NATIONAL
INDIAN
GAMING
COMMISSION

September 23, 1993

Robert B. Peacock
Tribal Chairman
Fond du Lac Reservation
105 University Road
Cloquet, Minnesota 55720

Dear Chairman Peacock:

This letter responds to your request to review and approve the tribal gaming ordinance, Ordinance # 09/93, submitted on July 21, 1993, and revised on August 24, 1993, for the Fond du Lac Reservation. This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

Under the IGRA and the regulations of the National Indian Gaming Commission (NIGC), the Chairman is directed to review ordinances with respect to the requirements of that Act and the implementing regulations. Thus, the scope of the Chairman's review and approval is limited to the requirements of the IGRA and the NIGC regulations. Such approval does not constitute approval of specific games.

The NIGC expects to receive the applications for key employees and primary management officials under 25 C.F.R. § 556.6 (as published in the Federal Register on January 22, 1993, at 58 Fed. Reg. 5813) and fingerprint cards under NIGC Bulletin No. 2 which was sent to all tribes in July. Provisions other than those required under the IGRA or the NIGC regulations that may be included in a tribal ordinance are not subject to review and approval.

It is important to note that the gaming ordinance is approved for class II and class III gaming only on Indian lands as defined in the IGRA.

The NIGC will be publishing the ordinance in the Federal Register pursuant to 25 C.F.R. §522.8.

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Thank you for submitting the ordinance of the Fond du Lac Reservation for review and approval. The NIGC staff and I look forward to working with you and your Tribe on implementing the IGRA.

Sincerely yours,

Anthony J. Hope
Chairman

cc: Dennis J. Peterson
Donald J. Simon

Fond du Lac Reservation
Business Committee

105 University Road,
Cloquet, MN 55720
Phone (218) 879-4593
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Chairman
Robert B. Peacock

Secretary/Treasurer
Peter J. Defoe

Dist. I Councilman
Clifton Rabideaux

Dist. II Councilman
Herman Wise

Dist. III Councilman
George Dupuis

Executive Director
I. Jean Mulder

RESOLUTION # 1246/93

The Fond du Lac Reservation Business Committee, on behalf of the Fond du Lac Band of Lake Superior Chippewa, hereby enacts the following Resolution:

WHEREAS, the Fond du Lac Reservation is a sovereignty, created by the Treaty of September 30, 1854, 10 Stat. 1109, as the perpetual home of the Fond du Lac Band of Lake Superior Chippewa, which possesses the inherent jurisdiction and authority to exercise regulatory control within the boundaries of the Fond du Lac Reservation; and

WHEREAS, it is the sovereign obligation of the Fond du Lac Reservation Business Committee, as the Governing Body of the Fond du Lac Band, under the Indian Reorganization Act, 25 U.S.C. § 461 et seq., and in accordance with the Indian Self-Determination Act, 25 U.S.C. § 450 et seq., to assume the responsibilities of self government; and

WHEREAS, the Reservation Business Committee, pursuant to the requirements of the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq., submitted the Fond du Lac Gaming Ordinance, Fond du Lac Ordinance #09/93, and the Gaming Regulations and Description of Procedures for Background Investigations promulgated thereto to the National Indian Gaming Commission on July 21, 1993; and

WHEREAS, the National Indian Gaming Commission has reviewed the aforementioned submissions and has identified certain deficiencies as addressed by amendment hereunder; and

WHEREAS, the Reservation Business Committee considers the following amendments to Fond du Lac Gaming Ordinance #09/93 and the Description of Procedures for Background Investigations promulgated thereto;

NOW THEREFORE BE IT RESOLVED, that the Fond du Lac Reservation Business Committee hereby amends Fond du Lac Ordinance #09/93 as follows:

1. The definitions of "lotto," "paddlewheel," and "raffle," formerly Sections 202(b), 202(c) and 202(e) are deleted in their entirety, and the former Sections 202(d) and 202(f), entitled "tipboard" and "other games of chance," respectively, shall now be Section 202(b) and 202(c) of the Ordinance; and

2. The term "An entity," as used in the last sentence of Section 401, shall be replaced with the term "The Band;" and

NOW THEREFORE BE IT FURTHER RESOLVED, that the Reservation Business Committee hereby amends the Description for Conducting Background Investigations, promulgated pursuant to Fond du Lac Gaming Ordinance #09/93, to clearly provide that criminal history checks of all primary management officials and key employees shall be conducted by the Minnesota Department of Public Safety pursuant to the procedures set forth under the "Tribal-State Compact for Control of Class III Video Games of Chance on the Fond du Lac Band of Lake Superior Chippewa Reservation in Minnesota" and the "Tribal-State Compact for Control of Class III Blackjack on the Fond du Lac Band of Lake Superior Chippewa Reservation in Minnesota," and that fingerprint cards shall be processed by the Federal Bureau of Investigation, through the National Indian Gaming Commission, pursuant to the Memorandum of Understanding between the Band and the National Indian Gaming Commission dated July 13, 1993.

We do hereby certify that the foregoing Resolution was duly presented and acted upon by a vote of 2 for, 0 against, 0 silent, with a quorum of 3 being present at a SPECIAL Meeting of the Fond du Lac Reservation Business Committee held on AUGUST 24, 1993 in Cloquet, Minnesota.

Robert B. Peacock, Chairman

Peter J. Defoe, Sec./Treas.

EXHIBIT B

FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA

GAMING ORDINANCE #09/93
AS AMENDED

Licensing and Regulation of Games of Chance

APR - 1 2003

Adopted by Resolution #1174/93 of the Fond du Lac Reservation Business Committee, dated June 28, 1993.
Amended by Resolution #1246/93 of the Fond du Lac Reservation Business Committee dated August 24, 1993.

Ordinance #08/88 entitled "Licensing and Regulation of Bingo, Lotto and other Games of Chance" is hereby repealed and in its place is substituted the following:

FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA

GAMING ORDINANCE #09/93

Licensing and Regulation of Games of Chance

Chapter 1: Authority and Findings

Section 101 Authority

This Ordinance is enacted pursuant to the inherent sovereign authority of the Fond du Lac Reservation Business Committee, as the governing body of the Fond du Lac Band of Lake Superior Chippwewa, as granted by Article VI of the Constitution of the Minnesota Chippewa Tribe, and as recognized by the United States under Section 16 of the Indian Reorganization Act of 1934, 25 U.S.C. § 476, and under the Indian Gaming Regulatory Act of 1988, 25 U.S.C. § 2701 et seq.

Section 102 Findings

The Reservation Business Committee finds:

(a) That the operation of bingo, lotto and other games of chance by the Band is a valid means of promoting tribal economic development and the health and welfare of Band members.

(b) That under the principles established by the United States Supreme Court in California v. Cabazon Band of Mission Indians, 480 U.S. 202 (1987), Indian tribes have had the exclusive right to regulate gaming activity on Indian lands if the activity is not specifically prohibited by Federal law and conducted within a state, such as Minnesota, which does not criminally prohibit the activity.

(c) That the United States Congress has enacted the Indian Gaming Regulatory Act, providing for certain federal regulation of Indian gaming.

(d) That tribal regulation of gaming activity on the Reservation is vital to the protection of trust lands on the Reservation and to the protection of the interests of the Band and its members.

Chapter 2: Definitions

Section 201 Class I Gaming

"Class I gaming" means:

(a) Social games played solely for prizes of minimal value.

(b) Traditional forms of Indian gaming engaged in as a part of tribal ceremonies, celebrations, or pow wows.

Section 202 Class II Gaming

The term "Class II gaming" means:

(a) Bingo. The game of chance 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.

Electronic, computer or technological aids -- such as computer-generated number sequences -- can be used in connection with Class II bingo, so long as all players play against the machine rather than against each other, are Class III games, subject to Chapter 5 of this Ordinance.

(b) Tipboard. The game of chance where a board, playcard, or other device is marked off in a grid or column, in which each section contains a hidden number or other symbol which determines the winning chances.

(c) Other Games of Chance. Games similar to bingo, including, if played at the same location as bingo, pull-tabs, punch boards, tip jars, and "instant bingo," in which prizes are awarded on the basis of a designated winning number or numbers, color or colors, symbol or symbols determined by chance.

Section 203 Class III Gaming

All forms of gaming that are not Class I or Class II gaming, including:

(a) Electronic or electromechanical facsimiles of any games of chance or slot machines of any kind, including "video bingo."

(b) All banking card games; that is, card games played against the house, including baccarat, chemin de fer, and blackjack.

Section 204 Traditional Forms of Indian Gaming

(a) Gaming activities such as "stick" or "bone" games played as part of tribal ceremonies, celebrations, or pow wows.

(b) Games such as rodeos or horse races, including those for which purses or prizes are awarded, that are played as part of tribal ceremonies, celebrations, or pow wows. This does not include games operated prior to a ceremony, celebration, or pow wow for the purpose of raising funds for the ceremony, celebration or pow wow; these are considered Class II games unless they meet the definition set forth in Section 205, below.

Section 205 Social Games for Prizes of Minimal Value

Games in which the total value of prizes awarded during the calendar year does not exceed $2,500.

Section 206 Reservation Business Committee

The Reservation Business Committee, the governing body of the Fond du Lac Band of Lake Superior Chippewa.

Section 207 Net Revenues

Gross revenues of a gaming activity less amounts paid out as, or paid for, prizes and total operating expenses, excluding management fees.

Section 208 Key Employees

(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.

Section 209 Primary Management Official

(a) The person having management responsibility for a 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.

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

Section 210 Reservation

The Reservation shall mean the Fond du Lac Reservation and any trust land held by the United States for the Fond du Lac Band.

Chapter 3: Gaming Authorized

Section 301 Ordinance

Class II gaming and Class III gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-497, 25 U.S.C. §§ 2703(7) and 2703(8), and by the regulations promulgated by the National Indian Gaming Commission at 25 CFR § 502.3, are hereby authorized. No Class II or Class III gaming shall be conducted on the Band's Reservation or on land held in trust for the Band by the United States except as authorized by this Ordinance.

Chapter 4: Ownership of Games

Section 401 Sole Proprietary Interest in Band

The Band shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this Ordinance. Ownership of Class II or Class III games by any entity other than the Band is prohibited. The Band shall be considered to "own" a game if it has the sole authority to direct

distribution of the game's revenues and sole ultimate responsibility for the conduct of the game.

Chapter 5: Use of Gaming Revenue

Section 501 Permissible Uses of Gaming Revenue

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

Section 502 Per Capita Payments

If the Band elects to make per capita payments to tribal members, it shall authorize such payments only upon approval of a plan submitted to the Secretary of the Interior under 25 U.S.C. § 2710(b)(3).

Chapter 6: Audit

Section 601 Audit Required

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

Section 602 Exceptions

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 Section 601 above.

Chapter 7: Protection of the Environment and Public Health and Safety

Section 701 Protection Required

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

Chapter 8: Class I Gaming

Section 801 Regulation of Class I Gaming

This Ordinance does not apply to Class I gaming as defined in Chapter 2, except as provided in this Section. The Band reserves the right to inspect the premises where the Class I game is held and to obtain and review financial information concerning the game in order to determine whether it meets the definition of a Class I game. In addition, Class I games may be subject to other tribal ordinances and regulations designed to protect the health and welfare of tribal members.

Chapter 9: Regulation of Class II and Class III Gaming

Section 901 Regulation by this Ordinance

All Class II and Class III gaming conducted within the Fond du Lac Reservation or on land held in trust for the Fond du Lac Band by the United States shall be conducted according to the provisions of this Ordinance.

Chapter 10: License Required for Class II

Section 1001 License Locations

The Band shall issue a separate license to each place, facility or location on Indian lands where Class II or Class III gaming is conducted under this Ordinance. No gaming may be conducted at any place, facility or location without a duly issued license.

Section 1002 License Application

License for the conduct of Class II or Class III gaming may be issued only by the Reservation Business Committee, and only to the Band or a corporation or entity that is wholly owned by the Band. For each place, facility or location licensed, an application must be filed that provides the following information:

(a) A description of the premises in which the game is to be held, and proof that the application is the owner of such premises, or lessee of such premises, for at least the term of the license.

(b) Agreement by the applicant to accept and abide by all applicable provisions of this Ordinance and all conditions of the tribal license.

(c) Satisfactory proof that notice of the application has been posted in a prominent, noticeable place in the Tribal Office and on the premises where the game is to be held for at least 30 days prior to consideration by the Reservation Business Committee, and published at least twice in a local newspaper serving the Reservation. The notice shall state the date, time and place when the application shall be considered by the Reservation Business Committee to Section 1004.

Section 1003 License Fees and Duration of License

Each application shall be accompanied by a fee of $50.00. The license shall expire on December 31st of the calendar year in which it is issued.

Section 1004 Hearing on Application for a License

All applications for a license shall be considered by the Reservation Business Committee in open session at which the applicant, his attorney and any person protesting the application shall have the right to be present, and to offer sworn oral or documentary evidence relevant to the application. After the hearing, the Reservation Business Committee shall determine whether to grant or deny the application. The decision of the Reservation Business Committee is final.

Section 1005 Conditions of the Tribal License

Any tribal license issued under this Ordinance shall be subject to such reasonable conditions as the Reservation Business Committee shall establish, including, but not limited to the following:

(a) The licensee shall at all times maintain an orderly, clean, and neat establishment, both inside and outside the licensed premises.

(b) Prizes to be awarded are not limited, provided, however, that such prizes have been approved in advance by the Reservation Business Committee.

(c) The licensed premises shall be opened to inspection by duly authorized tribal officials and officials of the National Indian Gaming Commission at all times during the regular business hours.

(d) There shall be no discrimination in the operations under the tribal license by reason of race, color or creed, provided,

however, that a licensee shall give a preference in employment to qualified Indians. In observing Indian preference, the licensee shall grant preference to qualified members of the Fond du Lac Band.

(e) No person who is under the age of 18 shall participate nor shall be allowed to participate in any manner in the operation of any game. No person who is under the age of 18 shall pay in any game of chance. No person under the age of 18 shall be allowed on premises where games are being conducted. It shall be the responsibility of the licensee to assure that no unauthorized person is allowed to play in or participate in any manner in the operation of any game.

(f) All licensees shall impose a uniform charge on all players for the bingo or lotto cards to be used in each bingo or lotto game. The rate to be charged players for cards shall be fixed by each licensee and posted conspicuously on the premises. No person shall be allowed to play in a game without first paying this uniform charge, with the exception that free games may be awarded as prizes. All sales of bingo or lotto cards are final. Each person paying for the opportunity to participate in a bingo game shall be given a bingo or lotto card which shall be numbered and can be readily identified as belonging to that licensee. Each card issued shall represent a specific amount of money which has been paid to the licensee. The amount of prize money represented by each card issued shall be clearly made known to all players prior to anyone paying to participate in the activity.

(g) Bingo or lotto cards shall be sold and paid for, only in advance of use in a specified game or games. No bingo or lotto cards may be sold on credit or given as a loan of any kind whatsoever.

(h) Lotto cards shall be printed, color coded and dated on a weekly basis. Unsold imprinted lotto cards shall be accounted for, recorded and destroyed before witnesses after the weekly lotto game. Sales of cards for the weekly lotto game shall be stopped at a predetermined time at all bingo locations where lotto cards are sold.

(i) No licensee shall allow a person who manages or receives any compensation, directly or indirectly, for the operation of any Class II or Class III game conducted by the licensee to play in a game of chance conducted at that place, facility or location.

(j) Each numbered ball, or other device, used in a bingo or lotto game for the selection of numbers to be called in play shall be the same weight as each of the other balls or devices used for the purpose of that game. Immediately following the calling of each number in a bingo or lotto game, the caller shall turn the portion of the ball or other device used to determine which number is called which shows the number and letter to the participants in the game so that participants may know that the proper number has been called out. Nothing in this section shall prohibit the use of

electronic, computer or other technological aids in games of bingo or other games of chance provided that such aids are used properly and fairly.

(k) Winners of bingo or lotto games must properly identify themselves with two (2) forms of identification. Winners must sign and date their winning card upon redemption and a receipt will be provided. Bingo or lotto cards shall be void if stolen, unissued, unreadable, mutilated, altered or counterfeited.

(l) No beverage containing alcohol, including but not limited to, beer or liquor, shall be offered or awarded as a prize or in lieu of a prize for winning at any of the activities authorized by this Ordinance.

(m) No person involved in the operation of any activity authorized by this Ordinance shall, directly or indirectly, in the course of such operation employ any device, scheme, or artifice to defraud; make any untrue statement of fact, or omit to state a fact necessary in order to make a statement not misleading in consideration of the circumstances under which such statement was made; engage in any act, practice, or course of operation as would operate as fraud or deceit upon any person.

(o) The Reservation Business Committee may issue such regulations, at such time, and in such a manner as it shall choose to govern the conduct of gaming as defined under this Ordinance and to insure its operation for lawful purposes.

(p) Each licensee shall have the authority to adopt additional rules and regulations concerning the conduct of gaming provided such rules are not inconsistent with the foregoing and have received the prior approval of the Reservation Business Committee.

Section 1006 <u>Assignment or Transfer</u>

No license issued under this Ordinance shall be assigned or transferred without the written approval of the Reservation Business Committee expressed by formal resolution. The Reservation Business Committee shall not assign or transfer any license except upon request of the holder of the license.

Section 1007 <u>Cancellation and Suspension</u>

The licensee must have, and exercise complete control over the premises being used for any Class II or Class III games of chance at all times said games are being played. The licensee and its employees shall be legally responsible for any violation of this Ordinance. Any license issued hereunder amy be cancelled by the reservation Business Committee for the breach of any of the provisions of this Ordinance or of the tribal license, upon hearing before the Reservation Business Committee or its designee after 10

days notice of the claimed breach to the license. If the Band is the licensee, notice shall be served on the manager of the tribal operation. The time and place of the hearing shall be posted in the tribal office, and if time permits in a local newspaper serving the Reservation. The licensee, manager, their attorney and any person affected by the license shall have the right to be present and to offer sworn oral or documentary evidence relevant to the breach charged. A license may be suspended during the 10-day period by a majority vote of the Reservation Business Committee at which a quorum is present. The decision of the Reservation Business Committee shall be final.

Section 1008 Tax Imposed

The Reservation Business Committee does hereby impose upon the gross sales of any gaming conducted by a licensee pursuant to this Ordinance or any other lawful ordinance relating to gaming a tax of 8% of the total gross sales received on any single gaming occasion. It shall be the responsibility of the licensee to collect this tax, fill out any applicable report forms, and return this tax to the Fond du Lac Reservation Business Committee within thirty (30) days of the end of the quarter during which the tax was assessed.

Section 1009 Reports to the Band

Each licensee shall submit to the Reservation Business Committee on a quarterly basis, a financial report for the previous quarter's operations. Such reports shall be signed, under oath, by an official or representative of the licensee, who in the case of a tribal operation shall be the operation's manager. The reports shall document:

(a) Monthly attendance at bingo and other games.

(b) Gross receipts for each month.

(c) Names of each employee and the salary or other compensation paid to each.

(d) Quantity of free plays.

(e) All expenses in the operation of the games, specifying all payments to vendors and contractors.

(f) The amount paid in prizes each month.

(g) All bank deposits made from proceeds of all games, including any interest received on such deposits.

(h) All expenditures of net proceeds including the amount, person or organization paid, date, and purpose of such expenditures.

The Reservation Business Committee may require that record

required to be kept by this section be preserved by a licensed organization for at least two years and may be inspected by employees or agents of the Reservation Business Committee at any reasonable time without notice or search warrant. Failure of an organization to cooperate with employees or agents of the Reservation Business Committee or failure to preserve such records may result in the immediate suspension without prior notice or hearing of that organization's license.

Chapter 11: Licenses for Key Employees and Primary Management Officials

Section 1101 Policy

The Band 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 or Class III gaming enterprise operated on Indian lands.

Section 1102 Application Forms

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

> In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. §§ 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to hire you in a primary management official or key employee position.
>
> The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

(b) Existing key employees and primary management officials

shall be notified in writing that they shall either:

1. Complete a new application form that contains a Privacy Act notice; or

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

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

> A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment. U.S. Code, Title 18, § 1001.

(d) The Band shall notify in writing existing key employees and primary management officials that they shall either:

1. Complete a new application form that contains a notice regarding false statements; or

2. Sign a statement that contains the notice regarding false statements.

Section 1103 <u>Background Investigations</u>

(a) The Band shall request from each primary management official and from each key employee involved in Class II or Class III gaming all of the following information:

1. Full name, other names used (oral or written), Social Security Number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);

2. Currently and for the previous 5 years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;

3. The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (a)2. of this section;

4. Current business and residence telephone numbers;

5. A description of any existing and previous

business relationships with Indian tribes, including ownership interests in those businesses;

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

7. 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;

8. 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;

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

10. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to paragraph (a)8. and (a)9. of this section, the criminal charge, the name and address of the court involved and the date and disposition;

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

12. A current photograph;

13. Any other information the Band deems relevant; and

14. Fingerprints consistent with procedures adopted by the Band and consistent with 25 C.F.R. § 522.2(h).

(b) The Band shall conduct a background investigation sufficient to make a determination under section 1104 below. In conducting a background investigation, the Band or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation. The background investigation shall include a criminal history inquiry through the Federal Bureau of Investigation National Criminal Information Center.

Section 1104 Eligibility Determination

The Band shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation. If the Band 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.

Section 1105 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 works at a gaming operation authorized by this Ordinance, the Band shall forward to the National Indian Gaming Commission a completed application for employment and conduct a background investigation and make the determination referred to in Section 1104 of this Chapter.

(b) The Band shall forward the report referred to in Section 1106 of this Chapter 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 Association.

(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.

Section 1106 Report to the National Indian Gaming Commission

(a) Pursuant to the procedures set out in Section 1105 of this Chapter, the Band 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:

1. Steps taken in conducting background investigation;

2. Results obtained;

3. Conclusions reached; and

4. The bases for those conclusions.

(b) The Band shall submit, with the report, a copy of the eligibility determination made under Section 1104 of this Chapter.

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

1. Shall notify the National Indian Gaming Commission; and

2. 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.

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

Section 1107 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 notifies the Band 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 for whom the Band has provided an application and investigative report to the National Indian Gaming Commission, the Band may issue a license to such applicant.

(b) The Band shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning a key employee or primary management official who is the subject of a report. Such a request shall suspend the 30-day period under paragraph (a) of 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 Band with a statement itemizing objections to the issuance of a license to a key employee or primary management official for whom the Band has provided an application and investigative report to the National Indian Gaming Commission, the Band shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. The Band shall make the final decision whether to issue a license to such applicant.

Section 1108 License Suspension

(a) If, after the issuance of a gaming license, the Band

receives from the National Indian Gaming Commission reliable information indicating that a key employee or a primary management official is not eligible for employment under Section 1104 above, the Band shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

(b) The Band 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 Band shall decide to revoke or to reinstate a gaming license. The Band shall notify the National Indian Gaming Commission of its decision.

Section 1109 Term of License; Renewal

Each license shall be effective for a period of one year. Prior to the expiration of the license, the licensee shall update the information produced during the original investigation, and if the individual still meets the applicable standards, the Band shall renew the license for one year. Notice of any such renewals shall be forwarded by the Band to the National Indian Gaming Commission.

Chapter 12: Management Contracts

Section 1201 Approval Required

(a) Subject to the approval of the Reservation Business Committee, a licensee may enter a management contract for the operation and management of a Class II or Class III gaming activity. All such contracts are subject to the approval of the National Indian Gaming Commission.

(b) Any licensee seeking to enter a management contract will be required to furnish certain information to the Commission. After the Reservation Business Committee approves the contract, the licensee shall forward the required information to the Commission.

(c) The Reservation Business Committee shall not approve any contract unless its terms include:

i. Adequate accounting procedures to be maintained by the contractor and verifiable financial reports submitted to the Band or the tribal subdivision on a monthly basis.

ii. Access to the daily operation of the gaming for appropriate officials of the Band, who shall also have the right to verify the daily

gross revenues and income made from the gaming activity.

iii. A minimum guaranteed payment to the Band that has preference over the retirement of development and construction costs.

iv. An agreed ceiling for the repayment of development and construction costs.

v. A contract term not to exceed five years.

vi. A management fee not to exceed 30% of the gross revenues of the gaming activity.

vii. Grounds and mechanisms for terminating the contract.

Chapter 13: Penalties

Section 1301 Misdemeanor

Any violation of any provision of this Ordinance or any rule or regulation authorized pursuant to this Ordinance or any giving of any false statement or omission of any required information in an application by a licensee for a license shall be a misdemeanor and subject to a fine of not more than $500 and/or 30 days in jail and/or a loss of a license and/or the removal from the Fond du Lac Reservation for such time as may be ordered by the Reservation Business Committee or a lawful tribunal designated by the Reservation Business Committee.

Chapter 14: Class III Gaming Compact(s)

Section 1401 Class III Gaming Contingent on Compact with the State

Operation of any Class III game on trust land, and of any Class III game within the Reservation by the Band or other entity or individual shall not be permitted unless the game is authorized by a tribe/state compact approved by the Secretary. Any such compact shall conform to the requirements set forth in Public Law 100-497 for such compacts, and shall also conform to Chapter 10 of this Ordinance, unless any provisions of Chapter 10 are specifically modified by the compact.

Section 1402 Compact for Video Gaming

This Ordinance hereby incorporates the provisions of the Tribal-State Compact for Control of Class III Video Games of Chance on the Fond du Lac Band of Lake Superior Chippewa Reservation in Minnesota, dated November 1, 1989, which permits the operation of Class III video games on the Reservation.

Section 1403 Compact for Blackjack

This Ordinance hereby incorporates the provisions of the Tribal-State Compact for Control of Class III Blackjack on the Fond du La Band of Lake Superior Chippewa Reservation in Minnesota, dated May 21, 1991, which permits the operation of Class III blackjack on the Reservation.

Chapter 15: Repeal

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

CERTIFICATION

We do hereby certify that the foregoing Ordinance #09/93 was duly presented and adopted by Resolution #1174/93 by a vote of 2 for, 0 against, 0 silent, with a quorum of 3 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on June 28, 1993 in Duluth, Minnesota.

/S/
Robert B. Peacock, Chairman

/S/
Peter J. Defoe, Sec./Treas.

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