohibited on the Reservation unless such gaming is licensed and authorized pursuant to the provisions of the Compact and this Ordinance.

1. Operation of Class III Gaming Facilities.

a. A tribal or non-tribal gaming facility may operate Class III gaming at one or more facilities on the Ely Shoshone Tribal lands if:

(i) the proposed facility is in compliance with the requirements of this Ordinance;

(ii) the proposed facility is in compliance with the Compact; and

(iii) the Class III gaming operation proposal complies with all other applicable laws and regulations.

Section 29. Management Contracts.

The Tribal Council may enter into a management contract for the operation and management of Class III tribal gaming activities. Each such contract must comply with the provisions of this Ordinance, the Compact, other applicable provisions of tribal law (including, but not limited to, tribal employment preference laws), and provisions of federal law (including, but not limited to, 25 U.S.C. §2711).

Section 30. Games Permitted.

A. Any Class III game or games permitted pursuant to the Compact may be conducted on the Reservation, subject to the restrictions and conditions set by the Tribal Gaming Commission.

B. Conduct of any Class III game that is first legalized within the State of Nevada after the date of the Compact then in effect, or which heretofore becomes permitted on Indian lands under federal law, pursuant to the Compact or amendments thereto may be authorized by the Tribal Gaming Commission by regulation.

Sections 31-35. (Reserved).

V. VIOLATIONS

Section 36. Crimes; Penalties.

A. It shall be unlawful for any person to:

1. Operate or participate in gaming on Indian lands in violation of the provisions of this Ordinance or in violation of rules and/or regulations promulgated pursuant to this Ordinance;

2. Knowingly make a false statement in an application for employment with a gaming activity or enterprise, or in an application for a license to operate a gaming activity or enterprise on Ely Shoshone Tribal lands;

3. Bribe or attempt to bribe, or unduly influence or attempt to unduly influence, any person who licenses, operates, conducts, assists, or is otherwise employed in a gaming activity or enterprise located on Ely Shoshone Tribal lands; or

4. Violate any other provisions of tribal law, applicable state or federal law on the premises of any gaming facility.

B. Any Indian who violates a provision of this Ordinance or of other tribal law relating to gaming activities may be fined not more than $1,000 and/or

imprisoned for up to one year for each violation. A separate violation occurs on each day that a violation arises or continues. Any non-Indian who violates a provision of this Ordinance shall be subject to a civil fine, and may be excluded from the Indian lands within the jurisdiction of the Ely Shoshone Tribe.

C. Any property used in the commission of a violation or a provision of this Ordinance may be seized by the Tribal Gaming Commission or their agents. The owner of the property shall be afforded an opportunity to object and be heard in accordance with principles of due process. If no objection is raised or the objection is not sustained, the Tribe may dispose of the seized property.

Section 37. Civil Penalties.

A. Any person or entity who violates any term or condition of any license issued pursuant to this Ordinance may be assessed a civil penalty by the Tribal Court in a civil action filed by the Tribal Gaming Commission or tribal prosecutor. Each violation shall be treated separately and may be assessed as a separate violation.

B. Civil penalties provided for in this section may be imposed in addition to the criminal penalties provided for in Section 34 above.

VI. VALIDITY OF ORDINANCE

Section 38. Severability.

A. If any provision or provisions in this Ordinance are held invalid by a court of competent jurisdiction, this Ordinance shall continue in effect as if the invalid provision(s) were not a part hereof.

B. If any provision of this Ordinance is inconsistent with any provision of the Compact, the terms of the Compact shall control.

Section 39. Effective Date of Ordinance.

This Ordinance shall take effect upon adoption of the Tribal Council and approval by the NIGC pursuant to the IGRA and regulations applicable thereunder. Any and all prior ordinances regulating gaming on Tribal lands are repealed as of the date this Ordinance takes effect.