NATIONAL
INDIAN
GAMING
COMMISSION

DEC 15 1995

John F. Petoskey, Tribal Attorney
Grand Traverse Band of Ottawa and Chippewa Indians
2331 N. West Bayshore Drive
Suttons Bay, Michigan 49682

Dear Mr. Petoskey:

This letter responds to your request to review and approve the Grand Traverse Band of Ottawa and Chippewa Indians Gaming Code Amendment adding Section 15, which was approved and adopted by the Tribal Council on November 6, 1995. The Tribe's gaming ordinance was approved by the Chairman of the National Indian Gaming Commission (NIGC) on June 13, 1994. The amendment does not require approval by the NIGC because the amendment addresses issues not raised in the IGRA or the NIGC's regulations.

Under IGRA and the NIGC regulations, the Chairman is directed to review ordinances and amendments with respect to the requirements of the IGRA and the implementing regulations. Thus, the scope of the Chairman's review and approval is limited to the requirements of the IGRA and the NIGC regulations. Provisions other than those required under IGRA or the NIGC regulations that may be included in a tribal ordinance are not subject to review and approval.

You also requested information on an amendment which you submitted to the NIGC on September 14, 1995. In a November 20, 1995, letter, we indicated that the amendment did not require our approval. (Copy enclosed.)

Thank you for submitting the Tribe's amendment for review.

Sincerely,

Harold A. Monteau
Chairman

Enclosure

GAMING CODE

OF THE

GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA INDIANS

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GAMING CODE
OF THE
GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA INDIANS

October 1, 1993

A law to authorize, license and regulate certain forms of gaming, within the jurisdiction of the Grand Traverse Band of Ottawa and Chippewa Indians.

Section 1. Findings, Intent and Policy.

1.1 **Findings.** The Grand Traverse Band Tribal Council on behalf of the Grand Traverse Band of Ottawa and Chippewa Indians finds that:

(A) Tribal regulation and control of gaming activity within the jurisdiction of the Grand Traverse Band is essential for the protection of public health and welfare, and the interests of the Tribe and the residents and visitors to the tribal community.

(B) The Tribe has the legal authority to license and regulate any gaming activity within the jurisdiction of the Grand Traverse Band that is not specifically prohibited by federal law.

(C) Properly licensed and regulated gaming activity conforms with announced federal policy promoting Indian self-government and Indian tribal economic self-sufficiency.

(D) It is essential that the Tribe, through its Tribal Council, regulate gaming in a manner commensurate with applicable federal and tribal law and policy.

(E) The present needs of the Tribe include increased employment, job and skills training, housing, quality health care, nutrition, educational opportunities, social services, and community and economic development needs which are not adequately addressed by present tribal, federal and state programs.

(F) Tribal operation and licensing of gaming activities on the Reservation is an appropriate means of generating revenue to address the needs of the Tribe.

(G) The Tribe is vigorously pursuing its goal of self-sufficiency and self-determination through the development of tribal businesses and enterprises. Because the Grand Traverse Band lacks income-generating natural resources and because the Tribe's tax base is almost non-existent, the Tribe must rely on tribal business development to raise the funds necessary to expand its social, health and education programs, increase employment and improve its on-reservation economy. This effort has recently become increasingly important as a result of cutbacks in federal and state funding and the increased costs of self-government. It is, therefore, essential that the Tribe develop new and expanded sources of revenue to support its ever-increasing governmental needs and to provide much needed employment and training for tribal members.

(H) As a result, the adoption of the following new and expanded gaming laws is in the best interest of the Grand Traverse Band of Ottawa and Chippewa Indians.

1.2 **Purposes.** The purposes of this Code are to:

(A) Regulate, control, and license the operation of all gaming within the jurisdiction of the Tribe.

(B) Make clear and explicit that a tribal license to operate a gaming activity is a revocable privilege, not a right or property interest.

(C) Ensure that the operation of tribally-regulated gaming will continue as a means of generating tribal revenue.

(D) Ensure that tribally-regulated gaming is conducted fairly and honestly by both gaming operators and players, and that it remain free from corrupt, incompetent, unconscionable and dishonest persons and practices.

(E) Promote and strengthen tribal economic development and self-determination and to enhance employment opportunities for its members.

(F) Generate revenue to strengthen and improve tribal self-government and the provision of tribal governmental services.

(G) Ensure that all gaming revenue is used for the benefit of the Tribe and the Reservation community.

(H) Ensure that tribal gaming laws are strictly and fairly enforced against all persons involved in gaming activities within the jurisdiction of the Tribe.

(I) Ensure that the Tribe provide a fair and impartial forum for the resolution of gaming disputes.

1.3 **Grand Traverse Band Tribal Policy of Self-Government.** The Tribe is firmly committed to the principle of tribal self-government. Consistent with federal policy, tribal government provides a wide range of public services on the Reservation, including general governmental services, maintenance of peace and good order, establishment of educational programs, and promotion and regulation of economic activities within the sovereign jurisdiction of the Tribe.

1.4 **Tribal Gaming Policy.** The establishment, promotion and operation of gaming is necessary and desirable, provided that such gaming is regulated and controlled by the Tribe pursuant to tribal and federal law and any Tribal-State compact entered pursuant to the Indian Gaming Regulatory Act [25 U.S.C. 2701 et. seq., and federal regulations promulgated under the authority of the Act. 25 C.F.R. 501 et. al.], and that all revenue of such gaming are used for the benefit of the Tribe as required by the Indian Gaming Regulatory Act and tribal law. When operated in accordance with the provisions of this Code, such gaming will be conducive to the general welfare of all residents of the Reservation and service area of the Tribe.

Section 2. Definitions.

In this Code, except where otherwise specifically provided or the context otherwise requires, the following terms and expressions shall have the following meanings.

"Adjusted gross revenue" means gross revenue less all cash prizes or the aggregate price of merchandise prizes, except in the case of the games of draw poker and stud poker. Regarding games of draw poker and stud poker, "adjusted gross revenue" means the time buy-ins or tournament fees collected by the gaming operator.

"Bingo" means the game of chance commonly known as bingo (whether or not electronic, computer, or other technologic 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 each 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, including (if played in the same location) pull-tabs, lotto, punch boards, tip-jars, instant bingo and other games similar to bingo.

"Cheating" means operating or playing in any game in a manner in violation of the written or commonly understood rules of the game, with the intent to create for himself or someone in privity with him an advantage over and above the chance of the game.

"Code" means this Code, the Grand Traverse Band Gaming Code, as now or hereafter amended.

"Compact" means a gaming compact between the Tribe and the State of Michigan as authorized by the Indian Gaming Regulatory Act (IGRA), or by state or tribal law.

"Compensation" means all wages, salaries, bonuses, and all other forms of enumeration for services rendered.

"Council" or **"Tribal Council"** means the governing body of the Grand Traverse Band of Ottawa and Chippewa Indians.

"Educational, charitable, patriotic, veterans, fraternal, religious, civic, or public-spirited uses" are:

(A) Uses benefiting an indefinite number of people by bringing them under the influence of educational or cultural programs.

(B) Uses otherwise lessening the burden of tribal government.

(C) Uses benefiting one or more persons suffering from a seriously disabling disease or injury causing severe loss of income or incurring extraordinary medical expense that is uncompensated by insurance.

(D) Uses for community service projects that promote the common good, enhance the social and economic welfare of the community, and benefit an indefinite number of people.

"Eligible organization" means any nonprofit organization operated for educational, charitable, patriotic, veterans, fraternal, religious, civic, or public-spirited uses, or for the relief of poverty, distress, or other condition with the Grand Traverse Band Reservation or six county service area of Grand Traverse, Charlevoix, Leelanau, Benzie, Manistee, and Antrim Counties.

"en banc Tribal Commission" means the Grand Traverse Band of Ottawa and Chippewa Indians seven-member Gaming Commission described in Section 4 of this Code.

"Equipment for games of chance". See "Gaming Apparatus."

"Game or games of chance" mean any activity which falls within the broad definition of gaming or gaming activity.

"Gaming employee" means any natural person employed in the operation or management of each gaming activity or operation, whether employed by or contracted to the Tribe or by any person or enterprise providing on or off-site services to the Tribe within or without the gaming facility regarding any gaming activity or operation, including, but not limited to, gaming managers and assistant mangers; accounting personnel; surveillance personnel; security officers; cashier supervisors; dealers or croupiers; box men; floormen; pit bosses; shift bosses; cage personnel; collection personnel; gaming consultants; management companies and their principals; and any other natural person whose employment duties require or authorize access to restricted areas of each gaming activity or operation not otherwise opened to the public.

"Gaming" or **"gaming activity"** means any activity, operation or game in which valuable consideration is wagered upon the outcome determined in whole or in part by chance, skill, speed, strength or endurance or any combination of strength or endurance, and in which something of value is awarded to a person or persons so wagering, and any activity in furtherance thereof, including owning, financing, managing, participating in, conducting or assisting in any way in any such activity at the site at which it is being conducted, directly or indirectly, whether at the site in person or off the Reservation.

"Gaming apparatus or gaming equipment" means any device, machine, paraphernalia, or equipment that is used or usable in the playing phases of any gaming activity, whether or not specifically designed for the purpose, but excluding tables and chairs normally used in the occupancy of any gaming facility.

"Gaming facility" means any location or structure, stationary or movable, wherein gaming is permitted, promoted, performed, conducted, or operated. Gaming facility does not include the site of a fair, carnival, exposition, or similar occasion.

"Gaming Operator" means a person who has obtained a gaming license under this Code or who is otherwise permitted by this Code to perform, promote, conduct, or operate any gaming activity on tribal lands.

"Gross revenue" means any money collected or received from any gaming activity.

"Indian Gaming Regulatory Act" or **"IGRA"** means Public Law 100-497, 102 Stat. 2426, 25 U.S.C. Subsection 2701 et seq. (1988), as amended.

"Immediate family" means, with respect to the person under consideration, a husband, wife, father, mother, son, daughter, brother, sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister.

"IRS" means the United States Internal Revenue Service.

"Key employee" means:

(A) Any person involved in gaming under this Code and who comes within one or more of the following descriptions:

(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;

(10) Custodian of gambling devices including persons with access to cash and accounting records within such devices; or

(11) Employee or any other person with access to finance or accounting offices;

(B) If not otherwise included, any other person whose total cash compensation derived from gaming subject to this Code is in excess of $50,000 per year; or,

(C) If not otherwise included, the four most highly compensated persons in any gaming activity subject to this Code; or

(D) Any employee whom the Tribal Commission may by written notice classify as a key employee.

"License" means any official, legal, and revocable permission granted by the Tribal Commission pursuant to this Code to an applicant to conduct any gaming activity on tribal lands.

"Lotto" means a form of gaming in which all or a part of the revenue derived from the sale of tickets or chances are pooled and such revenue are allotted by chance to one or more chance takers or ticket purchasers. The amount of cash prizes or winnings are determined by the gaming operator conducting the "lottery" and a progressive pool is permitted. Tele-lottery means that the drawing is televised for use in a cable television broadcast.

"Net revenue" means adjusted gross revenue less expenses, fees, charges, and any other deductions as are specifically authorized under this Law.

"Participate" in any gaming activity means to operate, direct, finance or in any way assist in the establishment of or operation of any class of gaming or any site at which such gaming is being conducted, directly or

indirectly, whether at the site in person or off the Reservation.

"Person" means any individual, partnership, joint venture, corporation, joint stock company, company, firm, association, trust, estate, club, business trust, municipal corporation, society, receiver, assignee, trustee in bankruptcy, political entity, and any owner, director, officer or employee of any such entity, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, the government of the Tribe, any governmental entity of the Tribe, or any of the above listed forms of business entities that are wholly owned or operated by the Tribe; provided, however, that the term does not include the federal government and any agency thereof.

"Player" means a person participating in any game, but does not include a gaming operator.

"Primary Management Official" means:

(A) The person having management responsibility for a management contract approved by the National Indian Gaming Commission; or

(B) Any person who has authority:

(1) to hire and fire gaming employees, or

(2) to set up working policy for a gaming enterprise; or

(C) The chief financial officer or other person who has financial management responsibility for a gaming activity.

"Principal" means with respect to any management contractor: (i) each of its officers and directors; (ii) each of its principal management employees, including any gaming manager, chief financial officer, chief operating officer, or general manager; (iii) each of its owners or partners, if it is an unincorporated business; (iv) each of its shareholders who owns more than ten percent of the shares of the corporation, if a corporation; and (v) each person other than a banking institution who has provided financing for the enterprise constituting more than ten percent of the total financing of the enterprise.

"Progressive gaming" means any game in which a cash prize which, not being won by any player during any game, is retained and further monetarily enhanced by the gaming operator or eligible organization, and offered as a prize to players in the next game.

"Pull-tabs, punch boards and tip jars" means any disposable card, board, ticket or display which accords the player an opportunity to win something of value by opening, pulling, detaching, or otherwise removing or uncovering tabs or covers from the card, board, ticket or display to reveal a set of numbers, letters, symbols, configurations, or combinations thereof which have been previously specified as a winning combination.

"Reservation" means all lands lying within the exterior boundaries of the townships set aside for the Grand Traverse Band of Ottawa and Chippewa Indians under the Treaty of Detroit July 31, 1855, Article I, clause fifth, 11 Stat. 691, and other lands added thereto by Executive Order, Act of Congress, or otherwise under federal law.

"State" means the State of Michigan.

"Tribal Commission" means the Grand Traverse Band of Ottawa and Chippewa Indians Gaming Commission described in Section 4 of this Code.

"Tribal lands" means:

(A) all lands within the limits of the Grand Traverse Band Reservation, not withstanding the issuance of any patent and including rights-of-way running through such lands; and

(B) all lands title to which is either held in trust by the United States for the benefit of the Tribe or individual member of the Tribe or held by the Tribe or individual member of the Tribe subject to restriction by the United States against alienation in over which the Tribe possesses governmental powers; and

(C) all lands within the State of Michigan which may be acquired by the Tribe and which meet the requirements of Section 20 of the IGRA, 25 U.S.C. Section 2719.

"Tribe" means and **"Tribal"** refers to the Grand Traverse Band of Ottawa and Chippewa Indians, a federally-recognized Indian tribe acting through the duly elected Tribal Council pursuant to the tribal constitution and bylaws.

"Twenty-one", also known as **"blackjack"**, means a card game played by a maximum of seven players and one dealer where each player plays his hand against the dealer's hand, with the object of obtaining a higher total card value than the dealer by reaching 21 or as close to 21 as possible without exceeding that count. The cards have the following value:

(A) Aces count either one or eleven, at the player's option.

(B) Kings, queens, and jacks each have a count of ten.

(C) All other cards are counted at their face value.

"Wager" means the bet made or consideration or value given by a player in any game.

Section 3. General Provisions.

3.1 Authority and Sovereign Powers and Responsibilities. This Code is enacted pursuant to the inherent sovereign powers of the Tribe and the powers expressly delegated to the Tribal Council by Article IV of the Tribal Constitution. The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation.

3.2 Application of Federal Policy. In 1970 President Nixon announced the policy of the United States government to promote self-determination for Indian tribes. At the heart of this policy is a commitment by the federal government to foster and encourage tribal self-government, economic development and self-sufficiency. That commitment was signed into law in 1975 as the Indian Self-Determination and Education Assistance Act, Public Law 93-638, 88 Stat.2203, 25 U.S.C. Subsection 450-450n. In 1983, President Reagan reaffirmed that commitment in his Indian policy statement, encouraged tribes to reduce their dependence on federal funds by generating more of their own revenues, and pledged to assist tribes in that endeavor.

The policy of self-governance has continued with amendments to P.L. 93-638 enacted as the Tribal Self-Governance Demonstration Project, P.L. 100-472 (1988).

In 1988 the federal commitment to promote tribal economic development, tribal self-sufficiency, and strong tribal government was expressly legislated in the Indian Gaming Regulatory Act ("IGRA"), Public Law 100-497, 102 Stat. 2426, 25 U.S.C. Subsection 2701, et seq. (1988), which recognized the inherent sovereign right of tribes to operate and their exclusive right to regulate on Indian lands gaming which is not specifically prohibited by federal law and is conducted within a state which does not, as a matter of criminal law and public policy, prohibit such gaming, and provided a federal statutory basis for operation and regulation of Indian gaming.

The federal commitment was furthered in 1988 by passage of the Indian Gaming Regulatory Act ("IGRA"), Public Law 100-497, 102 Stat. 2426, 25 U.S.C. Subsection 2701, et seq. (1988), through which the federal government recognized the inherent sovereign right of tribes to conduct and regulate gaming on their reservations and preempted state authority in the area of Indian gaming.

3.3 Grand Traverse Band Tribal Policy of Self-Government. The Tribe is firmly committed to the principle of tribal self-government. Consistent with federal policy, tribal government provides a wide range of public services on the Reservation, including general governmental services, the maintenance of peace and good order, the establishment of educational programs, and the promotion and regulation of economic activities within the sovereign jurisdiction of the Tribe.

3.4 Title, Repeal of Prior Laws, and Effect of Repeal. This Code may be cited as the Grand Traverse Band Gaming Code. The Code shall be appropriately inserted in the Grand Traverse Band Tribal Code.

All ordinances of the Tribe and all titles, chapters, and sections of the Tribal Code that pertain to gaming, and are in effect as of the effective date of this Code, are hereby repealed, and all other tribal laws or parts thereof, inconsistent with the provisions of this Code are hereby repealed.

Repeal of this Code or any portion thereof shall not have the effect of reviving any prior tribal law theretofore repealed or suspended.

3.5 Classes of Gaming. There are three classes of gaming authorized on Indian lands under this Code:

(A) "Class I Gaming" means social gaming solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with tribal ceremonies or celebration.

(B) "Class II Gaming" means

(1) The game of chance commonly known as bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith), 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, including (if played at the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo and other games similar to bingo;

(2) All card games operated by the Tribe prior to May 1, 1988; and

(3) All other card games explicitly authorized or not explicitly prohibited by the laws of the State and which are played at any location in the State, if played in conformity with State laws and regulations regarding hours or periods of operation of such card games or limitations on wagers or pot size in such card games.

(C) "Class III Gaming" means all forms of gaming that are not Class I or Class II gaming.

3.6 Construction. In construing the provisions of this Code, unless the context otherwise requires, the following rules shall apply:

(A) This Code shall be liberally construed to effect its purpose and to promote substantial justice.

(B) Words in the present tense include the future and past tenses.

(C) Words in the singular number include the plural, and words in the plural number include the singular.

(D) Words of the masculine gender or neuter include masculine and feminine genders and the neuter.

3.7 Savings Clause. If any section of this Code is invalidated by a court of competent jurisdiction, the section is only invalidated for purposes of the litigated instant case and the remaining sections shall not be affected thereby.

Section 4. Tribal Gaming Commission.

4.1 Establishment. The Tribe hereby charters, creates and establishes the Grand Traverse Band Gaming Commission as a governmental subdivision of the Tribe.

4.2 Location and Place of Business. The Tribal Commission shall be a resident of and maintain its headquarters, principal place of business and offices on the Grand Traverse Band Reservation. The Tribal Commission may, however, establish other places of business in such other locations as the Tribal Commission may from time to time determine to be in the best interest of the Tribe.

4.3 Duration. The Tribal Commission shall have perpetual existence and succession in its own name, unless dissolved by the Tribe pursuant to Tribal law. The Tribal Commission shall not be dissolved while any obligations or indebtedness of the Tribal Commission incurred under Sections 4.18(AB) and 13 remains unpaid or undischarged.

4.4 Attributes. As a governmental subdivision of the Tribe, the

Tribal Commission has been delegated the right to exercise one or more of the substantial governmental functions of the Tribe, including regulation of tribal gaming pursuant to the IGRA and tribal law. It is the purpose and intent of the Tribe in creating the Tribal Commission that the operations of the Tribal Commission be conducted on behalf of the Tribe for the sole benefit and interests of the Tribe, its members, and the residents of the Reservation. In carrying out its purposes under this Code, the Tribal Commission shall function as an instrumentality of the Tribe. Notwithstanding any authority delegated to the Tribal Commission under this Code, the Tribe reserves to itself the right to bring suit against any person or entity in its own right, on behalf of the Tribe or on behalf of the Tribal Commission, whenever the Tribe deems it necessary to protect the sovereignty, rights and interests of the Tribe or the Tribal Commission.

4.5 Recognition as a Political Subdivision of the Tribe. The Tribe, on behalf of the Tribal Commission, shall take all necessary steps to acquire recognition of the Tribal Commission as a political subdivision of the Tribe, recognized by all branches of the United States Government as having been delegated the right to exercise one or more substantial governmental functions of the Grand Traverse Band of Ottawa and Chippewa Indians.

4.6 Sovereign Immunity of the Tribal Commission. The Tribal Commission is hereby clothed with all the privileges and immunities of the Tribe, except as specifically limited by this Title or other tribal law, including sovereign immunity from suit in any state, federal or tribal court. Except as provided in this section, nothing in this Title nor any action of the Tribe or the Tribal Commission shall be deemed or construed to be a waiver of sovereign immunity from suit of the Tribal Commission, or to be a consent of the Tribe or the Tribal Commission to the jurisdiction of the United States or of any state or any other tribe with regard to the business or affairs of the Tribe or the Tribal Commission to any cause of action, case or controversy, or to the levy of any judgment, lien or attachment upon any property of the Tribe or the Tribal Commission, or to be a consent of the Tribe or the Tribal Commission to suit in respect to any Indian land, or to be a consent of the Tribe or the Tribal Commission to the alienation, attachment or encumbrance of any such land.

4.7 Sovereign Immunity of the Tribe. All inherent sovereign rights of the Tribe as a federally-recognized Indian tribe with respect to the existence and activities of the Tribal Commission are hereby expressly reserved, including sovereign immunity from suit in any state, federal or tribal court. Except as provided in section 4.8 below, nothing in this Code nor any action of the Tribal Commission shall be deemed or construed to be a waiver of sovereign immunity from suit of the Tribe, or to be a consent of the Tribe to the jurisdiction of the United States or of any state or of any other tribe with regard to the business or affairs of the Tribal Commission or the Tribe, or to be a consent of the Tribe to any cause of action, case or controversy, or to the levy of any judgment, lien or attachment upon any property of the Tribe; or to be a consent to suit in respect to any Indian land, or to be a consent to the alienation, attachment or encumbrance of any such land.

4.8 Waiver of Sovereign Immunity of the Tribal Commission. Sovereign immunity of the Tribal Commission may be waived only by express resolutions of both the Tribal Commission and the Tribal Council after consultation with the Tribe's attorneys. All waivers of sovereign immunity must be preserved by resolutions of the Tribal Commission and the Tribal

Council of continuing force and effect. Waivers of sovereign immunity are disfavored and shall be granted only when necessary to secure a substantial advantage or benefit to the Tribal Commission. Waivers of sovereign immunity shall not be general but shall be specific and limited as to duration, grantee, transaction, property or funds, if any, of the Tribal Commission subject thereto, court having jurisdiction pursuant thereto and law applicable thereto. Neither the power to sue and be sued provided in Subsection 4.18(W), nor any express waiver of sovereign immunity by resolution of the Tribal Commission shall be deemed a consent to the levy of any judgment, lien or attachment upon property of the Tribal Commission other than property specifically pledged or assigned, or a consent to suit with respect to any land within the exterior boundaries of the Reservation or a consent to the alienation, attachment or encumbrance of any such land.

4.9 Credit of the Tribe or Tribal Commission. Nothing in this Code nor any activity of the Tribal Commission shall implicate or any way involve the credit of the Tribe or the Tribal Commission.

4.10 Assets of the Tribal Commission. The Tribal Commission shall have only those assets specifically assigned to it by the Council or acquired in its name by the Tribe or by the Tribal Commission on its own behalf. The property of the Tribal Commission is declared to be public property used for essential public and governmental purposes and such property and the Tribal Commission are exempt from all taxes and special assessments of the Tribe. Upon dissolution of the Tribal Commission, the title to all property owned by it shall vest in and become the property of the Tribe. No activity of the Tribal Commission nor any indebtedness incurred by it shall implicate or in any way involve or effect any assets of tribal members or the Tribe not assigned in writing to the Tribal Commission.

4.11 Membership.

(A) **Number of Commissioners.** The Tribal Commission shall be comprised of seven Tribal Gaming Commissioners consisting of the seven elected members of the Tribal Council or their designeés appointed by the Tribal Council. Four Commissioners shall perform the duties determining the suitability of issuing gaming licenses as provided in Section 6 of this Code, and regulator functions as provided in Section 4.15 of this Code. Three Commissioners shall perform the duties of operator as provided in Section 4.15 of this Code.

(B) **Qualification of Commissioners.** Each Commissioner must be a member of the Tribe.

(1) The four Commissioners designated to determine suitability of employees must pass a written test, compiled by a recognized testing authority, to determine their knowledge of the Indian Gaming Regulatory Act, 25 C.F.R. 556 and 558, and this Gaming Code. The four Commissioners must demonstrate competency in the application of procedures and internal controls of the gaming facility. Such competency shall be demonstrated in accord with Section 4.11(D)(1) and 4.11(D)(2) herein.

(2) The three Commissioners designated to determine operator and regulatory functions must pass a written test, compiled by a recognized testing authority, to determine their knowledge of the gaming industry and the application of financial analysis to balance sheets and income statements generated by the gaming

entities and the application of internal controls to the movement of cash and cash equivalents in the gaming environment.

(C) **Background Investigation.** Prior to the time that any Tribal Commission member takes office on the Tribal Commission, the Tribe shall perform or arrange to have performed a comprehensive background investigation on each prospective member. No person shall serve as a Commissioner if:

(1) The prospective member's prior activities, criminal record, if any, or reputation, habits or associations:

(a) Pose a threat to the public interest; or

(b) Threaten the effective regulation and control of gaming; or

(c) Enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of gaming; or

(2) The prospective member has been convicted of or entered a plea of *nolo contendere* to a felony or any gaming offense in any jurisdiction or to a misdemeanor involving dishonesty or moral turpitude; or

(3) The prospective member or any member of his immediate family has a financial interest in any gaming activity or facility.

(4) The prospective member cannot pass a credit check and does not have a certifiable history of credit worthiness from a credit agency for the last 10 years.

(5) The prospective member cannot pass a drug test as provided in Section 14 of this Code.

(D) **Date of Appointment.** Each member of the Tribal Commission shall take office no later than one week after a new Tribal Council is sworn in following a tribal election.

(1) Each new Councilor/Commissioner will receive the equivalent of 40 hours of training within the first three months in office as a Commissioner. The training will consist of the application of this Code, applicable federal law, and financial analysis necessary to control and manage the gaming facility.

(2) Each new Councilor/Commissioner will have six months from the date of their appointment to demonstrate their competence by successfully completing an open-book examination on the application of the Code to their positions. Failure to pass the exam within the designated time period shall be construed as an automatic resignation from the Commission. Thereafter, the Commission shall progressively and aggressively develop the gaming expertise necessary to perform their job functions.

The Council's appointment of any Tribal Commission member who is not a member of the Tribal Council shall be by resolution.

4.12 Term of Office. Each Commissioner shall serve a term of four years to coincide with the term of Tribal Council members. No member shall serve more than two terms. No person shall remain on the Tribal Commission after leaving or being removed from the Council.

4.13 Ex-Officio Members. At the direction of the Tribal Council, any member of the Tribal Council, any Tribal or Bureau of Indian Affairs employee or any other person may be designated to participate, without vote, in Tribal Commission meetings.

4.14 Meetings.

(A) **Regular Meetings.** The Tribal Commission shall hold at least one regular monthly meeting which shall take place on the first Monday of each month, or as otherwise determined by the Tribal Commission.

(B) **Special Meetings.** Special meetings may be called at the request of the Tribal Council, the Chairman of the Tribal Commission or 4 or more members of the Tribal Commission.

(C) **Compensation of Commissioners.** An honorarium may be paid for attendance at each meeting.

(D) **Quorum.** A quorum for all meetings shall consist of six members.

(E) **Voting.** All questions arising in connection with the action of the Tribal Commission shall be decided by majority vote. The Chairman of the Tribal Commission shall be entitled to vote only to break a tie.

4.15 Organization. The *en banc* Tribal Commission shall develop its own operating procedures and shall elect from within itself a Chairman to direct meetings, a reporter to be responsible for keeping Tribal Commission minutes and transmitting to the Tribal Council a copy of those minutes, handling correspondence and reporting Tribal Commission decisions, and such other officers as the Tribal Commission deems advisable.

(A) The Tribal Commission shall consist of three distinct entities.

(1) The *en banc* Tribal Commission is the full seven Commissioners acting together.

(2) The "regulatory Commissioners" consisting of four Commissioners.

(3) The "operator Commissioners" consisting of three Commissioners.

(B) The *en banc* Tribal Commission shall carry out all functions of the Tribal Commission not specifically delegated to the regulatory Commissioners or the operator Commissioners.

(C) The four regulatory Commissioners shall carry out the licensing authority conferred upon them in Section 4.18(Q) of this Code in accordance with Section 6.3 of this Code. The same four Commissioners shall carry out the regulator functions conferred upon them in Section 4.18(A) of this Code in accordance with this Section

4.15(C).

(1) **Regulator.** The four Commissioners shall act as compliance regulators under the following guidelines. The *en banc* Tribal Commission shall issue further guidelines and clarifications to the gaming facilities' gaming managers consistent with the following sections.

(a) **Policy.** The *en banc* Tribal Commission shall, consistent with Tribal Council policy as articulated in the Gaming Code, issue policy statements regarding the operation of gaming.

(b) **Position Description.** The four Commissioners charged with regulatory functions shall issue position descriptions for every position designated in the gaming facility. Each position description shall be subject to background investigations, as directed by this Code and 25 C.F.R. 556 and 558. In addition, each position within the gaming environment, whether or not a licensed position under this Code and 25 C.F.R. 556 and 558 shall be subject to drug testing as stated in Section 14 of this Code. No position description shall be left undefined.

(c) **Procedures.** Procedures shall consist of the interaction amongst various position descriptions carrying out the duties of the position in association with other position descriptions. The four Commissioners charged with regulator functions shall propose a system of procedures for all regulated gaming activities.

(d) **Internal Controls.** The four Commissioners charged with regulatory functions shall propose a system of internal controls describing the position descriptions and procedures necessary to effect appropriate internal controls. The *en banc* Tribal Commission shall approve and publish the procedures.

(e) **Internal Auditor.** The four Commissioners charged with regulatory functions shall employ a procedures auditor who shall have the responsibility of determining compliance auditing with the published internal controls procedures and position descriptions. The internal auditor shall be an employee of the *en banc* Tribal Commission reporting directly to the four Commissioners on a monthly basis in accord with an audit schedule covering position descriptions, procedures, and internal controls. Audit findings shall be addressed in the following month by the *en banc* Tribal Commission and the gaming manager. The gaming manager shall have 30 days to comply with audit findings. A consistent pattern of noncompliance in excess of 90 days shall be grounds for the *en banc* Tribal Commission revoking gaming licenses of the employees responsible for the noncompliance.

(D) The operator Commissioners shall carry out the operator responsibility and authority conferred upon them in Section 4.18(D) of this Code in accordance with this Section 4.15(D).

(1) **Operator.** The three Commissioners shall act as compliance operators under the following guidelines. The *en banc* Tribal Commission shall issue further guidelines and clarifications to the gaming facilities' general managers consistent with the following sections.

(a) **Financial Ratios.** Each year the Commission shall promulgate financial ratios for the operation of each regulated entity. Such rations shall be constructed from a spreadsheet review of existing annual reports published by publically held gaming enterprises and a review of the Nevada gaming abstract. Such ratios shall cover the following four points:

• Profitability Ratios •

Gross Profit Margin (or Gross Margin) = Profit/Sales. Gross profit margin measures the margin available to cover a company's operating expenses and yield a profit.

Op rating Margin = Operating Profit/Sales. Operating margin measures a company's profitability from its main source of business.

N t Profit Margin (or Net Margin or Return on Sales) = NIAT (net income after tax)/Sales. Net profit margin measures how much a company earns for each dollar of sales. Thus if a company has a net profit margin of 3%, it earns three cents on every dollar of sales.

• Liquidity Ratios •

Current Ratio = Current Assets/Current Liabilities. The current ratio measures the extent to which the claims of the short-term creditors are covered by the company's current or short-term assets.

Working Capital = Current Assets - Current Liabilities. Working capital measures the excess of current resources over the current obligations. The greater the working capital, the greater is the cushion to meet any unforeseen cash requirements.

Quick Ratio = (Current Assets - Inventory)/Current Liabilities. The quick ratio measures the extent to which the claims of short-term creditors are covered without the need for an inventory sell-off.

Inventory to Net Working Capital = Inventory/(Current Assets -Current Liabilities). Inventory to net working capital measures the extent to which the company's working capital is tied up in inventory.

• Solvency Ratios •

Debt to Assets - Total Debt/Total Assets. Debt to assets measures the extent to which a company borrows money to finance its operations.

Debt to Equity = Total Debt/Total Equity. Debt to equity measures the creditor's funds as a percentage of stockholders' funds.

Long-Term Debt to Equity = Long-Term Debt/Total Equity. Long-term debt to equity measures the balance between a company's debt and its equity; a high financial leverage indicates a risk in meeting the principal and/or interest

on the debt.

Interest Coverage Ratio = Operating Income/Interest Expense. The interest coverage ratio is calculated from the income statement. It measures the multiple by which the operating income exceeds the fixed interest expense which must be paid. The higher the ratio, the less chance of defaulting on the payment.

• Activity Ratios •

Inventory Turnover = Cost of Sales/Average Inventory. Inventory turnover measures the number of times a company turns over all its inventory during a year. The higher the turnover, the shorter the time that a company must sit with idle inventory.

Accounts Receivable Turnover = Sales/Average Accounts Receivable. Accounts receivable turnover measures the number of time a company turns over all its receivables during a year. The higher the turnover, the more quickly customers are paying their bills.

(b) **Operating Budgets.** The three Commissioners shall promulgate an operating budget for each property. The budget shall be promulgated under the principles of profit planning and control. The budget preparation cycle shall begin at the beginning of the fourth quarter by each department head submitting a historical record of expenses for the previous three quarters 30 days after the fourth quarter begins. Each department head, for purposes of the budgetary cycle, shall be the following: food & beverage, cage, surveillance, security, table games, slots, personnel and management, and maintenance. The three Commissioners shall review the historical expenses in relation to the promulgated operating financial ratios, and submit a revised budget to the department heads within 30 days of receipt of the historical record of expenses from the department heads. The department heads and the three Commissioners shall then meet within 15 days to negotiate compromises on budgetary items. Thereafter the *en banc* Tribal Commission shall issue the operating budget within 15 days for the next fiscal year.

(c) **Capital Budget.** The *en banc* Tribal Commission shall propose and the Tribal Council must ratify capital budget items for the next fiscal year. In the event that the Tribal Council fails to ratify the proposed capital budget, then the Tribal Commission shall meet with the Tribal Council to prepare a capital budget acceptable to the Tribal Council. A capital budget item is defined as an expenditure in excess of $50,000 that is listed as a capital expense on the balance sheet not subject to the operating cycle as an expense item. Capital budgets shall be subject to revision only with the consent of the Tribal Council in conformity with outstanding obligations of capital facilities debt under Section 13 of this Code.

4.16 Removal of Members or Vacancies.

(A) **Removal.** A Commissioner may be removed by the Council for serious inefficiency, neglect of duty, malfeasance, misfeasance,

nonfeasance, misconduct in office, or for any conduct which threatens the honesty or integrity of the Tribal Commission or otherwise violates the letter or intent of this Code. Except as provided below, no Commissioner may be removed without notice and an opportunity for a hearing before the Council, and then only after the Commissioner has been given written notice of the specific charges at least ten days prior to such hearing. At any such hearing, the Commissioner shall have the opportunity to be heard in person or by counsel and to present witnesses on his behalf. If the Council determines that immediate removal of a Commissioner is necessary to protect the interests of the Tribe, the Council may immediately remove the Commissioner temporarily, and the question of permanent removal shall be determined thereafter pursuant to Tribal Commission hearing procedures. A written record of all removal proceedings together with the charges and findings thereon shall be kept by the Tribal Secretary. The decision of the Council upon the removal of a Commissioner shall be final.

(B) **Vacancies.** If any Commissioner shall die, resign, be removed or for any reason be unable to serve as a Commissioner, the Council shall declare this position vacant and shall appoint another person to fill the position. The terms of office of each person appointed to replace an initial Commissioner shall be for the balance of any unexpired term for such position, provided, however, that any prospective appointee must meet the qualifications established by this Code.

4.17 Conflict of Interest. No person shall be appointed or continue serving as a Commissioner if he has any personal, business, or legal relationship that creates a conflict of interest with his duties and responsibilities as a Commissioner.

(A) For purposes of conflict of interest, a "personal conflict of interest" shall be a family relationship within the first degree of consanguinity.

(B) For purposes of conflict of interest, a "business conflict of interest" shall be a business relationship that directly competes with the gaming facilities' markets. Direct competition shall be defined as a business relationship within a 200-mile diameter of the gaming facility.

(C) For purposes of conflict of interest, a "legal conflict of interest" shall be a relationship recognized as a conflict by a panel of three consisting of two attorneys and one non-attorney. The panel shall be ad hoc and formed for the sole basis of addressing the alleged legal conflict of interest. The Commissioner who is alleged to be in a legal conflict of interest shall have the opportunity to appoint one person to the panel. The Tribal Commission shall appoint the other two panel members.

(D) The charge of an alleged conflict of interest can only be raised by a Tribal member or an interested party with a direct financial interest in the resolution of the charge. General allegations by persons without a financial interest will not be reviewed.

(E) If the Commissioner is found to be in a conflict of interest by the panel, then the Commissioner shall withdraw from the matter before the Tribal Commission, and the Commission shall pay all costs of

the person bringing the charge. If the Commission is found not to be in a conflict of interest by the panel, then the person bringing the charge shall pay all costs of the Tribal Commission proceeding.

To the extent permitted by law, a personal, business, or legal conflict of interest can be waived by majority vote of the Tribal Commission only after full, complete and continuing disclosure is made by the Commissioner in the alleged conflict of interest.

4.18 Authority of Tribal Commission. The Tribal Commission shall have the following authority:

(A) To regulate all day-to-day gaming activity within the jurisdiction of the Tribe.

(B) To promote the full and proper enforcement of all tribal civil and criminal gaming laws and policies.

(C) To issue *subpoena ad testificandum* and *subpoena duces tecum*.

(D) To oversee the day-to-day operations of all tribally-owned gaming activities.

(E) To enact and enforce such rules and regulations regarding its activities and governing its internal affairs as the Tribal Commission may deem necessary and proper to effectuate the powers granted by this Code and the powers granted and duties imposed by applicable law.

(F) To publish and distribute copies of this Code and Tribal Commission rules and any Council, Tribal Commission or Tribal Court decisions regarding gaming matters.

(G) To prepare and submit for Council approval proposals, including budget and monetary proposals, which could enable the Tribe to better carry forth the policies and intent of this Code.

(H) To work with the staff of any tribal department, program, project, or operation and to cooperate with the Tribal Council or any Council Committee in regard to gaming issues.

(I) To make or cause to be made by its agents or employees, an examination or investigation of the place of business, equipment, facilities, tangible personal property, and the books, records, papers, vouchers, accounts, documents, and financial statements of any game or gaming activity operating, or suspected of operating, within the jurisdiction of the Tribe. In undertaking such examination or investigation, the Tribal Commission may request the assistance of tribal gaming staff, federal and local law officials, legal counsel, and other third parties.

(J) To maintain and keep current a record of new developments in the area of Indian gaming.

(K) To request the assistance of the Tribal Court or Tribal Appellate Court in conducting gaming hearings, defining terms used in this Code or other tribal laws, or in any other matter in which the Tribal Commission deems such assistance to be necessary or proper.

(L) To consider any gaming matter brought before it by any person, organization or business, and all matters referred to it by the Tribal Council.

(M) To obtain and publish a summary of federal revenue laws relating to gaming and to insure compliance with same.

(N) To arrange for training of Tribal Commission members, tribal employees and others in areas relating to the regulation or operation of gaming.

(O) Upon prior explicit written approval of the Council, to employ such advisors as it may deem necessary. Advisors may include, but shall not be limited to, law enforcement specialists and gaming professionals, the Tribe's general or special counsel and the Tribe's accountants.

(P) To make recommendations to the Council on the hiring of all supervisory gaming employees.

(Q) To promulgate rules and regulations to implement and further the provisions of this Code.

(R) To approve or disapprove any application for a tribal gaming license.

(S) To consult with and make recommendations to the Tribal Council regarding changes in tribal gaming laws and policies.

(T) To examine under oath, either orally or in writing, in hearings or otherwise, any person or agent, officer or employee of any person, or any other witness, with respect to any matters related to this Code, including enforcement of tribal gaming laws, regulations and policies, and to compel by subpoena the attendance of witnesses and the production of any books, records and papers with respect thereto.

(U) When necessary or appropriate, to request the assistance and utilize the services of the courts, law enforcement and government officials and agencies, and private parties, in exercising its powers and carrying out its responsibilities.

(V) To delegate to an individual member or members of the Tribal Commission, or, with the approval of the Tribal Council, to Tribal or Tribal Commission staff, such of its functions as may be necessary to administer this Code efficiently, provided, that the Tribal Commission may not re-delegate its power to exercise any substantial governmental function of the Tribe or its power to promulgate rules and regulations, and provided further, that the Tribal Commission may not delegate to anyone the power to permanently revoke a tribal gaming license.

(W) To close permanently, after notice and a hearing, any game or games which are operating in violation of tribal law.

(X) To sue or be sued in courts of competent jurisdiction within the United States and Canada, subject to the provisions of this Code and other tribal laws relating to sovereign immunity, provided, that no suit shall be brought by the Tribal Commission without the prior explicit written approval of the Tribal Council.

(Y) To purchase, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve and use property and assets of every description, real and personal, tangible or intangible, including money, securities, or any interests therein, rights and services of any kind and description or any interest therein, provided that the Tribal Commission shall have authority to purchase any interest in real property, whether located on or off the Reservation, only with the express, prior written consent of the Tribal Council as to each such action, and title to such real property and property which is to become a fixture or permanent improvement or part of the real property shall be taken in the name of the Tribe or in the name of the United States in trust for the Tribe, and title to all trust and restricted real property shall remain in trust or restricted status.

(Z) To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property, assets and revenues.

(AA) To deal in inventions, copyrights, and trademarks; to acquire by application, assignment, purchase, exchange, lease, hire or otherwise; and to hold, own, use, license, lease and sell, either alone or in conjunction with others, the absolute or any partial or qualified interest in and to inventions, improvement, letters patent and applications therefor, licenses, formulas, privileges, processes, copyrights and applications therefor, trademarks and applications therefor, and trade names, provided that title to all such interests shall be taken in the name of the Tribe.

(AB) With the prior permission of the Tribal Council, to borrow money and to make, accept, endorse, execute and issue bonds, debentures, promissory notes, guarantees and other obligations of the Tribal Commission for moneys borrowed, or in payment for property acquired or for any of the purposes of the Tribal Commission and to secure payment of any obligations by secured interest, mortgage, pledge, deed, indenture, agreement or other instrument of trust or by other lien upon, assignment of or agreement in regard to all or any part of the property, assets and revenues of the Tribal Commission.

(AC) To arbitrate, compromise, negotiate or settle any dispute to which it is a party relating to the Tribal Commission's authorized activities.

(AD) To enter into, make, perform and carry out any agreement, partnership, joint venture contract or other undertaking with any federal, state or local governmental agency, tribe, person, partnership, corporation or other association or entity for any lawful purpose pertaining to the business of the Tribal Commission or which is necessary or incidental to the accomplishment of the purposes of the Tribal Commission.

(AE) To invest and reinvest its funds in such mortgages, bonds, notes, debentures, share of preferred and common stock, and any other securities of any kind whatsoever, and property, real, personal or mixed, tangible or intangible, as the Tribal Commission shall deem advisable and as may be permitted under applicable law, provided that the Tribal Commission shall have authority to invest or reinvest in real property, whether located on or off the Reservation, subject to the restrictions set forth in Subsection 4.18(AC) above.

(AF) To purchase insurance from any stock or mutual company for any property, or against any risk or hazard.

(AG) To engage in any and all activities which directly or indirectly carry out the purposes of the Grand Traverse Band of Ottawa and Chippewa Indians as set forth in this Code.

(AH) With prior approval of the Tribal Council, to make application and accept grants and other awards from private and governmental sources in carrying out or furthering the purposes of the Tribal Commission or the Tribe.

(AI) To exercise all authority delegated to it or conferred upon it by law and to take all action which shall be reasonably necessary and proper for carrying into execution the foregoing powers and all of the powers vested in this Code as permitted by the purposes and powers herein stated and which are deemed to be in the best interests of the Tribe, exercising prudent management and good business judgment, all in compliance with applicable law.

(AJ) To establish and maintain such bank accounts as may be necessary or convenient.

(AK) To require by regulation, the filing of any records, forms and reports and all other information desired by the Council for implementation of this Code relating to any gaming activity or operation or any investigation as required by tribal law and the IGRA.

(AL) To provide for an internal system of recordkeeping with adequate safeguards for preserving confidentiality as deemed necessary by the Tribal Commission. All applications, background investigations and Tribal Commission decisions shall be retained in Tribal Commission files for a period of at least 10 years.

(AM) To adopt a schedule of fees to be charged for gaming licenses issued pursuant to this Code.

(AN) To adopt a schedule of fees and charges for services rendered relating to transcripts and the furnishing or certifying of copies of proceedings, files and records.

(AO) To supervise, inspect and regulate all gaming activities within the jurisdiction of the Tribe.

(AP) To promote the full and proper enforcement of this Code and other applicable law regarding gaming activities within the jurisdiction of the Tribe.

(AQ) To conduct background investigations of all persons who propose to participate in any gaming activity or operation.

(AR) To compel obedience of its lawful orders by proceedings of mandamus or injunction or other proper proceedings in the name of the Tribe in Tribal Court or any other court having jurisdiction of the parties and of the subject matter; provided, that no suit shall be brought by the Tribal Commission without the prior explicit written approval of the Tribal Council after consultation with the Tribal Attorneys.

(AS) To discipline any licensee or other person participating in any gaming activity by ordering immediate compliance with this Code or Tribal Commission regulations and to issue an order of temporary suspension of any license issued under this Code, whenever the Tribal Commission is notified of a violation by any such person of this Code or any other applicable law.

(AT) To issue an order of temporary closure of any gaming activity or operation in the event the Tribal Commission determines that immediate closure is necessary to protect assets or interests of the Tribe, pursuant to Tribal Commission regulations, or whenever the Tribal Commission shall receive information from the National Indian Gaming Commission that a primary management official or key employee of a licensee does not meet the standards for being licensed under the IGRA.

(AU) To become self-regulating whenever the Tribe becomes eligible for a certificate of self-regulation under the IGRA.

4.19 Annual Budget. The *en banc* Tribal Commission shall prepare an annual operating budget for all Tribal Commission activities and present it to the Council by August 15th of each year. The request of the *en banc* Tribal Commission shall be subject to the Tribal Appropriations Act.

4.20 Tribal Commission Regulations.

(A) *En banc* Tribal Commission regulations necessary to carry out the orderly performance of its duties and powers shall include, but shall not be limited to, the following:

(1) Internal operational procedures of the *en banc* Tribal Commission and its staff;

(2) Interpretation and application of this Code as may be necessary to carry out the Tribal Commission's duties and exercise its powers;

(3) A regulatory system for all gaming activity, including accounting, contracting, management and supervision;

(4) The findings of any reports or other information required by or necessary to implement this Code; and

(5) The conduct of inspections, investigations, hearings, enforcement actions and other powers of the Tribal Commission authorized by this Code.

(B) No regulation of the *en banc* Tribal Commission shall be of any force or effect unless it is adopted by the *en banc* Tribal Commission by written resolution and subsequently approved by a resolution of the Tribal Council and both filed for record in the office of the Tribal Secretary and in the Office of the Clerk of the Tribal Court.

(C) The Tribal Court and any other court of competent jurisdiction shall take judicial notice of all Tribal Commission regulations adopted pursuant to this Code.

4.21 Right of Entrance; Monthly Inspection. The *en banc* Tribal Commission and duly authorized officers and employees of the *en banc* Tribal

Commission, during regular business hours, may enter upon any premises of any gaming operator or gaming establishment for the purpose of making inspections and examining the accounts, books, papers, and documents, of any such gaming operator or gaming establishment. Such gaming operator shall facilitate such inspection or examinations by giving every reasonable aid to the *en banc* Tribal Commission and to any properly authorized officer or employee.

A Commissioner or a member of the *en banc* Tribal Commission's staff shall visit each tribally-owned or tribally-operated gaming establishment at least once every two weeks during normal business hours for the purpose of monitoring its operation. Such visits shall be unannounced.

4.22 Investigations. The *en banc* Tribal Commission, upon complaint or upon its own initiative or whenever it may deem it necessary in the performance of its duties or the exercise of its powers, may investigate and examine the operation and premises of any person who is subject to the provisions of this Code. In conducting such investigation, the *en banc* Tribal Commission may proceed either with or without a hearing as it may deem best, but it shall make no order without affording any affected party notice and an opportunity for a hearing pursuant to Tribal Commission regulations.

4.23 Hearings; Examiner. Pursuant to regulations, the *en banc* Tribal Commission may hold any hearing it deems to be reasonably required in administration of its powers and duties under this Code. Whenever it shall appear to the satisfaction of the *en banc* Tribal Commission that all of the interested parties involved in any proposed hearing have agreed concerning the matter at hand, the *en banc* Tribal Commission may issue its order without a hearing.

The *en banc* Tribal Commission may designate one of its members to act as examiner for the purpose of holding any such hearing or the *en banc* Tribal Commission may appoint another person to act as examiner under subsection 4.24 below. The *en banc* Tribal Commission shall provide reasonable notice and the right to present oral or written testimony to all people interested therein as determined by the *en banc* Tribal Commission.

4.24 Appointment of Examiner; Power of Examiner. The *en banc* Tribal Commission may appoint any person qualified in the law or possessing knowledge or expertise in the subject matter of the hearing to act as examiner for the purpose of holding any hearing which the *en banc* Tribal Commission, or any member thereof, has power or authority to hold. Any such appointment shall constitute a delegation to such examiner of all powers of a Commissioner under this Code with respect to any such hearing.

4.25 Revenues and Accounts.

(A) The Tribal Commission shall collect all gross proceeds from all tribally-owned and operated gaming activities and shall pay all prizes, all operating and maintenance expenses and all other fees, charges and deductions appropriate under general accepted accounting principles (including necessary or appropriate reserves). The Tribal Commission shall deposit all revenues of the gaming activities in separate funds and accounts under the control of the Tribal Commission.

(B) In each month, from the net revenues of the tribally-owned and operated gaming activities, the Tribal Commission shall:

first, set aside funds sufficient, with any other amounts then available and properly appropriated for the purpose, to pay or provide for all amounts payable, or required to be set aside, in that month with respect to obligations incurred by the Tribal Commission under Sections 4.18(AB) and 13, including the funding of any necessary reserves;

second, set aside amounts sufficient to fund any capital accounts or capital reserves in accordance with the annual capital budget approved under Section 4.15(A)(3); and

third, transfer all remaining net revenues to such tribal funds or accounts, under the control of the Tribal Council, as the Tribal Council shall designate from time to time.

4.26 Quarterly Report of Tribal Gaming Manager Reports. The Tribal Commission shall file a quarterly report to the Council summarizing reports received from each manager of any tribally-owned or managed gaming activity and making such comments as it deems necessary to keep the Council fully informed as to the status of its various gaming operations.

Section 5. Gaming Licenses.

5.1 Applicability. This Code governs all persons engaged or employed in gaming within the jurisdiction of the Tribe. Any application for license pursuant to this Code; participation in any gaming activity within the jurisdiction of the Tribe shall be deemed to be a consent to the jurisdiction of the Tribe and the Tribal Court in all matters arising from the conduct of such gaming and all matters arising under any of the provisions of this Code or other tribal laws.

5.2 License Required. No person shall operate Class II or Class III gaming within the jurisdiction of the Tribe unless such gaming is licensed by the Tribe. A separate tribal gaming license shall be obtained for each game authorized by Section 10. The decision to grant, revoke or decline to renew a license shall be final and not subject to appeal.

5.3 Types of Licenses. The Tribe shall issue each of the following types of gaming licenses:

(A) **Tribally-Owned or Tribally-Operated Class II.** This license shall be required of all tribally-owned or tribally-operated gaming activity operating one or more Class II games of chance.

(B) **Tribally-Owned or Tribally-Operated Class III.** This license shall be required for all tribally-owned or operated gaming activity operating any games of chance other than Class I or Class II gaming.

5.4 No License Requirement for Class I Gaming. A tribal license shall not be required for any Class I gaming activity or operation, provided, however, that each Class I gaming activity or operation must have written permission of the Tribal Commission, and such permission must be on file with the Tribal Secretary before any such Class I gaming is conducted.

5.5 Application Procedures.

(A) **Application for Gaming License.** For any proposed Class II or Class III gaming activity, the Council shall file with the Tribal

Commission an application for a tribally-owned or tribally operated Class II or Class III gaming license, whichever is appropriate, which shall contain the name of the proposed enterprise, its location and all other pertinent information required by this Code and Tribal Commission regulations.

(B) **Tribally-Owned and Tribally-Operated Class II.** Before issuing a license to a tribally-owned or operated Class II gaming activity the *en banc* Tribal Commission shall:

(1) Review the proposed gaming activity to ensure that all criteria required by this Code shall be met.

(2) Perform the necessary background investigations on management contractors, primary management officials and key employees required by this Code.

(3) Review and approve the accounting procedures to be used in such gaming activity.

(4) Take any additional steps necessary to ensure the integrity of such gaming activity.

(C) **Tribally-Owned and Tribally-Operated Class III.** Before issuing a license to a tribally-owned or operated Class III gaming activity the *en banc* Tribal Commission shall:

(1) Review the proposed gaming activity to ensure that all criteria required by this Code shall be met.

(2) Perform the necessary background investigations on management contractors, primary management officials and key employees required by this Code.

(3) Review and approve the accounting procedures to be used in such gaming activity.

(4) Take any additional steps necessary to ensure the integrity of such gaming activity.

(5) Review all aspects of the proposed gaming operation to ensure that it will be in compliance with the provisions of the applicable tribal/state compact.

5.6 Criteria Which a Potential Gaming Operator Must Meet. The *en banc* Tribal Commission shall issue the above license to any tribally-owned or tribally-operated Class II or Class III proposed gaming activity only if all of the following criteria are met:

(A) The proposed gaming activity or facility is to be located on land which was held in trust for the Tribe prior to October 17, 1988 or on trust lands which were located within or contiguous to the boundaries of the Reservation on October 17, 1988 or on lands taken into trust after October 17, 1988 as a settlement of a claim.

(B) The proposed gaming activity is to be played as Class II gaming as defined by this Code and the IGRA or is Class III gaming authorized by a tribal/state gaming compact.

(C) The proposed gaming activity is authorized by a Tribal Council resolution.

(D) The Tribe will have the sole proprietary interest and the Tribe will have the exclusive responsibility for the conduct of the proposed gaming activity, or if it is not, the management contract or other management agreement for that gaming is consistent with tribal and federal law and is properly approved by the Chairman of the Indian Gaming Tribal Commission.

(E) The resolution authorizing the proposed gaming activity provides that:

(1) The revenues of the proposed gaming activity shall be audited annually and copies of those audits will be provided to the *en banc* Tribal Commission and the National Indian Gaming Commission.

(2) The proposed gaming activity shall comply with all IRS reporting and filing requirements.

(3) All of the revenue of the proposed gaming activity shall be used for the purposes stated in subsection 9.2.

(4) All contracts for supplies services or concessions for an amount in excess of $25,000 annually, except contracts for legal and consulting services, shall be subject to an annual independent audit.

(5) The construction or maintenance of the gaming facility and the operation of the proposed gaming activity shall be conducted in a manner which the *en banc* Tribal Commission finds will adequately protect the environment and the public health and safety.

(6) The gaming manager, all primary management officials, and all key employees have passed the background investigations and obtained the tribal gaming employee licenses required by this Code. Each application must state in writing that all future management officials and key employees will be required to pass background investigations and obtain tribal gaming employee licenses before they are hired.

(7) The *en banc* Tribal Commission shall have the authority to regulate the proposed gaming activity.

(8) The proposed gaming activity shall pay to the National Indian Gaming Commission such fees as federal law may require to be paid.

(9) If the gaming activity is Class III gaming, such gaming activity meets all other criteria established by the tribal/state compact.

5.7 License Application Fees. No application fee shall be required for a tribally-owned or tribally-operated Class II or Class III gaming activity.

5.8 License Tax. No annual license tax shall be required for a tribally-owned or tribally-operated Class II or Class III gaming operation.

5.9 Form of Gaming License. Every gaming license issued by the *en banc* Tribal Commission shall include the name and address of the authorized licensee and the signature of an authorized officer of the *en banc* Tribal Commission.

5.10 Scope of gaming License. A gaming license issued by the *en banc* Tribal Commission shall be effective only for the gaming activity and location specified in the application. Such license may be transferred only upon prior approval of the *en banc* Tribal Commission upon written request that details the proposed new gaming activity, its location and proposed gaming operator.

5.11 Terms of License. A tribally-owned and tribally-operated Class II and Class III gaming license shall be valid for a period of one year from the date of issuance or until further action of the *en banc* Tribal Commission to extend the license.

5.12 Posting of Licenses. Each gaming operator shall post its tribal gaming license in a conspicuous location at the gaming operator's gaming facility. If a gaming operator has more than one gaming facility, the gaming operator must obtain and post a separate license for each gaming facility. A gaming operator licensed to sell raffle tickets outside a gaming facility shall carry a copy of the gaming license in which such person is employed.

5.13 Gaming License Renewals. Each tribal gaming license must be renewed every year. No renewal fee shall be required for a tribally-owned or tribally-operated Class II or Class III license. In order to obtain a renewal of a license, the gaming operator shall submit a written renewal application to the *en banc* Tribal Commission on the form provided by the *en banc* Tribal Commission. No renewal application shall be approved until the annual report, required by subsection 5.14, has been properly filed. All renewal applications submitted by a tribally-owned Class II or Class III gaming activity shall be approved within a reasonable time unless the Gaming Commission determines, based on reasonable grounds, that the enterprise has been or will be operated in violation of tribal, federal or other applicable law or the terms of the tribal/state compact.

5.14 Annual Reports. Each gaming operator who possesses a Class II or Class III tribal gaming license must file an annual report with the Tribal Commission and the Tribal Council between the 15th and the last day of the 12th month duration of each such license. The report shall be submitted to the Tribal Commission on the annual report form provided by the *en banc* Tribal Commission and shall include the following information:

(A) The name, address and telephone number of the gaming operator;

(B) The names, addresses and titles of its current gaming managers and all submanagers;

(C) A description of each gaming activity that is operated and the total gross revenue of each;

(D) A written copy of any changes the gaming operator proposes to initiate in its rules;

(E) A statement of the specific dates and times during which the gaming activity will be operated during the next license period;

(F) The name and address of the person who will be the gaming manager and the names and addresses of all persons who will be the primary management officials during the next license period;

(G) A statement of any changes in the gaming manager or in the primary management officials or key employees who will operate the gaming activity over the next license period;

(H) The names and addresses of any employees whom the *en banc* Tribal Commission may determine to be key employees during review of the application;

(I) Written proof that the gaming operator has paid to the National Indian Gaming Commission such fees as federal and tribal law may require it to pay and will continue to do so;

(J) A sworn statement that the gaming operator has complied with the Internal Revenue Code and regulations, including written notice of customer winnings, and a statement that the gaming operator shall continue to obey all tribal and federal laws and shall hold the Tribal Commission and the Tribe harmless for failure to do so;

(K) The description of any location at which the gaming activity has been conducted and any new location which is expected to be established during the next license period;

(L) The number of full-time equivalent persons, on an annualized basis, employed by the operation during the past 12 months, together with a projection of the number of full-time equivalent people who are expected to be employed during the next license period;

(M) The total gross revenue of the gaming operator attributable directly or indirectly to tribally-licensed gaming activity over the proceeding 12 months;

(N) A sworn statement that the gaming operator will continue to comply with all tribal and federal laws applicable to the gaming operator's gaming operation;

(O) A sworn statement that the gaming operator and all of its key employees and management contractors continue to consent to Tribal Court jurisdiction and service of process in all matters arising from the conduct of tribally-licensed gaming activity;

(P) The name, address and signature of the agent who will accept service of process on behalf of the gaming operator, who must reside on the Reservation; and

(Q) If the gaming operator is a corporation, a copy of any amendment to its articles of incorporation, properly certified by the incorporating government, unless a current copy has already been filed with the Tribal Commission.

5.15 Procedure to Remedy Gaming License Violation. If the *en banc* Tribal Commission finds that a tribally-owned or operated gaming activity is being operated in violation of this Code or otherwise presents a threat to the Tribe or to the public, the *en banc* Tribal Commission shall immediately take all necessary steps to bring such activity into compliance, including, but not limited to, closing down such activity temporarily or permanently pursuant to enforcement procedures and regulations duly promulgated by the *en banc* Tribal Commission under this Code. Nothing contained in this Section or in this Code shall be construed as limiting, restraining or effecting a waiver of the Tribe or of the Tribal Council's right and authority to take appropriate action to remedy any gaming violation pursuant to tribal and federal law.

Section 6. Gaming Employee Licenses.

6.1 Current and Valid Gaming Employee License Required. Every primary management official and every key employee of any Class II or Class III gaming activity subject to this Code shall possess a current, valid gaming employee license.

6.2 Application for Gaming Employee License.

(A) A person seeking a tribal gaming employee license shall submit an application to the Tribal Commission on such form and in such manner as the Tribal Commission may require.

(B) Such application shall include the following information:

(1) The applicant's name, including all other names used, current home and work addresses and telephone numbers, social security number, place of birth, date of birth, citizenship, and driver's license number, as well as the address of his or her personal residences over the past five years. If the applicant has resided at his or her current address for less than two years, his or her previous address.

(2) The name, address and telephone number of the gaming facility and of the gaming operator for whom the applicant intends to work and the specific location in which the applicant will be employed.

(3) The name and job description of the applicant's position.

(4) The names and addresses of the applicant's living parents, grandparents, spouse, children, brothers, and sisters.

(5) A statement as to whether or not the applicant has ever been charged with a crime, and if so, the charge, the name and address of the court involved, the applicant's explanation of the outcome of the case, including the date of final disposition.

(6) The names, current addresses and telephone numbers of three references who are not related to the applicant and who were acquainted with the applicant when the applicant was residing at each of the addresses listed in subsection 6.2(B)(1).

(7) A list of the applicant's previous jobs over the preceding five years, including the name, address and telephone

number of his or her employer, and the position held.

(8) The names and addresses and a brief description of all businesses in which the applicant currently holds, or has within the last five years held, an ownership interest.

(9) A description of any previous employment relationship with an Indian Tribe, including the employee position held, name of the Tribe involved and name and address of a person who can attest to the accuracy of the information provided.

(10) A description of any current or past non-employee business arrangement which the applicant has had with an Indian Tribe, including the name of the Tribe involved and the name and address of a person who can attest to the accuracy of the information provided.

(11) A statement as to whether the applicant has had any past employment with, or ownership interest in, any gaming business. If so, the applicant shall provide a written statement describing his or her position, the dates during which that position was held, a description of the applicant's ownership interest or job responsibilities and the name, address and phone number of the business, and a person who can attest to the accuracy of the information provided.

(12) A list of all gaming-related licenses the individual has ever applied for, whether or not those licenses were granted and the name and address and phone number of the regulatory agency involved.

(13) A list of all professional or business licenses the applicant has applied for, whether or not those licenses were granted and the name, address and phone number of the regulatory agency involved.

(14) A statement of all languages written or spoken.

(15) A sworn statement that neither the applicant nor any member of his immediate family has a past or current financial interest, other than a salary interest, in any gaming-related enterprise anywhere. If the applicant has any relative who has such a relationship, the applicant shall fully disclose his name and the nature of the relationship.

(16) Written permission giving the Tribal Commission or its designeé the right to investigate the applicant's background, including his criminal record, civil and criminal judgments and credit history.

(17) A complete disclosure of any pending or anticipated civil or criminal action against the applicant, including the name and address of the police department and court involved.

(18) A disclosure of any civil or criminal judgments rendered against the applicant, including the case number, a description of the judgment and the name and address of the court involved.

(19) The applicant's fingerprints will be taken by GTB Tribal Police, who are responsible for conducting this portion of the applicant's criminal history check and forwarding the fingerprint cards to the NIGC for processing through the FBI.

(20) Any other information which might bring into question his fitness to serve as a primary management official or key employee of a licensed gaming operation.

(C) Each application shall be accompanied by a sworn statement that if the license is issued, the applicant will submit to the jurisdiction of the Tribe and the Tribal Court.

(D) Each application shall be accompanied by a photograph of the applicant taken within the last year.

(E) Each application shall be accompanied by a sworn statement that the applicant will abide by this Code and all other applicable law.

(F) Each application shall be accompanied by a written statement that the applicant has read, understands and approves of the following Privacy Act notice:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by the 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 an applicant's social security number (SSN) is voluntary; however, failure to supply a SSN may result in errors in processing the application.

(G) Each application for a gaming employee license shall be accompanied by a fee of $50.00 subject to the following conditions:

(1) All key employees and primary management officials employed as of December 10, 1993 shall be exempt from payment of the application fee.

(2) All key employees and primary management officials employed after December 10, 1993 shall be subject to payment of the $50.00 application fee. The Tribal Commission may revise the application fee.

(3) All key employees and primary management officials employed after December 10, 1993, as a condition of their employment which shall be evidenced by a voluntary consent form,

hereby agree that the $50.00 application fee delineated in Subparagraphs (3) and (4) of this section shall be deducted from their first paycheck by withholding $25.00 and from their second paycheck by withholding $25.00.

(4) All employees of a gaming facility shall be subject to a $20.00 deposit on any uniforms issued to the employee. The deposit shall be returned upon the termination or resignation of the employee's employment relationship and the employee's return of the uniform in good condition.

6.3 Review Procedure for Gaming Employee License Application. Before issuing a gaming employee license, the four Tribal Commissioners responsible for carrying out gaming licensing eligibility investigations shall:

(A) Perform or arrange to have performed the necessary background investigation on the applicant required by this Code and by 25 C.F.R. 556 and 558, in order to determine the applicant's prior activities, criminal record, if any, and reputation, habits and associations. provided in the application and all appropriate steps to verify the accuracy of information contained in the application. This investigation shall include contacting each reference provided in the application, and interviewing a sufficient number of knowledgeable people such as former employers and personal references of the applicant to provide the Tribal Commission with a rational basis upon which to determine the applicant's eligibility for licensing. A complete record of these background investigative procedures shall be kept for each applicant and summarized in a written report. This background investigative report shall include all steps taken in conducting the investigation of the applicant, the results obtained, conclusions reached, and the bases for these conclusions. The Tribal Commission shall review the contents of these background investigative reports according to the requirements of this Code and requirements at least as stringent as those in 25 C.F.R. 556 and 558. Based upon this review, the Tribal Commission shall grant or deny a gaming license to a key employee or primary management official. The applicant shall be notified in writing of the Tribal Commission's decision. If the four Commissioners charged with enforcing this section vote to deny the license, they shall include in such notice the specific reasons for their decision.

(B) Forward to the National Indian Gaming Commission a copy of the application, the results of the background investigations performed and the Tribal Commission's findings and decision.

(C) All applications, background investigations and four Commissioners decisions shall be retained in the *en banc* Tribal Commission files for a period of at least 10 years.

6.4 Scope of Gaming Employee License. A gaming employee license shall be effective only for the person to whom it is issued and only with respect to the gaming facility specified in the application. Any such license may be transferred to a new gaming facility only upon prior approval of the *en banc* Tribal Commission upon written request of the licensee which shall identify the proposed new gaming facility, its location and the proposed gaming operator thereof.

6.5 **Licensing Period.** An employee gaming license issued pursuant to this Code shall be effective for a period of one year from the date of issuance or until such time as the *en banc* Gaming Commission changes the effective date and shall state on its face the date that the license became effective and the date that it expires.

6.6 **Renewals.** A holder of an employee gaming license shall apply to the Tribal Commission for a renewal before his original license has expired, updating all information contained in the original application.

6.7 **Requirement to Produce License Upon Request.** Any person receiving an employee gaming license must carry that license upon his person during all working hours and must produce that license upon the request of any law enforcement official with jurisdiction over the gaming activity or any agent of the Tribe, the Tribal Commission or the National Indian Gaming Commission.

6.8 **Permanent License Revocation of Employee Gaming License.**

(A) **Grounds for Permanent Revocation.** The *en banc* Tribal Commission may permanently revoke an employee's gaming license, after notice and an opportunity for a hearing, for any of the following reasons:

(1) The employee has withheld pertinent information on his application;

(2) The employee has made false statements on the application;

(3) The employee has participated in gaming activity which was not authorized by any tribal gaming license;

(4) The employee has attempted to bribe a tribal council member, Tribal Commissioner or other person in an attempt to avoid or circumvent this Code or any other applicable law;

(5) The employee has offered something of value or accepted a loan, financing or other thing of value from an *en banc* Tribal Commission member, a subordinate employee or any person participating in any gaming activity;

(6) The employee has knowingly promoted, played or participated in any gaming activity operated in violation of this Code or any other applicable law;

(7) The employee has been knowingly involved in the falsification of books or records which relate to a transaction connected with the operation of gaming activity;

(8) The employee has violated any provision of this Code or the rules and regulations of the *en banc* Tribal Commission;

(9) The employee has been convicted of, or has entered a plea of *nolo contendere* to, any crime involving gaming, fraud, theft, embezzlement or other activity which, if perpetrated at his gaming operator's place of employment would injure or pose a threat to the public interest, or the integrity of the gaming activity, or the

effective regulation of gaming or enhance the dangers of unfair, unsuitable or illegal gaming practices;

(10) The employee has been convicted of, or entered a plea of *nolo contendere* to, a crime involving the sale of illegal narcotics or controlled substances;

(11) The employee has failed to comply with any lawful order, inquiry or directive of the Tribal Commission, the Tribal Council or any administrative or judicial body of competent jurisdiction, arising from any gaming activity whether or not subject to this Code; or

(12) The employee is determined to have present or prior activities, including criminal record, or reputation, habits or associations which pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming.

(B) **Procedure for Permanent Revocation.** Whenever it is brought to the attention of the Tribal Commission that a person has violated any of the conditions in subsections 6.8(A)(1) through (12), or has failed to comply with any condition of his tribal gaming license or has failed to obtain a license, the *en banc* Tribal Commission or its designeé may either undertake an investigation, or serve upon such person an order to show cause why the person's license should not be revoked or why the person should not be enjoined from conducting gaming activities within the jurisdiction of the Tribe. The order shall state the grounds for which such revocation is sought, and that the employee shall have an opportunity to present testimony and to cross examine opposing witnesses, and to present any other evidence as to why revocation or injunction should not be issued. The hearing shall be set for not less than 10 days nor more than 14 days from the date of notice. The hearing shall be governed in all respects in accordance with tribal law and Tribal Commission regulations.

6.9 Temporary Suspension of Employee Gaming License.

(A) **Grounds for Temporary Suspension.** The *en banc* Tribal Commission may temporarily suspend an employee gaming license for not more than thirty days for any of the following reasons:

(1) The employee has been charged with a violation of any gaming law.

(2) The employee's continued employment as a primary management official or key employee of a game or gaming activity poses a threat to the general public.

(3) The employee has made a material false statement in his license application.

(4) The employee has participated in gaming activity unauthorized by his tribal gaming license.

(5) The employee has refused to comply with any lawful order of the *en banc* Tribal Commission, the Tribal Council, the Tribal

Court or the National Indian Gaming Commission arising from or relating to gaming.

(B) **Procedure for Temporary Suspension.** Whenever it is brought to the attention of the *en banc* Tribal Commission that a person has violated any of the conditions in subsections 6.9(A)(1) through (5), or has failed to comply with any condition of his employee gaming license or of this Code that constitutes a direct and immediate threat to the peace, safety, morals or health or welfare of the community, the *en banc* Tribal Commission or its designeé shall issue a notice of temporary suspension of such person's employee gaming license, which shall be served upon the employee. The notice shall state the grounds upon which such temporary suspension is ordered and that the employee shall have an opportunity to present testimony and to cross-examine opposing witnesses and to present any other evidence as to why suspension should not issue. The employee shall immediately cease and desist operating in his management position or in his capacity as a key employee upon receipt of the order, but such person may file a notice of appeal with the *en banc* Tribal Commission within five days of such receipt. Upon receipt of such notice of appeal, the *en banc* Tribal Commission shall hold a hearing on the order within fourteen calendar days of its receipt of the appeal. At the hearing, the employee shall have the opportunity to present testimony and cross-examine witnesses, and present any other evidence as to why temporary suspension order should not be issued. Such hearing shall be governed in all respects by tribal law and *en banc* Tribal Commission regulations.

Section 7. Provisions of General Applicability to All Gaming Operators.

7.1 Each Class II or Class III gaming activity within the jurisdiction of the Tribe shall be conducted only by a gaming operator who possesses a current and valid tribal gaming license.

7.2 Each tribal gaming license shall be applicable only to one gaming site and the gaming operator named on such license.

7.3 No tribal gaming license shall be sold, lent, assigned or otherwise transferred.

7.4 Each management and key employee of a licensed gaming activity shall possess a current and valid tribal gaming employee license.

7.5 A tribal gaming license shall be issued only to a person who qualifies therefore under this Code, or to the Tribe or a tribal subdivision.

7.6 Each gaming operator shall have a copy of this Code and regulations readily available for inspection by any person at each authorized gaming facility or activity.

7.7 No person under the age of 18 years shall be permitted to conduct, assist in or play any gaming activity conducted at any location having an alcoholic beverage license of any type or class.

7.8 No person under the age of 14 years shall be permitted to enter the area of any building in which a gaming activity is being conducted.

7.9 A person under the age of 14 years may participate in gaming activity in private homes, purchase raffle tickets, attend sporting contests

or ticket drawings, and stick game and other traditional gaming tournaments.

7.10 Each gaming operator shall post in a conspicuous location near where each gaming activity is being played or shall otherwise provide the public with an explanation of the rules of play of every game he operates.

7.11 A gaming operator is prohibited from renting or lending gaming equipment to any person without the prior written approval of the Tribal Commission.

7.12 A gaming operator is prohibited from exchanging pull-tabs, punch-boards, sports pools, and twenty-one boxes (shoes) without the approval of the Tribal Commission. All other gaming equipment may be exchanged without prior approval. Any request for approval shall be made to the Tribal Commission at least 5 days prior to the exchange.

7.13 Each gaming operator who participates in the printing, manufacture, or construction of any equipment for gaming activity shall first notify the Tribal Commission of his intention and shall have the finished product approved by the Tribal Commission before it is placed in service.

7.14 Gaming chips and other tokens of value may be sold and redeemed only by the gaming operator and only for full value.

7.15 Every licensed gaming operation shall maintain and keep for not less than 10 years permanent books of accounts and records, including inventory records of gaming supplies, sufficient to establish the gross and net income, deductions, expenses, receipts and disbursements of the enterprise.

7.16 There shall be no sale of liquor at any gaming site without the prior approval of the Tribal Council.

7.17 Consideration for the chance to play in any gaming activity shall only be cash or, if allowed by the gaming operator, personal check and shall be presented at the time the game is played. No other form of consideration shall be allowed unless the *en banc* Tribal Commission gives prior written approval.

7.18 Evidence of any win or loss incurred by a player must, upon request, be provided to such player in such form as will be acceptable to the IRS.

7.19 Each gaming operator shall pay all fees and file all reports required by law within the time prescribed.

7.20 Each gaming operator shall respond immediately to and obey all inquiries, subpoenas or orders of the Tribal Commission, the Tribal Council, the Tribal Court, or the National Indian Gaming Commission.

7.21 Each gaming operator shall prominently display at each gaming site a current, valid tribal gaming license.

7.22 Each gaming operator shall at all times maintain an orderly, clean, and neat gaming establishment, inside and out.

7.23 Each gaming operator shall provide adequate security to protect the public before, during and after any gaming activity.

7.24 Each licensed gaming activity shall be subject to patrol by the tribal police force for the purpose of enforcing tribal law, and each gaming operator shall cooperate at all times with the tribal police force.

7.25 Each gaming operator shall make its premises and books and records available for inspection during normal business hours by the *en banc* Tribal Commission and members of the Tribal Council or their designeé.

7.26 No gaming shall be conducted on special days of observance designated by the *en banc* Tribal Commission.

7.27 No gaming operator may discriminate on the basis of sex, race, color, or creed in the conduct of any licensed gaming activity.

7.28 Each gaming operator shall keep accurate books and records of all monies received and paid out and provide the *en banc* Tribal Commission or its designeé with copies of or access to the same upon request.

7.29 All net revenue of any gaming activity shall be used only in a manner prescribed by this Code.

7.30 Every gaming operator shall comply with all applicable tribal and federal revenue reporting laws.

7.31 Each gaming operator shall immediately suspend any employee who is charged with an offense described in subsection 8.2(A)-(AG) or any offense related to the sale, possession, manufacture and/or transport of illegal drugs. The gaming operator shall also immediately notify the *en banc* Tribal Commission in writing of the name of the person and the pending charge and advise the *en banc* Tribal Commission of the outcome of the case. If the employee is convicted or pleads *nolo contendere* to the charge, the employee's employment shall be terminated.

7.32 Any dispute between GTB gaming enterprises and the gaming public which arises over the payment of winnings to a member of the gaming public shall be resolved according to the following schedule:

(A) If the disputed win is less than $200.00 the department head, or designeé, of that game shall resolve the matter at the time of the dispute, and that resolution shall be final.

(B) If the disputed win is more than $200.00 but less than $1,000.00, the gaming manager shall resolve the matter within 8 hours, and that resolution shall be final.

(C) If the disputed win is $1,000.00 or more, the Tribal Commission shall resolve the matter within 30 days, and that resolution shall be final.

Section 8. Enforcement.

8.1 Jurisdiction. Except as provided in this Code or in any tribal/state compact under the IGRA, the Tribal Court shall have jurisdiction over all violations of this Code.

8.2 Prohibited Acts. In addition to other civil and criminal offenses provided for in this Code or under other applicable law, the following acts are prohibited and subject any violator to the civil or

criminal penalties specified herein:

(A) Operating or in any way participating in any on-reservation gaming activity not authorized by this Code.

(B) Knowingly making a false statement in an application for employment with any gaming operator or with the *en banc* Tribal Commission.

(C) Knowingly making a false statement in connection with any contract to participate in any gaming activity.

(D) Attempting to bribe any person participating in any gaming activity.

(E) Offering or accepting a loan, financing or other thing of value between a Tribal Commission member or employee and any person participating in any gaming activity.

(F) Promoting or participating in any illegal gaming activity.

(G) Failing to keep sufficient books and records to substantiate receipts, disbursements and expenses incurred or paid from any gaming activity authorized pursuant to this Code.

(H) Falsifying any books or records which relate to any transaction connected with any gaming activity pursuant to this Code.

(I) Conducting or participating in any gaming activity which in any manner results in cheating or misrepresentation or which allows any other disreputable tactics that detract from the fair nature and equal chance of participation between gaming players, or which otherwise creates an advantage over and above the chance of such gaming activity and which affects its outcomes.

(J) To conduct a gaming activity with, or to allow participation in a gaming activity by, an intoxicated or disorderly player.

(K) To allow or participate in the sale of liquor at gaming sites when such sale is prohibited by tribal law.

(L) To accept consideration other than money, personal checks or other approved consideration for the chance to play or participate in any gaming activity.

(M) To use bogus or counterfeit chips or charitable gaming tickets, or to substitute or use any cards, charitable gaming tickets or gaming equipment that has been marked or tampered with.

(N) To employ or possess any cheating device or to facilitate cheating in any gaming activity.

(O) To willfully use any fraudulent scheme or technique to change the odds of any game of chance. The technique known as "card counting" is specific grounds for barring a patron from the casino.

(P) To solicit, directly or indirectly, or to use, inside information on the nature or status of any gaming activity for the

benefit of any person.

(Q) To tamper with a gaming device or attempt to conspire to tamper with or manipulate the outcome or the payoff of a gaming device, or otherwise interfere with the proper functioning of the machine.

(R) To alter or counterfeit a gaming license.

(S) To aid, abet, or conspire with another person knowingly or knowingly to cause any person to violate any provision of this Code or any rules and regulations adopted hereunder.

(T) To operate, use or make available to the public any illegal gaming device, apparatus, material, or equipment.

(U) To sell, hold out for sale or transport into or out of the jurisdiction of the Tribe any illegal gaming device, apparatus, material, or equipment.

(V) To assist or allow a person who is underage to participate in any gaming activity.

(W) To possess any illegal narcotics or controlled substances on any licensed gaming site.

(X) To steal or attempt to steal funds or other items of value from any gaming establishment or from the Tribal Commission.

(Y) To employ any person at a licensed gaming establishment whom the gaming operator knows has been convicted of a gaming crime or a crime of fraud.

(Z) To conspire with or induce any person to violate any of the provisions of this Code or any tribal or federal law.

(AA) No gaming operator or any of his employees or agents shall engage in any act, practice, or course of operation which could result in a fraud or deceit upon any person.

(AB) To employ or have on the Reservation any device to facilitate cheating in any game of chance.

(AC) To use any fraudulent scheme or technique knowingly, or to solicit, provide, or receive inside information about any gaming activity with the intent of benefiting any person.

(AD) To alter or counterfeit a gaming license.

(AE) To knowingly aid, abet, or conspire with another person to violate or to cause any person to violate any provision of this Code or other applicable law.

(AF) To take, solicit or encourage any action which undermines the integrity of any game of chance.

(AG) No gaming operator shall employ any person who has been convicted of or entered a plea of *nolo contendere* to a crime of theft, embezzlement, fraud, a gaming crime or any other crime which, if

perpetrated on the gaming operator's premises would threaten the fairness or integrity of the game or create a threat to the public.

8.3 Criminal Violation. Any Indian who violates or fails to comply with any provision of this Code, or who fails to comply with any order or decision of the Tribal Commission, shall be guilty of a crime and shall be required to pay a maximum fine of $5,000 or to serve 2 years imprisonment, or both. Each day during which such violation or failure to comply continues shall constitute a separate violation of this Code.

8.4 Civil Violation. Any person who violates or fails to comply with any provision of this Code, or who fails or neglects to comply with any order of the Tribal Commission, shall be liable for a civil fine not to exceed $5,000 for each violation thereof. Each day during which such violation or failure to comply continues shall constitute a separate violation of this Code. The amount of any such civil fine may be recovered in a civil action in the Tribal Court.

8.5 Cumulative Fines. All civil fines accruing under this Code shall be cumulative and a suit for the recovery of one fine shall not bar or affect the recovery of any other fine, or judgment, penalty, forfeiture or damages, nor bar the power of the Tribal Court to punish for contempt, nor bar any criminal prosecution.

8.6 Purpose of Civil Penalties. The civil fines imposed under this Code are intended to be remedial and not punitive and are designed to compensate the Tribe for the damage done to the peace, security, economy and general welfare of the Tribe and the Reservation, and to compensate the Tribe for costs incurred by the Tribe in enforcing this Code. The civil fines under this Code are also intended to coerce persons into complying with this Code and Tribal Commission regulations and are not intended to punish such persons for violation of such laws and regulations.

8.7 Civil Action for Penalties. In enforcing the civil infraction provisions of this Code, the Tribal Commission shall proceed, in the name of the Tribe, by civil complaint pursuant to the provisions of this Code. The Tribal Commission in such action shall have the burden of showing, by a preponderance of the evidence, that such person violated the applicable provision of this Code.

8.8 Seizure and Forfeiture of Property. All property utilized in violation of this Code shall be subject to seizure and forfeiture by order of the Tribal Court.

8.9 Notice to <u>en banc</u> Tribal Commission. Upon final order of the tribal court in any action for criminal or civil violation under this Section, the Clerk of the Tribal Court shall notify the *en banc* Tribal Commission in writing of the final court disposition.

Section 9. Operation of Tribally-Owned or Tribally-Operated Games.

9.1 Management by a Gaming Manager.

(A) The Tribal Council shall appoint or delegate the responsibility for appointing one person to serve as gaming manager of each tribally-owned or tribally-operated gaming facility. The gaming manager shall undergo a background investigation by the four Commissioners charged with the background investigation regulatory

function and shall obtain an employee gaming license from the *en banc* Tribal Commission before commencing work. The three Commissioners charged with the operation function under Section 4.15(D) of this Code shall be the direct supervisor of the gaming manager. The *en banc* Tribal Commission shall retain the authority to suspend or dismiss the gaming manager for a violation of this gaming code.

(B) The gaming manager shall be responsible for managing and overseeing the day-to-day operations of the gaming operation. The gaming manager shall have such authority as the *en banc* Tribal Commission may delegate by written rules.

(C) The gaming manager shall provide a written monthly report to the three member operating Commissioners which details the number of patrons served, the amount of income generated, the numbers of employees working at the establishment, a detailed description of any patron complaints and other problems experienced at the establishment, also a written statement of any changes in key employees or primary management officials.

9.2 Use of Net Revenue of Tribally-Owned or Tribally-Operated Gaming Activities.

(A) All net revenue of tribally-owned or tribally-operated gaming activities transferred by the Tribal Commission to the Tribe in accordance with Section 4.25(B) shall be held in the name of the Tribe. Such net revenue may only be expended by the Tribal Council by resolution and only for the following purposes:

(1) To fund tribal government operations or programs.

(2) To provide for the general welfare of the Tribe and its members.

(3) To promote tribal economic development.

(4) To donate to charitable organizations.

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

9.3 Audit Requirements.

(A) The *en banc* Tribal Commission and the gaming manager of each tribally-owned or tribally-operated gaming activity shall obtain an annual independent audit of such gaming activity. A copy of such audit shall be provided to the *en banc* Tribal Commission, the Tribal Council and the National Indian Gaming Commission.

(B) Each contract for supplies, services (other than legal and accounting services) or concessions for a contract amount in excess of $25,000.00 annually shall be subject to an independent audit. A copy of such audit will be provided to the *en banc* Tribal Commission, the Tribal Council and the National Indian Gaming Commission.

9.4 Additional Requirements for Operation of Tribally-Own d or Tribally-Operated Games.

(A) Any cash winning of an amount under $25,000.00 shall be paid

in cash or check and shall be paid on the date it is won. Each patron's winnings of an amount over $25,000.00 shall be paid by check and shall be paid within 72 hours after it is won.

(B) The gaming facilities shall comply with all applicable provisions of the Bank Secrecy Act, P.L. 91-508, October 26, 1970, 31 U.S.C. § 5311-5314, as determined by the *en banc* Tribal Commission.

(C) Each tribally-owned or tribally-operated gaming facility shall carry sufficient liability insurance to protect the public in the event of an accident. The *en banc* Tribal Commission shall determine the amount of liability insurance required for each gaming facility.

(D) Each tribally-owned or tribally-operated gaming activity shall post the rules of play of each game in a conspicuous place where gaming is conducted and shall make written copies of such rules available to any member of the general public upon request.

Section 10. Authorized Games.

Consistent with applicable law, the Tribe authorizes the licensing of the following games of chance:

(A) Bingo.

(B) Twenty-one or Blackjack.

(C) Poker.

(D) Craps and related dice games.

(E) Roulette.

(F) Banking card games that are not otherwise treated as class II gaming in Michigan pursuant to 25 U.S.C. Section 2703(7)(c), and non-banking card games played by any Michigan tribe on or before May 1, 1988.

(G) Electronic games of chance featuring coin drop and pay out as well as printed tabulations, whereby the software of the device predetermines the presence or lack of a winning combination and pay out. Electronic games of chance are defined as a microprocessor-controlled electronic device which allows a player to play games of chance, which may be affected by an element of skill, activated by the insertion of a coin or currency, or by the use of credit, and awards games credits, cash, tokens, or replays, or a written statement of the player's accumulated credits, which written statements are redeemable for cash.

(H) Keno.

(I) Interactive satellite or telephonic games of chance.

(J) All other games of chance that may be authorized under a Tribal/State Gaming Compact with the State of Michigan pursuant to the IGRA.

Section 11. Electronic Devices or Service Provider Licenses.

11.1 Applicability. This section and Code applies to all suppliers of electronic gaming devices engaged in the sale of, or service thereto, of electronic gaming within the jurisdiction of the Tribe. Any application for a vendor license pursuant to this Code and participation in the sale of electronic gaming devices to the Tribe, or service thereof, shall be deemed to be a consent to the jurisdiction of the Tribe and the Tribal Court in all matters arising from the conduct of such activities and all matters arising under any of the provisions of this Code or other Tribal laws. A license under this Code is a privilege and not a right.

11.2 Licenses Required. No person shall sell or provide service to an electronic gaming device within the jurisdiction of the Tribe unless such person is licensed by the Tribe.

11.3 Types of Licenses. The Tribe shall issue each of the following types of electronic gaming licenses:

(A) Vendor License;

(B) Service License; and

(C) Vendor/Service License.

11.4 Application Procedures.

(A) **Application For a Vendor License, Service License, or Vendor/Service License.** For any proposed sale or service of an electronic gaming device, the proposed licensee shall file with the *en banc* Tribal Commission an application entitled "Vendor Disclosure Form" which shall contain the name of the proposed vendor/licensee, its location, financial history, controlling principals, legal entity and criminal background investigation, and all other pertinent information required by this Code and Tribal Commission regulations.

11.5 Criteria Which A Potential Gaming Operator Must Meet. The *en banc* Tribal Commission shall issue the above license to any vendor, service provider or vendor/servicer only if one of the following criteria are met:

(A) The vendor, service provider or vendor/servicer is licensed to sell and/or service electronic gaming equipment in the State of Nevada or the State of New Jersey; or

(B) The principals and all employees of the principals, all primary management officials and all key employees have passed the background investigations and obtained a license required under this Code. Each application must state in writing that all future management officials and key employees will be required to pass background investigations and obtain a license under this Code.

11.6 License Application Fee.

(A) All vendors and vendor/servicers shall pay an application license fee of $500.00.

(B) All service providers shall pay a license application fee of

$100.00.

11.7 Form of License. Every license under this section shall be issued by the *en banc* Tribal Commission and shall include the name and address of the authorized licensee and the signature of an authorized officer of the *en banc* Tribal Commission.

11.8 Scope of License. A license issued by the *en banc* Tribal Commission shall be effective only for the specific purpose state in the license. Such license is not transferrable.

11.9 Term of License. Each license shall be valid for one year.

11.10 License Renewal. Each licensee must be renewed every year. A renewal fee of $100.00 shall be applied to vendor and vendor/servicer licenses. A renewal fee of $25.00 shall be applied for a service provider. No renewal application shall be approved until the Annual Report, required by subsection 11.11, has been properly filed.

11.11 Annual Reports. Each licensee must file an annual report with the *en banc* Tribal Commission between the 15th day and the last day of the 12th month duration of each such license. The report shall be submitted to the Tribal Commission in an Annual Report form provided by the Tribal Commission.

11.12 Procedure to Remedy License Violations. If the *en banc* Tribal Commission finds that a vendor, service provider, or vendor/service provider is operating in violation of this Code or otherwise presents a threat to the Tribe or the public, the *en banc* Tribal Commission shall immediately take all necessary steps to bring such activity into compliance including, but not limited to, closing down such activity temporarily or permanently pursuant to enforcement procedures and regulations promulgated by the *en banc* Tribal Commission under this Code. Nothing contained in this section or in this Code shall be construed as limiting, restraining, or effecting a waiver of the Tribe or of the Tribal Council's right and authority to take appropriate action to remedy any gaming violation pursuant to Tribal and federal law.

11.13 Application to GTB/EDA Employees. The provisions of Section 11.1-11.12 of this Code do not apply to employees of the GTB/EDA who are licensed under the gaming code as key employees or primary management officials.

Section 12. Procedure for a Certificate of Rehabilitation for the Limited Purpose of Obtaining a GTB Gaming License.

12.1 Applicability. This section and Code applies only to all Tribal members of the Grand Traverse Band of Ottawa and Chippewa Indians. Any application for a Certificate of Rehabilitation for the limited purpose of obtaining a GTB Gaming License shall be deemed to be a consent to the jurisdiction of the Tribe and the *en banc* Tribal Commission in all matters arising from the conduct of such activities and all matters arising under any of the provisions of this Code or other Tribal laws.

12.2 GTB Gaming License. Consistent with Section 6.3(A) of this Code, all employees shall obtain a GTB Gaming License. The *en banc* Tribal Commission shall apply Sections 4(D)(2)-(4) of the GTB/Michigan gaming compact which provides that:

"The Tribe may not license...any person who:...

(2) Has been convicted of or entered a plea of guilty or no contest to a gambling-related offense, fraud or misrepresentation; or

(3) Has been convicted of or entered a plea of guilty or no contest to any offense not specified in subparagraph (2) within the immediately preceding five years; this provision shall not apply if that person has been pardoned by the Governor of the State where the conviction occurred or, if a tribal member, has been determined by the Tribe to be a person who is not likely again to engage in any offensive or criminal course of conduct and the public good does not require that the applicant be denied a license as a key employee or primary management official; or

(4) Is determined by the Tribe to have participated in organized crime or unlawful gambling or whose prior activities, criminal record, reputation, habits, and/or associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods and activities in the conduct of gaming or to the carrying on of the business and financial arrangements incidental to the conduct of gaming."

If the applicant for a GTB Gaming License is disqualified by the *en banc* Tribal Commission because of a criminal conviction, guilty plea or entrance of a plea of no contest which would be deemed a disqualifying event under Section 4(D)(2)-(4) of the GTB/Michigan compact, then the applicant, if he or she meets the categorical standards of 12.1 herein, may apply for a Certificate of Rehabilitation from the Tribal Commission for purposes of obtaining a GTB Gaming License.

12.3 Certificate of Rehabilitation. The *en banc* Tribal Commission shall have the power to issue a Certificate of Rehabilitation to those applicants identified in Section 12.1 of this Code for purposes of issuing a GTB Gaming License.

12.4 Standards for Issuing a Certificate of Rehabilitation. The *en banc* Tribal Commission shall issue the above Certificate of Rehabilitation to any applicant who has been deemed disqualified by the four Commissioners charged with the responsibility of enforcing Section 6 of this Code because of the application of Sections 4(D)(2)-(4) of the GTB/Michigan gaming compact upon a showing that the following criteria have been met by the applicant:

(A) If the applicant is a member of the Grand Traverse Band of Ottawa and Chippewa Indians; and

(B) If the applicant has been convicted of a misdemeanor, plead guilty or entered a plea of no contest within the last five years and the conviction, plea of guilty or no contest does not relate to theft, fraud, or misrepresentation; and

(C) If the applicant has been disqualified based upon a felony

conviction, plead guilty or entered a plea of no contest, or based upon a gambling-related offense, theft, fraud, or misrepresentation conviction, plead guilty, or entered a plea of no contest, then if that felony or offense is more than ten (10) years old, said felony or offense shall not be considered as a disqualifying factor.

CRIME	ELAPSED TIME	GTB POLICY
FELONY:	Within past 10 years	No license
FELONY:	More than 10 years	License only with Certificate of Rehabilitation
THEFT, FRAUD, MISREPRESENTATION, OR GAMBLING RELATED OFFENSE:	Within past 10 years	No license
THEFT, FRAUD, MISREPRESENTATION, OR GAMBLING RELATED OFFENSE:	More than 10 years	License only with Certificate of Rehabilitation
MISDEMEANOR NOT THEFT, FRAUD, MISREPRESENTATION, OR GAMBLING RELATED OFFENSE:	Within past 5 years	License only with Certificate of Rehabilitation
MISDEMEANOR NOT THEFT, FRAUD, MISREPRESENTATION, OR GAMBLING RELATED OFFENSE:	More than 5 years	License

(D) The *en banc* Tribal Commission may then issue a Certificate of Rehabilitation upon a finding that the particular circumstances and behavior of the applicant balanced against the public welfare demonstrates the applicant's fitness to serve as a primary management official or key employee.

Section 13. Financing of Capital Improvements.

13.1 Financing Authority. The *en banc* Tribal Commission shall carry out the financing authority conferred upon it in Section 4.18(AA) in accordance with this Section 13.

13.2 Borrowing. Subject to the limitations set forth in this Section 13.2, the *en banc* Tribal Commission shall have the power to borrow money and incur indebtedness by issuing its obligations, in its own name or in the name of and on behalf of the Tribe, for purposes of acquiring, constructing, maintaining, managing and improving any capital facilities within Tribal lands and owned or to be owned by the Tribe or the *en banc* Tribal Commission. Such obligations shall be issued and sold in such manner and shall be in the amount and form and bear interest at the rate or rates set by the *en banc* Tribal Commission. Each such obligation must be approved by the Tribal Council prior to its issuance.

(A) All such obligations shall be payable solely from revenues, income, receipts and profits derived by the *en banc* Tribal Commission from projects or facilities operated by it whether or not such projects

were financed in whole or in part with the revenue of such obligations; from the revenue of evidences of indebtedness issued and sold by the *en banc* Tribal Commission which are payable solely from any of such revenues, income, receipts and profits; or from federal or state grants or other money received by the Tribe and allocated to the *en banc* Tribal Commission by the Tribal Council. The *en banc* Tribal Commission may further secure such obligations with any assets of the *en banc* Tribal Commission as the *en banc* Tribal Commission may specifically pledge to the payment of the obligations in accordance with Section 4.18(AA).

(B) The *en banc* Tribal Commission is without power to pledge or encumber any other revenues, income or assets of the Tribe, or any other organization or instrumentality of the Tribe, to the repayment of such obligations. The Tribal Council may, if it deems it to be in the best interests of the Tribe to do so, pledge to the payment of any such obligations such specific revenues, income or assets of the Tribe as it may deem appropriate. In any event, no such obligations shall be payable from, or be a charge upon, any funds other than the revenues specifically pledged to the payment thereof, nor shall the Tribe be liable thereon other than to the extent specifically provided in accordance with this subsection, and such limitation shall be expressly stated in each such obligation.

(C) The *en banc* Tribal Commission, with the approval of the Tribal Council, may provide for the refunding of any obligation of the *en banc* Tribal Commission through the issuance of other obligations of the *en banc* Tribal Commission, entitled to rights and priorities similar in all respects to those held by the obligations that are refunded.

(D) In connection with the issuance of any such obligations, the *en banc* Tribal Commission is authorized to consent to be sued in accordance with, and subject to the limitations provided in, Section 4.8. As provided in Section 4.7, the *en banc* Tribal Commission is without power to waive the sovereign immunity of the Tribe, to consent to the jurisdiction of any court over the Tribe, or to the levy of any judgment, lien or attachment upon any property or income of the *en banc* Tribal Commission, the Tribe or any other organization or instrumentality of the Tribe other than that specifically pledged or assigned.

(E) No member of the *en banc* Tribal Commission, no member of the Tribal Council, and no officer, employee or agent of the *en banc* Tribal Commission or the Tribe, shall be personally liable for any of the obligations or indebtedness of the *en banc* Tribal Commission.

Section 14. Drug and Alcohol Testing. The *en banc* Tribal Commission is committed to providing a work environment free from the effects of alcohol and illegal drugs. The Tribe is also committed to providing employees who abuse alcohol or use illegal drugs the opportunity for rehabilitation. Consistent with this philosophy, the *en banc* Tribal Commission shall implement comprehensive drug and alcohol testing for all applicants for employment and for all employees and Commissioners connected with the gaming enterprise.

14.1. All applicants for employment in licensed positions shall be required to submit to a drug and alcohol test as a condition of obtaining a gaming license. All applicants for employment in nonlicensed positions shall be required to submit to a drug and alcohol test as a condition of

employment. Testing shall be in accordance with the rules and regulations of the *en banc* Tribal Commission.

14.2. Employees shall be required to submit to drug and alcohol testing in accordance with the rules and regulations of the *en banc* Tribal Commission.

14.3. Refusal by an applicant for employment to submit to a drug and alcohol test shall be grounds for the denial of a gaming license and, in the case of a nonlicensed position, for the denial of employment. Refusal by an employee to submit to a drug and alcohol test shall be grounds for termination of employment.

14.4. In the case of an applicant for employment, a positive test result shall be grounds for the denial of a gaming license and/or the denial of employment. In the case of an employee, a positive test result shall not result in termination of employment where such result is the employee's first positive test result on a drug or alcohol test required by the *en banc* Tribal Commission, unless:

(A) the *en banc* Tribal Commission has given the employee the opportunity to participate, at the employee's own expense, in a drug or alcohol counseling or rehabilitation program, whichever is more appropriate; and

(B) the employee has either refused to participate in the counseling or rehabilitation program or has failed to complete the program successfully.

14.5. The *en banc* Tribal Commission shall develop procedures and forms consistent with this Code.