



August 10, 2004

Ms. Merlene Sanchez
Chairperson
Guidiville Band of Pomo Indians
P.O. Box 339
Talmage CA 95481

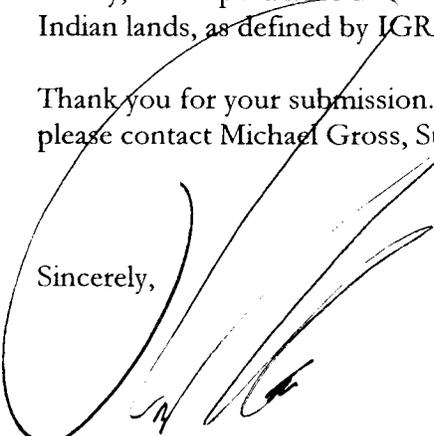
Re: Approval of gaming ordinance

Dear Chairperson Sanchez:

This is in response to your June 28, 2004, letter seeking review and approval of the newly-adopted Guidiville Indian Rancheria gaming ordinance. The ordinance is consistent both with the requirements of the Indian Gaming Regulatory Act (IGRA) and this agency's regulations, and it is therefore approved. The Tribe may in the future wish to adopt technical amendments that correct typographical errors in cross-references contained in Article III. Finally, it is important to note that the gaming ordinance is approved for gaming only on Indian lands, as defined by IGRA, over which the Tribe has jurisdiction.

Thank you for your submission. If you have any questions or require further assistance, please contact Michael Gross, Staff Attorney, at 202-632-7003.

Sincerely,



Philip N. Hogen
Chairman



GUIDIVILLE

Indian Rancheria

P.O. BOX 339 • TALMAGE, CA 95481 • PH: 707/462-3682 • FAX: 707/462-9183

ADOPTION OF GAMING ORDINANCE

Resolution # 04 - 05

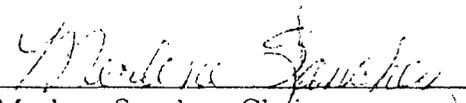
- WHEREAS,** Guidiville Indian Rancheria is a federally recognized Tribe as a result of the Scotts Valley *et. al V.* the United States of America case of September 6, 1991 (NO. C-86-3660-VRW); and,
- WHEREAS,** The Tribal Council of the Guidiville Indian Rancheria is the duly authorized governing body of the Tribe to fully exercise governmental responsibilities, and is empowered to make Tribal policy, pass Tribal codes and ordinances, approve contracts, and carry out Tribal business under the authority of the Constitution of the Guidiville Indian Rancheria; and,
- WHEREAS,** The Tribal Council has determined that and ordinance to regulate gaming on lands within the jurisdiction of the Tribe that is compatible with federal statues and regulations is in the best interests of the Tribe and its members; and
- WHEREAS,** A Gaming Ordinance for the regulation of Class II and Class III gaming within the jurisdiction of the Tribal government has been prepared and reviewed by staff, legal counsel and the Tribal Council for consistency with federal law and tribal laws and regulations.

THEREFORE BE IT RESOLVED, that the Tribal Council as the governing body of the Guidiville Band of Pomo Indians does hereby approve and adopt the attached Guidiville Rancheria Gaming Ordinance, and hereby authorizes Chairperson, Merlene Sanchez to execute the Gaming Ordinance on behalf of the Guidiville Rancheria.

CERTIFICATION

This is to certify that Resolution # 04-05 was approved at a special meeting of the Guidiville Indian Rancheria Tribal Council on June 22, 2004, at which a quorum was present and that this resolution was adopted by a vote 4 For, 0 Opposed, 0 Abstentions.

This resolution has not been rescinded or amended in any way. We further certify that this document was executed in duplicate, and that each certified copy containing original signature is a true and correct copy of the original document on file with the Secretary of the Guidiville Indian Rancheria.


Merlene Sanchez, Chairperson

Date: June 22, 2004

ATTEST:


Frances Gonzalez, Secretary

Date: June 22, 2004

GUIDIVILLE RANCHERIA GAMING ORDINANCE

TABLE OF CONTENTS

| | |
|----------------------------------------------------------|---------|
| ARTICLE I: GENERAL PROVISIONS | Page 1 |
| §1. Purpose | Page 1 |
| §2. Findings and Declarations | Page 1 |
| §3. Definitions | Page 1 |
| §4. Jurisdiction | Page 4 |
| | |
| ARTICLE II: GAMING | Page 4 |
| §1. Gaming Authorized | Page 4 |
| §2. Ownership of Gaming | Page 4 |
| §3. Use of Gaming Revenues | Page 4 |
| §4. Audit | Page 5 |
| §5. Protection of Environment, Public Health, and Safety | Page 5 |
| §6. Minimum Age Requirements | Page 5 |
| §7. Firearms Control | Page 5 |
| §8. Resolution of Patron Disputes | Page 6 |
| §9. Indian Preference in Contracts | Page 6 |
| | |
| ARTICLE III: LICENSES | Page 6 |
| §1. Purpose of Article | Page 6 |
| §2. License Required | Page 6 |
| §3. Gaming Facility | Page 8 |
| §4. Gaming Resource Supplier | Page 8 |
| §5. Financial Sources | Page 8 |
| §6. Powers and Duties of Gaming Agency | Page 9 |
| §7. Background Investigations | Page 10 |
| §8. Eligibility Determinations | Page 11 |
| §9. Required Information General | Page 12 |
| §10. Required Information – Business Entities | Page 13 |
| §11. Privacy Notice | Page 14 |
| §12. Notice Regarding False Statements | Page 15 |
| §13. Fingerprinting | Page 15 |
| §14. Confidentiality | Page 15 |
| §15. Reporting to NIGC | Page 15 |
| §16. Reporting to State Gaming Agency | Page 16 |
| §17. Granting a Gaming License | Page 17 |
| §18. Duration and Renewal of License | Page 18 |
| §19. Fees | Page 19 |
| §20. Limitation | Page 19 |
| §21. Identification Cards | Page 19 |
| §22. Denial, Revocation and Suspension of License | Page 19 |
| §23. Standards of Conduct | Page 20 |
| §24. Due Process | Page 20 |
| §25. Additional Requirements | Page 21 |

| | |
|----------------------------------------------------------------|---------|
| ARTICLE IV: ENFORCEMENT. | Page 22 |
| §1. Prohibited Activities | Page 22 |
| §2. Enforcement Actions | Page 22 |
| §3. Enforcement Process | Page 23 |
| §4. Civil Penalties | Page 25 |
| | |
| ARTICLE V: MISCELLANEOUS PROVISIONS | Page 25 |
| §1. Service of Process | Page 25 |
| §2. Notice | Page 25 |
| §3. Delegation of Authority to Conduct Gaming to Tribal Entity | Page 25 |
| §4. Sovereign Immunity | Page 26 |
| §5. Repeal | Page 26 |
| §6. Severability | Page 26 |
| §7. Amendment of Ordinance | Page 26 |
| §8. Effective Date | Page 26 |

GUIDIVILLE BAND OF POMO INDIANS

GAMING ORDINANCE

ARTICLE I: GENERAL PROVISIONS

§ 1. Purpose.

The Guidiville Band of Pomo Indians, acting through its Tribal Council, pursuant to the Tribe's inherent authority and the Tribe's Constitution to enact ordinances, hereby enacts this Ordinance in order to set the terms for class II and class III gaming operations on the Guidiville Rancheria.

§ 2. Findings and Declarations.

The Guidiville Band of Pomo Indians finds and declares that -

- (a) Gaming on the Rancheria provides economic development opportunities and a source of revenue for the Guidiville Band of Pomo Indians and its members that are needed to promote economic self-sufficiency, employment, job training, a strong tribal government and to fund and ensure essential social programs and services; and
- (b) It is in the interests of the Tribe and its members to regulate and control gaming in a manner that will protect the environment, the Guidiville Band of Pomo Indians, the health, security and general welfare of the Tribe, the players and the community.

Therefore, the Tribal Council adopts this Ordinance to protect and promote the political integrity, economic security, health, safety and welfare of the Tribe, its members, and all persons living on or passing through the Guidiville Rancheria.

§ 3. Definitions.

Unless a different meaning is clearly indicated in this Ordinance, the terms used herein shall have the same meaning as defined in the Indian Gaming Regulatory Act (25 U.S.C. § 2701 *et seq.*) and its regulations (25 C.F.R. § 500 *et seq.*).

For the purposes of this Ordinance, the following words shall have the following meanings:

- (a) The term "alleged violator" means any person alleged by the Gaming Agency, and/or its Executive Director, to have committed a violation of this Ordinance or any regulation or standard adopted pursuant to this Ordinance.
- (b) The term "applicant" or "license applicant" means an applicant for a license for a gaming employee, a gaming resource supplier or persons extending financing, directly or indirectly, to the Tribe's gaming facility or persons with a financial interest in the revenue generated from the gaming facility as a result of an investment of time expertise or service described as good and valuable consideration in a contract that relates to the gaming facility(s), in accordance with the licensing provisions of this

Ordinance and any regulations, standards or procedures adopted pursuant to this Ordinance.

(c) The term "Compact" means a Tribal-State Compact between the Tribe and the State of California authorizing class III gaming activities, as required by Indian Gaming Regulatory Act, 25 U.S.C. § 2710(d)(1)(C) and amended from time to time.

(d) The term "Gaming Agency" means the Guidiville Band of Pomo Indians Gaming Agency established pursuant to the Ordinance Establishing the Guidiville Band of Pomo Indians Gaming Agency, duly adopted by the Tribal Council.

(e) The term "gaming facility" means any building in which class II or class III gaming activities are offered by the gaming operation within the boundaries of the Guidiville Band of Pomo Indians Rancheria

(f) The term "IGRA" means the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 *et seq.* and its regulations, 25 C.F.R. § 500 *et seq.*

(g) The term "key employee" means:

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

(i) bingo caller;

(ii) counting room supervisor;

(iii) chief of security;

(iv) custodian of gaming supplies or cash;

(v) floor manager;

(vi) pit boss;

(vii) dealer;

(viii) croupier;

(ix) approver of credit; or

(x) custodian of gambling devices including persons with access to cash and accounting records within such devices; If not otherwise included, any other person whose total cash compensation is in excess of fifty-thousand dollars (\$50,000.00) per year; or

(2) If not otherwise included, the four (4) most highly compensated persons in the gaming operation.

(h) The term "Municipal Services Agreement" means an agreement between the Tribe and a city or county local municipality for services including but not limited to, fire, police, water, wastewater, traffic control etc.

(i) The term "NIGC" means the National Indian Gaming Commission established pursuant to 25 U.S.C. § 2704.

(j) The term "patron" means an individual who uses the services of the Tribe's gaming operation.

(k) The term "person" means any individual, corporation, firm, partnership, joint venture, association, social club, estate, trust, the United States, Tribe, State, County, City, district or other political subdivision of any state, or any other group or combination acting as a unit.

(l) The term "primary management official" means:

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

(2) Any person who has authority to hire and fire employees or to set up working policy for the gaming operation; or

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

(mp) The term "Rancheria" means all land water and resources which are held in trust or restricted status within the former boundaries of the Guidiville Rancheria, consistent with the terms of the decision in Scotts Valley Band of Pomo Indians of the Sugar Bowl Rancheria et al, v. U.S.A., Civil No. C-86-3660-VRW (N.D. Cal. 1991), and to other such lands, water and resources as have been or may hereafter be acquired by the Tribe.

(n) The term "State Gaming Agency" means the State of California Gambling control commission

(o) The term "Tribal Council" means the Tribal Council of the Guidiville Band of Pomo Indians.

(p) The term "Tribal Court" means the Guidiville Band of Pomo Indians Tribal Court or such other judicial forum as designated by the Tribal Council. Any notices may be filed with the Tribal Court as designated by the Tribal Council, or, in the absence of such designation, with the Tribal Council at the office of the Tribal Council.

(q) The term "Tribal Member" means any individual who is duly enrolled in the Tribe in accordance with the Tribe's Constitution and any enrollment ordinance that may be enacted by the Tribe, as amended from time to time.

(r) The term "Tribe" means the Guidiville Band of Pomo Indians, a federally recognized Indian tribe.

§ 4. Jurisdiction.

- (a) The applicability of this Ordinance shall extend to all persons who provide gaming services or who engage in gaming on the Rancheria or other territory over which the Tribe has jurisdiction.
- (b) Any person who enters onto the Rancheria or other territory over which the Tribe has jurisdiction shall become subject to this Ordinance and shall be deemed to have consented to the jurisdiction of the Tribe and to be bound by the lawful enactments of the Tribe.

ARTICLE II: GAMING

§ 1. Gaming Authorized.

- (a) Class II and class III gaming, as defined in 25 U.S.C. §§ 2703(7)(A) and 2703(8) and by the regulations promulgated by the NIGC at 25 C.F.R. §§ 502.3 and 502.4, is hereby authorized on the Rancheria. The class III gaming activities authorized by this Ordinance are those gaming activities authorized under the Compact.
- (b) The Tribe retains exclusive jurisdiction over Class I gaming on the Rancheria. The Gaming Agency may prohibit and prevent any conduct, which is claimed to be Class I gaming if the Gaming Agency finds that such conduct is not in accordance with tribal customs or practices or violates IGRA or any other law.

§ 2. Ownership of Gaming.

- (a) The Tribe shall have the sole propriety interest in and responsibility for the conduct of any gaming operation authorized by this Ordinance.
- (b) Nothing in this Ordinance shall prevent the Tribe from entering into contracts for the operation and management of gaming operations and facilities on the Rancheria pursuant to IGRA and its implementing regulations or as otherwise permitted by law.

§ 3. Use of Gaming Revenues.

- (a) Net revenues from class II and class III gaming shall be used only for the following purposes:
 - (1) To fund tribal government operations and 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 fund operations of local government agencies; and/or

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

§ 4. Audit

(a) The Gaming Agency shall cause to be conducted annually an independent audit of gaming operations and shall submit the resulting audit reports to the NIGC. The annual audit shall be conducted by an independent certified public accountant, in accordance with the auditing and accounting standards for audits of casinos of the American Institute of Certified Public Accountants.

(b) All gaming related contracts that result in the purchase of supplies, services, or concessions in excess of twenty-five thousand dollars (\$25,000.00) annually, except contracts for professional legal and accounting services, shall be specifically included within the scope of the audit that is described in Sub-section (a), above.

§ 5. Protection of Environment, Public Health, and Safety

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

(b) The Tribal Council shall adopt standards for protecting the environment and the public health and safety that are consistent with Tribal law, federal law, Municipal Services Agreements and with its obligations under the Compact.

§ 6. Minimum Age Requirements

(a) If the Tribe permits the consumption of alcoholic beverages in a gaming facility, no person under the age of twenty-one (21) years shall be permitted to be present in any area in which class II or class III gaming activities are being conducted and in which alcoholic beverages may be consumed, to the extent required by the State Department of Alcoholic Beverage Control and the Tribal Liquor Control Ordinance.

(b) No person under the age of eighteen (18) years shall be permitted to be present in any room in which class II or class III gaming activities are being conducted unless the person is en-route to a non-gaming area of the gaming facility.

§ 7. Firearms Control

Possession of firearms shall be prohibited at all times in class II and class III gaming facilities operated under this Ordinance, except for possession of firearms by state, local, or tribal security or law enforcement personnel authorized by federal, state or tribal law to possess firearms at the facilities.

§ 8. Resolution of Patron Disputes.

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

§ 9. Indian Preference in Contracts.

Any management and investment gaming contracts development contracts or other gaming contracts for the construction and operation of any gaming facilities or activities must make provision for the preferential hiring of qualified Tribal Members and their spouses followed by a preference for qualified Native American Indian people and their spouses from the Rancheria and surrounding areas.

ARTICLE III: LICENSES

§ 1. Purpose of Article.

This Article describes the procedures to be followed by the Guidiville Band of Pomo Indians Gaming Agency when conducting background investigations and issuing licenses in connection with any class II or class III gaming facilities operated on the Guidiville Indian Rancheria pursuant to this Ordinance.

§ 2. License Required.

(a) The following persons and entities are required to be licensed by the Gaming Agency, and, as a basis for issuing a license, the Gaming Agency must conduct or cause to be conducted a background investigation, in accordance with the requirements of this Article, of those persons listed in Sub-sections (1) - (4), below:

(1) All employees, including key employees and primary management officials, employed at any class II or class III gaming enterprise operated under this Ordinance;

- (i) Bingo Caller;
- (ii) Counting room supervisor;
- (iii) Chief of Security;
- (iv) Custodian of gaming supplies or cash;
- (v) Floor manager;
- (vi) Pit boss;
- (vii) Dealer;
- (viii) Croupier;

- (ix) Approver of credit; or
- (ix) Custodian of gambling devices, including persons with access to cash and accounting records within such devices;
- (xi) If not otherwise included above, any other person whose total cash compensation is in excess of \$50,000.00 per year; or
- (xii) If not otherwise included above, the four most highly compensated persons in the gaming operation.

Primary Management Official is any person who:

- (xiii) Has management responsibility for a management contract;
- (xiv) Has authority to hire and fire employees or to set up working policy for the gaming operation; or
- (xv) Has financial management responsibility; for example, the chief financial officer.

(2) Gaming resource suppliers and vendors are required to be licensed pursuant to Section 5(a) 3(b) of this ordinance.

(3) Persons extending financing, directly or indirectly, to the Tribe's gaming facility or gaming operations, persons having a financial interest in the revenue generated from the gaming facility as a result of having provided financing, services or earned equity in the revenue generated from the gaming facility, except that a federally regulated or state regulated bank, savings and loan or other federally- or state-regulated lending institution, any agency of the Tribal federal, state, or local government, or any investor who, alone or in conjunction with others, holds less than ten (10) percent of any outstanding indebtedness evidenced by bonds issued by the Tribe are excluded from the licensing requirements of this Article; and

(4) If not otherwise included in this Ordinance, any other person or business entity described or required to be licensed pursuant to the terms of the Compact.

(5) Each place, facility, or location where class II or class III gaming is conducted under this Ordinance.

(b) Applicants for a license must submit a license application to the Gaming Agency on a form developed or provided by the Gaming Agency and in conformance with the application requirements set out in this Ordinance.

§3. Gaming Facility.

(a) The Gaming Agency shall issue a separate license to each facility where class II or class III gaming is conducted under this Ordinance. The license shall be posted in a conspicuous and public place in the gaming facility at all times.

(b) The Gaming Agency shall determine and, if appropriate, certify that each gaming facility, or the modification or expansion of a gaming facility, meets the Tribe's building and safety code and the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq. based on an inspection by qualified building and safety experts.

(1) The Gaming Agency shall give reasonable notice of each inspection to the Tribal Chairperson. Within ten (10) days after completion of the inspection report, the reports shall be forwarded to the Tribal Chairperson, the Tribe's Building Department, and The Tribe's Public Safety Department.

(c) The Tribe is responsible for ensuring that any gaming facility condition noted in an inspection that does not meet the standards set out in Sub-section (b), above, is corrected.

§4. Gaming Resource Supplier.

(a) Any gaming resource supplier who, directly or indirectly, provides, has provided, or is deemed likely to provide at least twenty-five thousand dollars (\$25,000.00) in gaming resources in any 12-month period, or who has received at least twenty-five thousand dollars (\$25,000.00) in any consecutive 12-month period within the 24-month period immediately preceding application, shall be licensed by the Gaming Agency prior to the sale, lease, or distribution, or further sale, lease, or distribution, of any such gaming resources to or in connection with the Tribe's gaming facilities.

(b) The Tribe shall not enter into, or continue to make payments pursuant to, any contract or agreement for the provision of gaming resources with any person whose application to the State Gaming Agency for a determination of suitability has been denied or has expired without renewal. Any agreement between the Tribe and a gaming resource supplier shall be deemed to include a provision for its termination without further liability on the part of the Tribe, except for the bona fide repayment of all outstanding sums (exclusive of interest) owed as of, or payment for services or materials received up to, the date of termination, upon revocation or non-renewal of the supplier's license by the Gaming Agency based on a determination of unsuitability by the States Gaming Agency.

§5. Financial Sources.

(a) Any person extending financing, directly or indirectly, to the Tribe's gaming facilities or gaming operations shall be licensed by the Gaming Agency prior to extending that financing, provided that any person who is extending financing at the time of the execution of the Compact shall be licensed by the Gaming Agency within ninety (90) days of such execution.

(b) Any agreement between the Tribe and a financial source shall be deemed to include a provision for its termination without further liability on the part of the Tribe, except for the bona fide repayment of all outstanding sums (exclusive of interest) owed as of the date of termination, upon revocation or non-renewal of the financial source's license by the Gaming Agency based on a determination of unsuitability by the State Gaming Agency or upon the denial, revocation or non-renewal of a license by the Gaming Agency under the terms of this Ordinance.

(c) The Tribe shall not enter into, or continue to make payments pursuant to, any contract or agreement for the provision of financing with any person whose application to the State Gaming Agency for a determination of suitability has been denied or has expired without renewal.

(d) A gaming resource supplier who provides financing exclusively in connection with the sale or lease of gaming resources obtained from that supplier may be licensed solely in accordance with licensing procedures applicable, if at all, to gaming resource suppliers.

(e) Any person or entity who has a financial interest in the revenue generated by the gaming facility exceeding \$100,000 resulting from the investment of funds, the provision of services or through equity earned in a business transaction relating to the gaming facility.

(f) The Gaming Agency may, at its discretion, exclude from the licensing requirements of this section, financing provided by a federally regulated or state-regulated bank, savings and loan, or other federally- or state-regulated lending institution; or any agency of a Tribal, federal, state, or local government; or any bond investor who, alone or in conjunction with others, holds less than 10% of any outstanding indebtedness evidenced by bonds issued by the Tribe.

§ 6. Powers and Duties of Gaming Agency.

(a) The Gaming Agency has the following powers and responsibilities:

- (1) To conduct or cause to be conducted background investigations; ✓
- (2) To receive, directly or through its agents, state summary criminal history information, as defined in Sub-section 11105(a) of the California penal Code, as maintained under a license applicant's name by the California Department of Justice, and to take such measures as are reasonably necessary to prevent the release of such records or information to persons who are not authorized by law to receive the record or information;
- (3) To prepare or cause to be prepared an investigative report in compliance with this Ordinance;
- (4) To review and approve the investigative work done;
- (5) To obtain and process fingerprints, directly or through its agents;
- (6) To forward license applications and the results of the background investigations to the NIGC and the State Gaming Agency, to the extent required by IGRA and the Compact;

(7) To make eligibility determinations in accordance with Section ~~9~~⁸ of this Article;

(8) To issue, deny, suspend, revoke and renew licenses in accordance with the provisions of this Ordinance;

(9) To maintain records on persons who have been issued or denied a license, as well as persons otherwise prohibited from engaging in gaming activities within the Tribe's jurisdiction, for a period of three (3) years from the date on which the license expired or was revoked or denied; and

(10) To carry out such other duties and powers as described in this Ordinance.

§ 7. Background Investigations.

(a) The Gaming Agency shall conduct or cause to be conducted all necessary background investigations reasonably required by the Gaming Agency, the Compact or IGRA to determine whether an applicant is eligible for a license in accordance with the standard set forth in Section ~~9~~⁸ of this Article. The minimum procedures for conducting background investigations on applicants for licenses are as follows:

(2) Civil history check;

(3) Financial and credit check;

(4) Reference check;

(5) Previous business and employment check;

(6) Relative check;

(7) Business and personal associates check;

(8) Fingerprint check; and

(9) Educational verification.

(b) The information submitted pursuant to Sub-section (a), above, by the applicant may be verified by written or oral communication. The disposition of all potential problem areas noted and disqualifying information obtained shall be documented by the Gaming Agency.

(c) In conducting a background investigation, the Gaming Agency or its agent shall keep confidential the identity of each person interviewed in the course of the investigation.

(d) At the sole discretion of the Gaming Agency, in lieu of completing its own background investigation, and to the extent that doing so does not conflict with or violate IGRA, the Gaming Agency may contract with the State Gaming Agency or a private investigation firm for the performance of background investigations, may rely on a state certification of non-objection previously issued under a gaming compact

involving another tribe, or may rely on a California State gaming license previously issued to the applicant to fulfill some or all of the Gaming Agency's background investigation duties.

(e) If the National Indian Gaming Commission has received an investigative report concerning an individual who another Tribe wishes to employ as a Key Employee or Primary Management Official or person having a financial interest in the revenue generated by the gaming facility, and if the Gaming Commission has access to the investigative materials held by the first Tribe, the Gaming Agency may update the investigation and update the investigative report with the information from another Tribe.

§ 8. Eligibility Determinations.

(a) The Gaming Agency shall review a license applicant's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning an applicant's eligibility for a license. A license may not be issued unless the Gaming Agency is satisfied that the applicant is a person of good character, honesty and integrity.

(b) The Gaming Agency shall not license a person if the Gaming Agency determines that the licensing of the person:

(1) poses a threat to the public interest or to the effective regulation of gaming;

(2) creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming or the carrying on of business and financial arrangements incidental thereto; or

(3) will undermine public perception and trust that tribal gaming is free from criminal activities and/or dishonest

(c) In making findings concerning the eligibility of license applicants, the Gaming Agency shall take into consideration any of the following circumstances:

(1) Whether the applicant knowingly and intentionally provided false statements or information or omitted relevant information on the application or otherwise misrepresented or failed to disclose a material fact to the Gaming Agency;

(2) Whether the prior activities, criminal record, reputation, habits, and association indicate that the person may be a threat to the public interest or to the effective regulation and control of gaming;

(3) Whether association with or employment of this applicant creates or enhances the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto;

(4) Whether the applicant has violated, failed, or refused to comply with the provisions, requirements, conditions, limitations, or duties imposed by any provision of the Compact, this Ordinance, or other Tribal gaming facilities.

(5) Whether the applicant knowingly caused, aided, abetted, or conspired with another to cause any person or entity to violate any of the laws of any Tribal Federal, State or local laws, the provisions of the Compact or this Ordinance;

(6) Whether the applicant has ever obtained a license by fraud, misrepresentation, concealment, or through inadvertence or mistake;

(7) Whether the applicant has ever been convicted of, or forfeited bond upon a charge of, or plead guilty to forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payment or reports to any Tribal, State, or U.S. Government agency at any level, or filed false reports therewith, or of any similar offense(s), or of bribing or otherwise unlawfully influencing a public official or employee of a Tribe, a State, or the U.S. Government, or of any felony or misdemeanor involving any gaming activity, physical harm to individuals or moral turpitude;

(8) Whether the applicant is subject to current prosecution or pending charges, or a conviction under appeal for any of the offenses listed above; upon request of the applicant, the Gaming Agency may defer decision on the application pending the results of such prosecution or appeal;

(9) Whether the applicant has demonstrated a *willful* disregard for compliance with a gaming regulatory authority or bad faith business dealings in any jurisdiction or has ever had a gaming license issued by any State, Tribe or foreign gaming regulatory agency suspended, revoked or denied; and/or

(10) Whether the applicant has failed to provide any information requested by the Gaming Agency within fourteen (14) days of the request for the information;

(11) Whether the association of the applicant with the gaming facility as an employee, a key management person, a vendor, a finance provider, or an individual or entity creates a public perception that the gaming facility is associated with criminal activity is otherwise unfair or dishonest.

§ 9. Required Information – General.

(a) The Gaming Agency shall request from each license applicant all of the following information:

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

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

(3) The names and current addresses of at least three (3) personal references, including one (1) personal reference who was acquainted with the applicant during each period of residence listed under Sub-section, (a)(2)

(4) Current business and residence telephone numbers;

- (5) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
- (6) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- (7) The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
- (8) For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;
- (9) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within ten (10) years of the date of the application, the name and address of the court involved and the date and disposition;
- (10) For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed pursuant to Sub-section (a)(8) or (9), above, the criminal charge, the name and address of the court involved and the date and disposition;
- (11) The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
- (12) A current photograph;
- (13) Any other information the Gaming Agency deems relevant; and
- (14) Fingerprints consistent with procedures adopted by the Gaming Agency according to 25 C.F.R. § 522.2(h).

§ 10. Required Information - Business Entities.

(a) In addition to the information required under Section ⁹~~10~~ of this Article, the Gaming Agency shall request from an applicant that is a business entity all of the following information, if two (2) or more business entities having a commonality of the characteristics identified in the following sub-sections 1-5, inclusive, the entity may be deemed to be a single business entity:

- (1) Each of its officers and directors;
- (2) Each of its principal management employees, including any chief executive officer, chief financial officer, chief operating officer, and general manager;
- (3) Each of its owners or partners, if an unincorporated business;

(4) Each of its shareholders who owns more than ten percent (10%) of the shares of the corporation, if a corporation; and

(5) Any person or entity who has a financial interest in the revenue generated by the gaming facility exceeding \$100,000 resulting from the investment of funds, the provision of services or through equity earned in a business transaction. Each person or entity (other than a financial institution that the Gaming Agency has determined does not require a license under the Compact or this Ordinance) that, alone or in combination with others, has provided financing to the business entity; in connection with any gaming authorized under the Compact, shall be licensed if that person or entity provided more than ten percent (10%) of:

- (i) The start-up capital;
- (ii) The operating capital over a 12-month period; or
- (iii) A combination thereof.

§ 11. Privacy Notice.

(a) The following notice, or substantially similar wording contained in such standardized application forms as may be adopted by California Tribes and the State of California pursuant to the Compact, shall be placed on the license application form before that form is filled out by an applicant:

In compliance with the Privacy Act of 1974, the following information is provided. Solicitation of the information on this form is authorized by 25 U.S.C. § 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in or do business with a gaming operation. The information will be used by the Guidiville Band of Pomo Indians Agency, the State Gaming Agency, and 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, the State Gaming Agency, 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 or do business with you. The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

(b) Unless they have been previously so notified, existing licensees shall be notified in writing that they shall either:

- (1) Complete a new application form that contains a Privacy Act notice; or
- (2) Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

§ 12. Notice Regarding False Statements.

- (a) The following notice, or such substantially similar wording contained in standardized application forms as may be adopted by California Tribes and the State of California pursuant to the Compact, shall be placed on the license application form before that form is filled out by an applicant:

A false statement on any part of your application may be grounds for denial or revocation of a license. In the case of license applications for employees, a false statement on any part of your application may be grounds for not hiring you or for firing you after work begins. Also, you may be punished by fine or imprisonment. (U.S. Code, title 18, section 1001.)

- (b) Unless they have been previously so notified, the Gaming Agency shall notify in writing existing licensees that they shall either:
- (1) Complete a new application form that contains a notice regarding false statements; or
 - (2) Sign a statement that contains the notice regarding false statements.

§ 13. Fingerprinting.

The Gaming Agency shall be deemed to be the Tribe's law enforcement agency for the purpose of taking fingerprints and conducting criminal history checks under this Article. The Gaming Agency may elect to process fingerprint cards directly on behalf of the Tribe or to process fingerprint cards through the State Gaming Agency or the NIGC and may execute such documents as may be necessary to enter into such an arrangement. Fingerprint cards shall be submitted to the Federal Bureau of Investigations and the California Department of Justice in order to obtain criminal history record information.

§ 14. Confidentiality.

The identity of third parties interviewed during the course of background investigations shall be kept confidential.

§ 15. Reporting to NIGC.

- (a) When a key employee or primary management official begins work at a gaming operation authorized by this Ordinance, the Gaming Agency shall forward to the NIGC a completed application for employment and conduct the background investigation and make the determination referred to in Section 9 of this Article. Within sixty (60) days after a key employee or primary management official begins work or within sixty (60) days of the approval of this Ordinance by the Chairman of the NIGC, the Gaming Agency shall prepare and forward to the NIGC an investigative report on each

background investigation and a copy of the eligibility determination made under Section 9 of this Article. The background investigation report shall include all of the following:

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

(b) With respect to key employees and primary management officials, if a license is not issued to an applicant, the Gaming Agency shall notify the NIGC and may forward copies of its eligibility determination and investigative report (if any) to the NIGC for inclusion in the Indian Gaming Individuals Records System.

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

§ 16. Reporting to State Gaming Agency.

(a) Except for an applicant for licensing as a non-key gaming employee, as defined by agreement between the Gaming Agency and the State Gaming Agency, the Gaming Agency shall require the applicant to also file an application with the State Gaming Agency, prior to issuance of a license, for a determination of suitability for licensure under the California Gambling Control Act.

(b) Upon receipt of a completed license application and a determination by the Gaming Agency that it intends to issue a license, the Gaming Agency shall transmit to the State Gaming Agency a notice of intent to license the applicant, together with all of the following:

- (1) A copy of the license application materials and information received by the Gaming Agency from the applicant;
- (2) An original set of fingerprint cards;
- (3) A current photograph; and
- (4) Except to the extent waived by the State Gaming Agency, such releases of information, waivers, and other completed and executed forms as have been obtained by the Gaming Agency.

(c) Upon receiving notice of the State Gaming Agency's denial of an application for a determination of suitability, the Gaming Agency shall promptly notify the Tribal Council and, The Tribal Council shall have the sole and final discretion to issue the license.

(e) Nothing in this Ordinance shall prevent the Gaming Agency from issuing a temporary license under this Ordinance prior to the State Gaming Agency completing a suitability determination for a given applicant under the terms of the Compact.

§ 17. Granting a Gaming License.

(a) For all key employees and primary management officials, the Gaming Agency shall carry out the following procedures in granting a gaming license:

(1) If, within a 30-day period after the NIGC receives a report, the NIGC notifies the Gaming Agency that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the Gaming Agency has provided an application and investigative report to the NIGC, the Gaming Agency may issue a license to such applicant.

(2) The Gaming Agency shall respond to a request for additional information from the Chairperson of the NIGC concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30-day period until the Chairperson of the NIGC receives the additional information.

(3) If, within the 30-day period described above, the NIGC provides the Gaming Agency with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Gaming Agency has provided an application and investigative report to the NIGC, the Gaming Agency shall reconsider the application, taking into account the objections itemized by the NIGC. The Gaming Agency shall make the final decision whether to issue a license to such applicant.

(b) For all license applicants except applicants for a gaming facility, the Gaming Agency shall carry out the following procedures in granting a gaming license:

(1) Pending completion of an investigation for a license, the Gaming Agency may issue a preliminary license of no more than ninety (90) days duration if, in its sole discretion, the Gaming Agency deems it appropriate to do so, provided that the Gaming Agency has no information suggesting the applicant would either be automatically disqualified from obtaining a license or that would cause a reasonable person to investigate further before issuing a license.

(i) Such licenses shall permit the licensee to engage in such activities and pursuant to such terms and conditions as may be specified by the Gaming Agency.

(ii) Such preliminary licenses shall expire ninety (90) days from the date of issuance, upon the issuance of a temporary or regular license, upon a final determination on the application, or at an earlier specified expiration date, whichever occurs first.

(2) If an applicant has completed a license application to the satisfaction of the Gaming Agency, and the Gaming Agency has conducted a preliminary background investigation, the Gaming Agency may issue a temporary license and impose such

conditions thereon as it deems appropriate pending completion of the licensing process, including a determination of suitability by the State Gaming Agency, provided that the Gaming Agency has no information suggesting the applicant would either be automatically disqualified from obtaining a license or that would cause a reasonable person to investigate further before issuing a license.

(3) The Gaming Agency may issue a regular license to a person who meets the eligibility standards set out in Section 8 of this Article after receiving a determination of the applicant's suitability from the State Gaming Agency. In the event the State Gaming Agency denies an applicant a determination of suitability or refuses to renew a determination of suitability, the Gaming Agency shall revoke any temporary license issued to the applicant and deny the applicant a license, except that the Gaming Agency shall have discretion to renew a license if the person is an enrolled member of the Tribe or has been continuously employed by the Tribe for at least three (3) years prior to the effective date of the Compact and also meets the following criteria:

- (i) The person holds a valid and current license issued by the Gaming Agency;
- (ii) The person is not an employee or agent of any other gaming operation; and
- (iii) The State Gaming Agency's denial of the person's application for a determination of suitability is based solely on activities, conduct or associations that antedate the filing of the person's initial application to the State Gaming Agency for a determination of suitability.

§ 18. Duration and Renewal of License.

(a) All regular licenses issued under this Article shall be effective for two (2) years from the date of issue.

(b) Temporary licenses shall expire upon issuance of a regular license, upon a final determination on the license application, or at an earlier specified expiration date, whichever occurs first, but in no case shall a temporary license be valid for more than two (2) years.

(c) Renewal applications must be received by the Gaming Agency at least thirty (30) days prior to the expiration of the license.

(1) Applicants for renewal shall provide updated material as requested by the Gaming Agency but shall not be required to resubmit information already available to the Gaming Agency. Additional background investigations may be performed at the discretion of the Gaming Agency. Updated criminal history checks are required.

(2) Upon receiving a renewal application, the Gaming Agency shall inform the applicant of his or her obligation to apply to the State Gaming Agency for renewal of his or her determination of suitability.

(3) Any licensee applying for renewal may continue to be employed or engaged under the expired license until the Gaming Agency takes action on the renewal application.

(4) Prior to renewing a license, the Gaming Agency shall forward to the State Gaming Agency copies of the renewal application and related documents.

(5) With respect to gaming facilities, the Gaming Agency shall provide verification to the State Gaming Agency that it has reviewed and, if appropriate, renewed a gaming facility's license.

§ 19. Fees.

(a) All applicants for a license under this Article shall be required to pay all applicable licensing fees and costs when due in accordance with a fee schedule for licenses established by the Gaming Agency. Such fees shall be submitted to the Gaming Agency and made payable to the Tribe, to be used for discretionary Gaming Agency purposes.

(b) Application fees shall be nonrefundable, regardless of whether or not a license is issued.

§ 20. Limitation.

The gaming operation shall not employ or continue to do business with a person who does not have a regular license or a temporary license after ninety (90) days.

§ 21. Identification Cards.

All persons who are required to be licensed pursuant to the Gaming Ordinance shall wear, in plain view at all times while in a gaming facility licensed by the Gaming Agency, identification badges issued by the Gaming Agency. The identification badges must display the person's photograph, identification number, name, and expiration date of his or her license.

§ 22. Denial, Revocation and Suspension of License.

(a) A license may be suspended, revoked or denied upon the occurrence of any of the following:

v (1) Notification by the NIGC, or by any other reliable source, that the licensee is not eligible for a license under Section 9 of this Article;

(2) Notification by the State Gaming Agency that it intends to deny an application for a determination of suitability or a renewal of determination of suitability;

(3) The Gaming Agency has probable cause to believe that the licensee has, by act or omission, violated provisions of the Compact, this Ordinance, the Tribe's Gaming Regulations, any gaming license, or any other Federal, State or Tribal laws or regulation

- (4) The Gaming Agency has reason to believe that the continued licensing of a person constitutes an immediate threat to the public health, safety or welfare;
- (5) The Gaming Agency has reason to believe that the licensee is involved in any theft, misappropriation, misuse or abuse of Tribal assets;
- (6) The licensee engages in any conduct that brings discredit or embarrassment to the Tribe's gaming operations or the Tribe, or interferes with the normal operation of the Tribe's gaming facilities or the Tribal government or is known to have committed other acts of interference with other tribal gaming facilities or tribal governments;
- (7) The licensee fails to disclose any required information on any State or Tribal gaming license application;
- (8) The licensee fails to respond to a request from the Gaming Agency within fourteen (14) days of the date of the initial request; or
- (9) The licensee's employment or business or contractual relationship with the Tribe's gaming operations is terminated, voluntarily or involuntarily.

(b) The Gaming Agency shall notify the NIGC in writing of any final decision to suspend or revoke a license.

§ 23. Standards of Conduct.

- (a) All persons engaged by or associated with any gaming facility or operation on the Rancheria shall conduct themselves with honesty, integrity, and with such decorum and manners as may be necessary to reflect positively on the Tribe, its members and the gaming facility and gaming operation involved.
- (b) Any failure to abide by such standards of conduct, or any violation of any ordinance, rule, custom or tradition of the Tribe, is grounds for immediate suspension or revocation of any license issued under this Ordinance.

§ 24. Due Process.

The following procedures shall apply to the denial, suspension or revocation of a license pursuant to this Article:

- (a) All decisions of the Gaming Agency to deny, suspend or revoke a license shall be effective when issued.
- (b) Upon taking such action, the Gaming Agency shall issue a notice of the denial suspension or revocation of a license to the applicant or licensee by U.S. mail, return receipt requested, or personal delivery.
 - (1) Such notice shall include a warning that if the applicant or licensee does not respond within seven (7) business days, the denial, suspension or revocation of a license shall become final and the person will forfeit any further right to appeal.

(c) Within seven (7) business days of receipt of the notice of the denial, suspension or revocation of a license, the applicant or licensee may file a written petition with the Gaming Agency requesting a hearing to reconsider the decision to deny, suspend or revoke a license.

(d) If a hearing is requested, the Gaming Agency must hold a hearing within fifteen (15) days of receiving the request.

(e) The Gaming Agency shall make a ruling within fifteen (15) days of the hearing, and the licensee shall be notified in writing of the ruling within three (3) days of the ruling.

(1) Such notice shall include a statement that the licensee or applicant may file a petition with the Gaming Agency for a rehearing within fifteen (15) days of the written notice.

(f) Within fifteen (15) days of receipt of the written notice of the Gaming Agency's ruling, the licensee or applicant may file a written petition with the Gaming Agency for a rehearing on the Gaming Agency's ruling. Any such petition for rehearing must include additional information not previously considered by or made available to the Gaming Agency to justify the need for a rehearing and provide the reasons for changing the Gaming Agency's ruling.

(g) If the licensee or applicant files a petition for a rehearing within fifteen (15) days of receipt, the Gaming Agency shall review any additional information submitted by the licensee or applicant with the petition, issue a decision within fifteen (15) days of receiving the petition, and notify the licensee in writing of its decision.

(h) The decisions of the Gaming Agency are final and no further rights of appeal are permitted.

§ 25. Additional Requirements.

(a) The Tribal Council may adopt, and the Gaming Agency shall implement, regulations providing for such additional licensing and background investigation requirements and procedures as it deems appropriate, provided that such additional requirements are at least as stringent as those contained in IGRA (i.e., 25 U.S.C. §2710(b)(2)(F) and 25 C.F.R. Parts 556 and 558) and the Compact.

(b) The Gaming Agency is authorized to adopt and implement such additional licensing regulations and procedures it deems appropriate to carry out its duties and functions under this Ordinance.

ARTICLE IV: ENFORCEMENT

§ 1. Prohibited Activities.

- (a) No person shall violate any provision of this Ordinance, any condition of a gaming license issued under this Ordinance, or any rule or regulation adopted pursuant to this Ordinance.
- (b) No person shall be employed by or conduct business with a gaming facility unless properly licensed under this Ordinance.
- (c) No person shall knowingly make false statements during a background investigation or other investigation or inquiry by the Gaming Agency, or aide, abet or conspire with a person to evade the provisions of this Ordinance.
- (d) No person shall use fraud or misrepresentation in making an application for, or for renewal of, a gaming license.
- (e) No person shall violate any provision of any other tribal gaming ordinance or regulations, IGRA or the Compact.

§ 2. Enforcement Actions.

- (a) If the Executive Director determines that a violation of this Ordinance has occurred, the Executive Director may take any one of the following actions which he/she deems most appropriate considering the gravity of the offense, the economic benefit of noncompliance, and the circumstances of the person committing the violation:
 - (1) Contact the alleged violator about possible violations of this Ordinance or practices which may result in violations of this Ordinance to assist the alleged violator in adhering to the requirements of this Ordinance;
 - (2) Issue a warning of violation, in the form of a letter from the Executive Director to the alleged violator, containing an explanation of the basis for the warning, measures required to correct the violation, and an explanation of the steps the Executive Director may take if the alleged violator does not take positive corrective action;
 - (3) Following the procedures set out in Section 3, below, assess a civil fine, not to exceed 25,000 per violation, where each day in which the violation occurs is a new violation, against the alleged violator after considering the economic benefit of noncompliance, the seriousness of the violation, the respondent's history of violations, the degree of fault of the respondent in causing or failing to correct the violation, the degree of the respondent's good faith in attempting to achieve rapid compliance after issuance of any warning of violation;
 - (4) Following the procedures set out in Section 3, below, issue an order to the alleged violator to cease and desist from further commission of such violation;

- (5) Following the procedures set out in Section 3, below, assess a civil fine or penalty as described in Section 4, against the alleged violator;
- (6) Following the procedures set out in Section 3, below, seize the gaming machines or other gaming equipment that are in violation of this Ordinance and/or the proceeds from the gaming machines that are in violation of this Ordinance;
- (7) Following the procedures set out in Section 3, below, order a temporary closure of the gaming facility, or the affected portion(s) thereof, where the violation has occurred or is occurring;
- (8) Following the procedures set out in Section 3, below, order the gaming facility to halt any payments to or cease continued relations with any person where such payment or continued relationship is in violation of this Ordinance; and/or
- (9) Following the procedures set out in Section 3, below, impose other appropriate and reasonable sanctions within the Gaming Agency's jurisdiction.

(b) The operator of the gaming facility shall close the operation, or the affected portions thereof, upon service of an order of temporary closure pursuant to this section, unless the order provides otherwise.

(c) The operator of the gaming facility shall halt any payments to or cease continued relations with any person upon service of an order to halt payments pursuant to this section, unless the order provides otherwise.

§ 3. Enforcement Process.

(a) The following procedures shall govern enforcement actions taken pursuant to Section 2(a) (3) - (9) of this Article, above:

(1) The Executive Director shall issue a notice of violation, describing the violation and the proposed penalty or other enforcement action, to the person who is charged with the violation.

(i) The notice of violation shall be served by personal delivery or U.S. mail, return receipt requested. Notice shall be considered received on the date of personal delivery or three (3) days after the notice is mailed by U.S. mail.

(ii) The notice shall include a warning that if the person does not respond within seven business (7) days, the assessed civil penalty or other enforcement action will become permanent, and the person will lose all rights to appeal.

(2) Within seven (7) days of receipt of the notice of violation, the person who is charged with the violation may submit a written request for a hearing before the Gaming Agency on the proposed enforcement action described in the notice of violation.

(i) If a hearing is requested, the Gaming Agency must hold a hearing within thirty (30) days of receiving the request. If the person requesting the hearing makes a showing, supported by a declaration or other written documentation that the proposed enforcement action will result in great financial loss or harm to person or property before the Gaming Agency is required to hold a hearing, the Gaming Agency may hold a hearing immediately or may delay or reverse any enforcement action until the Gaming Agency holds the requested hearing.

(ii) If the alleged violator does not request a hearing within seven (7) days of receipt of the notice of violation, the assessed civil penalty or other enforcement action will become permanent, and the person shall lose all rights to appeal.

(3) At any hearing before the Gaming Agency, the alleged violator must come forward with evidence, including declarations, written documents, and statements by witnesses, indicating that the person is not guilty of the violation as described in the notice of violation.

(4) Within fifteen (15) days of the hearing, the Gaming Agency shall issue a decision on whether to affirm or retract the proposed penalty or other enforcement action described in the notice of violation, based on the evidence submitted by the alleged violator at the hearing.

(i) The Gaming Agency shall serve a notice of the decision on the violator. The notice of decision shall be served by personal delivery or U.S. mail, return receipt requested. Notice shall be considered received on the date of personal delivery or three (3) days after the notice is mailed by U.S. mail.

(5) The decision of the Gaming Agency pursuant to any hearing on a proposed penalty or other enforcement action may be appealed to the Tribal Court upon written request submitted to the Tribal Court within seven (7) days of the receipt of the notice of decision after the initial hearing. The request for a hearing before the Tribal Court must state the grounds for overturning the Gaming Agency's decision.

(i) The Tribal Court shall hold a hearing within thirty (30) days, upon a finding that the violator has stated reasonable grounds for overturning the Gaming Agency's decision.

(ii) The violator and the Gaming Agency shall have the opportunity to present oral arguments at the hearing.

(iii) The written record from the hearing before the Gaming Agency, together with all papers and requests filed in the proceeding before the Tribal Court, shall constitute the exclusive record for decision on appeal.

(iv) The Tribal Court shall set aside the Gaming Agency's decision only upon a finding that the Gaming Agency's decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.

(v) Within sixty (60) days of the hearing, the Tribal Court shall issue a decision on the appeal.

(vi) The Tribal Court shall serve a notice of the decision on the violator. The notice of decision shall be served by personal delivery or U.S. mail, return receipt requested.

(vii) Decisions of the Tribal Court are final.

(b) The Gaming Agency and/or the Tribal Court, or a representative authorized by either body, may institute proceedings in any judicial forum of competent jurisdiction to enforce a penalty issued by the Gaming Agency and/or upheld by the Tribal Court on appeal.

§ 4. Civil Penalties.

(a) Any person engaging in a prohibited activity under this Ordinance is subject to a civil fine in an amount not to exceed twenty-five thousand dollars (\$25,000.00) for each day in which the violation occurs, to be assessed by the Gaming Agency. In addition to any monetary fine, any person violating the provisions of a license issued under this Ordinance is subject to a civil penalty of probation or suspension, revocation, non-renewal, or denial of a license, to be assessed by the Gaming Agency.

(b) In determining the type and amount of the penalty and/or fine, the Gaming Agency shall consider the appropriateness of such fine and/or penalty in light of the gravity of the economic benefit of noncompliance, the seriousness of the violation, the respondent's history of violations, the degree of fault of the respondent in causing or failing to correct the violation, and the degree of the respondent's good faith in attempting to achieve rapid compliance after issuance of any warning of violation.

ARTICLE V: MISCELLANEOUS PROVISIONS

§ 1. Service of Process.

The Tribe designates the Tribe's Chairperson as its agent for service of any official determination, order, or notice of violation.

§ 2. Notice.

(a) Unless otherwise specifically provided for in this Ordinance, written notice shall be served by U.S. mail, return receipt requested, or personal delivery.

(b) Notice shall be considered received on the date of personal delivery or three (3) days after the notice is mailed by U.S. mail.

§ 3. Delegation of Authority to Conduct Gaming to Tribal Entity.

Nothing in this Ordinance shall prevent the Tribal Council from delegating the authority to conduct gaming to one or more tribal commissions or corporations, so long as any such tribal commissions or corporations to which such authority is delegated meet all criteria and requirements established under this Ordinance.

§ 4. Sovereign Immunity.

The sovereign immunity of the Tribe is in no manner waived by this Ordinance or by any action by the Tribal Council or staff of the Tribe acting pursuant to this Ordinance.

§ 5. Repeal.

This Ordinance supercedes any conflicting or contrary superceding ordinances passed by the Tribe.

§ 6. Severability.

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, the invalid provision or provisions shall be severed and the remaining provisions shall continue in full force and effect.

§ 7. Amendment of Ordinance.

This Ordinance may be amended or repealed by majority vote of the Tribal Council.

§ 8. Effective Date.

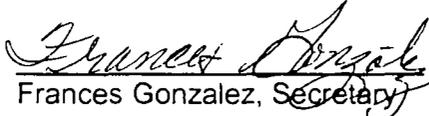
This Ordinance shall become effective immediately upon its approval by the Chairman of the NIGC or ninety (90) days after the date of its submission to the Chairman of the NIGC if he or she fails to approve or disapprove this Ordinance within those ninety (90) days.

CERTIFICATION

As the Chairperson of the Tribal Council for the Guidiville Band of Pomo Indians, I hereby certify that the Tribal Council adopted this Ordinance at a duly called meeting at which a quorum was present by a vote of 4 for, with 0 against, with 0 abstaining, on this 22 day of June, 2004.


Date: June 22, 2004
Merlene Sanchez, Chairperson

ATTEST:


Date: June 22, 2004
Frances Gonzalez, Secretary